FRESNO CHANDLER EXECUTIVE AIRPORT

# AVIATION LAND AND BUILDING LEASE & AGREEMENT

Issued By

CITY OF FRESNO, CALIFORNIA

To

GOLDEN SKIES, LLC.
dba Fresno Flyers

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LEASE AGREEMENT

**THIS LEASE** agreement is by and between the City of Fresno, California, a municipal corporation hereinafter referred to as "Lessor" (also known as "City") and Golden Skies, LLC d.b.a. Fresno Flyers, located at 548 West Kearney Boulevard, Fresno, California 93706, hereinafter referred to as "Lessee".

## RECITALS

**WHEREAS**, Lessor owns and operates the Fresno Chandler Executive Airport, hereinafter referred to as "Airport", located in the City of Fresno, County of Fresno, State of California; and

**WHEREAS** The principal of Lessee currently operates a flight school which is occupying and using the property ("Premises") at the Airport under a previous Lease which expires March 31, 2018; and

**WHEREAS** The principal of Lessee wishes to continue to operate the a flight school and operate as a Fixed Based Operator using the property ("Premises") at the Airport; and

**WHEREAS** Lessee desires to reduce the existing lease Premises to exclusively the office building at their present location, and enter into a new lease with the City; and

**WHEREAS**, Lessor has determined it is in the City's best interest to enter into this Lease with Lessee.

**NOW THERFORE**, The parties hereto agree as follows:

This Lease is subject to the terms, covenants, conditions, agreements, warranties, and provisions herein contained and Lessee expressly covenants and agrees, as a material part of the consideration for the Lease, that Lessee shall fully and faithfully comply with, keep, perform and/or observe each and every term, covenant, condition, agreement, warranty, and/or provision hereof to be complied with, kept performed, and/or observed by Lessee.

## ARTICLE I: GRANT AND DESCRIPTION OF LEASED PREMISES, PRIVILEGES, USES, RIGHTS AND INTERESTS

Section 1.01 Grant And Description Of Leased Premises.

Lessor leases to Lessee and Lessee leases from Lessor that real property (Lease Lot AD-2) at the Airport shown on Exhibit A attached hereto and made a part hereof, comprised of a 3,228 square foot facility which includes a 1,242 square foot office building and open space located at 524 West Kearney Boulevard ("Premises").

Section 1.02 Privileges, Uses, Rights And Interests.

Lessee shall use the Premises in support of and in connection with the business of a Fixed Based Operator (FBO) and Flight School as defined in the minimum standards, and that are updated from time to time. In doing such, Lessee shall comply with the Minimum Standards for Fresno Chandler Executive Airport approved by the Council of the City of Fresno including any future changes/alterations approved by the City Council. Any use that is not directly aviation-related is prohibited.

A. Use of Public Facilities: Together with occupancy and use of the Premises and subject to any and all of the covenants, conditions, terms, agreements, and provisions of this

Lease, during the term hereof, Lessee shall have the use, in common with others, of all public airport facilities and improvements as such exist(ed) on the commencement date of the term hereof or as such may exist at any time and from time to time during the term of this Lease.

1. For the purposes of this Lease, "public airport facilities and improvements" includes, but is not limited to, approach areas, runways, taxiways, roadways, sidewalks, navigation and navigation aids, lighting facilities or other things of a public use nature appurtenant to Airport.

2. Lessee's right to use said public airport facilities in common with others shall be exercised only subject to and in accordance with the laws of the United States of America and the State of California and any and all applicable rules and regulations promulgated by their authority, and in accordance with any and all applicable rules, regulations and ordinances of Lessor as any and all such laws, rules and/or regulations exist(ed) on the commencement date of the term hereof or as any and all of such may exist, at any time and from time to time, during the term of this Lease.

3. None of the foregoing provisions of this sub-section of this Section of this Article shall be deemed to relieve Lessee and its tenants, sub-Lessees, patrons, invitees, successors, assigns, and/or any other person or entity whomsoever from payment of such Airport use fees and/or charges as are levied generally by Lessor directly upon the operations of aircraft, including, without limitation, aircraft landing fees and aircraft storage fees resulting from use of the public, common-use areas of the Airport under the direct control of Lessor, nor shall anything herein contained be deemed to relieve any one, more or all of aforesaid persons or entities from payment of such fuel flowage fees as are generally levied by Lessor upon fuel delivery, storage and dispensing operations on the Airport, as and when such airport use fees and/or fuel flowage fees shall legitimately accrue to Lessor pursuant to any Ordinance(s) and/or Resolution(s) of the City Council of the City of Fresno ("Council") either in effect on the start date of the term hereof or as may be adopted and placed into effect by said Council at any time and from time to time during the term of this Lease.

Section 1.03 Improvements.

Lessee shall not make any structural changes, alterations, additions, or modifications to any of the improvement(s) located in or on the premises at any time during the term of this lease, or construct or install any new improvements therein or thereon (except industrial improvements, trade fixtures and office improvements made/installed pursuant to the provisions of this lease , below), or enter into any contract for the making of any one or more of such, without the prior written consent/ approval of Lessor's Director of its Department of Airports ("Director"). Any and all improvements of any kind made or constructed or installed in or on said Premises for any reason shall comply with all government regulations as set forth in sub-section 3.06 below and shall be made by Lessee at Lessee's sole cost and expense.

A. In the event Lessee shall either make any structural changes, alterations, additions, or modifications to the Premises or to any improvement(s) constructed/installed/located

therein or thereon, or construct, install, and/or place any new improvement(s) therein or thereon without Director's prior written consent and/or approval, Lessor may require that Lessee remove any or all of such at Lessee's cost and expense.

B. Any and all changes, alterations, additions, modifications, and/or improvements that Lessee shall desire to make to the leased premise which, pursuant to any provision hereof, requires the consent/approval of Director, shall be presented to Director in written form together with two (2) sets of proposed detailed plans.

C. In each and every instance, the Director's written consent to and/or approval of any such alterations, additions, modifications, and/or improvements shall be deemed conditioned upon Lessee's full and faithful compliance with the provisions of this lease, below.

D. Lessee shall neither remove, waste, destroy and/or structurally modify any of the improvements located on the Premises upon the commencement date hereof or constructed/installed/placed therein/thereon at any time during the term of this lease; nor shall Lessee suffer or permit the removal, waste, destruction and/or structural modification thereof by any other person or entity, except as expressly authorized, permitted, and/or provided for within this lease. Any removal, wasting, destruction and/or structural modification of any improvement(s) shall be subject to any and all of the terms, covenants, conditions, stipulations, warranties, agreements, and/or provisions contained in or applicable to this lease.

1. Ownership and Disposition of Improvements: All improvements which may be made to the Premises by Lessee at any time and from time to time during the term of this Lease shall, upon completion, be owned by and remain the property of Lessee throughout the term of this Lease. At the end of the term of this Lease (and any extensions), or upon early termination by Lessor, all of the improvements erected, constructed, and/or placed in, on or upon the Premises by Lessee at any time during the term hereof shall become part of the realty and the property of Lessor; and, upon such improvements becoming part of the realty and the property of Lessor, Lessee shall; Within thirty (30) days following the date on which such improvements become part of the realty and the property of Lessor, execute and provide Lessor with a valid bill of sale, transferring all rights, title, interests and ownership in and to such improvements to Lessor, and Lessee shall not be entitled to any remuneration or other consideration whatsoever from Lessor for the value, if any, of such improvements; and

2. Such improvements shall be given over to Lessor free and clear of any and all encumbrances, liens, claims, or demands of any nature or description whatsoever, except for any then still outstanding loan obtained by Lessee and used to finance the cost of such improvements and secured by a recorded Deed of Trust where such loan shall have been obtained by Lessee and made by a Lender pursuant to and in full conformity with the provisions of this Lease applicable to such loans, in which event, the matter of such outstanding loan balance and the existence and disposition of such a Deed of Trust shall be governed by the provisions of this Lease.

3. If, for any reason whatsoever, Lessee shall fail to provide Lessor with any bill(s) of sale pursuant to the provisions of the immediately preceding paragraphs "i" and "ii", such failure shall not, in any way whatsoever, invalidate Lessor's claim of ownership of any such improvements or trade fixtures or delay Lessor's acquiring

ownership thereof pursuant to the provisions of this Article and ownership of such shall vest in Lessor, as and when required by this Lease, to the same force and effect as would exist had Lessee provided Lessor with such bill(s) of sale; however, nothing within this paragraph "iii" contained shall relieve Lessee of its obligation to provide any such bill(s) of sale to Lessor, as and when required by any of the provisions of this Lease.

E. Industrial Improvements: Lessor hereby grants to Lessee the right, at any time and from time to time during the term hereof, to make, install and/or affix in or on any buildings located on the Premises, installations and improvements of a type necessary for such purposes as are consistent with those certain uses of the Premises, hereof, such installations and improvements being hereinafter called "Industrial Improvements". "Industrial Improvements" shall include firefighting equipment (such as hose reels and extinguishers) and installation of such air distribution lines or additional electrical conduit, outlets, and lighting fixtures, natural gas lines, or water piping, as may be necessary therefor.

F. Trade Fixtures: Lessor hereby grants to Lessee the right, at any time and from time to time during the term hereof, to make improvements of an easily detachable/removable nature, in any buildings located on the Premises and to place, install and/or affix in, to, or on same "Trade Fixtures", including the right to make any necessary minor alterations in said buildings to accommodate such fixtures. Trade fixtures shall include machinery and equipment, jigs and fixtures, racks and bins, handling equipment and devices, tools, etc.

G. Office Improvements: Lessor hereby grants to Lessee the right, at any time and from time to time, to make, in any building(s) located on the Premises, temporary, detachable installations and improvements of a type necessary for general office purposes, hereinafter called "Office Improvements". Office improvements shall be limited to installation of additional electrical conduit and outlets, light fixtures, shelving, counters, carpets, and drapes.

H. Limitation on Industrial Improvements/Trade Fixtures/Office Improvements as respectively defined within paragraphs "f", "g" and "h" of this sub-section B (collectively "ITO Improvements"), above, shall not include: (1) any installations or improvements which by their removal shall materially damage or destroy any part of the Premises, or (2) any other installations or improvements which become part of the realty and the property of Lessor at the end of the term hereof pursuant to any of the provisions of this Lease.

I. Ownership of ITO Improvements: All ITO Improvements placed in or on the Premises by Lessee during the term of this Lease shall be and remain the property of Lessee throughout the term hereof, and Lessee shall have the right to remove any and all such improvements and/or trade fixtures within the fifteen (15) calendar day period immediately following the end of the term hereof; or, in the event of any holding over by Lessee pursuant to the holding over provisions hereof, within the same period of time following the end of any such holding over period. Any ITO Improvements which are not removed by Lessee during the period of time allowed therefor shall, at 12:00:01 a.m., on the next day following the end of such period, at the option Lessor become part of the realty and the property of Lessor, free and clear of any and all liens, claims and/or demands whatsoever. Should Lessee remove any ITO Improvements, as provided,

Lessee shall be responsible for returning the Premises to the condition existing prior to their installation.

J. Transfer of Ownership of ITO Improvements to Lessor at the Expiration of the Term of This Lease: Upon any ITO Improvements becoming part of the realty and the property of Lessor pursuant to any of the provisions of this Article, above, transfer of ownership thereof to Lessor shall be effected pursuant to the provisions of this sub-section, below.

1. Within thirty (30) days following the date on which any such improvements or trade fixtures become part of the realty and the property of Lessor, Lessee shall execute and provide Lessor with a valid bill of sale, transferring all of Lessee's rights, title, and interests in and to such improvements or trade fixtures to Lessor, and neither Lessee nor any other party whomsoever shall be entitled to any remuneration or other consideration whatsoever from Lessor for the value, if any, thereof.

2. Any and all such ITO Improvements shall be given over to Lessor by Lessee free and clear of any and all encumbrances, liens, claims, and/or demands of any nature or description whatsoever, except for any then still outstanding loan obtained by Lessee and used to finance the cost of any such improvements and secured by a recorded Deed of Trust where such loan shall have been obtained by Lessee and made by a Lender pursuant to and in full conformity with the provisions of this Lease, in which event, the matter of any such outstanding loan balance and the existence and disposition of any such a Deed of Trust shall be governed by the provisions of this Lease.

3. If, for any reason whatsoever, Lessee shall fail to provide Lessor with any Bill(s) of Sale pursuant to the provisions of the immediately preceding paragraphs "a" and "b", such failure shall not, in any way whatsoever, invalidate Lessor's claim of ownership of any such improvements or trade fixtures or delay Lessor's acquiring ownership thereof pursuant to the provisions of this Article and ownership of such shall vest in Lessor, as and when required by this Lease, to the same force and effect as would exist had Lessee provided Lessor with such Bill(s) of Sale; however, nothing within this paragraph "iii" contained shall relieve Lessee of its obligation to provide any such Bill(s) of Sale to Lessor, as and when required by any of the provisions of this Lease.

## ARTICLE II: OBLIGATIONS OF LESSOR

Section 2.01 Covenant Of Title.

Lessor warrants and covenants that it has full right and authority to enter this Lease and that all things have happened and been done to make its granting of said Lease effective.

Section 2.02 Operation Of Airport.

Lessor covenants and agrees during the term hereof to operate and maintain Airport and its public airport facilities as a public airport consistent with the Sponsor's Assurances given by Lessor to the United States Government under the Federal Aviation Act.

Section 2.03 Maintenance And Repair.

A. Lessor shall be obligated to repair and maintain only the foundation, the exterior walls and the exterior roof of the leased building, unless the need for such maintenance and repairs shall have been caused, in whole or in part, by the act, neglect, fault or omission of any duty by Lessee, its agents, employees, and/or invitees, or by breaking and entering, in which event(s) such maintenance and repairs shall be the obligation of Lessee at Lessee's cost and expense.

B. Lessor shall not be liable for any failure to make repairs or to perform any maintenance unless such failure shall persist for an unreasonable period of time after written notice of the need of such repairs or maintenance is given Lessor by Lessee. There shall be no abatement of rent and no liability of Lessor by reason of any injury to Lessee's business or any interference with Lessee's uses of the Premises arising from Lessor's making any repairs and/or performing any maintenance in/on/to/for either the Premises or any of the improvements located therein/thereon or any appurtenances thereto. Lessor shall not be responsible in any way whatsoever for any acts or omissions on the part of any sub-Lessees, tenants, and/or any other third parties.

C. During the term hereof, Lessor shall not, under any circumstances, be obligated to make any alterations, additions, or modifications in, on or to any part or all of the Premises or in, on or to any one or more of the improvement(s) located therein or thereon, or to any of the facilities appurtenant thereto, as said premises, improvements and appurtenant facilities exist(ed) at the time this Lease was entered into or as such may exist, at any time and from time to time, during the term hereof.

## ARTICLE III: OBLIGATIONS OF LESSEE

Section 3.01 Acceptance Of Premises.

Lessee hereby accepts each and every part of the Premises, together with any and all of the improvements located in and on same, and all of the facilities appurtenant thereto, in their present "As Is" condition as of the commencement date of the term of this Lease.

Section 3.02 Net Agreement.

This is a Net Agreement with respect to monthly base rent, fees and charges paid to Lessor by Lessee. Lessee shall, at Lessee's cost and expense, in addition to the Rent, fees and charges set forth herein, pay all costs and expenses associated with Lessee's occupancy and use of the Premises and with the activities and operations conducted thereon/therefrom pursuant to this Agreement, including but not limited to those certain activities and operations described herein.

Section 3.03 Lessee's Maintenance and Repair Obligations.

A. Lessee's Obligations Regarding Repair and Maintenance of the Chandler Premises: Lessee shall be solely responsible for and expressly agrees at all times during the term of this Lease, at Lessee's own cost and expense, keep and maintain the Premises and all buildings, structures, paved surfaces, security fences, any security gates installed by Lessee , and any and all other improvements constructed, installed, and/or located in and/or on said Premises in good order and repair, free of weeds and rubbish, and in a clean, sanitary, sightly and neat condition (Lessor shall have no obligation to provide any services whatsoever in this regard); and at Lessee's sole expense maintain, repair, and/or provide the premises and any and all facilities and other improvements in full

compliance with any and all building, fire, safety, and environmental codes, ordinances, statutes, standards, rules, regulations and/or requirements of any and all federal, state, county and/or municipal governmental entities which may, at any time and from time to time during the term hereof, be required by law to facilitate the commencement and/or continuation of the use(s) thereof for such purposes as are authorized hereunder.

B. Lessee shall provide maintenance service for any landscaped areas located on the Premises during the term of this Lease. Such services shall be performed by Lessee at no cost to Lessor and shall include and be limited to the following:

1. Cutting of grass as and when the need therefore arises; and
2. Removal of grass/weeds from shrubbery beds as and when the need therefore arises; and
3. Pruning of trees/shrubs as and when the need therefore arises; and
4. Maintenance of the existing sprinkler system and supplying irrigation water to the landscaped area.

C. Lessor's Right to Enter: Lessor's representatives shall have the right to enter upon all or any part of the Premises at any and all reasonable hours on any day of the week for the purpose of inspecting same or for the purpose of making any required repairs thereto and performing any required maintenance thereon. Lessor agrees to provide Lessee with a minimum of ten (10) days' notice in advance of any formal inspection of the Premises and prior to the making of any required repairs thereto, except in cases of emergency wherein no advance notice will be required.

