



SASO OPERATING AGREEMENT

BETWEEN

CITY OF ST. GEORGE

AND

SASO OPERATING AND LEASE AGREEMENT

THIS SASO OPERATING AND LEASE AGREEMENT (which, as amended from time to time, is defined herein as the “Agreement”) is entered into as of the ____ day of _____, 20__, by and between the City of St. George, Utah, a Utah municipal corporation, (the “City”) and _____, a _____, (“Operator”).

RECITALS

WHEREAS, City owns and operates an airport located at 4550 S. Airport Parkway, St. George, Utah 84790 (the "Airport"); and

WHEREAS Operator is qualified to provide services as a single aeronautical service operator (SASO) as set forth herein and desires to lease certain property at the Airport for the purpose of operating a SASO concession on the terms provided in this Agreement;

NOW, THEREFORE, in consideration of the payment of TEN AND NO/100 DOLLARS (\$10.00), the foregoing recitals and the covenants and conditions stated herein, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Agreement to Operate Concession

1.1 Premises. By separate agreement, Operator has leased/subleased real property from City located at 4550 S. Airport Parkway, St. George, Utah 84790 and known as Hanger ____ (“Premises”).

1.2 Grant of Concession and Purpose of Agreement. Operator agrees that it shall have the right, privilege, and obligation to use the Premises for the following purposes (and no other purposes): the non-exclusive operation of a SASO concession providing, at a minimum, the following services (as they may be more specifically required under the Airport’s Minimum Standards): _____

All services provided by Operator in connection with this concession and the Premises are subject to City’s prior written authorization in City’s sole and absolute discretion. If City determines (in accordance with applicable Laws and Regulations) to provide any service on an exclusive basis, or City exercises any right to implement Airport programs as provided in Section 5.D, City may require that Operator cease engaging in substantially similar activities after ninety (90) days prior written notice.

1.3 Access. City agrees that if Operator is not in breach of this Agreement, Operator and Operator’s employees, officers, directors, contractors, subcontractors, suppliers, agents, invitees, and other representatives (“Operator’s Associates”) may ingress and egress across the Airport (in the areas designated by City and as permitted by applicable Laws and Regulations, as such term is defined in Section 4.B) on a non-exclusive basis and to the extent reasonably necessary for Operator’s use, occupancy, and operations at the Premises.

1.4. Right of Flight and Other Reserved Rights. This Agreement grants only a to conduct a concession in the Premises on the terms and for the purposes provided herein, and it conveys no other rights, titles, or interests of any kind. Among the rights reserved to City, City reserves in the Premises a right of flight for the passage of aircraft in the air, a right to cause such noise as may at any time be inherent in the operation of aircraft, and rights in water, minerals, oil, and gas.

1.6 Enjoyment of Rights. Subject to Operator's complete performance of the payment and other obligations contained in this Agreement, Operator shall peaceably have and enjoy the rights, uses, and privileges stated in this Agreement.

2. Term

2.1 Term. The term of this Agreement shall commence on _____, 20__ (the "Commencement Date") and shall continue thereafter for a term of ten (10) years until _____, 20__, (the "Expiration Date"). Upon the expiration of such initial term, City (in its sole and absolute discretion) shall have the option to extend the term of this Agreement for two (2) additional periods of six (6) years each. To exercise any such option, City shall notify Operator in writing one hundred and eighty (180) days before the expiration of any term then in effect. The date on which this Agreement expires (whether at the end of the initial term or any option terms exercised by City) is the "Expiration Date."

2.2 Refurbishment. If this Agreement is extended by City, Operator shall refurbish the Tenant Improvements during the twentieth (20th) year after the Commencement Date by investing in such refurbishment if, after an inspection by the City, the City deems it necessary to have a refurbishment. Operator shall submit a refurbishment plan and schedule to City for City's prior written authorization, and City shall have the right to require reasonable modifications to the same to address the condition of the Tenant Improvements and the public interest. Construction work shall be subject to the requirements set forth at Exhibit B. City may impose other commercially reasonable conditions on Operator in connection with such refurbishment.

3. Rent

3.1 Fees. Operator shall pay a SASO Operating Permit Fee of \$1,000.00 per year. This fee is not prorated and is initially due prior to final approval by the City and on January 1st of each year, thereafter.

4. Operator's Use of Premises and Airport

4.1 No Interference. Operator and Operator's Associates shall not use the Premises or the Airport in any manner that City believes (in City's sole and absolute discretion) interferes with any operation at the Airport or decreases the Airport's effectiveness. Operator shall immediately notify City of any use that creates such interference or decrease in effectiveness and remedy the same to City's sole satisfaction.

4.2 Comply with All Laws. Operator and Operator's Associates shall comply at all

times, at Operator's sole cost, with any and all laws and regulations (as amended or otherwise modified from time to time) that are applicable to Operator's use, occupancy, or operations at the Premises or the Airport (the "Laws and Regulations"), which include, but are not limited to, all laws, statutes, ordinances, regulations, rules, orders, writs, judgments, decrees, injunctions, directives, rulings, guidelines, standards, codes, policies, common law, and other pronouncements of any kind having the effect of law including, but not limited to, the Airport Rules and Regulations, the Airport Minimum Standards, and all laws and regulations pertaining to the environment (the "Environmental Laws"); any and all plans and programs developed in compliance with such requirements (including, but not limited to, the Airport Security Plan); and all lawful, reasonable, and nondiscriminatory Airport policies and other requirements. Upon request by City, Operator will verify, within a reasonable time frame, compliance with any Laws and Regulations.

4.3 No Unauthorized Use. Operator and Operator's Associates shall use the Premises and the Airport only for purposes that are expressly authorized by this Agreement and shall not engage in any unauthorized use of the same. Unauthorized uses include, but are not limited to, any use that would damage, interfere with, or alter any improvement; restricting access on any road or other area that Operator does not lease; placing waste materials on the Airport or disposing of such materials in violation of any Laws and Regulations; any use that would constitute a public or private nuisance or a disturbance or annoyance to other Airport users; the use of automobile parking areas in a manner not authorized by City; self-fueling activities on the Premises or any other area that City has not authorized; and any use that would be prohibited by or would impair coverage under either party's insurance policies.

