

**COMMERCIAL OFFICE LEASE AGREEMENT  
1815 AIRPORT LOOP BUILDING/ 1877 AIRPORT LOOP**

THIS LEASE AGREEMENT, made this \_\_\_day of\_\_\_, 20\_\_\_, between the Joint Airport Board for the Kerrville/Kerr County Airport, an entity established by the governing bodies of the City of Kerrville, Texas, and Kerr County, Texas, pursuant to Chapter 22 of the Texas Transportation Code (“Lessor”); and \_\_\_\_\_(“Lessee”).

**RECITALS**

WHEREAS, the City of Kerrville, Texas, and Kerr County, Texas, jointly own the Kerrville-Kerr County Airport (“Airport”) and created the Lessor to oversee it’s operation; and

WHEREAS, Lessee desires to lease space within the building located at XXXX Airport Loop (“describe”), Kerrville, Texas; and

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, Lessor and Lessee agree as follows:

**ARTICLE 1.  
GRANT OF LEASE**

**1.01 Leased Premises:** Lessor agrees to lease to Lessee certain property owned by Lessor located within the \_\_\_\_\_ which contains approximately (XXX) square feet, as shown in the diagram attached as **Exhibit A**, (“Leased Premises”).

**1.02 Services by Lessor:** Provided that Lessee is not in default with any of the terms hereunder, Lessor shall provide the following services for the Leased Premises during reasonable and usual business hours:

- A. Heating and air conditioning during the customary periods of the year when and to the same extent Lessor furnishes heat and air-conditioning for other portions of the Terminal.
- B. Electric service for lighting and ordinary business appliances.

**ARTICLE 2.  
TERM OF AGREEMENT**

**2.01 Lease Term:** The term of this Agreement shall be for a period of 1 year, commencing at 12:01 a.m. on \_\_\_\_\_, and terminating at midnight on \_\_\_\_\_, (“the Lease Term”) unless terminated earlier pursuant to the provisions of this Agreement.

**2.02 Holdover of Lessee:** If Lessee holds over or remains in possession of the Leased Premises after the termination of this Agreement in the absence of a new lease agreement between the Lessor and Lessee, such continuation beyond the date of termination, or the collection or

acceptance of rent, fees and/or other charges by the Lessor, shall not be construed as a renewal or extension of this Agreement, but shall be construed solely as creating a tenancy at will and not for any other term whatsoever. During the term of such tenancy at will, Lessee shall pay Lessor the fees and charges herein reserved, and Lessee shall be bound by and comply with all relevant provisions of this Agreement. Lessor may terminate the tenancy at will by giving Lessee 30 day written notice thereof.

### **ARTICLE 3. RENT**

**3.01 Amount of Base Rent:** Lessee agrees to pay Lessor rent for the Leased Premises in monthly installments in the amount of \$\_\_\_\_\_, with the first payment due upon execution of this Agreement. Thereafter, Lessee shall pay to Lessor the monthly rental payment on or before the first day of each month. The Base Rent shall be recalculated and adjusted annually according to the Consumer Price Index as defined under Section 3.02, below.

**3.02 Adjustment of Rent During Lease Term.** During the Lease Term, the Base Rent paid by Lessee shall be adjusted on each October of the Lease Agreement for the ensuing Lease Year in the same percentage proportion that the "Consumer Price Index for all Urban Consumers (CPI-U)," as promulgated by the Bureau of Labor Statistics of the United States Department of Labor, which consumer price index for August, 202\_ is \_\_\_\_ ("the Base Index") using the year 2010 as base of 100. The Base Rent to be paid during the term of this Agreement shall bear the same ratio to the Consumer Price index for the month of August preceding the date of the rent adjustment, as \_\_\_\_\_ bears to the Base Index. In no event, however, shall the Base Rent be less than \$\_\_\_\_\_ per year, or \$\_\_\_\_\_ per month. In the event that the CPI is discontinued, comparable statistics on the purchasing power of the consumer dollar as determined by a responsible financial periodical of recognized authority selected by the Board shall be used as the basis for making adjustments of Base Rent during the Lease Term.

**3.03 Security Deposit:** At or before the execution of this Agreement, Lessee shall pay Lessor a security deposit in the amount of \$\_\_\_\_\_. Following termination of this Agreement, Lessor may use as much of the deposit as necessary to pay for any damages resulting from Lessee's occupancy of the Leased Premises, normal wear and tear excepted. Within 30 days of the termination of this Agreement, Lessor shall return the balance of the deposit to Lessee, minus any amount subtracted for damages.