D. Repairs by Lessor at Lessee's Expense: In the event Lessor deems any repairs required to be made by Lessee necessary and serves Lessee with written notice thereof, if, for any reason whatsoever, Lessee fails to commence such repairs and complete same with reasonable dispatch, Lessor may then make such repairs or cause such repairs to be made and shall not be responsible to Lessee for any loss or damage that may occur to Lessee's stock or business by reason thereof. If Lessor makes such repairs or causes such repairs to be made, Lessee agrees that the cost thereof shall be payable, as additional rent, along with the next monthly rental installment due hereunder after the completion of such repairs and the submission by Lessor to Lessee of a statement of such cost, or if no further rental installments are then payable, within thirty (30) days following submission by Lessor of any such statement.

Section 3.04 Utilities, Outside Storage, Disposable Waste, Control of Hazards and Nuisances, and Lessee's Responsibility Regarding Hazardous Substance.

A. Utilities:

1. During the term hereof, Lessee shall make its own arrangements for and pay all charges for water, sewer, gas, electricity, telephone, trash collection and other utility service(s) ("Utilities") supplied to and used on the Premises. All such charges shall be paid before delinquency, and Lessor and the Premises shall be protected and held harmless by Lessee therefrom. Should Lessee make arrangements for any Utilities through the City's Finance Department's Utilities Billing and Collection Section (e.g. water, sewage, and/or solid waste [trash] disposal), Lessee agrees to pay to Lessor, monthly, upon receipt of the billing(s) therefor at the then current rates as established from time to time by ordinances

of Lessor for such services, such sum(s) as shall be due for any and all such services provided to the Premises during the term hereof.

2. Upon Lessee's obtaining of any and all required permits and the payment of any required charges or fees, Lessee is hereby granted the right to connect to any and all storm drains, sanitary sewers and/or water and utility outlets as shall be available and/or provided to service the Premises.

3. The construction/installation of any and all connections to any and all utility systems, including, without limitation, water service lines and associated fixtures, piping, plumbing and hardware, sewer connector lines, and storm drain inlets, feeder lines, etc., shall be the obligation of Lessee at Lessee's own cost and expense.

4. Lessor shall not be liable to Lessee for any interruption in or curtailment of any utility service, nor shall any such interruption or curtailment constitute a constructive eviction or grounds for rental abatement in whole or in part hereunder.

B. Outside Storage:

Except for operational vehicles directly related to the business in regular use within, upon, to and from the Premises, no materials, supplies, products, equipment or other personal property shall be stored outside of buildings or structure.

C. Disposable Waste:

1. Solid Waste: Lessee, at Lessee's own cost and expense, shall provide a complete and proper arrangement, in compliance with all ordinances of City, for the adequate, sightly, sanitary handling and disposal, away from Airport, of all solid waste caused as a result of any and all activities conducted on the Premises. Lessee shall provide and use suitable covered receptacles for discarded machinery or parts and any other solid commercial and/or industrial wastes and/or other refuse. The area in which said waste receptacles are stored shall be kept clean and free of all trash and debris. The temporary piling of boxes, cartons, barrels or other similar items, in an unsightly manner, on or about the Premises, pending removal and disposal thereof, is prohibited.

2. Liquid Waste: Lessee shall at all times comply with any and all applicable laws, ordinances, rules, regulations or orders of any and all governmental agencies having jurisdiction over storage, transport, treatment or disposal of liquid waste; and Lessee agrees that it shall neither conduct nor suffer or permit the conducting of any activity(ies) in/on the Premises which shall be in violation thereof, and Lessee shall ensure that no untreated liquid waste, from any type of operation/activity conducted/engaged in on the Premises, is allowed to enter any storm drainage system, sanitary sewer system, and/or aquifer.

D. Control of Hazards and Nuisances:

Lessee shall, at all times, keep the Premises and each and every part thereof in a neat, clean and orderly condition, and shall prevent the accumulation of, and shall maintain said Premises free from, any refuse or waste materials which might be or

constitute a potential health, environmental, or fire hazard or public or private nuisance. Lessee shall neither conduct nor suffer or permit the conducting of any activity on the Premises which either directly or indirectly produces objectionable or unlawful amounts or levels of air pollution (gases, particulate matter, odors, fumes, smoke, dust, etc.); water pollution; light, glare, or heat; electronic and/or radio emissions interfering with any navigational or communications facilities/operations associated with the operation of the airport and/or its use by aircraft; trash or refuse accumulation; or any other activity/operation which is hazardous or dangerous by reason or risk of explosion, fire or harmful emission.

E. Lessee's Responsibility Regarding Hazardous Substances:

1. Definition: The term "Hazardous Substances", as used in this Lease, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

2. Restrictions: Lessee shall not cause or permit to occur:

   a. any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions in, on, under or about the Premises, or arising from Lessee's use(s) or occupancy(ies) thereof, including, but not limited to, soil and ground water conditions; or

   b. the use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance in, on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substance, except where Lessor's advance written consent to any such use, generation, release, manufacture, refining, production, processing, or storage shall have been requested in writing and received by Lessee. Any and all such consents of Lessor shall be deemed given subject to and conditioned upon Lessee's fully and faithfully complying with any and all federal, state, or local statutes, laws, ordinances, rules and/or regulations, now or hereafter enacted, applicable to the use, generation, manufacture, refining, production, processing, transport, transfer, storage, and/or sale of that/those Hazardous Substances to which any such consent of Lessor may, in any way whatsoever, be deemed to apply.

   c. Lessor's consent/approval shall not be required for the use, storage and disposal of materials/supplies containing hazardous substances where such materials/supplies shall be lawfully available to BOTH the general public and Lessee through commercial retail outlets so long as:

      i. such materials/supplies are NOT for "RESALE", are obtained periodically but frequently enough to preclude the storage of unreasonable quantities of such on the Premises, and are for use by

Lessee or Lessee's employees, agents, representatives, contractors, or sub-contractors in the performance of Lessee's normal day-to-day and/or periodic housekeeping and routine, recurring maintenance activities on the Premises (e.g., commercial cleaning products [soaps/detergents/ solvents], furniture and floor waxes, landscape fertilizers, weed/pest killers, products normally used in the Lessee's industry, etc.); and

ii. so long as the use, storage and disposal of any and all of such materials/supplies shall be in full compliance with any and all federal, state and local statutes, laws, ordinances, codes, rules and regulations applicable thereto now or hereafter enacted (including, without limitation, any and all Occupational Safety and Health statutes, laws, codes, rules and regulations of the Federal Government and the State of California).

3. Environmental Clean-up:

a. Throughout the term of this Lease, Lessee shall, at Lessee's cost and expense, comply with any and all federal, state and local statutes, laws, ordinances, codes, rules and regulations regulating the use, generation, storage, transportation, or disposal of Hazardous Substances ("Laws").

b. Lessee shall, at Lessee's cost and expense, make all submissions to, provide all information required by, and comply with any and all requirements of any and all governmental authorities (the "Authorities) under the Laws.

c. Should any Authority or any court of competent jurisdiction demand that a cleanup plan be prepared and that a cleanup be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the term of this Lease, at, on, or from the Premises, or which arises at any time as a result of Lessee's use(s) or occupancy(ies) of the Premises, then Lessee shall, at Lessee's cost and expense, prepare and submit the required plans and all related bonds and other financial assurances and carry out all such cleanup plans in a timely manner.

d. Lessee shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Substances that is requested by Lessor. If Lessee fails to fulfill any duty imposed under this Article within a reasonable period of time following service of proper notice, Lessor may do so; and, in such case, Lessee shall cooperate with Lessor in order to prepare any and all documents Lessor deems necessary or appropriate to determine the applicability of the Laws to the Premises and Lessee's occupancy(ies) and/or use(s) thereof, and for compliance therewith, and Lessee shall execute any and all such documents promptly upon Lessor's request. No such action by Lessor and no attempt made by Lessor to mitigate damages under any law shall constitute a waiver of any of Lessee's obligations under this article.

4. Indemnification: Lessee shall indemnify, defend, and hold harmless Lessor, Lessor's officers, agents, employees and volunteers from all fines, suits,

procedures, claims, and actions of every kind, and all costs associated therewith (including reasonable attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge, or other release of Hazardous Substances that occurs at any time during the term of this Lease as a result of any and all use(s) and/or occupancy(ies) of said Premises by Lessee or any employee, representative, agent, contractor, sub-contractor, supplier, customer, guest, invitee, tenant or sub-Lessee of Lessee, or as a result of Lessee's failure to provide any or all information, make any or all submissions, and take any and all steps required by any or all Authorities under the Laws and any and all other environmental laws.

5. Lessee's Obligations/Liabilities Surviving Expiration of Lease: Lessee's obligations and liabilities under this sub-section E, shall survive the expiration of the term of this Lease.

F. Lessor Held Harmless: Lessee agrees to protect and hold harmless Lessor, the Premises and any and all improvements located therein or thereon and any and all facilities appurtenant thereto and any and all other property(ies) located therein or thereon and any and all of Lessor's interest(s) in and/or to said Premises, improvements, appurtenant facilities, and/or other property(ies), from any and all such taxes and assessments, including any and all interest, penalties and other expenses which may be imposed thereby or result therefrom, and from any lien therefor or sale or other proceedings to enforce payment thereof.

G. Lessee's Right to Appeal: Nothing within this section of this article shall be deemed to limit any of Lessee's rights to appeal any such levies and/or assessments in accordance with the rules; regulations, laws, statutes, or ordinances governing the appeal process of the taxing authority(ies) making such levies and/or assessments.

Section 3.05 Taxes And Assessments.

In addition to the rentals, fees, and charges herein set forth, Lessee shall pay, as and when due (but not later than fifteen [15] days prior to the delinquency date thereof) any and all taxes and general and special assessments of any and all types or descriptions whatsoever which, at any time and from time to time during the term of this Lease, may be levied upon or assessed against Lessee, the Premises and/or any one or more of the improvements located therein or thereon and appurtenances thereto, other property located therein or thereon belonging to Lessor or Lessee, and/or upon or against Lessee's interest(s) in and to said Premises, improvements and/or other property, including possessory interest as and when such be applicable to Lessee hereunder as referenced as Note in footnote.[1]

[1] NOTE: Any interest in real property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of any real property (land and/or improvements located therein or thereon) which is owned by the City of Fresno (Lessor) is a taxable possessory interest, unless the possessor of interest in such property is exempt from taxation. With regard to any possessory interest to be acquired by Lessee hereunder, Lessee, by its signatures hereunto affixed, warrants, stipulates, confirms, acknowledges and agrees that, prior to its executing this lease, Lessee either took a copy hereof to the office of the Fresno County Tax Assessor or by some other appropriate means, independent of Lessor or any employee, agent, or representative of Lessor, determined, to Lessee's full and complete satisfaction, how much Lessee will be taxed, if at all.

Section 3.06 Observation Of Governmental Regulations.

A. Airport Rules and Regulations: Lessor reserves the right to adopt, amend and enforce reasonable rules and regulations governing the Premises and the public areas and facilities used by Lessee in connection therewith. Such rules and regulations shall be consistent with the safety, security and overall public utility of Airport and with the rules, regulations and orders of the Federal Aviation Administration (FAA) (or such successor agency[ies] as may, at any time and from time to time during the term hereof be designated by the Federal Government to perform either similar, new, additional, and/or supplemental functions, powers and/or duties with respect to air transportation, aircraft, Airports, etc.), and such rules and regulations shall NOT be inconsistent with the provisions of this Lease or the procedures prescribed and approved, from time to time, by the FAA with respect to the operation of aircraft at the Airport. Lessee agrees to observe, obey and abide by all such rules and regulations heretofore or hereafter adopted or amended by Lessor, including compliance with FAA, and Airport security rules, regulations and plans.

1. Lessee shall be fully liable to Lessor for any and all claims, demands, damages, fines and/or penalties of any nature whatsoever which may be imposed upon Lessor by the United States Government as a result of any unauthorized entry by Lessee, Lessee's employees, agents, representatives, servants, tenants, customers, patrons, guests, invitees, sub-Lessees, contractors, sub-contractors, or any vehicle operated thereby, into any area of the Airport to which access by persons or vehicles is restricted/controlled pursuant to FAA and/or Airport Security Rules/Regulations/Plans, and Lessee shall be similarly liable to Lessor where any such claims, demands, damages, fines and/or penalties shall be the result of any violation by any person or entity whomsoever when such person or entity may reasonably be deemed to have gained access to any such area on airport from the Premises leased by Lessee under this Lease as a result of a failure on Lessee's part to control access to such areas pursuant to the provisions of this section of this article, below.

2. Lessee shall be solely responsible for controlling access to any such restricted/controlled areas from any and all parts of the Premises and shall, at all times during the term hereof, at Lessee's own cost and expense, provide and/or implement such approved airport security monitoring and control systems, equipment, and/or procedures as may be required to fully comply with any and all such rules/ regulations/plans as such rules/regulations/plans exist(ed) on the commencement date of the term hereof or as such may exist, at any time and from time to time, during the term of this Lease, so as to preclude any unauthorized entry into any such area from the Premises by any person or persons whomsoever.

B. Other Governmental Regulations: Lessee shall, at all times during the term hereof, observe, obey and comply with any and all laws, statutes, ordinances, codes, rules, regulations, and/or orders of any governmental entity(ies) lawfully exercising any control(s) over either the Airport or over any part or all of Lessee's activities/operations thereon and/or therefrom, including, without limitation, any and all local business license and/or permit requirements.

C. Federal Grant Agreement Assurances: Those provisions set forth within Section "B", "Assurances", Of Exhibit "B", "Assurances Required By The Federal Aviation

Administration", attached hereto and made a part hereof, are those specific provisions required by the FAA to be appropriately included within all agreements (including, without limitation, leases, licenses, permits, and contracts) between Lessor and any and all persons and/or entities who use or perform work or conduct activities on Lessor-owned airport Premises for aeronautical or non-aeronautical purposes. Lessee, by its signature(s) hereunto affixed, acknowledges that it has reviewed the aforesaid exhibit, in its entirety, and fully understands the meaning, purpose, and intent thereof. Lessee expressly agrees that, throughout the term hereof, it shall fully and faithfully comply with, abide by and/or adhere to, as applicable and appropriate, each and every one of the numbered provisions contained within Section "B", "ASSURANCES", of said Exhibit (as said numbered provisions are reflected therein or as same may be amended, from time to time, during the term hereof, by Lessor, as and when the FAA's requirements thereon imposed may so dictate), which, pursuant to the guidelines established within paragraphs 2 through 4 of Section "A" of said Exhibit, shall either be applicable to Lessee on the start date of the term hereof or which, as a result of changing facts and/or circumstances, shall subsequently become applicable to Lessee, hereunder, during the term hereof.

D. Height Limits: No structure erected on the Premises shall exceed the height limits as set for imaginary airport surfaces by Part 77 of the Federal Aviation Regulations. When any structures are to be erected or placed on the Premises, Lessee will be required to file and shall file a "Notice of Proposed Construction or Alteration" with the Federal Aviation Administration.

E. Limitation on Lessor's Liability and Lessee's Right to Terminate: Lessor shall not be liable to Lessee for any diminution or deprivation of possession or any of Lessee's rights hereunder when such shall result from any exercise by Lessor of any such right or authority as in this Section or within EXHIBIT "B", hereto, provided; and Lessee, by reason of the exercise of any such right or authority by Lessor, shall not be entitled to terminate, in whole or in part, the leasehold estate herein created unless the exercise thereof by Lessor shall so interfere with Lessee's use and occupancy of the leasehold estate herein created so as to constitute a termination in whole or in part of this Lease by operation of law in accordance with the laws of the State of California.

F. Commercial Aviation Activity:

1. Compliance with Governmental Regulations: Lessee, Lessee's tenants and sub-Lessees, and any and all other persons or entities whomsoever, engaging in any commercial aviation activities whatsoever in, on, to and/or from the Premises shall, at all times during the term of this Lease, conduct any and all such activities in compliance with any and all laws, statutes, ordinances, rules, and regulations of any and all federal, state and local governmental agencies lawfully exercising authority over the Airport and/or over commercial activities conducted thereon, thereto or therefrom, including, without limitation, Chapter 5, Article 4, "Airport Regulations" of the City of Fresno Municipal Code (FMC), as such laws, statutes, ordinances, rules, and regulations exist(ed) at the time this Lease was entered into or as such may exist at any time and from time to time during the term hereof. At the time this Lease was entered into, certain sections of Chapter 5 of Article 4 of the FMC governing such activity, read(s) as follows:

"Commercial Activity" No person shall engage in any business or commercial activity on the Airport except with the approval of, and under such terms and conditions as may be prescribed by the Council." (FMC 5-404 (c)

2. Limitations on Commercial Use of Premises By Persons Other than Lessee: Lessee expressly warrants and agrees that, throughout the term of this Lease, Lessee shall not enter into any rental or sub-lease agreement, with any party(ies) whomsoever, which shall involve the use of any large aircraft hangar, individual aircraft T-hangar, shelter, or ramp-tie-down located on the Premises for the purpose of storing Commercial or Private aircraft therein or thereunder, unless and until the owner or operator of such aircraft holds either a valid "commercial aviation operations permit" issued by Lessor; or a valid "airport lease agreement" with Lessor; or a "bona fide sub-lease" with Lessee or another Fixed Base Operator at the Airport who holds a valid "lease agreement" with Lessor.

   a. Lessee further warrants and agrees that, except for aircraft owned and/or operated by Lessee, Lessee shall neither suffer nor permit any commercial aircraft, to be stored on and operated from any outside aircraft tie-down/storage area located on the Premises except when the owner(s) and/or operator(s) of such aircraft shall be conducting commercial aircraft operations on, to and from the Airport in full conformity with the provisions hereof, and/or the then current rules and regulations of Lessor governing such activities.

   b. Lessee shall be responsible for ensuring the observance, by all of its tenants and/or sub-Lessees, of any and all of the foregoing provisions of this sub-section of this Section of this Article, and any breach thereof by any of Lessee's tenants or sub-Lessees shall constitute a breach of this Lease by Lessee.