4.4 Permits and Licenses. Operator shall obtain and maintain in current status all permits and licenses that are required under any Laws and Regulations in connection with Operator's use, occupancy, or operations at the Premises or the Airport. In the event that Operator receives notice from any governmental authority that Operator lacks, or is in violation of, any such permit or license, Operator shall provide City with timely written notice of the same.

4.5 Taxes and Liens. Operator shall pay (before their respective due dates) all taxes, fees, assessments, and levies that relate to Operator's use, occupancy, or operations at the Premises or the Airport and all other obligations for which a lien may be created relating thereto (including, but not limited to, utility charges and work for the Operator Improvements). Within ten (10) days, Operator shall remove any such lien that may be created or commence a protest of such lien by depositing with City cash or other security acceptable to City in an amount sufficient to cover the cost of removing such lien. When contracting for any work in connection with the Premises, Operator shall include in such contract a provision prohibiting the contractor or any subcontractor or supplier from filing a lien or asserting a claim against City's real property or any interest therein.

4.6. Damage to Property and Notice of Harm. In addition to Operator's indemnification obligations set forth in Article 6, Operator, at Operator's sole cost, shall repair or replace (to City's sole satisfaction) any damaged property that belongs to City or City's other Operators to the extent that such damage arises from or relates to an act or omission of Operator or Operator's Associates. Operator shall promptly notify City of any such property damage. If

Operator discovers any other potential claims or losses that may affect City, Operator shall promptly notify City of the same.

4.7. No Alterations or Improvements. Operator shall not make or cause to be made any alteration or improvement to the Premises or to other areas of the Airport without City's prior written consent, which may be given or withheld in City's sole and absolute discretion.

4.8 Signage and Advertising. Operator shall not install or operate any signage on the Premises or at the Airport except with the prior written approval of City (which may be given or withheld in City's sole and absolute discretion). Any approved signage shall be at Operator's expense and shall comply with Laws and Regulations (including, but not limited to, City's Airport signage policies and standards and City's ordinance and permit requirements). Operator shall not advertise or permit others to advertise at the Airport by any means, whether or not such advertising is for profit.

4.9 Security. Operator is responsible to comply (at Operator's sole cost) with all security measures that City, the United States Transportation Security Administration, or any other governmental authority having jurisdiction may require in connection with the Airport, including, but not limited to, any access credential requirements, any decision to remove Operator's access credentials, and any civil penalty obligations and other costs arising from a breach of security requirements caused or permitted by Operator or Operator's Associates. Operator agrees that City has the right (in City's sole and absolute discretion) to impose any Airport security requirements that City may determine. Operator further agrees that Airport access credentials are the property of City and may be suspended or revoked by City in its sole and absolute discretion at any time. Operator shall pay all fees associated with such credentials, and Operator shall immediately report to the Airport Manager any lost credentials or credentials that Operator removes from any employee or any of Operator's Associates. Operator shall protect and preserve security at the Airport, including, but not limited to, by protecting security information and protecting any access points that are maintained by Operator to secure or sterile areas.

4.10 Removal of Disabled Aircraft. When consistent with Laws and Regulations, Operator shall promptly remove from any portion of the Airport not leased by Operator any aircraft that Operator owns or controls if it becomes disabled. Operator may store such aircraft within the Operator Improvements or, with City's prior written consent, elsewhere at the Airport on terms and conditions established by City. If Operator fails to comply with this requirement after a written request by City to comply, City may (but is not required to) cause the removal of any such aircraft at Operator's expense by any means that City determines, in its sole and absolute discretion, to be in City's best interests.

4.11 Maintenance, Repair, Utilities, and Storage. Operator's use, occupancy, and operations at the Premises shall be without cost or expense to City. Operator shall be solely responsible to design and construct the Operator Improvements and to maintain, repair, reconstruct, and operate the Premises and the Operator Improvements at Operator's sole cost and expense, including, but not limited to, all utility services, janitorial services, waste disposal, and ramp repair. Operator shall at all times maintain the Premises and the Tenant Improvements in

good repair and in a clean, safe, and sanitary condition and perform all work in accordance with Laws and Regulations, in a good and workmanlike manner, and in accordance with the standard of work performed by the City elsewhere at the Airport. City has sole and absolute discretion to determine the quality of the work. Operator shall promptly remedy any condition that fails to meet this standard. Among other things, Operator shall not store on the Premises any inoperable equipment, discarded or unsightly materials, or materials likely to create a hazard; shall not use areas outside of the Tenant Improvements for storage (except for the storage of aircraft as expressly permitted by this Agreement); and shall store trash in covered metal receptacles. Any substance or material that is regulated by any Environmental Law (“Hazardous Materials”) shall be governed by Section 7.

4.12 Operations. Operator’s operations shall comply with the following:

4.12.1 Airport Operations. Operator shall occupy the Premises at all times, shall operate during scheduled business hours as approved by City, and shall operate in a manner that promotes effective airport operations. Among other things, Operator shall immediately notify the Airport Manager of any condition observed at the Airport that may create a hazard or disruption; Operator shall refrain from annoying, disturbing, or impairing Airport customers, Operators, or employees; Operator shall not divert business to off-Airport locations or engage in discriminatory business practices; and Operator shall promptly respond to City’s requests for information and reasonable assistance in connection with planning and other operational matters at the Airport.

4.12.2 Concession Service Standard. Operator’s concession shall provide high quality services and facilities (that are required by or authorized by City) in a good and proper manner to effectively meet the needs of the public and City. The privilege to operate this SASO concession shall exist only so long as the character of Operator’s facilities and services are consistent with such standard.

