

**LEASE AGREEMENT**

**Between**

**COUNTY OF CONTRA COSTA**

**as Lessor**

**and**

**TrexAir Aviation Academy, LLC**

**as Tenant**

**January 1, 2026**

LEASE BETWEEN COUNTY OF CONTRA COSTA

AND

TrexAir Aviation Academy, LLC

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EXHIBIT A – SITE PLAN OF 161 JOHN GLENN DRIVE

# LEASE BETWEEN THE COUNTY OF CONTRA COSTA

AND

## TrexAir Aviation Academy, LLC

This lease agreement (“**Lease**”) is dated January 1, 2026 (the “**Effective Date**”) and is between of the County of Contra Costa, a political subdivision of the State of California (the “**County**” or “**Lessor**”), and TrexAir Aviation Academy, LLC, a California Limited Liability Company (“**Tenant**” or “**Lessee**”).

### RECITALS

- A. Lessor owns and operates Buchanan Field, a public airport located at Concord, California (the “**Airport**”), as shown on the Airport Layout Plan, which plan is on file in the office of the County Director of Airports (“**Director of Airports**”).
- B. For the purposes of operating a flight school, Tenant desires to lease a portion of the real property at the Airport consisting of approximately 2,000 square feet of office space at 161 John Glenn Drive, and approximately 18,000 square feet of apron space (for parking aircraft), both as shown on Exhibit A and together, (the “**Premises**”).
- C. Prior to January 1, 2026, the Premises was under a lease with FM Aviation (d.b.a. Sterling Aviation), and Tenant occupied the Premises as a sublessee of Sterling Aviation.
- D. The parties desire to enter into this Lease to permit Tenant to continue to occupy the Premises.

The parties therefore agree as follows:

1. **LEASE**: For and in consideration of the rent, fees, and faithful performance by Tenant of the terms and conditions and the mutual covenants hereof, Lessor hereby leases to Tenant, and Tenant hereby leases from Lessor the Premises, subject to all easements and encumbrances of record.

2. **TERM**:

A. **TERM**: The term (“**Term**”) of this Lease is one year, commencing on the Effective Date and ending December 31, 2026.

B. **EXTENSIONS**: Tenant has five options to extend this Lease for a term of one year for each option (each such period, an “**Extension Period**”) upon all the terms, covenants and conditions set forth herein, provided (1) Tenant is not in

default beyond any applicable cure period as of the commencement of the Extension Period, and (ii) Tenant is not in default on the day an Extension Request, as defined below, is given. Not less than 90 days prior to the end of the Term, Tenant may request that this lease be extended by giving the Director of Airports written notice of its desire to extend the Term (the “**Extension Request**”). The Director of Airports, in his or her sole discretion, may, but is not required to, approve the Extension Request. The Director of Airports shall respond in writing to Tenant within 60 days after receipt of the Extension Request. Failure of the Director of Airports to respond in writing within 60 days constitutes an approval of the Extension Request.

C. REFERENCES TO “TERM”: Upon commencement of an Extension Period, all references to the Term of this Lease will be deemed to mean the Term as extended pursuant to this Section.

3. **HOLDING OVER**: In the event Tenant remains in possession of the Premises after the expiration of the Term, such holding over does not constitute a renewal or extension of this Lease, but will be construed to be a tenancy from month to month on the same terms and conditions set forth herein, which tenancy may be terminated at any time by Lessor or Tenant upon 30 days written notice.

If Tenant fails to surrender the Premises to Lessor on expiration or within 30 days after cancellation or termination of this Lease, Tenant shall defend, indemnify, and hold Lessor harmless from any and all claims, liability, costs and damages resulting from Tenant’s failure to surrender the Premises, including, without limitation, claims made by a succeeding tenant or renter.

4. **RENT**:

- A. Tenant shall pay rent to Lessor without offset or demand on or before the first day of each month. Rent for any partial month will be prorated at the rate of 1/30<sup>th</sup> of the applicable rent per day.
- i. Ground Rent. Beginning on the Effective Date and continuing on the first day of each month thereafter, Tenant shall pay rent in the amount of Two Thousand Five Hundred (\$2,500.00) per month.
  - ii. Rent Escalators. On each January 1, beginning January 1, 2027, rent will be increased by 3%.

5. **ADDITIONAL PAYMENT PROVISIONS**

A. Percentage Rent. Beginning on the Effective Date, Tenant shall pay Percentage Rent, as defined below. Percentage Rent is due no later than the tenth day of the month for goods sold and services provided by Tenant during the previous month.

(1) "**Percentage Rent**" means two percent (2%) of the "Gross Receipts," as defined below, from the operation and management of the flight training academy and ground school.

(2) "**Gross Receipts**" means all revenue and receipts from any activity conducted on the Premises, including but not limited to the gross amount received from all sales made and all cash and credit revenue of Tenant including finance charges to customers, and in the case of sale by credit, whether or not the payment is actually made, at in, on or from the Premises. Gross Receipts excludes the following:

- a) Federal, state and municipal sales taxes, excise taxes, gross receipts taxes and all other similar taxes separately stated or collected from customers.
- b) Receipts from wholesale sales of parts and accessories wherein the resale permit number issued by the Board of Equalization of the State of California, is necessarily used for such sale; provided, however, this exception applies to only those wholesale sales that do not exceed 5% of the retail sales of parts and accessories.
- c) Receipts from the sale of new and used aircraft; provided a flat fee of \$500 per transaction is paid to the Lessor upon the sale of each new and used aircraft.
- d) Commissions paid for financing or discounts to be paid by Tenant to secure financing for any of the business conducted or sales of any kind or nature by Tenant.
- e) All revenue against which Tenant later provides a credit for returns to suppliers or manufactures.
- f) Amounts received at the Leased Premises for sales made or services performed at other premises on the Airport if Lessor receives Percentage Rent from the Gross Receipts for those sales or services through the other premises.
- g) Amounts received by Tenant for settlement of any claims for loss or damage to products purchased by Tenant.
- h) Deposits received for any State recycling fund.