**3.04 Delivery of Rent:** All payments required of Lessee by this Agreement shall be delivered by mail, or in person, to the Office of the Airport Manager, Kerrville/Kerr County Airport, 1877 Airport Loop, Kerrville, Texas 78028, or to such other location as specified in writing by the Lessor.

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

allowed by law, whichever is less. Notwithstanding anything to the contrary in this Section 3.05, if at the time performance of the provisions set forth in this Section 3.05 becomes due the interest to be paid in accordance with this Section 3.05 exceeds the limits on the payment of interest established by law, then the amount of interest to be paid shall be reduced to the maximum limit allowed by law; furthermore, if, from any circumstances, Lessor should ever receive as interest an amount that would exceed the highest lawful rate, the amount that would be excessive interest shall be applied to the payment of rent owing pursuant to the provisions of this Lease Agreement and not to the payment of interest.

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

**3.07 Other Charges:** Nothing herein shall be deemed to relieve Lessee and its patrons, invitees and others from other Airport use charges.

#### **ARTICLE 4. USE OF LEASED PREMISES**

**4.01 Permitted Uses:** Lessee shall use the Leased Premises only for the purpose of conducting for-profit commercial aeronautical services or activities, or purposes incidental thereto. Upon execution of this Agreement, Lessee shall provide to Lessor a list of person(s) who will be occupying or using the Leased Premises. Such list shall include the person(s)'s name, title, and driver's license number. Should there be a change with respect to the person(s) occupying or using the Leased Premises, the Lessee shall submit a revised list to the Lessor. In any event, Lessee shall submit an updated list upon any extension of the Lease Term or upon request by the Airport Manager.

**4.02 Prohibited Uses:** Lessee agrees at all times to comply with the following:

- A. Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, and local laws, orders, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration rules and regulations and the Kerrville/Kerr County Airport Code as adopted on June 27, 2018, which may be amended from time to time.
- B. Lessee shall not make or suffer any waste of the Leased Premises, nor will Lessee cause any holes to be drilled or made into brick or plaster nor any placards or decorative material to be placed on the Leased Premises. Lessee further covenants and agrees that it will not make any material structural alterations or additions to the premises except as may be approved in advance, in writing, by Lessor.
- C. Lessee shall, at its own expense, keep and maintain the Leased Premises in good condition and toward that end, shall do all work and make all repairs necessary

or advisable to keep the Leased Premises from deteriorating in value or condition and shall restore and maintain the Leased Premises, with the exception of normal wear and tear and aging consistent with normal office usage and time. Lessor shall have the right and privilege, through its agents and officials, to make inspections of the Leased Premises and thereafter to make recommendations to Lessee of any repairs that in Lessor's opinion are necessary to be performed by Lessee upon the Leased Premises in accordance with the foregoing. Lessee shall commence repairs within 30 days from the date that such recommendations are made. Such repairs shall be made in an expeditious and workmanlike manner. In the event that Lessee fails to commence such recommended repairs within the time provided, it is understood and agreed that Lessor may, within its discretion, make such repairs as it deems necessary for and on behalf of Lessee; and, in such event, the cost of such repairs shall be paid by Lessee within 10 days following the completion of said repairs.

- D. Lessee's primary use of premises shall be for office use. Lessee shall not make, suffer or permit any unlawful, immoral or offensive use of the Leased Premises, nor shall Lessee permit any loud, abusive or obscene language on the Leased Premises.
- E. Lessee shall maintain the Leased Premises in a clean and sanitary condition at all times. Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense.
- F. Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Airport Manager, with all such parking being limited to areas designated by Lessor for such parking.

**4.03 Non-exclusive Uses:** Lessee understands and acknowledges that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services at the Airport. Lessee will conduct itself and cause its employees, agents and invitees to conduct themselves with full regard for the rights, convenience and welfare of all other Hangar tenants. Provided Lessee performs all of the terms, covenants, agreements and conditions of this Lease Agreement, including the payment of rent, Lessee shall peaceably and quietly hold and enjoy the Leased Premises for the term hereof, without hindrance from Lessor, subject to the terms and conditions of this Agreement.

**4.04 Acceptance of Leased Premises:** Lessee acknowledges that its acceptance of possession of the Lease Premises constitutes a conclusive admission that it has inspected the Leased Premises and has found them in good condition and repair and suitable for its uses thereof.

## ARTICLE 5.

## ACCESS TO AND USE OF AIRPORT

**5.01 Access to Airport:** Lessor shall maintain all public roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall maintain free and uninterrupted access to the Leased Premises over said public roads at all times; provided, however, Lessor shall not be in default of this Agreement if access is interrupted for any of the reasons set forth in Section 14.3, below.