4.12.3 Complaints. Operator shall respond in a prompt manner to questions and complaints regarding Operator’s operations when raised by Airport users or by City, and Operator shall provide a timely resolution of such questions and complaints.

4.12.4 Emergencies. If City determines for any reason that emergency conditions exist at the Airport, Operator shall participate in any emergency response as directed by City or other agency in charge and shall operate in a manner that protects safety and the interests of the public.

4.12.5 Safety. Operator shall maintain a safety program at the Premises that includes, at a minimum, the following: periodic training for Operator’s employees and, as appropriate, Operator’s Associates regarding safety in connection with Operator’s operations; making available Material Safety Data Sheets to City and, as appropriate, others for any chemicals used on the Premises at least ten (10) days prior to their use; participation in City’s safety-related programs (such as risk management, security, and environmental management); and maintaining at all times functional firefighting equipment (including, but not limited to, an equipment testing program). City may, but is

not obligated to, stop Operator's operations if safety Laws and Regulations or other safe work practices are not being observed.

4.12.6 Personnel. Operator shall control the conduct, demeanor, and appearance of its employees and Operator's Associates so that they do not annoy, disturb, or impair Airport customers, Operators, or employees. Operator's employees shall possess adequate training and qualifications to carry out their assigned duties. Operator shall employ a full-time, experienced manager who has authority to act for Operator and is available at the Airport during regular business hours and a duly authorized subordinate employee who shall be available in the manager's absence.

4.12.7 Deficiencies. Without limiting or waiving any other remedies available to City, City's remedies shall include the following in connection with deficiencies in Operator's operations:

a. Propose and Implement Cure. Operator shall meet with the Airport Manager as he or she may request regarding the quality of Operator's operations, whether or not in connection with a specific complaint. Operator shall propose curative measures in response to City's determinations regarding deficiencies in Operator's operations and shall implement as expeditiously as possible measures that are approved by City.

b. Remove Employees and Associates. City shall have the right to require that Operator remove from the Airport any employee or any of Operator's Associates that City reasonably determines to be in violation of Section 4.L.vi or otherwise detrimental to City's interests at the Airport.

c. Liquidated Damages. City shall have the right to require Operator to pay liquidated damages in connection with addressing any deficiency as further set forth in Exhibit C.

d. Termination. City shall have the right to terminate this Agreement in connection with any deficiency in Operator's operations and in connection with repeated deficiencies where City notifies Operator of three or more deficiencies in a twelve (12) month period (whether or not cured).

5. City's Rights and Obligations

5.1 Airport Maintenance. City agrees that as long as the Airport is certified to operate as an airport by the Federal Aviation Administration (or any successor agency), City shall keep the property of the Airport in good repair and free from obstruction in accordance with applicable Federal standards.

5.2 Access to Premises. City for itself and its employees, officers, directors, agents, contractors, subcontractors, suppliers, invitees, volunteers and other representatives ("City's Associates") reserves the right to enter the Premises at any time without notice for any purpose

relating to the Airport (including, but not limited to, in order to conduct inspections, determine compliance with the Agreement, investigate or remediate any potential threats or hazards, conduct Airport work, and for emergency purposes), provided that they shall not unreasonably interfere with Operator's use of the Premises. Operator agrees to allow City to interview any of Operator's employees to discuss any matters pertinent to Operator's use, occupancy, or operations at the Premises and the Airport. Operator shall provide City with keys to all improvements. City and City's Associates shall not be deemed guilty of trespass upon the Premises or to have violated any of Operator's rights hereunder by reason of any entrance into the Premises.

5.3 City's Right to Work Within, Alter, or Recover Premises. City has the right at the Airport to perform or cause to be performed any work (including, but not limited to, constructing improvements, surveying, performing environmental testing, removing any hazard or obstruction, and implementing any plan, program, or action), that City (in its sole and absolute discretion) determines to be in City's best interests, including, but not limited to, within the Premises. City may elect to pursue any such work without recovering the Premises from Operator, in which case City shall exercise reasonable care to minimize disruptions to the Premises. City also has the right to recover all or any portion of the Premises from Operator in connection with any such work (with or without relocating Operator) as City may determine in its sole and absolute discretion, and the following shall apply:

5.3.1 Recovery. If City determines to recover all or any portion of the Premises, City shall provide Operator with ninety (90) days prior written notice specifying what areas will be recovered. If any portion remaining after such recovery is Operable in light of the purposes of this Agreement (as determined by City in its sole and absolute discretion), City shall reduce Operator's rent hereunder by the percentage of the Premises that City recovers, and City shall pay the cost of any alterations to the Operator Improvements that are required by City in connection therewith (so long as such improvements are not in breach of this Agreement). If City recovers all of the Premises, or if any remaining portion of the Premises is not Operable pursuant to City's determination, City may terminate this Agreement by including in the notice provided for in this Section 5.C.i a notice of termination, and this Agreement shall terminate at the end of such ninety (90) day period. In connection with any such termination, City shall pay the unamortized value of the Operator Improvements (so long as such improvements are not in breach of this Agreement), amortized on a straight-line method over the full term of this Agreement.

5.3.2 Relocation. If City elects to relocate Operator, City shall pay the reasonable costs that Operator actually incurs to relocate to a new location (chosen by City) the Operator Improvements (so long as such improvements are not in breach of this Agreement) and any movable property associated with Operator's permitted uses under this Agreement. Operator's rent at such new location shall be no greater than the rent required under this Agreement.

5.3.3 No Waiver. Nothing under this Section 5.C shall be construed to waive City's right to pursue any remedy for a breach of this Agreement arising from or relating

to Operator's use, occupancy, or operations at any portion of the Premises or at the Airport.