G. Derelict Aircraft

Lessee shall not allow any aircraft within public view to become a derelict aircraft. A derelict aircraft defined as: an Aircraft that has not been Airworthy for six months or more and: (1) is not in the process of being made Airworthy; or (2) is not in the process of rehabilitation for public display; or (3) has not been specially prepared, treated and preserved for future rehabilitation. For the purposes of this agreement, an Aircraft will be presumed a Derelict Aircraft if it has not been Airworthy for six months or more and is obviously deteriorating (tires flat and/or drying out or cracking; or rubber drying out and losing resiliency; or paint oxidizing, crazing and/or flaking off; or Plexiglas discoloring, cracking or crazing; or metal corroding or rusting; or fabric fraying; etc.). If any aircraft has been deemed by the City of Fresno Airports Department to be a derelict aircraft and it is not removed from lease area immediately, Lessee shall be considered in Default of this Lease.

## ARTICLE IV: TERM, TERMINATION, HOLDOVER AND LIQUIDATED DAMAGES

Section 4.01 Term.

The term of this Lease shall be for the five (5) year period commencing April 1, 2018, and ending March 31, 2023, unless terminated earlier in the manner and under the conditions herein provided.

Section 4.02 Option To Extend Term.

Lessor hereby grants to Lessee an option to extend the term of this Lease for a period of two (2) years from and after the ending date of the term specified in Section 1.02, above. Said option shall be exercised by Lessee delivering to Lessor notice, in writing, of Lessee's exercising said option which notice shall be delivered not less than ninety (90) days prior to the ending date of the term provided in Section 1.02 above. Upon the receipt of said notice by Lessor, the term of this Lease shall then thereby be extended for an additional two One (1) year periods and the parties hereto shall be bound by all terms, covenants and conditions hereof during said additional period.

Section 4.03 Early Termination.

Either party may terminate this Lease at any time and without cause by serving written notice upon the other party no less than thirty (30) days before such termination is to be effective.

Section 4.04 Holding Over.

A. In the event Lessee shall remain in possession of the Premises or any part thereof following the end of the life of this Lease, and thus hold over the term hereof with or without the express written consent of Lessor, such holding-over occupancy shall be a tenancy from month to month only, terminable by either party hereto upon service of a minimum of thirty (30) days advance written notice upon the other party.

B. Rent During Holding Over Period: During the holding-over MONTH-TO-MONTH TENANCY period, Lessee shall pay to City all rent and all other charges required by this Agreement at the rates in effect as of the date immediately preceding the date on which such month-to-month tenancy commences.

C. Applicability of Lease Provisions: EXCEPT as otherwise specifically set forth within this Article, such holding over shall be subject to all of the terms, covenants, conditions, and provisions of this Lease applicable to a month-to-month tenancy.

Section 4.05 Liquidated Damages.

If this Lease is terminated early by Lessor pursuant to the default provisions, hereof, as a result of Lessee's failure to keep, observe, or perform any of the terms, covenants, conditions, warranties, agreements, or provisions hereof to be kept, observed, or performed by Lessee, the entire amount of such surety instrument may be claimed, retained and used by Lessor as liquidated damages.

## ARTICLE V: RENTAL, OTHER CHARGES, LATE PAYMENT, AND SECURITY DEPOSIT

Section 5.01 Rent.

A. Definitions.

1. "Base Rent" shall mean the rent rate at the beginning of the term of this Lease.

2. "Rent" shall mean all monetary obligations of Lessee to Lessor under the terms of this Lease.

B. Base Rent for the Premises shall be paid monthly in advance at the rate of Two Thousand nineteen dollars and twenty cents ($2,019.20) per month.

C. Proration of Base Rent. For any period less than a full calendar month, for which base rent shall be due to be paid to Lessor by Lessee, the rent therefore shall be pro-rated on a 30 day/month basis.

D. Fuel Flowage Fees.

Amount of Fees: Subject to adjustment as provided herein, the Fuel Flowage Fee(s) to be paid by Lessee shall be as stated in the Master Fee Schedule, which shall be updated from time to time.

Section 5.02 Rental Adjustment.

Commencing on April 1, 2018, then on April 1 each and every year throughout the term of this Lease ("Scheduled Adjustment Date") including any available option exercised by the lessee, the amount of monthly base rent to be paid to LESSOR by LESSEE shall be increased by the same percentage as the percentage increase in the U.S. Department of Labor, Bureau of Labor Statistics (USDLBLS) Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items, U.S. city average) from January 1 to December 31 during the last full calendar year prior to the Scheduled Adjustment Date. The amount of all such annual adjustments shall be determined in the manner illustrated within Exhibit "C" "Illustration Of Annual Rental Adjustment Computation", attached hereto and made a part hereof. Lessor shall complete the "Annual Rental Adjustment Computation" worksheet as illustrated in Exhibit "C" hereto, and provide a copy of such worksheet to Lessee, prior to the Scheduled Adjustment Date each year during the life of this Lease. In the event of a decrease in the CPI, in any given year, there shall be no rent adjustment. In the event the CPI decreases, monthly rent shall not be adjusted downward.

A. Effective Period of Provisions. The foregoing rent adjustment provisions shall be effective in the manner described so long as the above said CPI data is published by the USDLBLS in substantially the same form and is based generally on the same type data being used on January – December 2017, and, in the event of any change in form and/or basis of said index, said provisions shall be redefined by LESSOR and LESSEE to a reasonably comparable standard.

B. **Retroactive Rent Adjustment: In the event any annual rent adjustment computation shall, for any reason whatsoever, be delayed beyond the Scheduled Adjustment Date, LESSEE shall continue paying the existing monthly base rent amount (i.e., the amount being paid immediately prior to the Scheduled Adjustment Date) when due until the new rental rate is finally determined by LESSOR.**

Any rent adjustment due as a result of any such late computation shall apply and be paid by LESSEE retroactively as of the Scheduled Adjustment Date for which any such late computation shall be applicable.

When any such late computation results in an increase in the monthly rent, LESSEE shall pay the difference between the new rate and the old rate, for each of the months

commencing with the Scheduled Adjustment Date during which the new rent amount shall have been in effect, along with the next due monthly rent payment.

C. Place of Payment: Rent shall be paid to Lessor at the address shown below or at such place or places at which Lessor may in writing direct the payment thereof from time to time during the term hereof.

City of Fresno Airports Department
Attn: Airports Accounting
4995 E. Clinton Way
Fresno, CA 93727

Section 5.03 Other Charges.

A. Airport Use Fees/Charges: Nothing contained in this Lease shall be deemed to relieve Lessee, any employee of Lessee, or any one or more of Lessee's tenants, sub-Lessees, customers, invitees, successors, assigns, or any other person or entity whomsoever, from payment of such other fees and charges as may legitimately accrue to Lessor pursuant to any Ordinance(s) and/or Resolution(s) of the City Council of Lessor in effect on the start date of the term hereof or as such may be passed/adopted and placed into effect by said Council, at any time and from time to time, during the term of this Lease, including, without limitation:

1. Airport use fees and/or charges as are levied generally by Lessor directly upon the operations of aircraft, including, without limitation, aircraft landing fees and aircraft storage fees resulting from use of the public, common-use areas/facilities of the Airport under the direct control of Lessor;

2. Miscellaneous fees and/or charges (including, without limitation, fees/charges for Airport security badges, copies of public documents [including extra copies of this Lease], returned check charges, etc.) as are generally assessed by Lessor against members of the general public and/or Lessees, tenants, and/or other users of Airport Premises and/or facilities.

B. Reimbursement for Insurance and other Lessor Expenses: Lessee shall pay and nothing within this Lease shall be deemed to relieve Lessee, any employee of Lessee, or any one or more of Lessee's tenants, sub-Lessees, customers, invitees, successors, assigns, or any other person or entity whomsoever, from payment of such other fees and charges as may legitimately incurred by Lessor pursuant to Lessor's ownership of the Premises including but not limited to the pro-rata portion of the Fire and Extended Coverage insurance policy covering the subject Premises.

C. Effect of Failure to Pay Fees/Charges: Any failure by Lessee to pay any and all airport use fees, and/or miscellaneous fees and charges to Lessor (as additional rent), as and when due to be paid to Lessor thereby, shall constitute a default on the part of Lessee under this Lease.

Section 5.04 Statistical/Operational And Informational Reports.

A. Statistical / Operational Reports: At the request of Lessor, Lessee shall provide Lessor with reports, on forms supplied by Lessor or in a form acceptable to Lessor, showing in such detail and breakdown of information as Lessor may reasonably require concerning Lessee's operations at the Airport.

1. Such reports shall be submitted by Lessee with sufficient timeliness so as to be received by Lessor on or before the tenth (10th) calendar day of the month following the request for the report and shall be submitted to Lessor at Lessor's address for Notice as set forth below.

2. Lessee shall be responsible for submitting monthly reports even if there are no operations to report. Such monthly reports shall state "No Monthly Operations to Report" and shall be on the proper form and signed by the Lessee.

B. Monthly Fuel Flowage Reports.

Lessee shall provide Lessor with monthly Fuel Flowage Reports (on forms provided by Lessor and/or in a form acceptable to Lessor) in such detail and breakdown as may reasonably be required by Lessor, evidencing the number of any and all gallons of aircraft fuels delivered to Lessee by any and all commercial fuel suppliers making deliveries to Lessee on Airport under authority granted in this Lease and the number of any and all gallons of aircraft fuels otherwise obtained, stored, sold and/or used by Lessee on Airport under authority hereof.

C. Special Informational Reports: If, as and when, requested by Lessor, Lessee shall also provide Lessor with periodic and/or as required special informational reports concerning: (1) the names, mailing addresses, and telephone numbers of all of Lessee's tenants/sub-Lessees at Airport; (2) the services being provided the public by Lessee and any and/or all tenants and/or sub-Lessees of Lessee at Airport; (3) the number of aircraft tee-hangars, aircraft shelters, and/or the number of outside aircraft tie-down and/or storage spaces being made available by Lessee and/or any and all sub-Lessees of Lessee for sub-lease/rental by the public and the rental rates charged therefor; (4) the N-number of airplanes stored at the Premises; and (5) such other operational information as Lessor may, at any time and from time to time, reasonably require during the term hereof. Lessee shall provide Lessor with any and all such SPECIAL INFORMATIONAL REPORTS within seventy-two (72) hours where Lessor shall request such report be provided by telephone, or within ten (10) days where Lessor requests such report in writing. In the event any such special informational report is requested to be submitted in writing, it shall be submitted to the address specified by Lessor at the time such report is requested.

Section 5.05 Surety.

A. Due Date, Type and Amount of Surety: Within thirty (30) days of the commencement of rental payments hereunder, Lessee shall provide Lessor, and shall thereafter maintain during the term of this Lease, a valid Surety instrument or surety amount, in an amount equal to the next three (3) month's rent, guaranteeing Lessee's fully and faithfully undertaking, observing, keeping and performing any and all of the terms, covenants, conditions, warranties, agreements, undertakings, and/or provisions hereof to be observed, kept, performed, and/or undertaken by Lessee.

B. Form of Surety: The surety instrument shall be in one of the following forms:

1. A Surety Bond issued by an insurance company lawfully admitted and doing business in good standing in the State of California and authorized to write such bonds in said State; or

2. An Irrevocable Letter Of Credit established in favor of Lessor for the account of Lessee by a federally chartered bank located in the State of California and lawfully doing business in said State; or

3. An Automatically Renewable Certificate Of Deposit in the name of Lessor issued by a federally chartered Bank or Savings and Loan Association located in the State of California and lawfully doing business in said State (Interest may accrue to Lessee [Depositor]; or

4. A Cash Deposit (Lessor shall not be obligated or required to pay and shall not pay any interest whatsoever).

C. Return/Surrender/Release of Surety by Lessor: Except as provided within this Article, at the end of the term hereof, such surety as shall have been provided by Lessee and which is then currently being held by Lessor shall be returned/ surrendered/released by Lessor, provided that there are no outstanding claims against Lessee.

Section 5.06 Late Payment.

A. Late Payment Charge: Should any installment of rent or other payment of fees accruing under the provisions of this Lease not be paid as and when due, a late payment charge equal to the lesser of one and one-half percent (1.5%) of the total overdue amount, or the maximum amount allowable by law, shall be charged on a monthly compounded basis from the date when the payment was due until full amount of the late payment(s) and accrued late charges are received by Lessor. The minimum charge per month shall be one dollar ($1.00).

B. Best Estimate of Damage: Lessee and Lessor recognize that the damage which Lessor shall suffer as a result of Lessee's failure to pay rent and/or other sums when due is difficult to ascertain, and therefore agree the above said late charge is the best estimate of the damage which Lessor shall suffer in the event of Lessee's late payment.

C. Change to Late Payment Charge: It is expressly stipulated that the amount of the Late Payment Charge (above) may, at any time and from time to time during the term of this Lease, be changed by ordinance/ resolution passed/adopted by the city council of Lessor when, in said council's opinion, economic conditions and/or other relevant facts and/or circumstances may reasonably warrant such action.

D. Non-Relief From Payment: Nothing within this Lease contained shall be deemed, in any way whatsoever, to relieve Lessee from payment of rent or other sums at the time and in the manner herein provided.

## ARTICLE VI: INDEMNIFICATION, EXEMPTION OF LESSOR, AND INSURANCE

Section 6.01 Indemnification And Release.

A. Except to any extent expressly provided for in this Agreement, and to the furthest extent allowed by law, Licensee shall indemnify, hold harmless and defend City and its officers, officials, employees, agents and volunteers (hereinafter referred to collectively as "City") from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage, including damage by fire or other casualty) incurred by City, Licensee or any other person, and from any and all claims, demands and actions in law

or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the License Agreement. Licensee's obligations under the preceding sentence shall apply to any negligence of City, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or by the willful misconduct, of City.

B. Licensee acknowledges that any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage, including damage by fire or other casualty) arising out of or in any way connected with releases or discharges of a Hazardous Substance, or the exacerbation of a Potential Environmental Hazard, occurring as a result of or in connection with Licensee's activities or the activities of any of Licensee's representatives (including, without limitation, any of Licensee's officers, officials, employees, agents, volunteers, invitees, subtenants, consultants, subconsultants, contractors or subcontractors), and all costs, expenses and liabilities for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation and other response costs, including reasonable attorneys' fees and disbursements and any fines and penalties imposed for the violation of any Legal Requirements relating to the environment or human health, are expressly within the scope of the indemnity set forth above.

C. If Licensee should contract any work on the Premises or subcontract any of its obligations under this Agreement, Licensee shall require each consultant, subconsultant, contractor and subcontractor to indemnify, hold harmless and defend City and its officers, officials, employees, agents and volunteers in accordance with the terms of this Section and meet all the insurance requirements in this Agreement or as determined by the City of Fresno Risk Manager or their designee.

D. The provisions of this Section shall survive the termination or expiration of this agreement.

Section 6.02 Insurance.

A. Throughout the life of this Agreement, Licensee shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager or his/her designee. The following policies of insurance are required:

(i) AVIATION/AIRPORT OR GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include coverage for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, hangarkeepers legal liability, products and completed operations, and contractual liability (including, without limitation, indemnity obligations under this Lease), with limits of liability of not less than $2,000,000 per occurrence for bodily injury and property damage, $2,000,000 per occurrence for personal and advertising injury, $4,000,000 aggregate for products and completed operations and $4,000,000 general aggregate. **Licensee may substitute Airport Liability insurance for this insurance provided the coverage is**

**as broad as required and the limits of liability are not less than required.**

(ii) AIRCRAFT HULL AND LIABILITY insurance shall include coverage for bodily injury to passengers and non-passengers, property damage and cargo legal liability with combined single limits of liability of not less than $1,000,000 per occurrence and aggregate for bodily injury, property damage and cargo legal liability for fixed wing aircraft and $1,000,000 per occurrence and aggregate for bodily injury, property damage and cargo legal liability for rotorcraft.

(iii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iv) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(v) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

(vi) POLLUTION LIABILITY insurance with limits of liability of not less than $1,000,000 per claim/occurrence and $2,000,000 aggregate.

In the event Licensee purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

C. Licensee shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Licensee shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City's Risk Manager or his/her designee. At the option of the City's Risk Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, officials, employees, agents and volunteers; or (ii) Licensee shall provide a financial guarantee, satisfactory to City's Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

D. All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Licensee shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during this Agreement, Licensee shall provide a new certificate, and applicable endorsements,

evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

E. The Airport Liability (or General Liability, if applicable), Aircraft Liability, Pollution and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Licensee's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents and volunteers. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers.

F. Licensee shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. **All certificates and applicable endorsements are to be received and approved by the City's Risk Manager or his/her designee prior to City's execution of the Agreement.** Such evidence of insurance shall be provided City at the following address:

City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

G. Upon request of City, Licensee shall immediately furnish City with a complete copy of any insurance policy required under this Contract, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

H. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Lease. No action taken by City hereunder shall in any way relieve Licensee of its responsibilities under this Lease.

I. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Licensee. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Licensee.

J. Licensee and its insurers hereby waive all rights of recovery against City and its officers, officials, employees, agents and volunteers, on account of injury, loss by or damage to the Licensee or its officers, officials, employees, agents, volunteers, invitees, consultants, subconsultants, contractors and subcontractors, or its property or the property of others under its care, custody and control. Licensee shall give notice to its insurers that this waiver of subrogation is contained in this Agreement. This requirement shall survive termination or expiration of this Agreement.

**SUBCONTRACTORS** - If LICENSEE subcontracts any or all of the services to be performed under this Agreement, LICENSEE shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, LICENSEE shall require and verify that subcontractors maintain insurance meeting all the requirements stated herein and LICENSEE shall ensure that CITY, its officers, officials, employees, agents and volunteers are additional insureds. The subcontractors' certificates and endorsements shall be on file with LICENSEE, and CITY, prior to commencement of any work by the subcontractor.

Section 6.03 Exemption.

Lessee hereby specifically warrants, covenants and agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, patrons, invitees, or any other person whomsoever, in or about the Premises, nor shall Lessor be liable for injury to the person of Lessee, Lessee's servants, agents, employees, contractors, sub-contractors, tenants, sub-lessees, customers, or invitees, whether or not said damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the leakage, breakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether or not the said damage or injury results from conditions arising in or on any part or all of the Premises or in or on any of the improvement(s) and facilities appurtenant thereto located therein or from other sources or places, and regardless of whether or not the cause of such damage or injury or the means of repairing the same is inaccessible to Lessee, except where such injury, damage, and/or loss shall have been caused solely by the gross negligence or willful misconduct of Lessor. Lessee also covenants and agrees that Lessor shall not be liable for any damages arising from any act or neglect on the part of any third parties.

## ARTICLE VII: OPERATING STANDARDS

Section 7.01 Minimum Standards

In doing business(es) at the city's airports, Lessee agrees to comply with each and every one of the minimum standards affecting such business(es) as city may from time to time adopt and promulgate. Moreover, in using the city's airports or conducting any operations thereat or thereon, Lessee agrees to comply with all applicable rules and regulations then in effect. Continued failure to comply with any minimum standard, rule or regulation within a reasonable time after instruction by city to do so will constitute a material breach of this Lease.

Section 7.02 Designation Of Local Representative By Lessee.

Lessee shall at all times retain in the local area a qualified, competent and experienced representative to supervise its operations and authorized to represent and act for Lessee in matters pertaining to the day-to-day conduct of Lessee's business operations on the Premises. During any temporary periods of absence by said representative, an alternate representative of Lessee with like authorization must be present. Lessee shall at all times keep the Airports Director advised as to who Lessee's authorized representative is and how immediate communication can be established with that representative on a 24-hour basis in the event of an emergency.

Section 7.03 Quality Of Service.

In entering into this Lease, Lessor has foremost in mind providing the aviation public with facilities and services of high quality, commensurate with the trade that is accustomed to using contemporary airport facilities, and Lessee (together with its tenants and sub-Lessees, if any) agrees to conduct its/their business in a proper and first-class manner at all times. Lessee further agrees that any and all services provided by Lessee and/or by Lessee's tenants and sub-Lessees at Airport shall at all times be rendered in a prompt, clean, courteous, efficient, safe, and professional manner and that any and all persons employed by Lessee, Lessee's tenants and sub-Lessees for the purpose of providing any services shall at all times be professionally qualified and, as and when required, properly trained, certified and/or licensed to so perform, and that the number of such persons shall at all times be adequate to meet the demand for such services as shall provided under authority hereof.

Section 7.04 Hours of Operation.

Lessee's services in and at the Premises shall be available a minimum of forty (40) hours per week except for an annual vacation period of not more than three weeks.

Section 7.05 Outside Storage.

No materials, supplies, products, equipment or other personal property (other than operational vehicles directly related to the business in regular use) shall be stored or permitted to remain outside any approved buildings or structures except within approved outside storage yards constructed by Lessee, at Lessee's cost and expense, so as to meet the requirements and standards of this Lease and Lessor's Development Department.

Section 7.06 Signs.

A. Company Signs: The location, size, shape, construction, materials and general appearance of any and all signs to be installed on any portion of the Premises so as to be exposed to public view shall be subject to the prior written approval of Director before installation.

B. Other Authorized Signs: Lessee may also post other signs and notices as may be required by legal authority or operational prudence, such as, but not limited to, airport security notices, safety hazard warnings, directional and warning signs for aircraft and surface vehicle traffic, etc. Such signs will be limited to those which are required or prudent, will be no larger than is required in order to be seen by the intended viewer, and, in all cases, shall be neatly prepared and installed, have a finished and professional appearance, and be maintained in such condition as long as they are in place.

C. Commercial Advertising Signs: Lessee shall not suffer or permit to be installed upon or maintained on the Premises, or on the outside of any improvements located thereon, any billboards or commercial advertising signs of any type whatsoever.

D. Used Or Temporary Buildings/Structures: No used buildings/structures and/or temporary buildings/structures may be moved onto or installed on the Premises.

K. Liability for damage: Lessee shall be liable for and shall promptly repair any damage to the Premises where such damage shall be caused by any act or omission on the part of Lessee, Lessee's employees, contractors, agents, representatives, tenants, sub-

Lessee's, customers, or invitees. Lessee shall also be liable for and shall promptly repair any damage to other airport Premises/facilities where such damage shall be caused by any act or omission on the part of Lessee, Lessee's employees, contractors, agents, or representatives. Should Lessee fail or be unable to promptly effect any such repairs within thirty (30) days following Lessor's notice of the need therefor, Lessor shall have the right to make such repairs, and Lessee agrees to reimburse Lessor for all costs of such repairs, including administrative costs, within thirty (30) days following Lessor's providing Lessee with a bill for such costs.

## ARTICLE VIII: DESTRUCTION OF IMPROVEMENTS

Section 8.01 General.

In the event that any improvements located in or on the Premises shall be partially or totally destroyed at any time during the term hereof, the respective rights and obligations of the parties hereto with respect to reconstructing, re-building, restoring and/or repairing such improvements, and/or with respect to the matter of the continuance or termination of this Lease following such destruction, shall be controlled by the provisions of this Article, and Lessee shall notify Director of any instance of destruction of or major damage to such improvements immediately upon Lessee's becoming aware of any such occurrence.

Section 8.02 Definitions and Remedies.

For the purposes of this Article of this Lease, the following definitions and remedies shall apply:

A. "Partial Destruction": The term "partial destruction", as used herein, shall be deemed to mean a destruction of improvements to such an extent that the total costs of reconstructing/restoring/repairing/ replacing the improvements, to as good a condition of habitability and/or usability (for those certain uses herein authorized and intended therefor) as existed immediately prior to the occurrence of any such destruction, shall not exceed fifty percent (50%) of the total replacement cost of all of the improvements located in and on the Premises as of the date immediately preceding the date of such destruction. In the event of Partial Destruction, subject to subsection C below, Lessor may agree to restore the Premises and Lessee shall remain in possession without abatement of rent, or either party may terminate this Lease in the manner provided herein.

B. "Total Destruction": The term "total destruction", as used herein, shall be deemed to mean a destruction of improvements to such an extent that the total costs of reconstructing/restoring/repairing/ replacing the destroyed improvements, to as good a condition of habitability and/or usability (for those certain uses herein authorized and intended therefor) as existed immediately prior to the occurrence of any such destruction, shall exceed fifty percent (50%) of the total replacement cost of all of the improvements located in and on the Premises as of the date immediately preceding the date of such destruction. In the event of Total Destruction, subject to subsection C below, Lessor may agree to restore the Premises and Lessee's rent shall abate for such period, or either party may terminate this Lease in the manner provided herein.

C. Partial or Total Destruction as the Result of Willful Misconduct on the Part of Lessee: In the event any or all of the improvements located in or on any part or all of the Premises shall, at any time during the term hereof, suffer either partial or total destruction, if such destruction shall be caused by a casualty not covered under any insurance policy(ies)

maintained by lessee, and shall be the result of any willful misconduct on the part of lessee, this lease shall continue in full force and effect, without any abatement of rental, and lessee shall, at Lessee's cost and expense, promptly commence the reconstruction, restoration, replacement, and/or repair of such improvements and shall diligently prosecute and complete such reconstruction, restoration, replacement, and/or repair, within a reasonable period time, so as to restore said improvements to as good or better condition of habitability and/or usability (for those certain uses herein authorized and intended therefor) as existed immediately prior to the occurrence of any such destruction.

## ARTICLE IX : ASSIGNMENT, SUBLEASING, AND HYPOTHECATION, TRANSFER AND ASSIGNMENT BY DEED OF TRUST

Section 9.01 General.

Nothing within this Lease contained shall be deemed to allow Lessee or Lessee's successors or assigns, either voluntarily or by operation of law, to hypothecate, encumber, sell, assign, surrender, or otherwise transfer this Lease, in whole or in part; or to hypothecate, encumber, sell, assign, surrender, or otherwise transfer, in whole or in part, any of Lessee's rights, title and/or interests in or to any part or all of the Premises and/or in or to any part or all of the improvements and appurtenances which existed therein or thereon at the commencement of the term hereof or which may, at any time and from time to time, be constructed/installed therein or thereon during the term of this Lease; or to rent, sublet or otherwise permit/allow/suffer occupancy and/or use of any part or all of the Premises by any person or entity, other than Lessee, except with the consent of Lessor.

Section 9.02 Assignment.

A. Assignment: Lessee may not and shall not sell, transfer or make any assignment of this Lease to any other person(s) or entity(ies) whomsoever without the prior written consent of Lessor and any purported/attempted sale, transfer and/or assignment of this Lease, following Lessee's fulfillment of such obligations, without such advance written consent, shall be null and void and shall constitute a breach of this Lease. Any person or entity to whom this Lease is sold, transferred or assigned shall be required to comply with and fulfill all terms and conditions of this Lease.

   1. Lessor shall not be obligated to consent to and shall not consent to any sale, transfer and/or assignment of this Lease by Lessee to any other person or entity whomsoever where Lessee shall be in default of any of its obligations thereunder as of the date on which Lessor's consent to the sale, transfer and/or assignment would have otherwise been given.

B. Lessor's consenting to any such actions shall not constitute a waiver of the conditions, limitations, and restrictions of this Article relative to further or other such actions, which conditions, limitations, and restrictions apply to each and every sale, transfer and/or assignment hereof and shall be binding upon each and every transferee, assignee, and/or other successor in interest of Lessee.

Section 9.03 Subleasing.

A. Sub-Leasing: Lessee may not and shall not sub-lease any part or all of the Premises to any other person(s) or entity(ies) whomsoever without the prior written consent of Lessor,

and any attempted/purported sub-leasing without such advance written consent shall be null and void and shall constitute a breach of this Lease.

1. Neither the provisions of any sub-lease consented to by Lessor nor the fact that Lessor consented to any sub-lease shall, in any way whatsoever, be deemed to relieve Lessee of any one or more of Lessee's obligations under this Lease.

2. Lessor's consenting to any sub-lease shall not constitute a waiver of any one or more of the conditions, limitations, and restrictions in this Article relative to further or other sub-lease agreements, which conditions, limitations and restrictions shall apply to each and every sub-lease and shall be binding upon each and every sub-Lessee, assignee, transferee, and/or any other successor in interest of Lessee.

3. Lessor shall have the right to withhold its consent to any sub-lease where Lessee shall be in default of any of its obligations under this Lease as of the date on which Lessor's consent to the sub-lease would otherwise have been given.

B. Form of Sub-Leases: Any Sub-Leasing of any part or all of the Premises by Lessee to any other person or entity shall be effected by means of a written sub-lease agreement prepared in a generally accepted contract form and executed by both Lessee (as sub-Lessor) and the sub-Lessee named therein.

C. Use of Premises by Sub-Lessees: No Sub-Lease entered into by Lessee concerning any part or all of the Premises shall authorize or allow any Sub-Lessee to use any part or all of the sub-leased portion(s) of the Premises for any uses/purposes/activities other than those certain uses/purposes/ activities authorized and intended therefore within Section 3.02 of Article III, hereof.

D. Term of Sub-Leases: Lessee may not and a shall not sub-lease any part or all of the Premises for any term extending beyond the day immediately preceding the ending date of the term of this Lease and any extension thereof.

E. Merger: Pursuant to the provisions of Section "12.11" of Article XII hereof, the voluntary or other surrender of this Lease by Lessee, or a mutual cancellation hereof, or a termination by Lessor, or an automatic termination, or termination by a court of competent jurisdiction, or any other termination hereof shall not work a merger, and shall, at Lessor's option, terminate any or all existing sub-leases/-tenancies; or may, at the option of Lessor, operate as an assignment to Lessor of any or all such sub-leases/-tenancies.

F. Priority of Instruments: Whether or not such be clearly evidenced by an appropriate provision within any sub-lease made and entered into by and between Lessee and any other person or entity concerning any part or all of the Premises (and notwithstanding the absence of any such evidence within any sub-lease consented to by Lessor) any and all sub- leases shall be subject to any and all of the terms, covenants, conditions, prohibitions, limitations, reservations, restrictions, warranties, agreements, and provisions of this Lease and to any and all rights and interests of Lessor therein and thereto, none of which shall be deemed to be waived by any consent of Lessor to any such sub-lease. Neither the intent nor language of any sub-lease entered into by and between Lessee and any other person(s) or entity(ies) concerning any part or all of the Premises shall conflict with any of the terms, covenants, or conditions of this Lease and, in the event of any conflict between the provisions of this Lease and the provisions of

any such sub-lease, the provisions of this Lease, in each and every instance, shall control.

G. Notice by Lessee: not less than thirty (30) days prior to the start date of the term of any sub-lease agreement, Lessee shall provide Lessor with written notice of Lessee's intent to sub-lease that certain portion of the Premises identified within the particular Sub-Lease for which Lessor's consent shall be requested. Any and all such notices shall be accompanied by a non-returnable, full, complete and fully executed copy of the sub-lease(s) involved and shall contain Lessee's request for Lessor's consent thereto in writing.

H. Amendments: Once Lessor's consent shall be given for any particular sub-lease, that sub-lease may not and shall not be modified in any way whatsoever other than in writing, signed by the parties in interest at the time of the modification, and any such modification shall be null and void unless approved by Lessor, in writing, prior to the effective date thereof.

Section 9.04 Hypothecation, Transfer And Assignment By Deed Of Trust.

A. General: Nothing within this Lease contained shall, in any way whatsoever, be deemed to allow Lessee or Lessee's successors or assigns to mortgage, pledge, hypothecate, or otherwise encumber either this Lease, any part or all of the Premises, or any one or more of the improvements located anywhere in or on said Premises, except as may be approved by Lessor.

B. Lessor's Consent: Neither Lessee nor any buyer or purchaser may hypothecate, transfer, sublease, encumber and/or assign this Lease and leasehold estate, in whole or in part, by any deed of trust without first obtaining the written consent of Lessor in advance, and any attempted or purported hypothecation, transfer, sublease, encumberance and/or assignment of this Lease by deed of trust (or otherwise) without such consent shall be null and void and shall constitute a breach of this Lease.

C. Lessor's Consent Given/Accepted Subject to Terms, Covenants, Conditions, Agreements and Provisions of Lease: In the event Lessor shall give its consent in writing to any hypothecation, transfer, sublease, encumberance and/or assignment of this Lease and the leasehold estate by any deed of trust to any reputable lender as security for repayment of a loan made pursuant to the provisions of this article, such consent shall be deemed to be given by Lessor (and accepted by the particular lender/beneficiary concerned) subject to and/or conditioned upon all of the covenants, conditions, warranties, terms, agreements and provisions of this Lease applicable thereto.

D. Lessor's Consent Not a Waiver of Any of Lessor's Rights and Interests:

1. Except as may otherwise be expressly set forth within Lessor's written consent thereto, any and all such trust deeds and any and all of the rights acquired by any and all persons or entities thereunder shall be subject to all of the terms, covenants, conditions, reservations, restrictions, prohibitions, limitations, warranties, agreements, and provisions of this Lease, and to any and all of the rights and interests of Lessor therein and thereto, none of which shall be waived by any such consent.

2. Lessor's consenting to any such action shall not constitute a waiver of the conditions, limitations, and restrictions set forth within this Lease relative to further or other such actions, which conditions, limitations, and/or restrictions shall be binding upon each and every assignee, transferee or other successor in interest of Lessee.

E. Request for Lessor's Consent During a Period When Lessee is in Default: Lessor shall have the right to withhold its consent to any deed of trust where Lessee shall be in default of any of its obligations under this Lease as of the date on which Lessor's consent to assignment by the deed of trust would have otherwise been given, provided that Lessee was notified of default, and failed to cure within the time required.

## ARTICLE X: DEFAULT

Section 10.01 Default By Lessor.

Lessor shall work to fulfill obligations required of Lessor under the Lease within a reasonable period of time.

Section 10.02 Default By Lessee.