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

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

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

**5.05 Airport Security Rules and Regulations:** Lessee, its officers, employees, agents, contractors, invitees, and guests shall comply with all federal and local Airport Security Regulations adopted by the Lessor as such rules and regulations exist or may hereafter be amended. LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS THE LESSOR, ITS OFFICERS AND EMPLOYEES, from any charges, fines or penalties that may be assessed or levied by the FAA or the Texas Department of Transportation by reason of the NEGLIGENT OR INTENTIONAL FAILURE OF LESSEE, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, INVITEES, AND GUESTS to comply with such Airport Security Regulations.

**5.06 14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.

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

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

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

## **ARTICLE 6.** **INSURANCE**

**6.01 Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to the Lessor:

- A. Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate and \$1,000,000.00 with respect to property damage. In the event that the Texas Torts Claims Act, as amended (Tex. Civ. Prac. & Rem. Code §101.001, et seq.) or its successor statute, is amended to increase the amount of liability of municipalities for acts described in said Act above the levels set forth in this Section 601.A, Lessee agrees to increase the amount of insurance coverage required by this Section 6.01.A. to an amount sufficient to provide coverage to the level of potential liability per occurrence under said Act; and
- B. Automobile Liability Coverage on all motor vehicles owned and/or operated by Lessee or its employees on the Leased Premises or other Airport property in amounts of not less than \$1,000,000.00 combined single limit or equivalent; provided, however, separate automobile coverage shall not be required if such coverage is provided under Lessee's comprehensive general liability policy.

**6.02 Lessee's Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance which the Lessee may carry. Insurance provided pursuant to Section 6.01 shall name the Lessor as an additional insured or loss payee as the case may be. The comprehensive general liability policy as provided in Subsection 6.01.A. shall provide contractual liability coverage sufficiently broad so as to include the liability assumed by Lessee in the indemnity and hold harmless provisions included in Article 7 of this Agreement.

**6.03 Contents of General Liability Policy:** Lessee's Comprehensive General Liability policy shall protect the Lessor and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessee, its officers, employees, agents, contractors, invitees, and guests at the Airport, whether or not such damage or injury is the result of negligence of the Lessee or its officers, employees, agents, contractors, invitees, and guests.

**6.04 Cancellation; Certificates of Insurance:** Lessee's insurance as required by this Agreement shall not be subject to cancellation or material alteration until at least 30 days written notice has been provided to the Lessor. Lessee shall furnish to the Lessor, annually, Certificates of Insurance showing Lessor as an additional insured and evidencing that all of the herein stated requirements have been met.

**6.05 Lessor's Right to Purchase Insurance:** In the event such insurance as required by Section 6.01, above, shall lapse, the Lessor reserves the right to obtain such insurance at Lessee's expense. Upon demand from Lessor, Lessee shall reimburse Lessor for the full amount of the premium paid on Lessee's behalf.

## **ARTICLE 7** **INDEMNITY**

**7.01 Generally:** LESSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, COUNTY, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES AND AGENTS from and against any and all loss, damage, liability, claims, demands, costs, charges, expenses and causes of action including all costs of defense thereof (and including reasonable attorney fees) of whatsoever character which the Lessor may incur, sustain, or be subjected to on account of loss, damage to property and loss thereof and for bodily injury to or death of any persons (including but not limited to the property, employees, customers, contractors, agents, invitees and licensees of each party hereto) ARISING OUT OF THE CONDUCT OR OPERATIONS, NEGLIGENCE OR OTHERWISE, OF LESSEE, ITS DIRECTORS, OFFICERS, EMPLOYEES, SUBLESSEES, CONTRACTORS, SUBCONTRACTORS OR AGENTS on the Leased Premises. The Lessor will give Lessee prompt notice of any claim made or suit instituted which in any way affects or might affect the Lessor. Similarly, Lessee will accord the Lessor the same notice and rights.