5.4. City's Right to Implement Airport Programs. City has the right to implement any lawful, reasonable, and nondiscriminatory program at the Airport as City may determine in its sole and absolute discretion, and to require Operator to participate in or comply with any such program. Such programs may include, but are not limited to, providing common arrangements for trash disposal, utilities, or other Airport functions; providing revenue-generating activities at the Airport by City or its designee (including, but not limited to, vending machines, advertising, wireless communications, and utility services whether on or off of the Premises); designating approved vendors and service providers at the Airport; establishing central locations and security procedures for delivering goods or materials to the Airport; and establishing green building and other programs to benefit the environment and conserve energy.

5.5 City Charges. City has the right to impose rates and charges in connection with any matter at the Airport in a manner consistent with Laws and Regulations.

5.6 City Directives. City is the owner and proprietor of the Airport, and City has the right to issue any lawful, reasonable, and non-discriminatory directive as a landlord and proprietor that City determines to be in City's best interests.

5.7 Governmental Acts. City is a government entity, and City has all rights, powers, and privileges afforded to it under Laws and Regulations. Operator agrees that Operator is subject to any lawful governmental act of City without regard to the provisions of this Agreement.

6. Indemnity, Insurance, and Letter of Credit

6.1 Indemnity by Operator. Operator agrees to indemnify, hold harmless, and defend City and its officers and employees from and against losses of every kind and character (including, but not limited to, liabilities, causes of action, losses, claims, costs, fees, attorney fees, expert fees, court or dispute resolution costs, investigation costs, environmental claims, mitigation costs, judgments, settlements, fines, demands, damages, charges, and expenses) that arise out of or relate to: (i) this Agreement; (ii) any use, occupancy, or operations at the Premises or the Airport by Operator or Operator's Associates; or (iii) any wrongful, reckless, or negligent act or omission of Operator or Operator's Associates. Operator shall use attorneys, experts, and professionals that are reasonably acceptable to City in carrying out this obligation. This obligation does not require Operator to indemnify City and its officers and employees against losses (as defined above) that arise solely from the negligent acts or omissions of City and its officers and employees. The obligation stated in this Section 6.A shall survive the expiration or other termination of this Agreement with respect to matters arising before such expiration or other termination. These duties shall apply whether or not the allegations made are found to be true.

6.2 Waiver. Operator assumes all risk of the use of the Premises and the Airport, and Operator hereby knowingly, voluntarily, and intentionally waives any and all losses,

liabilities, claims, and causes of action, of every kind and character, that may exist now or in the future (including, but not limited to, claims for business interruption and for damage to any aircraft) against City and its officers, employees, and volunteers arising from or relating to Operator's use, occupancy, or operations at the Premises or the Airport.

6.3 Insurance. At Operator's cost, Operator shall procure the following insurance coverage prior to entering the Premises, and Operator shall maintain its insurance coverage in force at all times when this Agreement is in effect in compliance with City's insurance requirements as they exist from time to time (including, but not limited to, the terms provided in Exhibit B):

6.3.1 Aircraft Liability. If Operator is authorized to engage in aircraft flight operations, aircraft liability insurance that includes premises liability, products, and completed operations coverage and, if applicable, mobile equipment coverage with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) per occurrence (or two million dollars (\$2,000,000) per occurrence if Operator is authorized to engage in aircraft sales) and one hundred thousand dollars (\$100,000) per passenger seat for applicable claims, including, but not limited to, contractual liability coverage for Operator's performance of the indemnity agreement set forth in Section 6.A. If any such coverage is not available to Operator in the form of an aircraft liability policy, Operator shall obtain substantially similar coverage through a commercial general liability policy.

6.3.2 Commercial General Liability. If Operator is not authorized to engage in aircraft flight operations, commercial general liability coverage that includes premises liability, mobile equipment, products, and completed operations coverage with a combined single limit for bodily injury and property damage of not less than three million dollars (\$3,000,000) per occurrence including, but not limited to, contractual liability coverage for Operator's performance of the indemnity agreement set forth in Section 6.A.

6.3.3 Property. All risk property insurance coverage, including earthquake sprinkler leakage coverage, in an amount equal to the replacement cost (without deduction for depreciation) of the Operator Improvements and of all personal property situated on the Premises (to the extent not insured under another policy).

6.3.4 Automobile. Comprehensive automobile liability coverage for claims and damage due to bodily injury or death of any person or property damage arising out of Operator's ownership, maintenance, or use of any motor vehicles, whether owned, hired, or non-owned, of not less than five hundred thousand dollars (\$500,000) single combined limit "per accident" for bodily injury and property damage.

6.3.5. Pollution. Pollution legal liability insurance of no less than one million dollars (\$1,000,000) aggregate liability and five hundred thousand dollars (\$500,000) per occurrence for environmental clean-up costs, transportation of wastes or products, and claims for bodily injury and property damage arising from losses due to pollution conditions covering all aspects of the Premises, the Operator Improvements,

and Operator's use, occupancy, and operations at the Airport.

6.3.6 Hangarkeepers Liability. If Operator is authorized to hangar aircraft, hangarkeepers liability insurance coverage for property damage to aircraft in the care, custody, or control of the insured of not less than one million dollars (\$1,000,000) general aggregate limit of liability.

6.3.7 Workers Compensation. Workers compensation coverage in the amounts and form required by the state of Utah.

6.3.8 Flight Rental. If Operator rents aircraft to students or others, Operator shall first post at a conspicuous location on the Premises information regarding where renters may purchase aircraft rental insurance.

6.3.9 Business Interruption. Operator is solely responsible for all costs of business interruption, however incurred, and Operator may purchase business interruption insurance as Operator may determine.

6.4 Performance Security. Prior to entering the Premises, Operator shall provide to City a performance security equal to three (3) months rent in the form of an irrevocable letter of credit (in a form that complies with City's requirements) as security for Operator's faithful performance under this Agreement. City may (but is not required to) apply all or any part of such performance security to the payment of any monetary obligation due under this Agreement (including, but not limited to, City's expenses to recover and relet the Premises). Operator shall restore any portion so applied, and shall fully maintain in effect such performance security throughout the term of this Agreement. Upon any expiration or termination of this Agreement, if Operator has fully complied with Operator's obligations under this Agreement City shall return to Operator any remaining portion of such performance security.