- i) Reimbursable expenses incurred by Tenant on behalf of its customers.
- (3) Statement of Gross Receipts. Tenant shall furnish to Lessor a written statement of monthly Gross Receipts ("**Statement of Gross Receipts**") within 30 days after the close of each calendar quarter.
- (4) Certified Annual Statement. Within 120 days following the close of Tenant's fiscal year, and within 120 days following the termination of this Lease, Tenant shall deliver to Lessor an annual statement of Gross Receipts, certified as being correct by an authorized accounting officer of the Tenant ("**Certified Annual Statement**"). If the Certified Annual Statement shows that an additional amount of Percentage Rent is due and payable to Lessor, Tenant shall make such payment currently with the delivery of the Certified Annual Statement to Lessor.
- (5) Records. Lessor may inspect the books and records of Tenant and any and all Subtenants from which any Statement of Gross Receipts or Certified Annual Statement is prepared at any reasonable time upon request. For this purpose, Tenant shall keep for a period of five years after submission of any such statement to Lessor, all of Tenant's records, books, accounts, and other data pertaining or necessary to the verification of Gross Receipts as defined herein, and shall, upon request, make the same available to Lessor, Lessor's auditor, representative or agent for examination at any time during such 5-year period. Failure to keep, maintain, and make available the records, books, accounts, and other data required by this Section is a default of this Lease.
- (6) Audits. Lessor may, at Lessor's option, engage the services of an independent certified public accountant to audit and verify the accuracy of Tenant's records, books, and accounts, including the Certified Annual Statement. In the event the audit shows that an additional amount of Percentage Rent is due and payable to Lessor, Tenant shall make such payment within seven days of Lessor's demand therefore. If the audit shows that there has been an overpayment of Percentage Rent, Lessor shall, at the sole option of Lessor, promptly repay to Tenant the amount of such overpayment or credit same to future Rent next due Lessor by Tenant, at Lessor's sole election. If the audit shows an underpayment by Tenant that is greater than five percent (5%) of the Percentage Rent paid to Lessor, Tenant shall pay for the reasonable and actual cost of the audit.
- B. Records to Be Maintained. Tenant shall record all sales and other transactions, whether cash or credit, and shall keep full and accurate

books of account and records in accordance with United States Generally Accepted Accounting Principles consistently applied, including without limitation, a sales journal general ledger, and all bank account statements showing deposits of gross receipts revenue. In addition, Tenant shall keep all cash register receipts with regard to gross receipts, credits, refunds and other pertinent transactions, as well as records of all other exclusions and deductions from Gross Receipts.

- C. Late Rental Payments. In addition to the Extension Fee and Ground Rent, Tenant shall pay as additional rent, all other charges, costs and fees required to be paid by Tenant pursuant to the provisions of this Lease (such amounts, "**Additional Rent**," and together with the Extension Fee and Ground Rent, "**Rent**"). In the event Tenant fails to pay Lessor Rent due under this Lease within five days after such amount is due, Tenant shall pay to Lessor a late charge of One Hundred Dollars (\$100) per occurrence (the "**Late Charge**"), plus interest on the unpaid balance at a rate of one and one-half percent (1-1/2%) per month, from the date the payment was due and payable until paid in full. Tenant shall pay all Late Charges as Additional Rent on or before the date the next installment of periodic Rent is due. Lessor and Tenant hereby agree that it is and will be impracticable and extremely difficult to ascertain and fix Lessor's actual damage from any late payments and, thus, that Tenant shall pay as liquidated damages to Lessor the Late Charge specified in this Section, which is the result of the parties' reasonable endeavor to estimate fair average compensation therefor (other than attorneys' fees and costs). Lessor's acceptance of the Late Charge as liquidated damages will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Lessor from exercising any of the rights and remedies available to Lessor under this Lease.
- D. Form and Place of Payment. Tenant shall pay all Rents and fees in cash or by personal check, certified check, or money order, payable to the County of Contra Costa, by delivering same on or before due date to the Director of Airports Office, 181 John Glenn Drive, Suite 100, Concord, California 94520, or at such other place as Lessor may designate from time to time.
- E. Returned Checks. If a check written by Tenant is returned for insufficient funds, Lessor may impose a reasonable service charge in addition to any Late Charge and in addition to any charges imposed by the bank. Lessor may require Tenant to pay Rent by certified check or money order if Tenant's bank or banks have returned one or more personal checks in any 12 month period.
- F. Security Deposit. Tenant shall pay Lessor a deposit in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) in cash or by certified check

made payable to Lessor as security for the faithful performance of the terms, covenants, and conditions of this Lease (the “**Security Deposit**”).

If Tenant is in Default under the terms of this Lease, Lessor may in its sole discretion (but is not be required to) apply the Security Deposit, or any portion of it, to (i) any expense, loss or any Rent or other sum owed to Lessor, (ii) any amount that Lessor may spend or become obligated to spend in exercising Lessor’s rights under this Lease, or (iii) damage sustained by Lessor resulting from Tenant’s Default. Upon demand by Lessor, Tenant shall immediately pay to Lessor a sum equal to the portion of the Security Deposit expended or applied by Lessor as provided in this Section 5.G. so as to maintain the Security Deposit in the sum initially deposited.

Upon the expiration or termination of this Lease and a final accounting by Lessor, any remaining Security Deposit balance will be refunded to Tenant, without interest. Tenant waives the provisions of California Civil Code Section 1950.7, and all other provisions of law in force or that become in force after the Effective Date of this Lease, that provide that Lessor may claim from a Security Deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises. Lessor and Tenant agree that Lessor may, in addition, claim those sums reasonably necessary to compensate Lessor for any other foreseeable or unforeseeable loss or damage caused by the act or omission of Tenant or Tenant’s officers, agents, employees, independent contractors or invitees.

## **6. LESSOR PROCESSING AND TRANSACTION FEES**

In the event Tenant or Subtenant requires or requests Lessor’s review, investigation, processing, recordation, or any other action in connection with any Tenant document, proposal or other matter (such as review of a proposed assignment or other transfer, lease amendment, an estoppel certificate or financing of Tenant’s leasehold interest hereunder), Tenant shall pay to Lessor a transaction fee of Two Thousand Five Hundred Dollars (\$2,500.00), plus all of Lessor’s reasonable costs, including, but not limited to, staff time at rates determined by the County, for any time Lessor spends in connection with such review, investigation or other activity (together, such fee and costs are the “**Transaction Fee**”). The Transaction Fee will increase by \$500.00 every five years after the Effective Date and is due 30 days after demand therefor by Lessor.

## **7. USE OF PREMISES**

The Premises may be used for the operation of a FAA Part 61 flight school, and related services with certified flight instructors and aircraft and for no other

purpose.

8. **HANGAR RENTAL OPERATIONS** [This Section intentionally left blank]

9. **SUBLEASES**

Tenant shall not sublease any portion of the Premises without prior written approval from the Director of Airports.

