

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: March 13, 2018 [X] Consent [ ] Regular  
[ ] Workshop [ ] Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to receive and file: Four (4) Consent to Sublease (Consent) documents for Atlantic Aviation West Palm Beach LLC (Atlantic) for Palm Beach International Airport (PBI).

1. Consent for Atlantic and Cushion Peak LLC, effective 11/1/2016.
2. Consent for Atlantic and Field Management Services LLC, effective 11/1/2017.
3. Consent for Atlantic and Intrepid Production Holdings LLC c/o Airmax, effective 12/1/2017.
4. Consent for Atlantic and Five Point Aerial Survey, effective 12/1/2017.

**Summary:** Delegation of authority for execution of the standard County agreements above was approved by the BCC in R-94-1453. Countywide (AH)

**Background and Justification:** N/A

**Attachments:**

Four (4) Consent to Sublease documents (1 of each) for Atlantic

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JB  
Recommended By: Sam Kelly 1/22/18  
Department Director Date

Approved By: W. Baker 1/23/18  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
 Does this item include the use of federal funds? Yes \_\_\_\_\_ No X

Budget Account No: Fund 4100 Department 120 Unit \_\_\_\_\_ RSource \_\_\_\_\_  
 Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

There is no direct fiscal impact for the attached Receive and File Consent to Sublease documents. The County leases property at PBI, under Fixed Base Operator Lease Agreements, to Atlantic who in turn sublease the property. This agenda item only deals with subleases which the County has no direct interest.

C. Departmental Fiscal Review: *CM Smith*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

*[Signature]* 1/31/18  
 OFMB  
 1/30/18  
 (PD) 1/30/18

*[Signature]* 1/31/18  
 Contract Dev. and Control  
 1/31/18

**B. Legal Sufficiency:**

*Cherie Welfant* 2-1-18  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

REVISED 9/03  
 ADM FORM 01  
 (THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

CONSENT TO SUBLEASE

PALM BEACH COUNTY, a political subdivision of the State of Florida, the "COUNTY", by and through its Department of Airports, under that certain Lease Agreement with Atlantic Aviation West Palm Beach LLC d/b/a Atlantic Aviation PBI, as assigned by Galaxy Aviation of Palm Beach, Inc. (the "LESSEE"), dated October 18, 2000 (R-2000-1067), as amended (the "Lease Agreement"), hereby consents to LESSEE entering into a Sublease Agreement effective November 1, 2016, (the "Sublease") with Cushion Peak LLC (the "SUBLESSEE") for the sublease of certain premises contained within the leasehold of LESSEE under the Lease Agreement.

Notwithstanding any provision of the Sublease to the contrary, the COUNTY hereby rejects any such provision in the Sublease, if any, which gives a greater right to the SUBLESSEE than that which the LESSEE has and, further, the COUNTY rejects any provision of the Sublease which purports to give the SUBLESSEE a right or interest in the premises independent of the LESSEE's Lease Agreement with the COUNTY. It is the express intent of the COUNTY in giving its consent that any forfeiture, loss, or termination of the LESSEE's Lease Agreement shall automatically terminate any sublease of the premises. In giving its consent to sublease the premises, Palm Beach County does not in any manner adopt, accept, or approve the terms of the Sublease or alter the terms of the Sublease.

It is the COUNTY's intent that the LESSEE shall remain liable to COUNTY for all rights and obligations contained in its Lease Agreement with the COUNTY.

APPROVED this \_\_\_ day of <sup>JAN 19 2018</sup> \_\_\_\_\_ 20\_\_\_, by the County Administrator or the Director of the Department of Airports on behalf of and pursuant to the authority granted by the Board of County Commissioners.

By: [Signature]  
Title: Director of Airports

Approved as to Form and Legal Sufficiency:

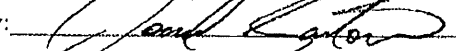
By: [Signature]  
County Attorney

**USE AND OCCUPANCY AGREEMENT  
HANGAR SPACE  
SUMMARY OF TERMS**

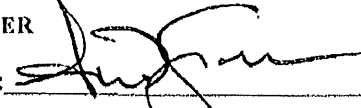
Contract No.	
Airport	Palm Beach International
Operator	Atlantic Aviation of Palm Beach
Master Lease Agreement(s)	
Facility	3800 Southern Blvd. West Palm Beach, Fl. 33406
User	Cushion Peak LLC
Aircraft	Type: Citation CJ3 Reg. No.: N96G
Registered Owner of Aircraft	Name: Cushion Peak LLC Address: 436 Savoie Drive Palm Beach Gardens, FL 33410 Contact: Dan Berg bergsef@aol.com 610-914-7095
Description of Space	
Purpose(s) for Use of Space	Storage of Aircraft
Effective Date	11/1/2016
Initial Term	12 month lease/ Ends October 31, 2017
Use Fees, Other Fees and Charges	Space Use Fee (monthly): Florida sales tax Fuel Charges: Aircraft Tie Down: Office No.: Shop: Parking: Other: Credit Card Information on File: Yes
Security Deposit	(representing two months Space Use Fees)
Janitorial Services	Yes or <u>No</u> . List

IN WITNESS WHEREOF, the parties have executed this Summary of Terms and the attached Use and Occupancy Agreement as of the Effective Date, and the person executing this Summary of Terms on behalf of User represents and warrants that he or she has full power and authority to do so.