7. Hazardous Materials

7.1 No Violation of Environmental Laws. Operator shall not cause or permit any Hazardous Materials to be used, produced, stored, transported, brought upon, or released on, under, or about the Premises or the Airport by Operator or Operator's Associates in violation of applicable Environmental Laws. Operator is responsible for any such violation as provided by Section 6.A of this Agreement.

7.2 Response to Violations. Operator agrees that in the event of a release or threat of release of any Hazardous Material by Operator or Operator's Associates at the Airport, Operator shall provide City with prompt notice of the same. Operator shall respond to any such release or threat of release in accordance with applicable Laws and Regulations. If City has reasonable cause to believe that any such release or threat of release has occurred, City may request, in writing, that Operator conduct reasonable testing and analysis (using qualified independent experts acceptable to City) to show that Operator is complying with applicable Environmental Laws. City may conduct the same at Operator's expense if Operator fails to respond in a reasonable manner. Operator shall cease any or all of Operator's activities as City determines

necessary, in its sole and absolute discretion, in connection with any investigation, cure, or remediation. If Operator or Operator's Associates violate any Environmental Laws at the Airport (whether due to the release of a Hazardous Material or otherwise), Operator, at Operator's expense, shall promptly remediate such violation in compliance with applicable Environmental Laws. Operator shall submit to City a written remediation plan, and City reserves the right to approve such plan (which approval shall not be unreasonably withheld) and to review and inspect all work. Operator shall work with City and other governmental authorities having jurisdiction in connection with any violation. Operator shall promptly provide to City copies of all documents pertaining to any environmental concern that are not subject to Operator's attorney-client privilege.

7.3 Obligations Affecting Permits. To the extent that Operator is a co-permittee with City in connection with any permit relating to the environment, or to the extent that Operator's operations may impact City's compliance with any such permit, Operator shall work cooperatively with City and other Operators and take all actions necessary to ensure permit compliance, and minimize the cost of such compliance, for the benefit of Airport operations.

7.4 Obligations upon Termination and Authorized Transfers. Upon any termination of this Agreement, and upon any change in possession of the Premises authorized by City, Operator shall demonstrate to City's reasonable satisfaction that Operator has removed any Hazardous Materials and is in compliance with applicable Environmental Laws. Such demonstration may include, but is not limited to, independent analysis and testing.

8. Assignment and Subleasing

8.1 Assignment. Operator shall not assign any of its rights under this Agreement, including, but not limited to, rights in the Tenant Improvements, (whether such assignment is voluntarily or involuntarily, by merger, consolidation, dissolution, change in control, or any other manner), shall not encumber any such rights or record this Agreement (or any document or interested relating thereto), and shall not delegate any performance under this Agreement, except with the prior written consent of City to any of the same. City may withhold consent to such assignment, encumbrance, or delegation for any or no reason in its sole and absolute discretion. Regardless of City's consent, Operator shall not be released from any obligations for matters arising during the time when this Agreement was in effect. Any purported assignment or encumbrance of rights or delegation of performance in violation of this Section 8.A is void. This Agreement is binding on Operator's successors or assigns that have been authorized pursuant to this Section 8.A.

8.2. Subleasing. Operator shall not sublease any part of the Premises.

9. Damage, Destruction, and Condemnation

9.1 Damage or Destruction of Premises. If any portion of the Premises or the Operator Improvements is damaged in any manner, Operator shall promptly remove from the Airport all debris and cause repairs to be made to restore the same to an orderly and safe condition. All work shall be performed in accordance with plans and specifications that are

approved by City as being consistent with or better than the original improvements. Operator shall apply all proceeds that are made available from Operator's insurance policies to performing such work. If City performs such work pursuant to Section 10.B, such Operator insurance proceeds shall be paid to City. If the Premises or Operator Improvements are Operable despite such damage, Operator shall not receive any abatement of Operator's rent obligations. To the extent that any portion is rendered inoperable by such damage in light of the purposes of this Agreement (as determined by City in its sole and absolute discretion), rent shall continue if Operator has business interruption insurance, or if Operator does not have such insurance, City shall abate Operator's rent proportionately until repairs have been substantially completed (as determined by City in its sole and absolute discretion).

9.2 Condemnation. In the event of any condemnation proceeding in which all or any part of the Premises is taken (by a condemnor other than City), all compensation from such proceeding shall be paid to City except that Operator may pursue a claim against the condemnor for the value of the Operator Improvements and Operator's leasehold interest. If all or a material portion of the Premises is rendered inoperable as a result of such taking, Operator may terminate this Agreement by giving City a written notice of termination within thirty (30) days of the time when the condemnor takes or is deemed to have taken possession of any portion of the Premises, and this Agreement shall terminate thirty (30) days after City receives such notice; provided, however, that if City pursues an action to contest whether any portion of the Premises has been rendered inoperable, this Agreement shall terminate as determined by a court.

10. Default

10.1 Operator's Default. The occurrence of any of the following events shall constitute a default by Operator under this Agreement: (i) Operator fails to timely pay any installment of rent or any additional rent; (ii) Operator ceases to provide any service that Operator is required to provide under this Agreement for a period of seven (7) consecutive days; (iii) Operator violates any requirement under this Agreement (including, but not limited to, abandonment of the Premises) and fails to cure the same within twenty (20) days following written notice of such violation from City (except that in the case of insurance coverage required to be maintained, such period shall be five (5) days); (iv) Operator assigns or encumbers any right in this Agreement, delegates any performance hereunder, or subleases any part of the Premises (except as expressly permitted in this Agreement); (v) Operator files a petition in bankruptcy, becomes insolvent, or has a petition filed against Operator in bankruptcy, insolvency, or for reorganization or appointment of a receiver or trustee which is not dismissed within sixty (60) days; (vi) Operator petitions for or enters into an arrangement for the benefit of creditors, or suffers this Agreement to become subject to a writ of execution and such writ is not released within thirty (30) days; (vii) Operator defaults in constructing a Operator Improvement as provided in Exhibit B, Section B.7; or (viii) Operator is in breach of this Agreement (including, but not limited to, operational deficiencies pursuant to Section 4.L.vii) three (3) or more times during a twelve (12) month period (whether or not cured).