A. Defaults: the occurrence of any of the following events shall constitute a material default and breach of this Lease by Lessee:

1. The vacating or abandonment of the Premises by Lessee.

2. The failure by Lessee to use the Premises for lawful purposes only and/or failure by Lessee to comply with or observe any statute, law, ordinance, rule, regulation, standard or requirement of any federal, state, or local government entity with respect to Lessee's occupancy(ies) and/or use(s) of any part or all of the Premises, as such statutes, laws, ordinances, rules, regulations, standards or requirements exist(ed) on the commencement date of the term of this Lease or as such may exist at any time and from time to time during the term thereof, where any such failure shall be evidenced by either a finding or judgment of any court of competent jurisdiction or where any such shall be admitted by Lessee in any proceeding brought against Lessee by any government entity.

3. The inability of and/or failure by Lessee to obtain, pay for, and maintain in full force and effect at all times during the term of this Lease, without any lapse in coverage, such insurance as shall be required of Lessee thereunder.

4. The occurrence of any of the following:

   a. Lessee's becoming insolvent, or failing in business, or the making by Lessee of any general arrangement or an assignment for the benefit of creditors;

   b. The filing by or against Lessee of a petition to have Lessee adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (Unless, in the case of a petition filed against Lessee, the same is dismissed within sixty [60] days);

   c. The appointment of a receiver to take possession of substantially all of Lessee's assets located in or on the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within thirty (30) days; or

d. The attachment, execution or other judicial seizure of substantially all of Lessee's assets located in or on the Premises or of Lessee's interest in this Lease, where such seizure in not discharged within thirty (30) days.

5. The discovery by Lessor that any financial statement provided Lessor by Lessee, any assignee of Lessee, any successor in interest of Lessee, or any guarantor of Lessee's obligations under this Lease, and/or any one or more of such persons or entities, was materially false.

6. Any hypothecation, encumbrance, sale, assignment, or transfer of either this Lease, in whole or in part; or of any of Lessee's rights, title and interests in or to any part or all of the Premises and/or in or to any part or all of the improvements and appurtenances thereto which exist(ed) therein or thereon at the commencement of the term of this Lease or which may at any time and from time to time be constructed/ installed therein or thereon during the thereof where such action(s) shall not be in full conformity with any and all of the provisions of this Lease applicable thereto; or any attempted/purported renting, subletting or permitting occupancy of any part or all of the Premises by any person or entity other than Lessee.

7. The failure by Lessee to make any payment of rent or any other required payment, as and when due under this Lease, where such failure shall continue for a period of ten (10) days following service of notice thereof upon Lessee by Lessor.

8. The failure by Lessee to keep, observe, undertake, fulfill, or perform any of the terms, covenants, conditions, warranties, agreements, obligations, and/or provisions of this Lease to be kept, observed, undertaken, fulfilled, and/or performed by Lessee, other than those hereinabove , where such failure shall continue for a period of thirty (30) days following service of written notice thereof upon Lessee by Lessor, pursuant to this Lease; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default and breach of this Lease if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion as soon as reasonably possible.

B. Lessor's Remedies:

1. Abandonment: If Lessee abandons the Premises, this Lease shall continue in effect. Lessor shall not be deemed to terminate this Lease as a result of such material default and breach other than by written notice of termination served upon Lessee by Lessor, and Lessor shall have all of the remedies available to Lessor under Section 1951.4 of the Civil Code of the State of California so long as Lessor does not terminate Lessee's right to possession of the Premises, and Lessor may enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due under this Lease. After abandonment of the Premises by Lessee, Lessor may, at any time thereafter, give notice of termination.

2. Termination: Following the occurrence of any material default and breach of this Lease by Lessee as set forth within this Section, above, Lessor may then immediately, or at any time thereafter, terminate this Lease by service of a minimum of ten (10) days advance written notice to such effect upon Lessee and this Lease shall terminate at 11:59:59 p.m., on the termination date specified within such notice.

3. Such notice shall set forth the following:

    a. The default and breach which resulted in such termination by Lessor; and

        i. A Demand For Possession, which, in the event only ten (10) days advance notice shall be given by Lessor, shall be effective at 12:00:01 A.M., on the eleventh (11th) calendar day following the date on which the notice in which such demand is contained shall be sufficiently served upon Lessee by Lessor in conformity with the "Notice" provisions of this Lease; or, if more than the minimum number of days advance notice shall be given, at 12:00:01 a.m., on the next day following the date specified within such notice as being the date of termination hereof.

    b. Such notice may contain any other notice which Lessor shall be required or desire to give under this Lease.

4. Possession: Following termination of this Lease by Lessor pursuant to the provisions of this Section, without prejudice to other remedies Lessor may have by reason of Lessee's default and breach and/or by reason of such termination, Lessor may:

    a. Peaceably re-enter the Premises upon voluntary surrender thereof by Lessee or remove Lessee and/or any other persons and/or entities occupying the Premises therefrom, using such legal proceedings as may be available to Lessor under the laws or judicial decisions of the State of California;

    b. Repossess the Premises or re-let the Premises or any part thereof for such term (which may be for a term extending beyond the term of this Lease) at such rental and upon such other terms and conditions as Lessor in Lessor's sole discretion shall determine, with the right to make reasonable alterations and repairs to the Premises; and

    c. Remove all personal property therefrom and store all personal property not belonging to Lessor in a public warehouse or elsewhere at the cost of and for the account of Lessee.

5. Recovery: Following termination of this Lease by Lessor pursuant to the provisions above, Lessor shall have all the rights and remedies available to Lessor under Section 1951.2 of the Civil Code of the State of California. The amount of damages Lessor may recover following such termination of this Lease shall include:

    a. The worth at the time of award of the unpaid rent which had been earned at the time of termination of this Lease;

    b. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of this Lease until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;

    c. The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period Lessee proves could be reasonably avoided, and

d. Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

6. Additional Remedies: Following the occurrence of any material default and breach of this Lease by Lessee as set forth within this Article, above, in addition to the foregoing remedies, Lessor may maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises and, so long as this Lease is not terminated by Lessor or by a decree of a court of competent jurisdiction, Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due thereunder and, during any such period, Lessor shall have the right to remedy any default of Lessee, to maintain or improve the Premises without terminating this Lease, to incur expenses on behalf of Lessee in seeking a new Lessee, to cause a receiver to be appointed to administer the Premises, and to add to the rent payable hereunder all of Lessor's reasonable costs in so doing, with interest at the maximum reasonable rate then permitted by law from the date of such expenditure until the same is repaid.

7. Other: In the event Lessee causes or threatens to cause a breach of any of the covenants, terms or conditions contained in this Lease, Lessor shall be entitled to obtain all sums held by Lessee, by any trustee or in any account provided for herein, to enjoin such breach or threatened breach and to invoke any remedy allowed at law, in equity, by statute or otherwise as though re-entry, summary proceedings and other remedies were not provided for in this Lease.

8. Cumulative Remedies: Each right and remedy of Lessor provided for in this Article or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude Lessor from exercising any other rights or from pursuing any other remedies provided for in this Lease or now or hereafter available to Lessor under the laws or judicial decisions of the State of California.

9. Indemnification: Nothing contained within this Article affects the right of Lessor to indemnification by Lessee, as elsewhere within this Lease provided, for liability arising from personal injuries or property damage prior to the termination of this Lease.

## ARTICLE XI: NOTICES

Section 11.01 Written Notices Required.

All notices required to be served by Lessor and Lessee, one upon the other, under the terms of this Lease shall be in writing.

Section 11.02 Lessee's Address For Notices.

All notices or demands of any kind which Lessor shall have cause to serve upon Lessee under the terms of this Lease shall be serves upon Lessee by mailing a copy thereof by certifies or registered mail, return receipt requested, to Lessee at the address shown below or to such other address as Lessee may, from time to time, specify to Lessor in writing:

Golden Skies, LLC.

dba Fresno Flyers
1573 West Fir
Fresno, CA 93711

Section 11.03 Lessor's Address For Notices.

All notices or demands of any kind which Lessee shall have cause to serve upon Lessor under the terms of this Lease shall be served upon Lessor by mailing a copy thereof by certified or registered mail, return receipt requested, to Lessor at the address shown below or to such other address as Lessor may, from time to time, specify to lessee in writing.

City Of Fresno
Airports Department
4995 East Clinton Way
Fresno, CA 93727-1525

Section 11.04 Time And Date Of Service.

In the event of any service of notice or demand by mail, as above said, such notice or demand shall be deemed to have been sufficiently served as of 12:00:01 a.m., on the fourth (4th) calendar day following the date of deposit in the United States mail of such certified or registered mail properly addressed and postage prepaid.

## ARTICLE XII: GENERAL PROVISIONS

Section 12.01 Executor's Authority.

Each individual executing this Lease on behalf of Golden Skies, LLC, represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said Company in accordance with its governing documents including articles of incorporation and bylaws, and that this Lease is binding upon said Company in accordance with its terms.

Section 12.02 Interpretation Of Agreement.

Nothing contained within this Lease shall be construed or interpreted, in any manner whatsoever, as limiting, relinquishing or waiving any of the rights of ownership enjoyed by Lessor in and to Airport property, or in any manner waiving or limiting Lessor's control over the operation, maintenance, etc., of Airport property or in derogation of such governmental rights as Lessor possesses, except as is specifically provided for within this Lease.

Section 12.03 Waiver Of Breach Of Covenants.

No waiver of any default or breach of any covenant by either party to this Lease shall be implied from any omission by either party to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and then said waiver shall be operative only for the time and to the extent therein stated. The waiver by either party hereto of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same covenant, term or condition or of any other term, covenant or condition contained within this Lease. The subsequent acceptance of rent, fees and/or other charges hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental, fees and/or other charges so accepted, regardless of Lessor's knowledge of such preceding breach at the

time of acceptance of such rent, fees or other charges. The exercise of any right or option or privilege under this Lease by Lessor shall not prevent Lessor from exercising any and all other rights, privileges and options hereunder, and Lessor's failure to exercise any right, option or privilege under this Lease shall not be deemed a waiver of said right, option or privilege, nor shall it relieve Lessee from Lessee's obligation to perform each and every covenant and condition on Lessee's part to be performed hereunder, nor from damages or other remedy for failure to perform or meet the obligations of this Lease. The consent or approval by either party to or of any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar acts.

Section 12.04 Venue And Litigation.

A. This Lease, and the rights and obligations of the parties thereto, shall be construed, interpreted, and enforced pursuant to the laws of the State of California and exclusive venue in any and all actions arising under this Lease shall be laid in the Judicial District of Fresno County, California.

B. In any action or proceeding which Lessor or Lessee may be required to prosecute to enforce its respective rights under this Lease, the unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable interest and attorneys' fees, to be fixed by the court, and said costs, interest, and attorneys' fees shall be made a part of the judgment in said action.

Section 12.05 Liens And Claims.

Lessee shall not suffer or permit to be enforced against Lessor's title to the Premises, or any part thereof, any lien, claim or demand arising from any work of construction, repair, restoration, maintenance or removal as herein provided, or otherwise arising (except liens, claims or demands suffered by or arising from the actions of Lessor), and Lessee shall pay all such liens, claims and demands before any action is brought to enforce same against said Premises; and Lessee agrees to hold Lessor and said Premises free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses in connection therewith. Lessor shall have the right at any time to post and maintain on said Premises such notices as may be necessary to protect Lessor against liability for all such liens, claims and demands.

Section 12.06 Successors And Assigns.

Subject to such limitations and/or requirements as may elsewhere within this Lease be set forth with regard to Lessee's sub-leasing any part or all of the Premises or with regard to either Lessee's assigning this Lease or Lessee's pledging, mortgaging, hypothecating, or otherwise encumbering this Lease or any of Lessee's rights, title and/or interests thereunder, this Lease and all of the terms, covenants, conditions, stipulations, warranties, prohibitions, limitations, reservations, restrictions, agreements, and provisions therein contained shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

Section 12.07 Invalid Provisions.

In the event any covenant, condition or provision of this Lease, or the application thereof to any person, entity, or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Lease, or the application thereof to any person, entity, or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, provided that such invalidity, voiding or non-enforceability of such covenant, condition or provision does

not materially prejudice either party in its respective rights and obligations contained in the then remaining valid covenants, conditions or provisions of this Lease.

Section 12.08 Captions And Article/Section/Paragraph Numbers.

The captions, article numbers, section and sub-section numbers, paragraph and sub-paragraph numbers and/or alphabetical identifiers and index appearing in this Lease are inserted solely for the purpose of convenience in reference and in no way define, limit, construe, or describe the scope or intent of such articles, sections, sub-sections, paragraphs or sub-paragraphs of this Lease nor in any way whatsoever affect this Lease.

Section 12.09 Covenants And Conditions.

Each provision of this Lease performable by Lessee shall be deemed both a covenant and a condition.

Section 12.10 Consents/Approvals.

Wherever in this Lease the consent/approval of one party is required to an act of the other party, such consent/approval shall not be unreasonably withheld or delayed.

Section 12.11 Merger.

The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation hereof, or a termination by Lessor, or an automatic termination, or termination by a court of competent jurisdiction, or any other termination hereof shall not work a merger, and shall, at the option of Lessor, terminate any or all existing Sub-leases/-Tenancies or may, at the option of Lessor, operate as an assignment to Lessor of any or all such Sub-leases/-Tenancies.

Section 12.12 Cumulative Remedies.

No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

Section 12.13 Prior Agreements.

Amendments: This Lease and those certain Exhibits attached hereto and made a part hereof by reference herein contain all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may not be amended or otherwise modified in any way whatsoever, except in writing signed by the parties. Except as otherwise stated in this Lease, Lessee acknowledges that neither Lessor nor Lessor's officers, employees or agents has made any oral or written warranties or representations to Lessee relative to the condition or use by Lessee of the Premises and Lessee acknowledges that Lessee assumes all responsibility regarding the Occupational Safety Health Act, the legal use and adaptability of the Premises, and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease except as otherwise specifically stated in this Lease.

Section 12.14 Quiet Possession.

Upon Lessee paying the rental, fees and/or other charges reserved under this Lease and keeping, observing and/or performing all of the covenants, conditions, warranties, promises, agreements, and/or provisions on Lessee's part to be kept, observed and/or performed

thereunder, Lessee shall have quiet possession of the Premises during the full term of this Lease, and any extensions thereto, subject to all of the provisions of this Lease.

Section 12.15 Time Of Essence.

Time is of the essence with respect to this Lease and matters therein contained.

Section 12.16 Review/Examination Of Lease.

Submission of the instrument by Lessor for review /examination or signature by Lessee does not constitute a reservation of or option to lease, and the instrument is not effective as a Lease or otherwise, unless and until execution and delivery by both Lessor and Lessee.

Section 12.17 Accord And Satisfaction.

No payment by Lessee or receipt by Lessor of a lesser amount than the rent, fees and/or charges payment(s) due to be made by Lessee under this Lease shall be deemed to be other than on account of the rent, fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as rent, fees and/or charges shall be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent, fees and/or charges or to pursue any other remedy provided in this Lease.

Section 12.18 National Emergency And Condemnation/Eminent Domain.

A. Total Taking/Condemnation of Premises: In the event that the Government of the United States takes over the operation of the Airport, or any part thereof which shall include all of the Premises, by requisition or other unilateral action as the result of a national emergency or otherwise, the lease shall terminate as of the effective date of any such taking; or, if all of the Premises shall be taken by public authority pursuant to condemnation actions(s) under the laws of eminent domain, the lease shall terminate as of the date of title vesting in such proceeding.

    1. Upon termination of this Lease as a result of either of the events hereinabove described within this Section, the parties hereto shall be relieved of any and all obligations, one to the other, hereunder, not accrued to the date of such termination and Lessor shall promptly return, on a prorated basis, any then unearned rent theretofore paid by Lessee under this Lease.

    2. Lessor shall not be liable to Lessee for any injury to Lessee's business or loss of income or any other injury or loss suffered by Lessee as a result of any such taking and/or termination.

B. Partial Taking/Condemnation of Premises: In the event that only a part of the Premises shall be taken as a result of any of those actions described in this Section, and if such taking and the reasons therefore shall not constitute a bar to Lessee's continued beneficial occupancy and use of that/those portion(s) of the Premises not so taken, where such taking may reasonably be deemed to not adversely affect Lessee's commercial business operations therein and thereon to a significant extent/degree, this Lease shall continue in full force and effect and that/those certain parcel(s) of land so taken shall be automatically deleted from the Premises leased by Lessor to Lessee thereunder, as of the date of such taking and/or title vesting.

C. Awards: In the event that all or part of the Premises shall be taken as a result of any of those actions described in this Section, above, the rights of the parties hereto with respect to such award(s) as shall be paid for such taking shall be as follows:

1. Lessor shall be entitled to the entire amount of any and all compensation awarded by reason of the taking of the leased land and any and all Lessor-owned improvements then located therein or thereon and Lessee waives any right or claim to any part thereof from Lessor or the condemning authority.

2. Subject to the provisions of this Section, below, Lessee shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of:

   a. The taking of or injury to any Lessee-owned improvements then located on the leased land, including the value of the then existing leasehold interest therein and thereto, to the extent of Lessee's interest therein, based on the value of the then remaining unexpired portion of the term of this Lease, as said value shall be determined in the proceedings for the taking of such operations and awarding such compensation; and

   b. Any and all cost or loss (including loss of business) which may be incurred by Lessee as a result of Lessee's having to remove Lessee's personal property (including merchandise, furniture, trade fixtures and equipment) to a new location.