10. **CONDITION OF PREMISES**

A. **No Warranty.** Tenant is leasing the Premises in an “as is” physical condition with no warranty, express or implied, on the part of Lessor as to the physical condition of the Premises, including but not limited to, the condition of any existing improvements, the soil and the geology of the soil, the air, surface water and groundwater, the presence of known and unknown faults, the presence of Hazardous Materials and all other kinds of contamination and pollutants of any kind in the air, soil, groundwater and surface water, and the suitability of the Premises for the construction and use of the improvements thereon.

B. **Tenant Independent Investigation.** It is the sole responsibility of Tenant, at its sole cost and expense, to investigate the condition of the Premises to its satisfaction, including (i) the suitability of the soil, geologic, environmental and seismic conditions of the Premises for the intended use contemplated herein, and (ii) the presence of any contaminants, or Hazardous Materials, as defined in Section 16.A., in air, soil, groundwater and surface water in, on, or under the Premises and pollutants of any kind located on or within the Premises. This Lease imposes no responsibility or obligation on Lessor to prepare or implement any remediation plan or to attain remediation of the Premises to a level of standard required for Tenant’s use or any other purpose. Lessor makes no warranties, representations, covenants, or agreements concerning remediation for the purposes of Tenant’s use or any changes in Environmental Laws, as defined in Section 16.B., affecting such uses.

The respective agreements and obligations of Lessor and Tenant under this Section 10 will survive the expiration or termination, for any reason, of this Lease.

C. **No Concealment.** Notwithstanding anything in this Lease to the contrary, Lessor represents to Tenant that Lessor is not concealing any knowledge of the presence of contamination possessed by the current officers and managers of the Airport. However, Lessor makes no representation regarding what would be revealed by a review and search of its records, interviews of its employees or past employees or the undertaking of due

diligence to discover any information or knowledge not now known to its present officers and managers.

- D. Maintenance. Tenant shall maintain the Premises in accordance with Section 13, Maintenance, Repair and Storage.

## 11. UTILITY OBLIGATIONS

Tenant shall pay utility providers directly for all utilities used or consumed on the Premises, including, but not limited to gas, water, electricity, garbage disposal, storm and sanitary sewer services, janitorial services, internet, and telephone services.

In the event Lessor or any utility company requires that any existing or new distribution system be installed underground, Tenant shall, at its own cost and expense, provide all necessary facility changes on the Premises, so as to receive such service.

## 12. ALTERATIONS AND ADDITIONS

- A. Tenant may not do any of the following: (i) erect any structures on the Premises, (ii) make any improvements or alterations to the exterior of any hangar, office space, or any aircraft ramp, parking area or Landscaping, (iii) make any improvements or alterations to the interior office space that requires the issuance of a building permit without written consent by the Lessor. Tenant shall provide the Director of Airports with written plans detailing any proposed improvement. If the Director of Airports does not provide a written response to Tenant's proposed changes within thirty (30) days of the date the Director of Airports confirms his receipt of such plans, the proposed improvement will be deemed approved by the Director of Airports. The Director of Airports may not unreasonably withhold or condition its approval of any proposed improvements.
- B. In the event Tenant makes alterations or constructs additions that violate the conditions contained in this Lease (an "**Unauthorized Addition**"), at the Director of Airports' sole discretion, Tenant shall remove all or any portion of such Unauthorized Addition at Tenant's sole cost and expense. If Tenant is required to remove any Unauthorized Addition, Tenant, at its sole cost and expense, shall restore the Premises to the condition existing immediately prior to the existence of the Unauthorized Addition, or such other condition designated by Lessor in its election. If Tenant is not required to remove all or any portion of the Unauthorized Addition, then such Unauthorized Addition will remain on and be surrendered with the Premises on the expiration or termination of the Lease.
- C. If the Director of Airports has given written consent to Tenant, permitting Tenant to make certain alterations or make any additional improvements

to the Premises, Tenant may not commence construction until Tenant has (i) obtained all necessary building permits and all other approvals required, and (ii) provided Lessor with 20 days advance written notice of the commencement of such construction. In addition, Tenant shall cause a Notice of Lessor Non-Responsibility to be posted and recorded during construction in accordance with Civil Code Sections 3094 and 3129. A copy of the notice is to be mailed to Lessor upon filing it with the County Recorder.

### 13. **MAINTENANCE, REPAIR AND STORAGE**

#### A. Premises Maintenance.

Tenant shall, at its sole cost and expense throughout the Term of this Lease, maintain the Premises and the Improvements in a first-class condition, ordinary wear and tear excepted. Tenant shall cause all maintenance, repairs, and replacements to be of a quality substantially equal to the original material including but not limited to: interior/general plumbing and electrical; interior flooring, walls, ceiling, windows and interior and exterior doors; HVAC; utilities; pest control; janitorial; and litter removal. Lessor is the sole judge of the maintenance standards required. Lessor shall maintain exterior walls, roof, plumbing and electrical leading to the Premises.

B. No Storage of Personal Property Outside Buildings. Without the prior written consent of the Director of Airports, Tenant may not cause or permit any materials, supplies, products, equipment or other personal property, except for assembled aircraft and ramp equipment and vehicles in regular use, to be stored or to remain on any portion of the Premises outside of buildings or structures. Tenant shall store personal property items, supplies, materials and combustibles inside the buildings in a safe, neat and sanitary manner.

C. Enclosures for Solid Waste. [This Subsection intentionally left blank]

### 14. **LAWFUL CONDUCT**

Tenant shall obey and observe, and shall ensure that all persons entering upon the Premises obey and observe, all the terms and conditions of this Lease and all statutes, ordinances, resolutions, regulations, orders, and policies now in existence or adopted from time to time by the United States, (including, but not limited to, the Federal Aviation Administration) the State of California, the County of Contra Costa, the Central Contra Costa Sanitary District, the San Francisco Bay Regional Water Quality Control Board, and all other government agencies with jurisdiction over the Airport (collectively, the "**Applicable Laws**") including, but not limited to, Applicable Laws concerning health, safety, fire, accessibility,

police, and the environment.

Tenant shall pay all fines and penalties levied against it by any government agency for Tenant's violation of any Applicable Law associated with activities on the Premises.

**15. WASTE, QUIET CONDUCT, NUISANCE, POLLUTION**

Tenant may not commit, or suffer to be committed, any waste upon the Premises or any nuisance or other act or thing that may disturb the quiet enjoyment or the use of the Airport or surrounding property.

Tenant shall provide, as legally required, a separate drainage, collection, and/or liquid waste separation system to ensure that no untreated liquid waste from any type of operation, including aircraft cleaning and oil change operations, enters the Airport storm drainage or sanitary system.