10.2 Remedies. Upon any default by Operator under this Agreement, City may (at any time) pursue any or all remedies available to City, including, but not limited to, the following: (i) perform in Operator's stead any obligation that Operator has failed to perform, and Operator shall

promptly pay to City all costs incurred by City for such performance, together with interest and service fees for any past due amounts (as provided in Section 10.C) and an administrative charge equal to twenty percent (20%) of the cost incurred by City (which the parties agree is a reasonable estimate of and liquidated damages for City's overhead expenses associated with such performance); (ii) terminate Operator's rights under this Agreement upon delivering a written notice of termination; and (iii) re-enter and take possession of the Premises by any lawful means (with or without terminating this Agreement). Operator shall pay all costs and damages arising out of Operator's default, including, but not limited to, the cost of recovering possession of the Premises, the cost of improving and reletting the Premises (including, but not limited to, any real estate broker fees or marketing costs), and attorneys' fees and costs. Notwithstanding any termination or re-entry, Operator shall remain liable to pay the rent and additional rent required under this Agreement for the remaining term of this Agreement, and Operator shall pay City on demand for any deficiency in the same. No action by City or City's Associates shall be construed as an election by City to terminate this Agreement or accept any surrender of the Premises unless City provides Operator with a written notice expressly stating that City has terminated this Agreement or accepted a surrender of the Premises. Following a default by Operator under this Agreement, City shall exercise commercially reasonable, good faith efforts to mitigate its damages as required by applicable Utah law.

10.3 Past Due Amounts. If Operator fails to pay when due any amount required to be paid by Operator under this Agreement, such unpaid amount shall bear interest at the rate of eighteen percent (18%) from the due date of such amount to the date of payment in full, with interest. In addition, City may also charge a sum of five percent (5%) of such unpaid amount as a service fee, which the parties agree is a reasonable estimate of and liquidated damages for City's additional costs for billing and collection arising from Operator's failure to make payment in a timely manner. All amounts due under this Agreement are and shall be deemed to be rent or additional rent, and shall be paid without abatement, deduction, offset, prior notice, or demand (unless expressly provided by the terms of this Agreement). City's acceptance of any past due amount (or its associated interest or service fee) shall not constitute a waiver of any default under this Agreement.

10.4 Default by City. City shall not be in default under this Agreement unless City fails to perform an obligation required of City under this Agreement within twenty (20) days after written notice by Operator to City. If the nature of City's obligation is such that more than twenty (20) days are reasonably required for performance or cure, City shall not be in default if City commences performance within such twenty (20) day period and thereafter diligently prosecutes the same to completion. In no event may Operator terminate this Agreement or withhold the payment of rent or other charges provided for in this Agreement as a result of City's default.

11. Expiration or Termination

11.1 Disposition of Operator Improvements.

11.1.1 Disposition Prior to Expiration. Within sixty (60) days after any termination of this Agreement prior to the Expiration Date, City, in its sole and absolute

discretion, may determine to accept title to all or any portion of the Tenant Improvements. Upon City accepting any such title, all of Operator's rights, title, and interests in the same shall be forfeited to City and title thereto shall vest in City automatically. Operator shall surrender the Premises upon termination (and shall surrender any Operator Improvements as accepted by City) in accordance with Section 11.B and Exhibit E, Section E.13. If City rejects any such title or such sixty-day period expires, Operator shall (within thirty (30) days thereof) remove all Tenant Improvements that were not accepted by City at Operator's sole expense in a manner acceptable to City (and the obligations of Section 6.A shall apply to such removal). If Operator fails to remove any such improvements, City may do so in any manner acceptable to City pursuant to Section 10.B.

11.1.2 Disposition Upon Expiration. Upon the expiration of this Agreement, Operator may either: (a) transfer its interests in the Tenant Improvements to a party who, prior to such expiration, has been accepted by City, in its sole and absolute discretion, and has entered an agreement for the Premises that is acceptable to City; or (b) Operator shall surrender the Premises (in accordance with Section 11.B) and, within thirty (30) days after such expiration, shall remove the Tenant Improvements (and the obligations of Section 6.A shall apply to such removal). If Operator fails to perform either such alternative, City shall have the rights set forth in Section 11.A.i and may exercise them at any time.

11.2 Surrender of Premises. Upon any expiration or termination of this Agreement, Operator, at Operator's sole cost, shall (i) promptly and peaceably surrender to City the Premises (and any Operator Improvements accepted by the City pursuant to Section 11.A) "broom clean" and in good order and condition; (ii) repair in a good and workmanlike manner any damage to the Premises or the Airport that arises from or relates to Operator's use, occupancy, or operations under this Agreement (including, but not limited to, while removing any property upon expiration or termination); (iii) deliver to City all keys and access credentials relating to the Airport; (iv) perform Operator's environmental obligations as provided in Section 7.D; and (v) remove all movable personal property and trade fixtures (including signage) that are not owned by City, (except that Operator must obtain City's prior written consent to remove any such property if Operator is in default under this Agreement or if such removal may impair the structure of any building). Upon any expiration or termination of this Agreement (which includes, but is not limited to, termination for abandonment of the Premises), all property that Operator leaves on the Premises shall conclusively be deemed to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by City without notice to, and without any obligation to account to, Operator or any other person (except that Tenant Improvements shall be as provided in Section 11.A). Operator shall pay to City all expenses incurred in connection with the disposition of such property in excess of any amount received by City from such disposition. Operator shall not be released from Operator's obligations under this Agreement in connection with surrender of the Premises until City has inspected the Premises and delivered to Operator a written release.