**7.02 Environmental Matters:** LESSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS LESSOR, THE CITY OF KERRVILLE, KERR COUNTY, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AND AGENTS from and against any loss, costs, damages, claims, assessments, fines, and/or penalties (including reasonable attorney's fees) (together referred to as "Losses") which may be incurred by or levied against ANY OF THOSE HEREIN INDEMNIFIED BY ANY THIRD PARTY, INCLUDING BUT NOT LIMITED TO, THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE TEXAS NATURAL RESOURCES CONSERVATION COMMISSION OR THEIR SUCCESSOR AGENCIES as the result of Lessee's construction, operation, or maintenance of any aircraft painting and refinishing

facility on the Leased Premises. As used in this Section 7.02, the term Losses shall include, but not be limited to, any losses, costs, damages, claims, assessments, fines or penalties, including but not limited to cost of remediation, resulting from the contamination of any soil, water, or air by hazardous materials discharged by Lessee, or by Lessee's officers, employees, agents, invitees, guests, trespassers, or contractors, either intentionally or negligently, into the soil, water, or air.

## **ARTICLE 8. UTILITIES**

Lessor shall be solely responsible for the payment of common electrical service, water, and wastewater. Lessee shall be solely responsible for acquiring and the payment of telephone, cable television and internet access.

## **ARTICLE 9. SIGNS**

**9.01 Consent Required:** Lessee shall not erect, maintain or display any signage within or along the exterior of the Terminal without the prior written consent of the Airport Manager. Lessor may allow Lessee, at Lessee's own expense, to erect, maintain and display signage advertising its business. However, all signage installed by Lessee shall conform with the size, color, location, copy and manner of display of other signs throughout the hangar or building. Lessee agrees to reimburse Lessor for any damage or injury resulting from the installation, maintenance or removal of any such signs.

**9.02 Removal on Termination:** Upon the termination of this Agreement, Lessee shall remove, obliterate or paint out, as the Lessor may direct, any and all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. In the event that there is a failure by Lessee to so remove, obliterate or paint out each and every sign or advertising and so to restore the Leased Premises, the Lessor may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to the Lessor on demand. In certain circumstances, the Lessor may elect to allow specific signs to remain at the termination of this Agreement. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and Lessor.

## **ARTICLE 10. ASSIGNMENT AND SUBLEASING**



**10.01 Assignment by Lessee:** At no time shall Lessee sublease any portion of the Leased Premises or assign its interests or obligations in this Lease Agreement without the written consent of Lessor. Any such assignment or attempted assignment without Lessor's consent to same shall be void.

**10.02 Assignment by Lessor:** Lessor may transfer and assign this Agreement to any successor in interest of Lessor to whom the Airport may be sold or assigned; provided that the successor in interest shall execute and deliver to Lessor, with copy to Lessee, an instrument assuming the lawful obligations of Lessor under this Agreement.

## **ARTICLE 11. TAX LIENS**

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, fuel, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other improvements located on the Leased Premises. The Lessor shall have the right to pay such taxes due after Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the Lessor for the amount of taxes paid plus any penalties, interests, and attorney's fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part. In the event that Lessee is successful in any challenge regarding the payment of any tax, the Lessor shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorneys fees previously paid by the Lessor and not already reimbursed by Lessee.

## **ARTICLE 12. DEFAULT AND REMEDIES**

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

- A. Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Agreement;
- B. Lessee shall abandon any substantial portion of the Leased Premises;
- C. Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Lessee or any guarantor of Lessee's obligations hereunder;

- D. Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- E. Lessee shall do or permit to be done any act that results in a lien being filed against the Leased Premises;
- F. The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- G. Lessee fails to comply with any other term, provision or covenant of this Agreement, other than those specified in subparts A. through F. above.

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

**12.03 Abandonment of Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) days by Lessee of the conduct of its business activities at the Airport shall terminate Lessee's rights under this Agreement. By so terminating this Agreement, Lessor does not waive any other claim or rights against Lessee. For the purposes of this Section 12.03, the term "abandonment" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe or causes beyond Lessee's control.

**12.04 No Remedy Exclusive:** No remedy herein conferred upon or reserved to the Lessor or Lessee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or hereafter existing under law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor and Lessee to exercise any remedy reserved to it in this Section 12.04, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

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

**12.06 Expeditious Action:** Notwithstanding any provision as to notice in this Agreement herein contained, if in Lessor's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default will jeopardize the operation of the Airport or the rights of the Lessor or the other Airport tenants, Lessor may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse Lessor for any reasonable and necessary costs incurred by the Lessor pursuant to this Section 12.06.

**12.07 Default in Rent Payment:** Notwithstanding anything to the contrary above, if there should be any default in the payment by Lessee of any rents, fees or charges due to Lessor as provided herein, the Lessor may give Lessee a ten (10) day written notice to pay all sums then due or cease operations, and if such payment is not made within such ten (10) day period or such longer time as Lessor may set forth, Lessee's rights under the Agreement shall terminate. By so terminating this Agreement, the Lessor does not waive any other claim or rights against Lessee. However, if such monetary default consists only of underpayment of a disputed and unliquidated sum, under \$1,000.00, the termination of this Agreement may be forestalled by tender of the liquidated sum and deposit of the amount in controversy in escrow.