Tenant may not permit any activity on the Premises that directly or indirectly produces unlawful or excessive amounts or levels of air pollution, (e.g., gases, particulate matter, odors, fumes, smoke, dust), water pollution, noise, glare, heat emissions, trash or refuse accumulation, vibration, prop-wash, jet blast, electronic or radio interference with navigational and communication facilities used in the operation of the Airport or by aircraft, or any other activity that is hazardous or dangerous by reason or risk of explosion, fire, or harmful emissions.

**16. HAZARDOUS MATERIALS**

A. Definition of Hazardous Materials. As used in this Lease, the term "Hazardous Materials" means any hazardous or toxic substance, hazardous or radioactive material, or hazardous waste, pollutant or contaminant at any concentration that is or becomes regulated by the United States, the State of California, or any local government authority having jurisdiction over the Premises. Hazardous Materials include, but are not limited to, the following: (1) Any "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste," as defined in Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health & Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (2) any "hazardous substance" as that term is defined in Section 25316 of the California Health & Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (3) any material or substance listed as a chemical known to cause cancer or reproductive toxicity pursuant to Section 6380 of the California Labor Code, Division 5, Part 1, Chapter 2.5 (Hazardous Substances Information and Training Act); (4) any "hazardous waste" as that term is defined in the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* (42 U.S.C. Section 6903); (5) any "hazardous

substance” as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.* (42 U.S.C. Section 9601); (6) any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local statute, ordinance, resolution, regulation, order, policy, or requirement, including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect; (7) any petroleum product; (8) any radioactive material, including any “source materials”, “special nuclear materials”, or “byproduct material” as defined in 42 U.S.C. Section 2011 *et seq.*; (9) any asbestos in any form or condition; and (10) any polychlorinated biphenyls (PCBs) and any substances or any compounds containing PCBs.

- B. Use of Hazardous Materials. Tenant may not cause or permit any Hazardous Material, as defined in this Section, to be generated, brought onto, stored, used, emitted, released, discharged or disposed of in, on, under, or about the Premises by Tenant or its officers, employees, agents, contractors, renters, guests or invitees, except for limited quantities of (1) standard office and janitorial supplies containing chemicals categorized as Hazardous Materials; (2) motor oils, hydraulic fluids, fuel and other materials commonly used in aircraft storage and fueling facilities; (3) such other Hazardous Materials as are approved in advance in writing by Lessor. During the term of this Lease, Tenant shall strictly comply with all applicable laws, statutes, ordinances, regulations, orders, etc., in effect that relate to public health and safety and protection of the environment including, but not limited to those identified in this Section 16 (“**Environmental Laws**”).
- C. Notification to the Director of Airports. If, during Term of this Lease, Tenant becomes aware of (a) any actual or threatened release of any Hazardous Materials on, under, or about the Premises; or (b) any inquiry, investigation, proceeding, or claim by any government agency or other person regarding the presence of Hazardous Material on, under, or about the Premises, Tenant shall (1) immediately provide verbal notification to the Director of Airports and (2) provide written notification of such release or investigation to the Director of Airports within 24 hours after learning of it. In the event Tenant receives any claims, notices of violation, reports, or other writing concerning the aforementioned release or investigation, Tenant shall furnish copies of all such materials to Lessor no later than the business day following Tenant’s receipt thereof.

Notification to the Director of Airports under this Section does not relieve Tenant of any obligation to notify any governmental agency under any Applicable Law.

D. Indemnification. Tenant shall, at Tenant's sole expense and with legal counsel reasonably acceptable to Lessor, indemnify, protect, defend, and hold harmless Lessor and Lessor's officers, employees, agents, and contractors from and against any and all demands, losses, claims costs, suits liability and expenses including without limitation, attorney's fees and consultant fees arising out of or relating to the violation of any Environmental Laws or the use, handling, generation, emission, release, discharge, storage or disposal of any Hazardous Materials by Tenant or Tenant's officers, employees, agents, contractors, Subtenants, renters, guests or invitees. This indemnification applies whether or not the concentration of such Hazardous Materials exceed state or federal maximum contaminant or action levels or whether any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Premises; (2) loss or restriction of use of rentable space on the Premises; (3) adverse effect on the marketing of any rental space on the Premises; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Premises and surrounding properties). Tenant is not required to indemnify Lessor against liability arising solely as a result of Hazardous Materials that are present in, on, under or about the Premises as of the Effective Date of this Lease as established in the Phase II Environmental Report. This indemnification clause will survive any expiration or termination of this Lease.

## 17. STORM WATER DISCHARGE

Lessor has applied for and received a National Pollutant Discharge Elimination Permit ("NPDEP") under the Federal Clean Water Act, which covers Tenant's operations on the Premises. In accordance with Section 14, Lawful Conduct, of this Lease, Tenant shall comply with (i) all laws and regulations arising under the Federal Clean Water Act that are applicable to Tenant's operations on the Premises, and (ii) Lessor's NPDEP.

Tenant shall ensure that no pollution or Hazardous Materials of any type is discharged into the stormwater system at the Airport, and shall comply with Lessor's NPDEP in all respects and in accordance with the Stormwater Control Plan and Stormwater Control Operation and Maintenance Plan for the Premises, and any amendments thereto, and in accordance with all applicable laws and regulations and other Lessor requirements. Copies of the Stormwater Control Plan and Stormwater Control Operation and Maintenance Plan for the Premises will be maintained on file at the Contra Costa County Public Works Department and are incorporated herein by reference.

## 18. RULES AND REGULATIONS

Tenant shall observe and obey all policies, minimum standards, rules, and regulations promulgated by Lessor's Board of Supervisors and all any other government entities or agencies having jurisdiction over the Airport.

**19. NOISE ORDINANCE**

Tenant shall comply with County Ordinances 87-8 and 88-82, as amended, and all other rules and ordinances relating to noise standards at the Airport, as may be approved from time to time by the County Board of Supervisors.

**20. SECURITY**

Lessor has no obligation to provide security to the Premises. Tenant shall provide, through the use of buildings, structures, walls, fences, gates and similar barriers, or a combination thereof, uninterrupted on-site security at all times for the prevention of unauthorized pedestrian and vehicular access to the aircraft operating area by way of the Premises. Tenant shall control direct or indirect points of entry to the aircraft operating area to accommodate authorized individuals and authorized vehicles in compliance with FAA and Airport security requirements. Tenant shall also provide security for on-site facilities, such as vehicular parking lots, buildings, hangars and fueling facilities on the Premises. Tenant shall provide adequate lighting to provide for all-night illumination of the perimeter of all buildings on the Premises, including vehicular parking lots, and pedestrian walkways surrounding the Premises. If at any time during the Term of this Lease additional security requirements are imposed on the Airport by the FAA or any other agency having jurisdiction over the Airport, Tenant shall comply with said security requirements at Tenant's sole expense. If Airport is fined by FAA for a security violation caused by Tenant, Tenant shall immediately reimburse Lessor upon demand.