D. Payments to Encumbrancers: Any compensation which would otherwise be payable to Lessee under this Section, above, shall be paid directly to any known lawful encumbrancer of the leasehold interest, to the extent of such encumbrance.

E. Notice and Execution: Upon service of process upon Lessor in connection with EITHER any taking over of Airport by the United States Government OR any condemnation or potential condemnation, Lessor shall immediately give Lessee notice thereof in writing. Lessee shall immediately execute and deliver to Lessor any and all instruments which may be required to fully effectuate any and all of the provisions of this Article if, as and when any such instruments shall be required of Lessee.

Section 12.19 Relationship of Parties.

Nothing contained in this Lease shall be deemed or construed by the parties or by any third persons to create the relationship of principal and agent or of partnership or joint venture between Lessor and Lessee.

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## ARTICLE XIII: SIGNATURE

**IN WITNESS WHEREOF**, Lessor has caused this Lease to be executed by its duly authorized officer, and Lessee has caused the same to be executed by its duly authorized person(s)/officer(s) with signature(s) notarized, all as of the day and year first above written.

City of Fresno
A Municipal Corporation

By: _____
Kevin R. Meikle,
Director of Aviation

Address for Notice:

City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: _____ 4-3-18
Amanda B. Freeman, Date
Deputy City Attorney

ATTEST:
Yvonne Spence, CMC
City Clerk

By: _____
Deputy

**Golden Skies, LLC dba Fresno Flyers**
A California Limited Liability Company

By: _____
Name: Morgan C Archele
Title: President
(if corporation or LLC, must be CEO/President of Board/Vice President of Board (circle one))

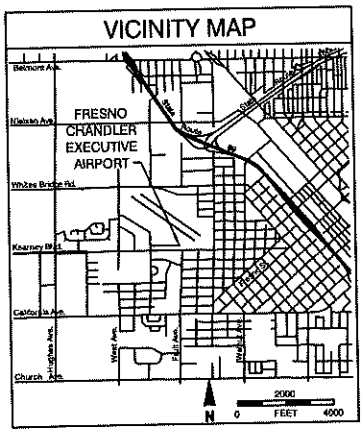
By: _____
Name: Jennifer Winters
Title: Secretary
(if corporation or LLC, must be CFO/Treasurer/Secretary (circle one))

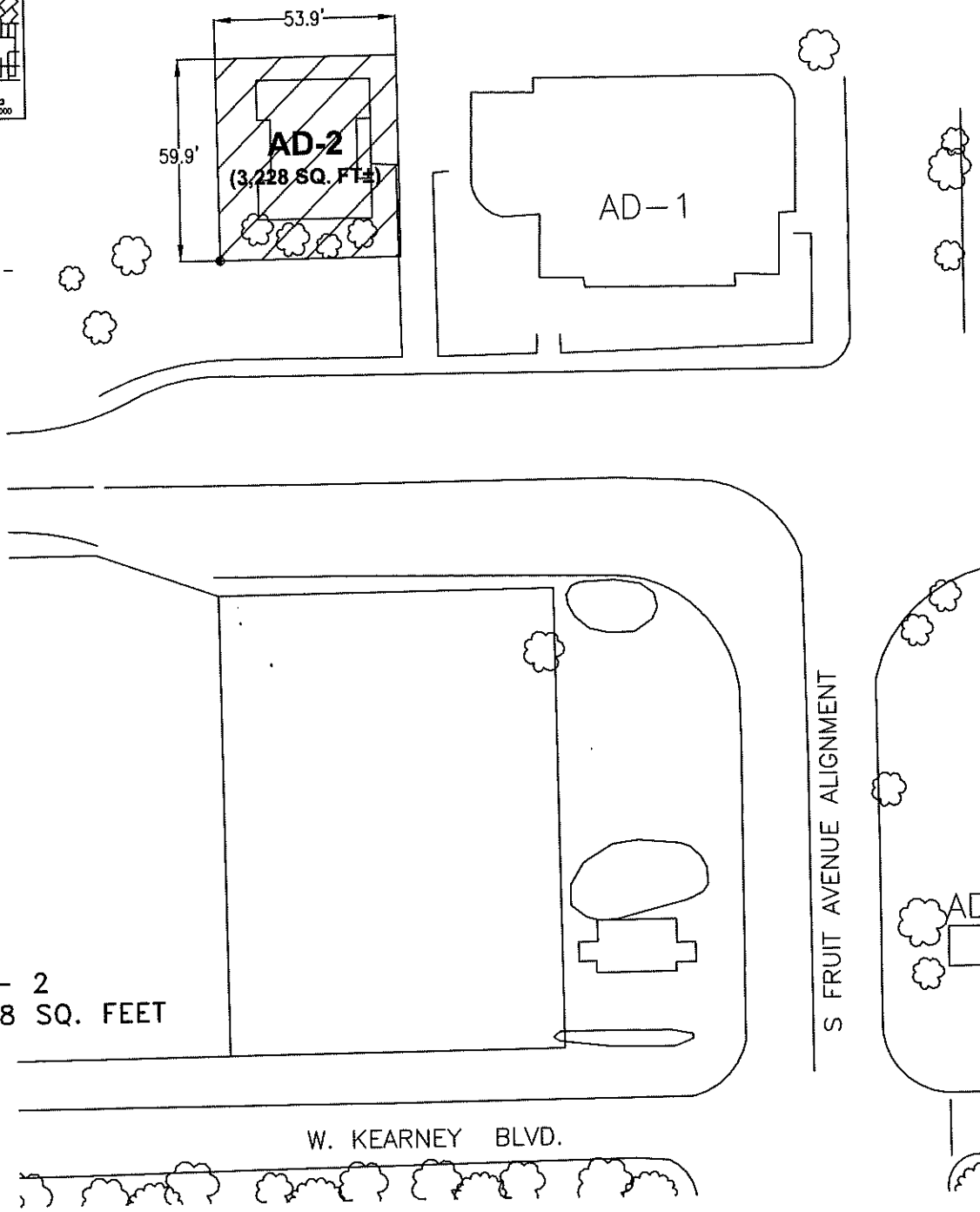
Address for Notice:
Golden Skies, LLC.
dba Fresno Flyers
524 W. Kearney Ave.
Fresno, CA 93706
Phone: (559) 264-5324

**Attachments:**

| | |
|---|---|
| Exhibit "A" | Depiction of Premises |
| Exhibit "B" | Assurances Required By The Federal Aviation Administration |
| Exhibit "C" | Example Rental Rate Adjustment Sheet |
| Exhibit "D" | Monthly Report Form |
| Exhibit "E" | Fresno Chandler Executive Airport Minimum Standards |
| Exhibit "F" | Conflict of Interest Form |

# EXHIBIT "A"




| | | |
|---|---|---|
| REVISIONS/REFERENCE<br>REV NO. | FRESNO CHANDLER EXECUTIVE AIRPORT | KRA NO.<br>FUND NO.<br>ORG NO.<br>ACTIVITY<br>PROJECT I.D. |
| | LEASE AD-2<br>OF CHANDLER TRACT | AIRPORTS DEPARTMENT<br>DIRECTOR OF AVIATION<br>KEVIN R. MEIKLE, ARCHITECT |
| FRESNO YOSEMITE INTERNATIONAL AIRPORT<br>CITY OF FRESNO<br>DEPARTMENT OF AIRPORTS<br>4995 EAST CLINTON WAY<br>FRESNO, CALIFORNIA 93727<br>PHONE: 559-621-4500 | J:\ARCHIVE\26A\26a0089.dwg | APPROVED<br>CONST. ENG. _____ OFFICE ENG. _____<br>CITY DESIGN ENG. _____<br>DR. BY: LNS<br>CH. BY: RRD<br>DATE: 1-29-13<br>SCALE: 1:50<br>CITY DRAWING NO. 26-A-89<br>EXHIBIT A |

# EXHIBIT "B"

FAA
Airports

# ASSURANCES

## Airport Sponsors

### A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

### B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

   The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

   The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

## C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.**

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

**Federal Legislation**

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act – 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

## Executive Orders

a. Executive Order 11246 - Equal Employment Opportunity[1]
b. Executive Order 11990 - Protection of Wetlands
c. Executive Order 11998 – Flood Plain Management
d. Executive Order 12372 - Intergovernmental Review of Federal Programs
e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
f. Executive Order 12898 - Environmental Justice

## Federal Regulations

a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].[4, 5, 6]
c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
e. 14 CFR Part 150 - Airport noise compatibility planning.
f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
h. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]
l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
m. 49 CFR Part 20 - New restrictions on lobbying.
n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.[1] [2]
q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.[1]
s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

**Specific Assurances**

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

**Footnotes to Assurance C.1.**

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

[4] On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

[5] Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

[6] Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. **Responsibility and Authority of the Sponsor.**

   a. Public Agency Sponsor:

   It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

   b. Private Sponsor:

   It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.**

   It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.**

   The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.**

   It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.**

   In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.**

   In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Metropolitan Planning Organization.**

    In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. **Pavement Preventive Maintenance.**

    With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.**

    For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.**

    It shall include, in all contracts in excess of $2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.**

    It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.**

    It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.**

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

1) Operating the airport's aeronautical facilities whenever required;

2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. **Economic Nondiscrimination.**

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. **Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. **Airport Revenues.**

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. **Reports and Inspections.**

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

a. It will keep up to date at all times an airport layout plan of the airport showing

1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and

4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. **Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.

b. Applicability

1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.

2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or

2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.

3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.

4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. **Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.**

a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. **Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1) Describes the requests;

2) Provides an explanation as to why the requests could not be accommodated; and

3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

# EXHIBIT "C"

FRESNO YOSEMITE INTERNATIONAL AIRPORT

FRESNO CHANDLER

**NOTICE OF ANNUAL RENTAL ADJUSTMENT**
(Based on USDLBLS Consumer Price Index for Urban Wage Earners and Clerical Workers - ALL ITEMS, U.S. CITY AVERAGE)

**FRESNO CHANDLER EXECUTIVE AIRPORT LEASE AGREEMENT**

DATE: January 22, 2018

RE: D&D Aircraft
LEASE AND AGREEMENT

The rental adjustment calculation shown to the right was completed in keeping with the intent of the agreement for D&D Aircraft at 918 W. Chandler, Lease Agreement

**THE CITY OF FRESNO - AIRPORTS DEPARTMENT**
AND
**D&D Aircraft**

EFFECTIVE May 1, 2018

ANNUAL RENTAL WILL BE: $9,386.26

If you have any questions concerning this matter, please contact the undersigned at (559) 621-4543.

Melissa A. Garza-Perry
Airports Properties Supervisor
City of Fresno - Airports Administration

ANNUAL RENTAL ADJUSTMENT COMPUTATION
FOR LEASE YEAR COMMENCING:
**May 1, 2018**

| | | |
|---|---|---|
| USDLBLS CPI - JAN-DEC., 2016 ..... | | 234.076 * |
| USDLBLS CPI - JAN-DEC., 2017 ..... | | 239.051 * |
| AMOUNT OF CPI CHANGE ..... | | 4.975 |
| PERCENTAGE CPI CHANGE ..... | | 2.1254% |
| CURRENT ANNUAL RENTAL ..... | | $9,190.92 |
| AMOUNT OF ADJUSTMENT ..... | | $195.34 |
| NEW ANNUAL RENTAL ..... | | $9,386.26 |
| NEW MONTHLY RENTAL EFFECTIVE | May 1, 2018 | $782.19 |

SAMPLE

Prepared by: CITY OF FRESNO - AIRPORTS
PROPERTIES SECTION
4995 E. CLINTON WAY
FRESNO, CA 93727-1504

TELEPHONE: (559) 621-4500

NOTES: * PER USDL/BLS

**EXHIBIT "C" TO AGREEMENT**

# EXHIBIT "D"

# MONTHLY OPERATIONS REPORT

FIXED BASE OPERATOR – FRESNO CHANDLER EXECUTIVE AIRPORT

(SUBMIT THIS REPORT BY THE 10TH DAY OF EACH MONTH FOR THE PRECEDING MONTH)

TO: **CITY OF FRESNO – AIRPORTS ADMINISTRATION**
**4995 E. CLINTON WAY, FRESNO, CA 93727 PHONE (559) 621-4500; FAX (559) 251-4825**

SUBMITTED BY: _____ FOR PERIOD: _____
(Name of Operator) (Month and Year)

## PART I: BASED AIRCRAFT

| PROP & TURBO PROP AIRCRAFT | | | | | | |
|---|---|---|---|---|---|---|
| Single-Engine UNDER 4 PLACE | Single-Engine 4 PLACE & OVER | Multi-Engine | TOTAL PROP AIRCRAFT | TOTAL JET AIRCRAFT | TOTAL HELICOPTERS | TOTAL BASED AIRCRAFT |
| | | | | | | |

## PART II: AVIATION FUEL FLOWAGE

**SECTION A: AVAIATION FUEL DELIVERY RECORD**

| DATE FUEL DELIVERED | NAME OF FUEL SUPPLIER MAKING DELIVERY | LOCATION OF TANK(S) TO WHICH DELIVERY MADE | NUMBER OF GALLONS DELIVERED |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

TOTAL GALLONS DELIVERED THIS MONTH: _____

## PART III: FUEL FLOWAGE FEE COMPUTATION

TOTAL FUEL FLOWAGE FEES DUE
(TOTAL FEE GALLONS MULTIPLIED BY $0.10) ..... _____

REPORT PREPARED BY: _____
(SIGNATURE)

TYPED/PRINTED NAME: _____
TITLE: _____
DATE: _____

Total amount due must accompany this report

Exhibit "D"

# Exhibit "E"

# CITY OF FRESNO, CALIFORNIA – DEPARTMENT OF AIRPORTS

## MINIMUM STANDARDS FOR FRESNO CHANDLER EXECUTIVE AIRPORT

### SECTION 1. PURPOSES OF MINIMUM STANDARDS AND APPLICABILITY

The City of Fresno, California recognizes the prohibition imposed by Section 308 of the Federal Aviation Act against granting an exclusive right to conduct any aeronautical activity at a Public Airport, and recognizes the City has agreed to the same prohibition in its acceptance of airport improvement grants from the Federal Aviation Administration. Moreover, the City wishes that there be healthy competition at the Fresno Chandler Executive Airport, conducted on a level playing field, and wishes that a broad array of high-quality products and services be available at the Airport. The City is publishing these Minimum Standards so that any Entity interested in engaging in any Revenue Generating Aviation Activity at the Airport may know the principles that apply and the requirements that must be met and maintained. Note, however, that it is not the intention of the City to create any private right of action to enforce these Minimum Standards.

These Minimum Standards do not apply to Entities previously authorized to offer or conduct specific Revenue Generating Aviation Activities at, on or from the Airport. The standards each such previously authorized Entity has been meeting shall comprise that Entity's minimum standards and must be maintained by that Entity. However, should any previously authorized Entity be granted authority to engage in additional Revenue Generating Aviation Activities, then, as a condition of such additional authorization, these Minimum Standards shall apply to each and every Business authorized, including the Revenue Generating Aviation Activities previously authorized. Further, these Minimum Standards shall apply to each and every authorized Business, upon any renewal or extension of a previously authorized Entity's Agreement or Lease.

### SECTION 2. DEFINITIONS

The following terms shall have the meanings indicated:

**Agreement or Lease** – a written, enforceable contract, regardless of its duration or term, between the City and an Entity, which authorizes that Entity to engage in some Revenue Generating Aviation Activity at the Airport and/or which may cover that entity's use or occupy of space at the Airport.

**Aircraft** – are aeronautical vehicles or devices including, but not limited to, powered fixed wing airplanes, rotorcraft, dirigibles and blimps, and non-powered gliders, rotorcraft and balloons.

**Aircraft Operation** – is any arrival or departure of an Aircraft at the Airport or any Aircraft movement on the AOA. .

**Aircraft Operations Area** or **AOA** – all the runways, taxiways, helipads, Ramps, hold areas and any other area used or intended to be used for the take off or landing or surface maneuvering of Aircraft, or any areas within the perimeter fence and adjacent to surface maneuvering areas.

**Airline** – an Entity operating Aircraft pursuant to Part 121 or Part 135 of the FARs.

**Airport** – the Fresno Chandler Executive Airport unless the context indicates Fresno Yosemite International Airport (**FYI**) as well.

**Airport Layout Plan** or **ALP** – a plan view of an airport, drawn to scale and showing all that airport's aeronautical and other Improvements and projected future Improvements – as amended from time-to-time, and as approved by the FAA.

**Airport Master Plan** or **Master Plan** – a comprehensive document that considers an airport's history, regional demographic changes, and other relevant factors and trends; then projects traffic and use for the future, then examines the probable noise, environmental and other impacts of same; and, finally, programs an orderly and balanced plan of Airport development to accommodate anticipated demand while minimizing adverse impacts. The major airport land use allocations are illustrated in a complementary ALP.

**Airworthy** – an Aircraft that is compliant with the FARs and safe to fly.

**Business** - a Revenue Generating Aviation Activity

**City** - The City of Fresno, California, a municipal corporation.

**Core FBO Services** - see FBO below

**Department of Airports** or **Department** - The City's Department of Airports.

**Derelict Aircraft** – an Aircraft: that has not been Airworthy for six months or more and: (1) is not in the process of being made Airworthy; or (2) is not in the process of rehabilitation for public display; or (3) has not been specially prepared, treated and preserved for future rehabilitation. An Aircraft will be presumed a Derelict Aircraft if it has not been Airworthy for six months or more and is obviously deteriorating (tires flat and/or drying out or cracking; or rubber drying out and losing resiliency; or paint

oxidizing, crazing and/or flaking off; or Plexiglas discoloring, cracking or crazing; or metal corroding or rusting; or fabric fraying; etc.).