11.3 Holding Over. If Operator remains in possession of the Premises after any expiration or termination of this Agreement, such occupancy shall not waive any default under

this Agreement and City may terminate such occupancy as a tenancy at will in accordance with state law. During such occupancy, Operator shall comply with all provisions of this Agreement that are applicable to an at-will tenancy, and Operator shall pay the following rent: ground rent at the highest rate then charged at the Airport and rent for the Tenant Improvements at fair market value based on City’s survey of rent for similarly situated facilities at the Airport and at other western airports (which City shall determine in its sole and absolute discretion).

11.4. Survival. The provisions of this Section 11 shall survive any expiration or termination of this Agreement.

12. General Provisions

12.1 Notices. Any notice, demand, written consent, or other communication required to be in writing under this Agreement shall be given in writing by personal delivery, express mail (postage prepaid), nationally recognized overnight courier with all fees prepaid (such as, by way of example, Federal Express or DHL), or certified mail (return receipt requested and postage prepaid) when addressed to the respective parties as follows:

If to City:

Airport Manager
St. George Regional Airport
3420 East 3840 South
St. George, Utah 84790

with a required, simultaneous copy to:

City Attorney
City of St. George
175 North 200 East
St. George, Utah 84770

If to Operator:

with a required, simultaneous copy to:

Either City or Operator may change its notice address or facsimile number by giving written notice of such change to the other party. Any notice, demand, or written consent or communication shall be deemed to have been given, and shall be effective, upon compliance with this Section 12.B and delivery to the notice address or facsimile number then applicable for the party to which the notice is directed; provided, however, that such delivery shall not be defeated or delayed by any refusal to accept delivery or an inability to effect delivery because of an address or facsimile number change that was not properly communicated.

12.2 Incorporation. All exhibits referred to in this Agreement, as they may be amended from time to time, are incorporated in and are a part of this Agreement. Any proposal materials submitted by Operator in response to a solicitation by City, to the extent accepted by City, shall be incorporated in this Agreement.

12.3 Binding Obligation. Operator warrants and represents that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement as a legal, valid, and binding obligation of Operator.

12.4 Governmental Provisions.

12.4.1 Nondiscrimination Regarding USDOT Programs. Operator for itself, successors in interest, and assigns (to the extent successors and assigns are permitted by this Agreement), as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a U.S. Department of Transportation program or activity is extended, or for another purpose involving the provision of similar services or benefits, Operator shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

12.4.2 Nondiscrimination Regarding Facilities and Improvements. Operator for itself, successors in interest, and assigns (to the extent successors and assigns are permitted by this Agreement), as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Operator shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

12.4.3 No Exclusive Rights. Nothing in this Agreement shall be construed to grant to Operator any exclusive right or privilege for the conduct of any activity on the Airport (except to lease the Premises for Operator's exclusive use as provided herein).

12.4.4 Agreement Preserves City's Compliance. This Agreement shall be interpreted to preserve City's rights and powers to comply with City's Federal and other governmental obligations.

12.4.5 Subordination to City's Government Commitments. This Agreement is subordinate to the provisions of any agreement between City and the United States or other governmental authority (regardless of when made) that affects the Airport, including, but not limited to, agreements governing the expenditure of Federal funds for Airport improvements. In the event that the Federal Aviation Administration or

other governmental authority requires any modification to this Agreement as a condition of City entering any agreement or participating in any program applicable to the Airport (including, but not limited to, those providing funding), Operator agrees to consent to any such modification. If a governmental authority determines that any act or omission of Operator or Operator's Associates has caused or will cause City to be non-compliant with any of City's government commitments (including, but not limited to, any assurances or covenants required of City or obligations imposed by law), Operator shall immediately take all actions that may be necessary to preserve City's compliance with the same. Without liability to City, City shall have the right to terminate this Agreement and reenter and repossess any portion of the Premises if the U.S. Department of Transportation or other governmental authority having jurisdiction expressly requires any such action, subject to any review that may be afforded to Operator by such authority.

12.5 Subordination to Financing and Matters of Record. This Agreement is subordinate to the provisions of any agreements or indentures entered by City (regardless of when entered) in connection with any debt financing applicable to the Airport and is subordinate to any matter of record affecting the real property of the Airport.

12.7 Force Majeure. No act or event, whether foreseen or unforeseen, shall operate to excuse Operator from the prompt payment of rent or any other amounts required to be paid under this Agreement. If City (or Operator in connection with obligations other than payment obligations) is delayed or hindered in any performance under this Agreement by a force majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such force majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the party so delayed or hindered. A "force majeure event" is an act or event, whether foreseen or unforeseen, that prevents a party in whole or in part from performing as provided in this Agreement, that is beyond the reasonable control of and not the fault of such party, and that such party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to, acts of nature, war, riots, strikes, accidents, fire, and changes in law.

12.7 Rights and Remedies. Except as expressly set forth in this Agreement, the rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently exist.

12.8 Attorney's Fees. If any action is brought to recover any rent or other amount under this Agreement because of any default under this Agreement, to enforce or interpret any of the provisions of this Agreement, or for recovery of possession of the Premises, the party prevailing in such action shall be entitled to recover from the other party reasonable attorneys fees, court costs, the fees of experts and other professionals, and other costs arising from such action (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered. Operator shall be responsible for all expenses, including, but not limited to, attorneys fees, incurred by City in any case or proceeding involving Operator or any permitted assignee of Operator under or related to any bankruptcy or insolvency law. The provisions of this Section E.5 shall survive any expiration or

termination of this Agreement.