**21. INDEMNIFICATION**

Tenant shall defend, hold harmless, and indemnify the Indemnitees (as defined below) from the liabilities defined in this Section 21.

- A. **"Indemnities"** means Lessor, its governing body, elective and appointive boards, commissions, officers, employees, representatives and agents.
- B. **"Liabilities"** means any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of an Act (as such term is defined below) and such liabilities shall include, but are not limited to personal injury, death, property damage, inverse condemnation claims of third parties or any combination of these, and including the defense of any suits or actions at law or equity concerning these.
- C. An **"Act"** means any act, intentional or negligent, or omission by Tenant, its officers, employees, agents, representatives, invitees, contractors, Subtenants, renters or guests in connection with the occupancy and use

of the Premises by Tenant, its shareholders, or any Subtenant, renter or assignee, or the matters covered by this Lease, or claimed to be attributable to Tenant, its officers, employees, agents, representatives, invitees, contractors, Subtenants, renters, guests, assignees, or one or more of them.

- D. The promise and agreement in this Section are not conditioned or dependent on whether Tenant or Lessor has prepared, supplied, or approved any plans or specifications in connection with work performed pursuant to Section 12. Alterations and Additions, or Section 13. Maintenance, Repair and Storage, or has insurance or other indemnification covering any of these matters. This indemnification clause will survive any expiration or termination of this Lease.

## 22. INSURANCE

Tenant shall procure and maintain, at its own cost and expense, at all times during the Term of this Lease, the following policies issued by insurance companies authorized to do business in California, with a financial rating of at least an A-status (unless otherwise stated below) as rated in the most recent edition of Best's Insurance Reports:

- A. Commercial General Liability and Property Damage Insurance. Tenant shall obtain and maintain, owner, landlord, and tenant commercial general liability insurance with a financial rating of at least an A- or P status (pooled insurance coverage) covering and insuring all parties hereto (including naming Contra Costa County and its officers, agents, and employees as additional insureds under the policy or policies) with a minimum combined single limit coverage of Two Million Dollars (\$2,000,000.00) for all damages due to bodily injury, sickness or disease, or death to any person and damage to property, including the loss of use thereof, arising out of each accident or occurrence arising out of Tenant's leasehold interest in, or maintenance or use of, the Premises and all operations necessary or incidental thereto. Liability insurance will be factored periodically to maintain adequate coverage.
- B. Worker's Compensation. Tenant shall obtain workers' compensation insurance as required by law, covering all employees of Tenant, and such insurance shall be kept in force during the entire Term of this Lease.
- C. Form of Policies. Tenant shall cause all policies of insurance required by this Section to be in such standard form and written by such qualified insurance companies as is satisfactory to Lessor. Tenant shall provide evidence of such insurance to Lessor in the form of (i) a copy of the policies, and (ii) a duly executed certificate of insurance. All of such certificates shall name "Contra Costa County, its officers, agents, and

employees” as additional insureds. Said policy or policies or certificates shall contain a provision that written notice of policy lapses, cancellation or any changes thereto shall be delivered to Lessor no fewer than thirty (30) days in advance of the effective date thereof.

- D. Notice. Tenant shall give Lessor prompt and timely notice of any claim made or suit instituted of which it has knowledge and which could in any way directly, contingently or otherwise, affect either Tenant or Lessor or both, and both Tenant and Lessor shall have the right to participate in the defense of such claim or suit to the extent of its respective interest.

**23. TAXES**

Tenant agrees to pay before delinquency all taxes (including, but not limited to, possessory interest tax), assessments, and other charges that are levied and assessed upon Tenant’s interest in the Premises, or upon Tenant’s personal property installed or located in or on the Premises, by Contra Costa County and other legally authorized government authority. Tenant may pay any taxes and assessments under protest, without liability, cost or expense to Lessor, to contest the amount in good faith.

**24. INSPECTION, ACCESS AND NOTICE**

Upon twenty-four (24) hour written notice to Tenant, Lessor and its agents may enter and inspect the Premises and any and every building, structure, or improvement thereon. Lessor also has the right to serve or to post and to keep posted on the Premises, or on any part thereof, any notice permitted by law or this Lease, including but not limited to a notice pursuant to Section 3094 of the Civil Code. Lessor is not liable in any manner for any inconvenience, disturbance, loss of business, or other damage arising out of Lessor’s entry on the Premises as allowed in this Section. Lessor shall conduct its activities as allowed in this Section in a manner that will cause the least possible inconvenience, annoyance, or disturbance to Tenant, and may not materially interfere with access to or use of the Premises. Tenant shall provide an access gate through the Premises for emergency vehicles.

**25. ASSIGNMENT AND ENCUMBRANCES**

Except as provided in this Section 25, and Section 32, Financing of Leasehold Estate, Tenant may not voluntarily sell, assign, transfer or encumber (each, a “**Transfer**”), its interest in this Lease or in the Premises, or allow any other person or entity (except Tenant’s authorized representatives) to occupy or use all or any part of the Premises, without first obtaining Lessor’s written consent, which may not be unreasonably withheld. Notwithstanding the foregoing sentence, Lessor has the right to require financial and other information from a proposed assignee, purchaser, transferee or other encumbering party (each, a “**Transferee**”), to make its decision, and Tenant shall assist Lessor in obtaining

such information from any proposed Transferee. Any Transfer without Lessor's prior written consent is voidable and, at Lessor's election, constitutes a Default. Any consent to a Transfer does not constitute a further waiver of the provisions of this Section.

If Tenant is a corporation or a limited liability company, any (i) dissolution, merger, consolidation, or other reorganization of Tenant, or (ii) sale or other transfer of a controlling percentage of the capital stock or membership interests, as the case may be, of Tenant, or (iii) sale of fifty percent (50%) of the value of the assets of Tenant, will be deemed a voluntary assignment. The phrase "controlling percentage" means (a) in the case of a corporation, the ownership of, and the right to vote, stock possessing more than fifty percent (50%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors and (b) in the case of a limited liability company, ownership of, and the right to vote, membership interests possessing more than fifty percent (50%) of the total combined voting interests of Tenant.