**Director of Aviation** or **Director** - the individual filling the position of the City's Director of Aviation, or an individual authorized to represent him/her.

**Entity** - an individual or a firm, corporation, partnership, joint venture or other legal person.

**Equipment** – all tools, tooling and machinery, together with the supplies and apparatus necessary to properly conduct the Revenue-Generating Aviation Activity authorized.

**FAA** – the Federal Aviation Administration.

**FAR** or **FARs** – the then current Federal Air Regulations.

**FCH** - Fresno Chandler Executive Airport

**FCH Environs Specific Plan** or **FCH Specific Plan** - a comprehensive airport planning document that considers the development policies and standards of the City of Fresno General Plan and the Edison Community Plan, including related environmental impact analyses as required by the **California Environmental Quality Act** or **CEQA.**

**Fixed Base Operator** or **FBO** – is an Entity authorized and required to offer, at a minimum, to the operators of based and transient/itinerant personal or business Aircraft up to 12,500# gross weight: (1) retail sales and delivery into-plane of Aircraft fuels, lubricants and additives; (2) overnight tie-down and hangarage; (3) minor Aircraft maintenance, servicing and repair; (4) tire "airing" and battery "boosts"; (5) pilot and passenger waiting lounge with restrooms and public phones and direct-access to the most current aviation weather information; (6) air-to-ground radio communications; (7) removal of disabled Aircraft from the AOA (these activities 1–7 are, collectively, the "**Core FBO Services**"). FBOs may be authorized to engage in Revenue-Generating Aviation Activities in addition to, but in not in substitution of, the Core FBO Services. An FBO may enter a Subcontract with a third party to provide Core FBO Service no. 3, light Aircraft and powerplant servicing, maintenance and repair, and/or additional, non-Core FBO Services, provided such Subcontractor holds or enters a complementary Agreement with the City.

**Note: Only FBOs will be authorized to offer retail sales and/or delivery into-plane of Aircraft fuels. City also retains its right to offer retail sales and/or delivery into-plane of Aircraft fuels.**

**FYI** - Fresno Yosemite International Airport

**Improvements** – all buildings, structures, and facilities including, but not limited to, pavement, fencing, signs and landscaping constructed, installed or placed on, under or above any leased area by, or with the concurrence of, a Lessee of Airport property.

**Leased Premises** or **Premises** – real estate at the Airport covered by an Agreement or Lease.

**Lessee** or **Operator** or **Tenant** – an Entity that has entered an Agreement or Lease with the Department.

**Lessor** or **Landlord** – the Department

**Mobile Service Provider** or **MSP** - an Entity that conducts one or more authorized Revenue Generating Aviation Activities on, at or from the Airport, but does not operate out of leased or Subleased Premises. Examples of MSPs include, but are not limited to, Aircraft mechanics, flight instructors, Aircraft detailers, and oil recyclers.

**On Demand Air Transportation** - is unscheduled commercial air transportation for hire operated under FAR parts 119 and 135

**Preventive Aircraft Maintenance** - maintenance that is not considered a major aircraft alteration or repair and does not involve complex assembly operations listed in FAR Part 43.

**Public Airport** - an airport used or intended to be used for public purposes (A) that is under the control of a public agency and (B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of Aircraft is publicly owned.

**Ramp** – paved areas suitable for parking Aircraft.

**Repair Facility** – a facility (sometimes called a shop) that is used for repairing Aircraft or Aircraft systems, components or accessories including, without limitation thereto, engines, powerplants, propellers, radios, navigational aids and instruments

**Revenue-Generating Aviation Activity** – any commercial activity which relates to the fabrication, operation, maintenance, modification, repair, cleaning [exterior and/or interior], refurbishing, restoration, overhaul, painting, plating or refinishing of Aircraft; or of the airframes, powerplants, components, equipment, systems or accessories of Aircraft Revenue-Generating Aviation Activities include, but are not limited to, pilot training; demonstration flights; "dog-fighting"; Aircraft rental; sightseeing flights; glider towing; parachuting; "sky diving"; aerial ambulance; aerial firefighting; aerial photography or surveying; aerial advertising; aerial traffic or news reporting; powerline, pipeline or other aerial patrolling; aerial application; weather modification; air taxi or charter; Aircraft sales, including fractional ownership; commercial flying clubs; management of Aircraft owned by others; Aircraft scheduling: passenger handling; ground handling; passenger security screening; baggage, mail or freight

loading/unloading and/or transportation on the Airport; Aircraft marshalling and push-back; receipt and/or storage on the Airport of mail, baggage or freight; flight dispatch; loading bridge operation; the sale and/or delivery or installation of Aircraft components, parts, systems or accessories, and the sale and/or delivery of products used by or in Aircraft, including fuel, lubricants, additives, oxygen and flight meals.

Revenue Generating Aviation Activities do not include any of the above activities if conducted by a governmental unit or agency in support of its governmental functions; nor do Revenue-Generating Aviation Activities include Airline operations or any of the above activities conducted by an Airline with its own employees in support of its Airline operations; nor do Revenue Generating Aviation Activities include Aircraft Operations by transient or itinerant Aircraft, or non-commercial Aircraft operations by personal or business aircraft based at the Airport in a Leased hangar or tie-down space.

**Specialized Aviation Service Operator** or **SASO** – an Entity that is authorized to engage in one or more Revenue Generating Aviation Activities, but is not an FBO.

**Sublease** or **Subcontract** - a written agreement stating the terms and conditions under which a third party Entity (the **Sublessee** or **Subcontractor**) rents space (**Subleased Premises)** at the Airport from a Lessee, and/or conducts a Revenue Generating Aviation Activity from a Lessee's Premises. A Sublease or Subcontract can not authorize the Sublessee or Subcontractor to conduct any Business at the Airport: business privileges can be authorized only by the City, in a complementary Agreement between the Subcontractor or Sublessee and the City

**Through-the-Fence Business Operation -** An aviation-related business activity located in the immediate vicinity of the Airport, but not on Airport property, which activity would be a Revenue Generating Aviation Activity if located at or on Airport property; and which requires some entrance upon Airport property by the business operator for the business activity to be accomplished. A Through-the-Fence Business Operation relies upon Airport users as a continuous and significant source of its business. An example would be an Aircraft inspection and repair business where the Aircraft or a major Aircraft component is ground transported off the Airport for the inspection and repair and returned to the Airport upon completion of the inspection and repair.

## SECTION 3. STATEMENT OF POLICY - PRINCIPLES APPLYING

It is the policy of the City to operate and develop FCH as a reliever airport for the City's airline airport, FYI, with FCH primarily serving general aviation Aircraft. Both Airports will be operated and developed by the Department as a financially self-supporting, complementary system of airports serving the entire range of airport users safely, securely and efficiently, offering reliable, high quality aviation products and services to meet the air transportation needs and desires of the region's citizens, visitors, commerce and economy in an environmentally friendly manner and as a good neighbor.

To meet these policy goals, the Department shall be guided by the following principles:

1. No Entity may regularly engage in any Revenue Generating Aviation Activity at, on or from the Airport without first entering a written Agreement with the City which will prescribe the Revenue Generating Aviation Activity or Activities authorized and/or required to be offered.

2. Entities so authorized will be required to make a financial investment in Improvements and/or Equipment sufficient to satisfy the reasonably anticipated demand for the Business(es) authorized.

3. The rents, fees and/or charges charged to their clients and customers by authorized Entities shall not be higher than are reasonable and customary in that trade or business in Central California.

4. The rents, fees and/or charges charged by the Department shall be fair and not unduly discriminatory, taking into consideration the Department's direct and indirect costs of providing, maintaining, servicing and keeping secure the Airport, including the rented or Subleased Premises, the market value of same, the revenue potential of the Revenue Generating Aviation Activities authorized and their relative importance to the region. Before commencing Business operations, authorized Entities shall post and maintain security equivalent to not less than three months' of the anticipated rents fees and/or charges payable to the Department.

5. The term of any Agreement, including any options to extend, shall be no longer than required to reasonably amortize the investment in Improvements to Airport Premises that the Lessee is required to make.

6. In addition to compliance with all applicable building, zoning and hazard codes and the FCH Specific Plan, all Improvements must be approved by the Department as to architectural suitability, location and height with respect to other Airport facilities. No Improvement will be permitted that in any way interferes with or derogates Airport operations, or other Airport facilities, or encroaches into or conflicts with any building restriction line or safety area depicted on the current ALP.

7. The then effective Airport Master Plan and FCH Specific Plan shall control the types, placement and sizing of all future facilities at the Airport. No extant facility that does not conform with the then current Airport Master Plan and FCH Specific Plan shall be used or leased on terms that might impede or delay the timely development of the Airport in conformity with the then current Airport Master Plan and FCH Specific Plan, nor shall any Improvements to such facility be allowed if that might impede or delay timely subsequent development of the Airport in conformity with the said Master Plan and FCH Specific Plan.

8. The highest and best use shall be made of the limited Airport premises so as to maximize the capacity of the Airports system to meet the air transportation needs and desires of the Airports' region. Lower or lesser uses may be authorized on an interim basis to provide interim revenues to the Department, but any such lower or lesser use(s) shall be on bases that will not impede or delay the eventual highest and best use. Hangars shall be used for the storage of Aircraft that are Airworthy or in the process of being made Airworthy and Aircraft associated support materials, AND/OR in the case of authorized FBOs or SASOs for the conduct of their authorized Business(es). Without limiting the generality of the foregoing, no hangar may be used primarily for storing or inventorying personal property that is not closely associated with the servicing, maintenance and/or care of Airworthy Aircraft or Aircraft actively in process of being made Airworthy, or being prepared for public display, or being specially prepared, treated and preserved for future rehabilitation.

9. Through-the-Fence Business Operations shall be authorized only if the products or services to be offered are not already available on the Airport and there is no reasonable possibility of accommodating the Through-the-Fence applicant on the Airport.

## SECTION 4. GENERAL LEASE PROVISIONS/OBLIGATIONS; INCORPORATION BY REFERENCE

All Agreements authorizing any Revenue Generating Aviation Activity at the Airport shall incorporate by reference the following provisions and the then effective Minimum Standards, but only to the extent each such provision or standard is not in conflict with any express provision of the Agreement. In the case of any conflict, the Agreement shall control.

1. Employee Conduct and Customer Service Emphasis

   A. Management Control and Supervision - Each authorized Operator is required to employ the necessary quantity of trained management and supervisors to provide for the safe, secure, and timely compliance with its Lease obligations.

   B. Personnel Training and Certification - All authorized Operator personnel shall be fully qualified and trained to provide a high quality standard of courteous, efficient, and safe service to the public and customers. Personnel shall meet all Federal, State, and local certification and licensing requirements applicable to their individual duties.

2. Facilities for the storage and disposal of toxic materials and contaminants must comply with all applicable governmental rules, regulations, standards and requirements. Operator will obtain all necessary permits for storage and disposal

and will provide Lessor with copies of such permits and evidence of compliance with the terms and conditions thereof. Improper storage or disposal of toxic materials or contaminants shall be grounds for termination of the lease. Operator shall be liable for the costs of correcting any contamination or damage to the Leased Premises and/or adjacent areas caused by improper storage, disposal or use of any such materials, which liability shall survive the expiration or earlier termination of the Lease.

3. Nothing contained in the Lease shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308 (a) of the Federal Aviation Act of 1958, as amended, and the City reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature, so long as they meet the Minimum Standards.

4. The City reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the airport, together with the right to direct and control all use of said landing area and facilities, including Operator's use.

5. The City reserves the right to further develop or improve the AOA as it deems necessary, regardless of the desires or view of the Operator, and without interference or hindrance by or from the Operator.

6. During the time of war or national emergency, the City shall have the right to Lease the landing area or any part thereof to the United States Government for military use, and if such Lease is executed, the provisions of the Operator's Lease insofar as they are inconsistent with the provisions of the Government's Lease, shall be suspended.

7. The City 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 the Operator from erecting, or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to Aircraft.

8. The Lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the receipt or expenditure of Federal funds for the development of the Airport.

9. The Operator shall not assign or otherwise transfer any interest in Operator's Lease, nor shall Operator Sublease or assign any interest in its Leased Premises or any portion thereof without the express, written consent of the City.

10. No Airport facilities, including hangars, Ramps and vehicular parking areas, shall be used for the storage of cars, trucks, recreational vehicles, boats, trailers, mobile homes, household furnishings or any other personal property not associated with the conduct of the Business or use authorized. Without limiting the generality of the foregoing, Operator shall not store at the Airport any Derelict Aircraft, nor shall Operator allow its Premises at the Airport to be used for the storage of Derelict Aircraft.

11. Operator shall submit on an annual basis all information deemed by the Department to be relevant to Operator's credit worthiness and financial stability. Operator is required to satisfy the Director that it is financially able to perform the services authorized in its Agreement. This shall include the responsibility to demonstrate continued financial solvency and business ability by submitting an annual financial statement, credit references, and any other proof the Director may require from time to time. Information provided shall be in a format determined by and acceptable to the Director. The Director shall be the final judge as to the qualifications and financial ability of Operator. Operator agrees that the Director may undertake such investigation and inspection as it deems necessary and appropriate.

12. The use of any Airport Premises shall conform to all applicable Airport /local/ state/ federal rules and regulations including but not limited to; building and fire codes; E.P.A. regulations and storm water discharge permit restrictions.

13. During Operator's activity at the Fresno Chandler Executive Airport, the Operator shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by CITY'S Risk Manager or his/her designee. The following policies of insurance are required:

    (i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include coverage for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations, contractual liability and hangar keepers liability (if applicable) with limits of liability of not less than $1,000,000 per occurrence and $2,000,000 general aggregate for bodily injury and property damage, $1,000,000 per occurrence for personal and advertising injury and $2,000,000 aggregate for products and completed operations.

(ii) COMMERCIAL AIRCRAFT LIABILITY insurance which shall include coverage for "bodily injury" (including passengers) and "property damage", including aircraft personal injury liability, newly acquired aircraft liability, non-owned aircraft liability, hangar keepers liability and contractual liability with limits of liability of not less than $10,000,000 per occurrence for bodily injury and property damage [required only if Operator's activity includes the operation of aircraft].

(iii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "any auto" with limits of liability of not less than $1,000,000 per accident for bodily and property damage.

(iv) Fire and Extended Coverage Insurance against loss or damage to the building or structure, including improvements and betterments, by fire and lightning, with extended coverage insurance for vandalism and malicious mischief insurance and sprinkler system leakage insurance. Such extended coverage insurance will, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance will be in an amount equal to the full replacement cost (without deduction for depreciation) of the building or structure, including improvements and betterments, with no coinsurance penalty.

(v) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(vi) EMPLOYERS' LIABILITY insurance with minimum limits of $1,000,000 each accident, $1,000,000 disease each employee and $1,000,000 disease policy limit [required only if Operator has employees].

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Operator shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy(ies) are due to expire during Operator's activity at Fresno Chandler Executive Airport, Operator shall provide a new

certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 15 calendar days prior to the expiration date of the expiring policy(ies).

The General Liability, Automobile Liability and Aircraft Liability insurance policies shall name City of Fresno, its officers, officials, agents, employees and volunteers as an additional insureds. Operator's insurance shall be primary as respects to the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents and volunteers shall be excess of the Operator's insurance and not contribute with it. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to CITY, its officers, officials, agents, employees and volunteers. Operator shall have furnished CITY with the certificate(s) and applicable endorsements for ALL required insurance before conducting any activity at the Fresno Chandler Executive Airport.

Operator shall furnish City with copies of the actual policies upon the request of CITY'S Risk Manager or his/her designee and this requirement shall survive the use of City grounds and facilities.

If at any time during Operator's activity at Fresno Chandler Executive Airport, Operator fails to maintain the required insurance in full force and effect, the Operator's activity at Fresno Chandler Executive Airport shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY.

The City reserves the right to change the required insurance coverage at any time by letter and the Operator shall comply within thirty (30) days from date of notice.

14. Operator shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Operator or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the activity of the Operator, its principals, officers, agents, employees, persons under the supervision of Operator, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them at the Fresno Chandler Executive Airport.

15. Lessee, or Lessee's personal representative, its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, gender, religion or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction in the use of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, gender, religion or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee, shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, office of the Secretary, Part 21 nondiscrimination federally-assisted programs of the U.S. Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Department shall have the right to terminate the Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

    Lessee agrees to furnish services 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 Lessee may be allowed to make reasonable and nondiscriminatory discount, rebate or other similar types or price reductions to volume purchasers.

16. Lessee, if applicable, must provide a plan meeting all local, state and federal regulations for the storage, containment and disposal of contaminants and toxic waste.

17. Lessee agrees to comply with airport rules and regulations as established and revised from time to time by the Director.

18. Lessee agrees to engage only in the Business or activity authorized by its Agreement. Failure to actively engage in one or more of the Businesses authorized for a period of 90 days or more, shall be grounds for termination by the City of the authority to engage in that or those Businesses, or termination of the Lease.