### **ARTICLE 13.** **TERMINATION BY LESSEE**

**13.01 Termination:** Except for the payment by Lessee to Lessor of rents or other amounts past due or accrued but not yet due, Lessee shall have the right to terminate this Agreement in its entirety, and all rights and obligations ensuing there from immediately upon the occurrence of the following:

- A. The issuance of any order, rule or regulation of the Federal Aviation Administration, or its successor Federal Agency, or other competent government authority, Federal or State, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least sixty (60) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any fault of Lessee; or
- B. The material restriction of the Lessor's operation of the Airport by action of the Federal Government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than sixty (60) days; provided however, that without prejudice to the rights of Lessee to terminate as above provided, the Lessor and Lessee may mutually agree to adjust fees and charges; or

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

**Section 13.02 Repayment of Rent:** If Lessee terminates this Lease for any of the reasons set forth in this Article 13, Lessor shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

#### **ARTICLE 14.** **MISCELLANEOUS PROVISIONS**

**14.01 Damages:** LESSEE HEREBY RELEASES LESSOR, THE CITY OF KERRVILLE, KERR COUNTY, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND CONTRACTORS FROM LIABILITY TO LESSEE FOR ANY DAMAGE TO THE PERSONAL PROPERTY OF LESSEE including its aircraft, caused by the act of negligence of any of those hereby released or any other user of the Airport, the bursting, leaking or running of any cistern, water closet, waste pipe, tank, water, gas, steam or sewer pipe, or oil and/or gas pipelines in, above, upon or about the Leased Premises, the Airport, or any part thereof, any heating, gas or electrical device, or vehicle, or any flooding or other weather related casualty.

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

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

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

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

**14.06 Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by the Lessor with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the Base Rent payable by Lessee under this Lease or

otherwise materially and adversely affect Lessee's tenure of the Leased Premises under this Lease. Furthermore, this Agreement and Lessee's use of the Airport shall be subject to any and all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any Federal, State or local governmental authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.

**14.07 Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Agreement.

**14.08 Notices:** Notices provided for in this Agreement shall be either hand delivered or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to Lessor:                                      Airport Manager  
Kerrville/Kerr County Airport  
1877 Airport Loop  
Kerrville, Texas 78028

If to Lessee:                                      \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

**14.09 Governing Law and Venue:** This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any cause of action shall be in a court of competent jurisdiction in Kerr County, Texas.

**14.10 Severability:** If any provision of this Agreement is invalid or unenforceable, this Agreement shall be considered severable as to such provision, and the remainder of this Agreement shall remain valid and binding as though such invalid or unenforceable provision were not included herein.

**14.11 Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits or describes the scope or intent to any provision herein.

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

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

**14.14 Development of the Airport:** Future development, changes, alterations, modifications or improvement to the Airport shall be at the sole discretion of the Lessor, the City of Kerrville, Texas and Kerr County, subject only to such notification to Lessee that the Federal Aviation Administration may dictate. The Lessor will strive not to hinder the Lessee's operations in carrying out the provisions of this Section 14.14.

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

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

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

**14.18 Discrimination Prohibited:** The Lessee, for itself, its officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Lessor shall give notice of the alleged breach and state with particularity the basis of, and the facts on which, the alleged breach has occurred. Lessee shall have at least thirty (30) days in which to cure said alleged breach by eliminating/ceasing any such breach, or such additional period as may be reasonable and necessary to complete the same. If such alleged breach is not so cured by eliminating/ceasing any such breach within such period, Lessor may upon written notice to Lessee terminate this Agreement.

**14.19 Entire Agreement:** This Agreement embodies the entire agreement between the Lessor and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Agreement shall not be changed, modified, discharged or extended, except by written instrument duly executed by Lessor and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing in the aforesaid Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be legally executed in duplicate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LESSOR:**

**LESSEE:**

**JOINT AIRPORT BOARD  
CITY OF KERRVILLE, COUNTY OF  
KERR, TEXAS**

\_\_\_\_\_  
**By: Mary Rohrer, Airport Manager**

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

ATTEST:

\_\_\_\_\_  
Carole Dungan, Executive Assistant

Attachment- Exhibit A- Depiction of Leased Premises

EXHIBIT A- DEPICTION OF LEASED PREMISES,  
XXXX AIRPORT LOOP, KERRVILLE TX

SAMPLE