If Tenant is in default of monetary obligations to Lessor pursuant to this Lease, Tenant immediately and irrevocably assigns to Lessor, as security for Tenant's monetary obligations under this Lease, all rent from any subletting of all or part of the Premises as permitted by this Lease. A receiver for Tenant appointed on Lessor's application, may collect such rent and apply it toward Tenant's obligations under this Lease.

## **26. SURRENDER OF POSSESSION**

### **A. Site Improvements.**

Title to all Site Improvements, including all alterations or additions (including Unauthorized Additions) thereto, will remain in Tenant until the expiration, cancellation, or other earlier termination of this Lease. Upon expiration, cancellation or other earlier termination of this Lease, except as otherwise provided herein, title to all Site Improvements will automatically vest in Lessor and will remain on and will be surrendered with the Premises.

If Lessor does not desire title to any portion of the Site Improvements, Lessor shall notify Tenant in writing as soon as practicable which of the Site Improvements are to be removed by Tenant (the "**Excluded Improvements**"). Tenant shall remove the Excluded Improvements above ground level, within 120 days following the effective date of such notice.

If Tenant fails to remove the Excluded Improvements, Lessor may remove them at Tenant's expense, and, upon written demand by Lessor, Tenant

shall immediately reimburse Lessor, in full, for all of the costs and expenses incurred by Lessor in removing the Excluded Improvements.

Within 30 days after expiration, cancellation, or termination of this Lease, Tenant shall surrender to Lessor the Premises and all improvements, including alterations and additions, in good condition (ordinary wear and tear excepted). If Tenant is required to remove Excluded Improvements, Tenant shall surrender that portion of the Premises where the Excluded Improvements are located within 120 days after the expiration, cancellation, or termination of this Lease in good condition (ordinary wear and tear excepted). If Tenant fails to surrender the Premises to Lessor on expiration, cancellation, or termination of this Lease, Tenant shall defend, indemnify, and hold Lessor harmless from any and all claims, liability, costs, and damages resulting from Tenant's failure to surrender the Premises, including, without limitation, claims made by a succeeding tenant or renter.

B. Personal Property.

Title to personal property belonging to Tenant, or a Subtenant (for purposes of this Section, each, an "**Owner**") will remain in the Owner at all times during the Term of this Lease, and the Owner has the right at any time to remove any or all of its personal property from the Premises, provided that upon any such removal, Owner shall repair, at Owner's expense, any damage resulting therefrom and leave the Premises in a clean and neat condition.

If Owner fails to remove any personal property from the Premises within 30 days after the expiration, cancellation, or termination of this Lease, such personal property may be removed by Lessor at Tenant's expense, by charging such expense to the Security Deposit, as provided in Section 5, Additional Payment Provisions. If Lessor's cost to remove personal property from the Premises exceeds the amount of the Security Deposit, then Tenant shall reimburse Lessor the difference between Lessor's cost and the amount of the Security Deposit, immediately upon receipt of Lessor's written demand therefor.

C. Effectiveness.

The provisions of this Section will survive the expiration, cancellation or earlier termination of this Lease.

**27. DEFAULT**

The occurrence of any of the following is a "**Default**" by Tenant:

- A. Tenant's failure to pay any Rent or other charges when due, if the failure continues for 30 days after such payment is due. Notwithstanding the foregoing, failure to pay any Rent or other charges when due twice in any 12 month period is a Default without further notice from Lessor.
- B. Tenant's failure to undertake such reasonable maintenance of the Premises as directed by the Director of Airports, if the failure continues for 30 days after notice of any reasonably required maintenance has been given to Tenant.
- C. Tenant's failure to cure a safety hazard immediately upon notice from Lessor to do so. If, in the sole discretion of the Director of Airports, the required cure of the noticed safety hazard cannot be completed within 24 hours, Tenant is not in Default of this Lease if Tenant commences to cure the failure within the 24 hour period and diligently and in good faith continues to cure the Default as soon as reasonably possible.
- D. Tenant's failure to provide a current insurance certificate meeting the requirements in Section 22. Insurance, within five business days after any policy expiration date.
- E. Tenant's failure to perform any other obligation under this Lease if the failure continues for 30 days after written notice of the failure from Lessor to Tenant. If, in the sole discretion of the Director of Airports, the required cure of the noticed default cannot be completed within 30 days, Tenant is not in Default of this Lease if Tenant commences to cure the Default within the 30 day period and diligently and in good faith continues to cure the Default to completion.
- F. The committing of waste on the Premises, including any intentional act by Tenant to harm the Premises.
- G. Tenant's failure to comply with any of the provisions of Section 33, Non-Discrimination.

When this Lease requires service of notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notices required by Code of Civil Procedure section 1151 or any similar or successor statute. When a statute requires service of a notice in a particular manner, service of that notice (or similar notice required by this Lease) in the manner required by Section 39, Notices, will replace and satisfy the statutory service-of-notice procedures, including those required by Code of Civil Procedure section 1162 or any similar or successor statute.

## **28. LESSOR'S REMEDIES**

Lessor has the following remedies upon the occurrence of a Default. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law:

A. Lessor may terminate this Lease and Tenant's right to possession of the Premises at any time. No act by Lessor other than giving written notice to Tenant shall terminate this Lease. Lessor's acts of maintenance, efforts to re-let the Premises, or the appointment of a receiver on Lessor's initiative to protect Lessor's interest under this Lease do not constitute a termination of Tenant's right to possession. Upon termination of this Lease, Lessor has the right to recover from Tenant:

- (1) The worth, at the time of the award, of the unpaid Rent and fees that had been earned at the time of the termination of this Lease;
- (2) The worth, at the time of the award, of the amount by which the unpaid Rent and fees that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent and fees that Tenant proves could have been reasonably avoided;
- (3) The worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent and fees that Tenant proves could have been reasonably avoided; and
- (4) Any other amount, and court costs, necessary to compensate Lessor for all detriment proximately caused by Tenant's Default.

"The worth, at the time of the award," as used in (1) and (2) of this Section, is to be computed by allowing interest at the rate of ten percent (10%) per annum or the maximum rate permitted by law, whichever is less. "The worth, at the time of the award," as used in (3) of this Section, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

B. Lessor, at any time after the occurrence of a Default described in Section 27.B, can cure the Default at Tenant's cost, provided Tenant has failed to cure such Default within the 30-day notice period described in Section 27.B.

C. Lessor, at any time after the occurrence of a Default described in Section 27.C, can cure the Default at Tenant's cost, provided Tenant has failed to cure such Default within the twenty-four (24) hour notice period described in Section 27.C or fails to diligently and in good faith continue to cure the Default as soon as reasonably possible.