    Lessee shall notify the Director of every instance where Lessee has knowledge of, or suspects that, another Entity is using Lessee's Premises for a Revenue-Generating Aviation Activity not authorized by the Department. Failure to timely take reasonable means to determine if a particular activity constitutes an unauthorized Revenue-Generating Aviation Activity shall make Lessee liable to the City for the fees and charges pertinent to the unauthorized Revenue-Generating Aviation Activity as if it had been authorized. Further, Lessee shall

forthwith take steps to terminate the unauthorized Revenue-Generating Aviation Activities.

19. Operator shall abide by all provisions of the then current, approved Airport Security Plan. Without limiting the generality of the foregoing, Operator shall not provide airport gate codes or keys to any member of the general public AND Operator assumes responsibility for the conduct of its employees, officers, directors, agents, customers, clients and business invitees at the Airport. If violations of the Airport Security Plan by the Operator or any of the people for whom the Operator has assumed responsibility result in fines being levied against the City by any federal or state agency, Operator will reimburse the Department for the full cost of such fines within thirty (30) days of payment. Any conduct which the Director deems to constitute a violation of the Approved Airport Security Plan or a threat to pubic safety, health or security must be discontinued immediately and may not be re-commenced until specifically authorized in writing by the Director.

20. Operator and/or Operator's employees must possess all the licenses, certificates and ratings necessary to lawfully engage in the businesses and activities authorized and/or required.

21. Operator shall keep the Leased or Subleased Premises neat, clean and appropriately supplied and shall conduct the lawful, sanitary, and timely handling and disposal of all solid waste, regulated waste, and other materials including, but not limited to, sump fuel, used oil, solvents, and other regulated waste. The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property is not permitted upon Airport Premises. .

22. Operator shall provide and properly locate about the Leased Premises the proper number, types, and sizes of fire extinguishers, and other safety equipment, in accordance with the Uniform Fire Code. All fire extinguisher certifications must be kept current.

23. Operator acknowledges that owners of Aircraft are entitled to use the AOA and may tie-down, adjust, repair, refuel, clean, and otherwise service their own aircraft, provided the service is performed by the Aircraft owner him/herself Any unreasonable restrictions imposed on owners or operators or Aircraft by the Operator will be construed as a violation of City policy.

**SECTION 5. MINIMUM FACILITIES, EQUIPMENT, HOURS OF OPERATION, STAFFING, ET. AL.**

1. Application of this Section 5

All Entities authorized to conduct any Revenue Generating Aviation Activity at the Airport shall comply with ALL the requirements set forth in this Section 5 that are applicable to the Business(es) authorized UNLESS expressly waived or modified in writing by the Director. The mere omission of any particular minimum requirement in a Lease shall not constitute a waiver or modification of the minimum requirement.

The Director may expressly waive or modify, in writing, any portion of these Section 5 minimum requirements for any Entity upon Director's determination that such waiver or modification is in the best interest of the public and will not result in undue discrimination against other Entities authorized to engage in the same or similar Business(es) at the Airport.

When an Agreement authorizes multiple Revenue Generating Aviation Activities, the authorized Entity shall comply with the minimum requirements established for each separate Business authorized, but the space or capacity requirements need not be cumulated if the Operator can demonstrate, to the satisfaction of the Director, that the facilities will be adequate to allow all the authorized Businesses to be conducted simultaneously. In such cases, the minimum requirement that is most strict or imposes the highest standard shall apply, as a minimum.

Revenue Generating Aviation Activities not currently being offered or provided at the Airport, and for which minimum requirements have not yet been established, will be addressed by the Director as and when applications to offer or engage in such Businesses are received.

2. FBOs

Buildings

Each FBO shall lease or construct a public use terminal building complex including:

- A customer service counter/office of not less than 100 square feet, with operating two-way air-to-ground radio, current aviation charts [covering California and the immediately adjacent states] for sale, and facilities for obtaining rental cars or the use of a courtesy car
- A well lighted, comfortably heated and air conditioned waiting lounge of not less than 400 square feet, furnished with comfortable seating for not less than ten people
- A discreet flight planning area within or adjacent to the lounge, properly equipped with appropriate wall charts, NOTAMs board, local-access telephone to contact Flight Service, and a computer to access current aviation weather information.
- Men's and Ladies' rooms accessible from the lounge.
- A public use phone with posted list of numbers to call for after-hours FBO services, overnight accommodation, and ground transportation.

- A free-span hangar of not less than 20,000 square feet
- Paved parking as required by code, but not less than sufficient to park ten automobiles
- Above-ground, double-walled fuel storage tank(s) with not less than 12,000 gallons capacity of aviation gasoline
- A tank of not less than 5,000 gallons storage for Jet A fuel, which may be truck-mounted or stationary. If stationary, it shall be above ground, double-walled and located with the aviation gasoline storage and plumbed for self fueling like aviation gasoline
- Storage for not less than 144 quarts of the most popular grades of aviation oil
- An air hose for inflating aircraft tires, and a constant supply of paper towels for pilots use wiping dipsticks and/or cleaning aircraft windshields.

Equipment

Each FBO shall provide:

- A tug capable of towing an aircraft of 12,500 # gross weight
- Tow bars to fit common GA aircraft
- An air start cart or vehicle
- An electric "boost" cart or vehicle with 1600 amps capacity at both 14 and 28 volts, with adapters to fit common GA aircraft [all the foregoing may be combined in one or more vehicles]
- An air compressor capable of compressing air to not less that 125 psi for landing gear strut and/or tire inflation
- Bottled nitrogen for inflating Aircraft landing gear struts and/or tires
- Dollies and other equipment for use with the tug in removing disabled aircraft of 12,500 # gross weight from the AOA
- Aviation grade oxygen re-fills

Hours of Operation

Each FBO shall be open for business and attended during all daylight hours except Sundays and not more than nine major holidays each year. Any closures or other deviations from this schedule must be requested in advance and approved in writing by the Director.

During regular business hours, each FBO shall promptly provide Equipment and trained personnel to remove disabled Aircraft (under 12,501#) from the AOA – at the request of, and with an appropriate release of liability or indemnification from the owner or operator of the disabled aircraft or the Director.

Outside regular business hours, each FBO shall be on-call to provide the same Equipment and trained personnel within four (4) hours. If multiple FBOs are obligated to provide aircraft removal services on the Airport, they may agree among

themselves as to which shall be on-call and when, provided that a copy of their written agreement is supplied to the Director and kept current thereafter

Each FBO shall be on-call to provide after-hours fuel service within four (4) hours of a customer request.

Each FBO shall have on duty during the required operating hours of each Core FBO service a quantity of personnel sufficient to meet the Minimum Standards for each authorized and/or required business. However, multiple responsibilities may be assigned to employees where feasible.

Qualifications of Fuel Handling Personnel

All FBO fuel handling personnel shall be trained in the safe and proper handling, dispensing, and storage of aviation fuels. The FBO shall develop and maintain Standard Operating Procedures (SOP) for refueling and ground handling operations and shall ensure compliance with standards set forth in the Uniform Fire Code and FAA Advisory Circular 00-34A, Aircraft Ground Handling and Servicing. The SOP shall address bonding and fire protection, public protection, control of access to the fuel storage area, and marking and labeling of fuel storage tanks and fuel dispensing equipment, and shall be submitted to the Director no later than thirty (30) days prior to the FBO commencing fueling activities.

Additionally, the FBO shall comply with FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling, and Dispensing on Airports, Airport rules and regulations, and all other applicable laws related to aircraft fuel handling, dispensing and storage. Each FBO shall obtain all applicable fueling certifications and permits, and receive periodic refresher training as required. The Director and/or the FAA may periodically conduct inspections of the FBO activities and facilities to ensure compliance with laws, regulations, and Minimum Standards.

Additional Requirements for FBOs

Each FBO shall furnish good, prompt, courteous and efficient services, adequate to meet all reasonable demands, on a fair, reasonable and non-discriminatory basis. Each FBO shall operate its business in a first-class manner and shall, at all times, keep its premises at the Airport in a safe, clean and orderly condition consistent with the Business activities authorized, and satisfactory to the Director. Each FBO shall accept not less than three major credit cards and at least one oil company credit card.

Each FBO shall select and appoint a full-time manager of its operations at the Airport. Such manager shall be properly qualified and experienced and shall be vested with full power and authority to act in the name of the FBO in respect to the

method, manner and conduct of the authorized Business. Such manager or a duly authorized subordinate shall be present and available at the Airport during regular business hours. Each FBO shall provide the Director, and keep current, a typed list of the names, addresses, and contacts for all personnel responsible for the operation and management of the FBO. In addition, the Director shall be provided a point-of-contact with phone numbers for emergency situations.

All FBO personnel who have regular contact with the public or customers of the FBO (except the FBO's pilots, office personnel, marketing personnel and offsite sales persons) shall wear attractive uniforms with appropriate insignia and nameplate so they may be readily identified.

Each FBO shall control the conduct, demeanor and appearance of its employees and representatives. Upon receiving a reasonable and specific complaint from the Director concerning the conduct, demeanor or appearance of any employee, the FBO shall forthwith take all steps necessary to remove the cause of the complaint.

3. SASOs

A. General Requirements for all SASOs

Operating hours

Eight daylight hours per day, on the same five continuous days each week, exclusive of a two week period when a SASO may, by prior notice, be closed for vacation. The operating hours shall be posted near the door to the Operator's Leased or Subleased Premises.

Leased Space

Each SASO shall operate out of a building located on the airport. The Leased or Subleased Premises shall be of an appropriate size to accommodate the services being offered, be accessible to the public, and be marked with appropriate external signage. Each SASO shall provide paved auto parking appropriate for the needs of the business.

Responsible Personnel

Each SASO shall provide the Director, and keep current, a typed list of names, addresses, and contacts of all personnel responsible for the operation and management of the SASO.

B. Additional Requirements for Specific SASOs

1. Flight Training SASOs

SASOs providing aircraft dual and solo ground and flight instruction necessary to complete the written examination and flight check for any category of pilot certificate or rating shall, as a minimum:

a. Provide at least one (1) or more FAA certified flight instructors as necessary to meet the flight training demand and schedule requirements.

b. Provide at least four (4) properly licensed and maintained fixed wing aircraft and/or at least one (1) helicopter equipped to accomplish the services offered. If only helicopter instruction is offered, no fixed wing aircraft will be required.

c. Provide air-conditioned classroom space of not less than 100 square feet.

2. Airframe and Power Plant Maintenance SASOs

SASOs providing major or minor airframe and/or power plant servicing, maintenance, overhaul, repairs or modifications shall:

a. Operate from a ventilated shop space large enough to accommodate one multi-engine Aircraft of 12,500# gross weight.

b. Have on-duty at lest one (1) FAA-certified technician who posses an airframe and/or powerplant certificate, with inspection authorization, or possess and operates pursuant to repair station certificate pursuant to FAR Part 145.

c. Provide equipment, supplies and parts required for GA aircraft and power plant inspection, maintenance and repair.

3. On-Demand SASOs

SASO's providing On-Demand Air Transportation shall:

a. Provide at least one (1) person who is appropriately licensed and rated to permit the flight activity offered by the SASO.

b. Provide one properly maintained and equipped aircraft to accomplish the services offered.

An On-Demand SASO shall have and display, a current FAR Part 135 Certificate.

4. Aircraft Rental SASOs

SASOs renting aircraft to be flown by third-party, licensed pilots shall:

a. Have at least one (1) person available to meet customers' needs.

b. Have available for rental, a minimum of four (4) owned or leased fixed wing aircraft and/or one helicopter, all of them certified and Airworthy. These may be the same aircraft used for flight instruction if the Aircraft Rental SASO is also a Flight Training SASO.

5. Avionics Maintenance and Sales SASOs

SASOs providing avionics services, which include the maintenance, repair, and installation of aircraft avionics, radios instruments, and accessories, and includes the sale of such equipment, shall:

a. Operate in ventilated office or shop space on the Airport that is able to accommodate at least one fixed wing aircraft.

b. Have at least one (1) trained and FAA certified technician.

c. Hold the appropriate FAA certificates required for the types of services offered.

6. Aircraft Hangar Rental SASOs

An Aircraft hangar rental SASO leases and rents hangars or hangar space or tie-down space to third-party aircraft owners or operators solely for those third-parties' storage of their owned or operated Aircraft. An Aircraft hangar rental SASO shall:

a. Lease or construct hangars sufficient to store, in complete security, not less than twenty (20) single-engine GA Aircraft. Each hangar shall be lighted and have not less than 15 amps electrical service. SASO shall provide for its hangar tenants at least one lockable rest room for every 20 hangars or portion thereof, with an outside hose bibb. Further, SASO shall provide trash bins for use by SASO's tenants, which SASO shall empty as often as required but not less

than once each week, disposing of the trash at SASO's expense at a location off the Airport.

b. Make known contact name and phone number for SASO, hangar availability, and rental rates by posted informational sign. Operator shall employ a system of master-keyed padlocks and shall supply each hangar tenant a discrete lock, which said tenant shall use exclusively to secure his/her rented hangar. Two copies of the master key shall be provided to the Director.

c. Provide the Director, and keep current, a list of all Operator's renters, with their names addresses and phone numbers and the make, model and "N" number of their stored Aircraft, plus a list of Aircraft owners, if any, waiting for a hangar to become available for rental.

d. SASO shall rent hangars for aircraft storage purposes only. Without limiting the generality of the foregoing, no hangar may be used primarily for storing or inventorying personal property that is not closely associated with the servicing, maintenance and/or care of an Airworthy Aircraft stored in the hangar. or Aircraft actively in process of being made Airworthy in the hangar, or an Aircraft being prepared for public display, or being specially prepared, treated and preserved for future rehabilitation in the hangar. Extensive Storage of personal property in any hangar, except as a incident of the hangar's primary use as aforesaid, shall constitute a breach of the SASO's Agreement with the City.

e. Hangar tenants may perform only Preventive Aircraft Maintenance in accordance with 14 CFR Part 43 within their rented hangars. Any other aircraft maintenance must be performed by an authorized FBO, SASO, MSP, or by the tenant in accordance with 14 CFR Part 43.3(d). Experimental aircraft construction and maintenance is allowed in accordance with 14 CFR Parts 21 and 65. Any type of hazardous or combustible material storage shall be permitted within the hangar property only in amounts allowed under the Uniform Fire Code. The piling and storage of crates, boxes, barrels, and containers, refuse, and surplus property shall not be permitted outside the hangar. All activity in or about the hangars shall be in accordance with the requirements of the Uniform Fire Code.

7. Aircraft Sales SASOs

SASOs providing new and/or aircraft sales and aircraft brokerage services shall:

a. Operate from an exclusively occupied office on the Airport and have at least one (1) qualified aircraft salesperson who holds a current pilot certificate with appropriate aircraft type ratings

8. Aircraft Restoration, Painting, and Refurbishing SASOs

SASOs providing the restoration, painting and refurbishing of aircraft structures, propellers, accessories, interiors, exteriors, and components, shall:

a. Operate from a ventilated shop space large enough to accommodate one multi-engine Aircraft of 12,500# gross weight.

b. Have at least one (1) qualified person that has certificates appropriate for the work performed.

c. Meet all requirements of the Uniform Fire Code.

d. If painting is to be performed on the Airport, holds any and all the air quality and other permits required for same.

9. Specialized Flying Services SASOs

SASOs providing specialized commercial flying services such as non-stop sightseeing tours, aerial photography or surveying, power line or pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, banner towing, and other air transportation operations specifically excluded from FAR Part 135 shall:

a. Provide at least one (1) person who holds a current FAA appropriate pilot certificate and medical certificate with ratings appropriate for the operator's aircraft.

b. Own or lease at least one (1) Airworthy Aircraft.

10. Commercial Skydiving

Inasmuch as the Airport is located under FYI's Class C Airspace, no skydiving whatsoever is authorized at, on or from the Airport.

11. Aerial Applications

Aerial application operations **are not authorized at, on or from the Airport.**

12. Mobile Service Providers.

If the Director shall determine that the significant needs of Chandler's based aircraft owners are not being adequately served by the authorized, on-airport SASOs, he may, in his discretion, authorize Mobile Service Providers who shall meet at least the following general requirements:

Each MSP shall hold a City issued Commercial Aviation Operator Permit.

Each MSP shall ensure compliance with Airport Security Access Plan.

Each MSP shall provide sufficient qualified personnel necessary to meet the Minimum Standards for each aeronautical service provided. However, multiple responsibilities may be assigned to employees where feasible.

Each MSP shall provide the Director, and keep current, a written statement of names, addresses, and contacts of all personnel responsible for the operation and management of the MSP.

**7/11/05 version**

# EXHIBIT "F"

**Exhibit "F"**
**DISCLOSURE OF CONFLICT OF INTEREST**

Fresno Flyers between City of Fresno ("Fresno")
("")

| | | YES* | NO |
|---|---|---|---|
| 1 | Are you currently in litigation with the City of Fresno or any of its agents? | ☐ | ☒ |
| 2 | Do you represent any firm, organization or person who is in litigation with the City of Fresno? | ☐ | ☒ |
| 3 | Do you currently represent or perform work for any clients who do business with the City of Fresno? | ☐ | ☒ |
| 4 | Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno? | ☐ | ☒ |
| 5 | Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service? | ☐ | ☒ |
| 6 | Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project? | ☐ | ☒ |
| * If the answer to any question is yes, please explain in full below. | | | |

Explanation: _____

☐ Additional page(s) attached.

MC MC
Signature

3/20/18
Date

Morgan C Aichele
(name)

Fresno Flyers
(company)

524 W Clearney Blvd
(address)

Fresno, CA 93706
(city state zip)