12.9 Governing Law, Venue, and Waiver of Jury Trial. This Agreement and the respective rights and obligations of the parties shall be governed by, interpreted, and enforced in accordance with the laws of the State of Utah. Venue for any action arising out of or related to this Agreement or actions contemplated hereby may be brought in the United States District Court for Utah or the District Court for the State of Utah sitting in Washington County, Utah so long as one of such courts shall have subject matter jurisdiction over such action or proceeding, and each of the parties hereby irrevocably consents to the jurisdiction of the same and of the appropriate appellate courts there from. Process in any such action may be served on any party anywhere in the world. CITY AND OPERATOR EACH KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER FOR ALL MATTERS ARISING OUT OF OR RELATING TO THIS LEASE OR ANY USE, OCCUPANCY, OR OPERATIONS AT THE PREMISES OR THE AIRPORT. The provisions of this Section E.6 shall survive any expiration or termination of this Agreement.

12.10 Amendments and Waivers. No amendment to this Agreement shall be binding on City or Operator unless reduced to writing and signed by both parties. No provision of this Agreement may be waived, except pursuant to a writing executed by the party against whom the waiver is sought to be enforced.

12.11 Severability. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect if both the economic and legal substance of the transactions that this Agreement contemplates are not affected in any manner materially adverse to any party. If any provision of this Agreement is held invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.

12.12 Merger. This Agreement constitutes the final, complete, and exclusive agreement between the parties on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. In entering into this Agreement, neither party has relied on any statement, representation, warranty, nor agreement of the other party except for those expressly contained in this Agreement.

12.13 Art. Operator shall not install any object in the Premises that constitutes a work of visual art under the Visual Artists Rights Act of 1990 unless Operator has obtained City's prior written approval and provided City with a written waiver that complies with the requirements of such Act or its successor.

12.14 Confidentiality. Operator acknowledges that City is subject to legal requirements regarding the public disclosure of records. Operator shall comply with such laws in connection with making any request that City maintain a record confidentially, and if Operator complies with the same Operator shall have the right to defend any such request for

confidentiality at Operator's expense.

12.15 Relationship of Parties. This Agreement does not create any partnership, joint venture, employment, or agency relationship between the parties. Nothing in this Agreement shall confer upon any other person or entity any right, benefit, or remedy of any nature.

12.16 Further Assurances. Each party shall execute any document or take any action that may be necessary or desirable to consummate and make effective a performance that is required under this Agreement.

12.17 Miscellaneous. The headings in this Agreement are provided for convenience only and do not affect this Agreement's construction or interpretation. All references to Sections are to Sections in this Agreement. Each provision to be performed by Operator shall be construed as both a covenant and a condition. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the drafting party. If Operator consists of more than one individual or entity, the obligations of all such individuals and entities shall be joint and several. References in this Agreement to any period of days shall mean calendar days unless specifically stated otherwise.

12.18 Time of Essence. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CITY OF ST. GEORGE

OPERATOR

Michele Randall, Mayor

By: _____
Its: _____

Attest:

Christina Fernandez, City Recorder

Approved as to form:

Jami Brackin, Deputy City Attorney

EXHIBIT A

PREMISES

Property description of the Premises:

Operator shall lease or sub-lease adequate office and hangar space from _____ to meet Commercial Operators Minimum Standard requirements.

The remainder of this page has been intentionally left blank.

EXHIBIT B

INSURANCE REQUIREMENTS

B.1 General Requirements. At all times when this Agreement is in effect Operator shall maintain in force all required insurance coverage and shall have on file with the City Certificates of Insurance evidencing the same. Such certificates shall provide that coverage will not be canceled, suspended, voided, or reduced without at least thirty (30) days prior written notice to the City. Ratings for the financial strength of the companies providing Operator's insurance policies shall be disclosed in such certificates and shall be "A- VII" or stronger as published in the latest Best's Key Rating Guide (or a comparable rating from a comparable rating service). If a lower rating is proposed, City may examine the financial strength of the insurance company proposed to provide coverage and may consent to a lower rating in the City's sole and absolute discretion, and City may also require additional assurances from Operator. All certificates shall be signed by a person authorized by the insurer and licensed by the State of Utah. All policies (except any policies required for workers' compensation or errors and omissions) and the certificates evidencing coverage shall name City and its officers, employees, and volunteers as additional insureds (or in the case of property coverage, City shall be named as a loss payee). Operator shall provide for a renewal of all insurance coverage on a timely basis to prevent any lapse in coverage. City retains the right to approve any deductibles, and Operator shall notify City of any material erosion of the aggregate limits of any policy. Operator's policies shall be primary. Such policies shall extend insurance to cover Operator's contractual obligations under this Agreement.

B.2 Minimum Requirements. City's insurance requirements are minimum requirements, and Operator is responsible to obtain adequate insurance coverage as Operator may determine. Except as otherwise expressly set forth in this Agreement, Operator assumes all risk under this Agreement (including, but not limited to, claims for business interruption) whether or not insured.

B.3 Waiver of Subrogation. Notwithstanding any other provision contained in this Agreement, each of the parties hereby waives any rights it may have against the other party for loss or damage from any risk that is covered by insurance (including, but not limited to, claims for business interruption). Each of the parties shall obtain a clause or endorsement providing for such waiver of subrogation in any policies of insurance required under this Agreement.

B.4 Terms Subject to Change. City, in its sole and absolute discretion, reserves the right to review and adjust at any time Operator's required insurance limits, types of coverage, and any other terms applicable to insurance to insure against any risk associated with this Agreement or at the Airport. Among other things, City may review any or all insurance coverage on a periodic basis and in connection with any specific activity or event associated with the Airport or proposed by Operator.

B.5 Stopping Operations. Among City's remedies, if at any time Operator's insurance coverage is not in effect as required herein, City may (but is not required to) stop all or any portion of Operator's operations without liability to City until Operator fully restores such

coverage.