- D. If Lessor at any time, by reason of Tenant's Default, pays any sum to cure a Default or does any act that requires the payment of any sum, the sum paid by Lessor will be due from Tenant to Lessor within 30 days from the time the sum is paid, following written notice by Lessor to Tenant of the amount due. If such amount is not paid within 30 days of the notice, the amount due will bear interest at the rate of ten percent (10%) per annum or the maximum rate permitted by law, whichever is less, from the date the sum is paid by Lessor until Lessor is completely reimbursed by Tenant. The amount due from Tenant, together with interest accrued thereon, is Additional Rent.

29. **DESTRUCTION.** [This Section Intentionally left blank]

30. **CONDEMNATION**

- A. If the whole or any part of the Premises is taken as a result of the exercise of the power of eminent domain or is conveyed to any entity having such power under threat of exercise thereof (both such actions being hereinafter referred to as "**Condemnation**"), this Lease will automatically terminate as to the portion taken as of the date physical possession is taken by the condemnor. The value of any damages to the remainder of the Premises sustained by Tenant and Lessor as a result of a Condemnation action will be determined by a court of law or by negotiation and agreement with the condemnor.
- B. If the remaining part of the Premises is not reasonably suitable for the use described in Section 7, Use of Premises, as reasonably determined by Tenant, this Lease may be terminated by either Lessor or Tenant through written notice to the other party within thirty (30) days of the condemning agency's adoption of a resolution of necessity (or such agency's equivalent determination), to condemn the whole or any portion of the Premises. If a Condemnation takes (i) twenty-five percent (25%) or more of the Premises, or (ii) the portion of the Premises providing Tenant access to the Site Improvements, Tenant may terminate this Lease by providing Lessor written notice within thirty (30) days of the condemning agency's adoption of a resolution of necessity (or such agency's equivalent determination), to condemn such portion of the Premises. If the remaining part of the Premises is reasonably suitable for the operation of the business described in Section 7, as reasonably determined by Tenant, this Lease will continue in full force and effect as to such remaining part. If this Lease is not terminated as of the date of such Condemnation, Ground Rent will be reduced to an amount equal to the product of (i) the then-current Ground Rent multiplied by (ii) a fraction, the numerator of which is the number of square feet of the Premises

remaining after such Condemnation, and the denominator of which shall be the number of square feet of the Premises prior to such Condemnation.

In the event that all or any part of the Premises is taken by Condemnation or conveyed in lieu thereof, both parties have the right to pursue a condemnation award against the condemning agency. To the extent allowed by law, Tenant is entitled to any award for lost business, the residual value of its leasehold interest, moving expenses, and the depreciated value of any fixtures or property improvements installed and not removed by Tenant. Lessor is entitled to all other amounts awarded, including but not limited to, all amounts awarded for land value. No claim made by or payment to Tenant will diminish or otherwise adversely affect Lessor's award. Provided the Lessor is not the condemning agency, Tenant will not have, and may not make, any claim against Lessor for any loss, damage or other matter arising out of any Condemnation.

31. **CANCELLATION BY LESSOR** [This Section Intentionally left blank]

32. **FINANCING OF LEASEHOLD ESTATE**

- A. Tenant's Right to Encumber. Lessee may not encumber the Premises in any way, including, but not limited to a leasehold mortgage.

33. **NON-DISCRIMINATION**

- A. Tenant hereby covenants and agrees that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a United States Department of Transportation (“DOT”) program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, (“49 CFR Part 21”), and as such regulations may be amended.
- B. Tenant hereby covenants and agrees that (1) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of the Premises on the grounds of race, color, sex, or national origin, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, sex, or national origin and (3) that Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as such regulations may be amended.

- C. In the event of a breach of any of the above non-discrimination covenants, Lessor shall have the right to terminate this Lease and to re-enter and repossess the Premises and the facilities thereon. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including the expiration of any appeal rights.
- D. Tenant shall furnish its accommodations and services on a fair, equal, and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- E. Noncompliance with subsection D. above constitutes a material breach thereof and, in the event of such noncompliance, Lessor has the right to terminate this Lease without liability therefore or, at the election of Lessor or the United States, either Lessor or the United States government, or both have the right to judicially enforce the provisions of subsection D.
- F. Tenant agrees that it shall insert the above subsections A through E in any sublease agreement by which Tenant grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Premises.
- G. In the event Tenant employs anyone on the Premises or in connection with its activities on the Premises, Tenant assures that it will undertake an Affirmative Action program (as such term is defined by 14 CFR Part 152, Sub-part E (“**Sub-part E**”), as required by Sub-part E to ensure that no person is excluded from participating in any employment activities covered by Sub-part E on the grounds of race, creed, color, national origin, or sex. Tenant assures Lessor that no person will be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by Sub-part E. Tenant assures Lessor that it will require that its covered suborganizations provide assurances to Tenant that they similarly will undertake Affirmative Action programs, and that they will require assurances from their suborganizations, as required by Sub-part E, to undertake the same effort.

**34. OPERATION OF AIRPORT BY LESSOR**

- A. Aviation Hazards. Lessor shall take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, including preventing Tenant from constructing, or permitting the construction of, any building or other structure on the Premises that, in the opinion of Lessor or the Federal Aviation Administration, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- B. Navigational Aids. Lessor reserves the right during the Term of this Lease, and during any renewal and/or extension or holdover period thereof to install air navigational aids including lighting, in, on, over, under, and across the Premises. In the exercise of any of the rights hereof, Lessor shall give Tenant no less than 90 days written notice of its intention to install such air navigational aids. Following installation, Lessor is responsible for the maintenance and operation of such navigational aids.

**35. AIRPORT USE AND DEVELOPMENT**

- A. Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Tenant and without interference or hindrance.
- B. Lessor reserves the right, but is not obligated to Tenant, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities at the Airport, together with the right to direct and control all activities of Tenant in this regard.
- C. This Lease is subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States, including but not limited to the Federal Aviation Administration, relative to the development, operation, and maintenance of the Airport.
- D. There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight includes the right to cause in said airspace all noise inherent in the operation of any aircraft used for navigation or flight through said airspace, and all noise inherent in landing at, taking off from, and operations at the Airport.

**36. DEVELOPMENT OF PREMISES**

- A. Tenant shall comply with the notification and review requirements covered by 14 CFR Part 77 of the Federal Aviation Regulations in connection with any construction, modification or alteration of any present or future building or structure situated on the Premises.

- B. Tenant may not cause or permit the construction of any structure or object, or the growth of any tree on the Premises, to exceed the established height contours. In the event the aforesaid covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object and cut the offending tree, all of which shall be at Tenant's sole cost and expense.
- C. Tenant may not use or develop the Premises in any manner that might interfere with or otherwise constitute a hazard to the landing and taking off of aircraft from the Airport (an "**Interference Hazard**"). Upon learning of any Interference Hazard, Lessor (i) will notify Tenant of the existence thereof, and (ii) may enter upon the Premises and cause the abatement of such Interference Hazard at the sole cost and expense of Tenant.
- D. Nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. § 40103) or to consent to future construction, modification or alteration.
- E. This Lease and all of its provisions are subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Airport by the United States during a time of war or national emergency.

**37. INSTRUMENT OF TRANSFER**

This Lease is subordinate and subject to the provisions and requirements of the Instrument of Transfer by and between the United States and Lessor dated the 9th day of October, 1947, and recorded in Book 1137, at page 114 of the Official Records of the County of Contra Costa, State of California.

**38. CHOICE OF LAW**

This Lease is governed by the laws of the State of California.

**39. NOTICES**

Any and all notices to be given under this Lease, or otherwise, may be served by enclosing same in a sealed envelope addressed to the party intended to receive the same, at its address set forth herein, and deposited in the United States Post Office as certified mail with postage prepaid. When so given, such notice will be effective from the third date of its mailing. Notices may also be given via a reputable overnight courier service, effective on the next business day following delivery of the notice to the courier service for next day business delivery. Unless otherwise provided in writing by the parties hereto, the address of Lessor, and the proper party to receive any such notices on its behalf, is:

Director of Airports  
Contra Costa County Airports  
181 John Glenn Drive, Suite 100  
Concord, CA 94520-5550

and the address of Tenant is:

TrexAir Aviation Academy, LLC  
161 John Glenn Drive, Suite 1  
Concord, CA 94520-5550

**40. TIME IS OF THE ESSENCE**

Time is of the essence for each provision of this Lease.

**41. BINDING ON SUCCESSORS**

The terms of this Lease inure to the benefit of and bind the heirs, successors, executors, administrators and assigns of the parties hereto, subject to the limitations on assignment of this Lease.

**42. INVALID PROVISIONS; SEVERABILITY**

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision contained herein is held to be invalid by a court of competent jurisdiction, such invalidity does not invalidate any other covenant, condition or provision of this Lease, provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either Lessor or Tenant in their respective rights and obligations contained in the valid covenants, conditions and provisions of this Lease.

**43. ENTIRE AGREEMENT**

This Lease and all exhibits (which are incorporated herein and made a part of this Lease by this reference), referred to in this Lease constitute the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior or contemporaneous understandings or agreements of the parties. No alterations or variations of this Lease are valid unless they are in writing and signed by Lessor and Tenant.

**44. CUMULATIVE RIGHTS AND REMEDIES**

The rights and remedies with respect to any of the terms and conditions of this Lease are cumulative and not exclusive and are in addition to all other rights and

remedies at law or in equity. Each right or remedy shall be construed to give it the fullest effect allowed in law.

**45. NO THIRD-PARTY BENEFICIARIES**

Nothing in this Agreement, express or implied, is intended to confer on any person, other than Lessor and Tenant, and their respective successors-in-interest, any rights or remedies under or by reason of this Lease.

**46. NO CONTINUING WAIVER**

The waiver by Lessor of any breach of any of the terms or conditions of this Lease does not constitute a continuing waiver or a waiver of any subsequent breach of the same or of any other terms or conditions of this Lease. The receipt by Lessor of any Rent with knowledge of the breach of any term or condition of this Lease may not be deemed to be a waiver by Lessor, unless such waiver is specifically expressed in writing by the Director of Airports. No payment by Tenant or receipt by Lessor of a lesser amount than specified in this Lease may be deemed to be other than a payment on account of such Rent and may not be deemed to be a waiver of notice of termination and of forfeiture of this Lease.

**47. COVENANT AGAINST LIENS; RECORDATION AGAINST PREMISES**

Neither Tenant nor Lessor shall permit any mechanic's, materialman's, or other lien against the Premises, or the property of which the Premises forms a part, in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien is filed against the Premises, or property of which the Premises forms a part, the party charged with causing the lien will cause the same to be discharged; provided, however, that either party may contest any such lien, so long as the enforcement thereof is stayed. Tenant may not record this Lease or any sublease (or memoranda thereof), against the Premises without the prior written consent of Lessor. In the event Lessor consents to the recordation of this Lease or a sublease with the County Recorder's office, Tenant shall pay all charges incident to such recording.

**48. LEASE AUTHORIZATION**

This Lease is made and entered into by Lessor in exercise of authority as recognized in Section 25536 of the Government Code of the State of California.

**49. DRAFTING CONVENTIONS**

The section headings and captions of this Lease are, and the arrangement of this Lease is, for the sole convenience of the parties to this Lease. The section

headings, captions, and arrangement of this Lease do not in any way affect, limit, amplify or modify the terms and provisions of this Lease.

The Lease is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Lease and their counsel have read and reviewed this Lease and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply to the interpretation of this Lease. The definitions in this Lease apply equally to both singular and plural forms of the terms defined.

If any date specified in this Lease as a date for taking action falls on a day that is not a business day, then that action must be taken on the next business day.

Tenant hereby represents and warrants that it is a corporation duly organized and validly existing under the laws of the State of California.

[Remainder of Page Intentionally Left Blank]

The parties are signing this Lease as of the Effective Date stated in the introductory clause.

**COUNTY:**

CONTRA COSTA COUNTY, a political California limited liability company

By \_\_\_\_\_  
Greg Baer,  
Director of Airports

**LESSEE:**

TREXAIR AVIATION ACADEMY, LLC, a California limited liability company

By \_\_\_\_\_  
Kevin Trexler,  
Chief Executive Officer

**APPROVED AS TO FORM:**

By Thomas L. Geiger, County Counsel

By \_\_\_\_\_  
Kevin McLaverty,  
Chief Financial Officer

By \_\_\_\_\_  
Kathleen M. Andrus,  
Deputy County Counsel

EXHIBIT A

SITE PLAN OF THAT PORTION OF THE PREMISES  
KNOWN AS 161 JOHN GLENN DRIVE

# EXHIBIT A

18,000 SF Apron Space  
Leased Premises

2,000 SF Office Space  
Leased Premises

161 John Glenn Dr

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