**OPERATOR**

By:   
Title: General Manager

**USER**

By:   
Title: Managing Member

USE AND OCCUPANCY AGREEMENT

Date: 2/2/16

Date: 12/2/2016

## USE AND OCCUPANCY AGREEMENT

This USE AND OCCUPANCY AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Operator and User. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Summary of Terms to which this Agreement is attached.

### 1. Use of Space and Provision of Fuel Services.

1.1 Operator grants User the right to use and occupy the Space and the right to use the apron and access facilities described in the Summary of Terms. The Space shall be used by User only for the purpose(s) set forth in the Summary of Terms. User shall notify Operator promptly if User expects to replace the Aircraft (either on a temporary or permanent basis) with a substitute aircraft, and all provisions of this Agreement applicable to the Aircraft shall apply to any such substitute aircraft of the same type). Operator shall provide such fuel services at the Airport as User shall request. This Agreement does not grant User the right to conduct, and User shall not conduct, any business at Operator's facility unless User has obtained all required permits, authorizations and approvals for conducting such business.

1.2 User shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements, now in force or which may hereafter be in force, regulating the use, occupancy or alterations by User of the Space, and the rules and regulations set forth on Schedule 1 to this Agreement, if any, specifying additional terms, conditions and obligations of User as they relate to the Master Lease Agreement. User shall not cause or permit the Space to be used in any way (i) which constitutes (or would constitute) a violation of any law, ordinance, or governmental regulation or order, (ii) which unreasonably interferes with the rights of tenants or users of the Space, or (iii) which constitutes a nuisance or waste. User's rights granted herein are subject and subordinate to the terms and conditions of the Master Lease Agreement. Nothing in this Agreement shall create or purport to create any obligations of the Airport to User, and the Airport shall be deemed an intended third party beneficiary of this Agreement.

1.3 User shall keep and maintain the Space and every part thereof in good and clean condition and in accordance with reasonable rules or regulations established by Operator or the Airport from time to time during the Term. This provision is not intended to impose an obligation on User to repair the Space unless such repair is necessitated by the fault or neglect of User. User shall not make any alterations or additions to the Space without first obtaining Operator's written permission and shall

return occupancy at the termination of this Agreement in the same and in as good condition as exists on the Effective Date, except for reasonable wear and tear, damage by fire or casualty through no fault of User, and modifications expressly approved by Operator.

1.4 User shall provide reasonable advance notice to Operator of anticipated Aircraft flight activity. Operator shall maintain sufficient personnel and equipment to provide for the movement of the Aircraft as reasonably requested by User. Operator shall be solely responsible for the towing or repositioning of all Aircraft into and out of the Space. User expressly agrees not to undertake the towing or repositioning of the Aircraft. User shall be solely responsible for the securing of the Aircraft while positioned in the Space. Consistent with the foregoing obligation, User shall ensure the Aircraft is secured in such a manner that enables Operator to tow or reposition the Aircraft at any time for purposes of ingress and egress to the any portion of Operator's facility.

1.5 Operator reserves the right to use the Space during those times when the Aircraft is away from the Airport and to enter the Space at all reasonable times for the purpose of making any inspection it may deem appropriate to the proper enforcement of any of the covenants and conditions of this Agreement or the Master Lease Agreement or to undertake repairs, additions or alterations to the Space.

1.6 User may perform Aircraft maintenance, Aircraft cleaning, and other support-related services on the Aircraft exclusively through User's employees or through contracted third parties that, in Operator's opinion, have adequate insurance coverage, provided, however, that aircraft towing and fueling shall be performed exclusively by Operator or its designated agent(s). Upon the request of Operator, User shall cause any such third parties to execute a hold harmless and indemnification agreement in form and substance reasonably satisfactory to Operator and provide evidence to Operator of the insurance coverage maintained by any such third parties.

1.7 User acknowledges that there is limited space in Operator's hangar(s) at the Airport, and that as consideration for the grant of rights pursuant to this Agreement, this Agreement is expressly conditioned on User's agreement to purchase its

requirement for aviation fuel from Operator. The foregoing obligation applies only with respect to the Aircraft which is/are the subject of this Agreement and only with respect to the User's requirements for aviation fuel for said Aircraft while at the Airport. In the event User breaches its obligation to purchase its requirement for aviation fuel from Operator, this Agreement, may, at the option of Operator, be terminated forthwith. This Agreement creates only a license terminable as set forth herein. Nothing in this Agreement shall be construed or deemed to construe a grant of an interest in real property or to convey an estate or to vest property rights in User, nor shall this Agreement or its performance be interpreted to create a landlord/tenant, partnership, agency, joint venture, bailment, trust or fiduciary relationship between Operator and User.

## **2. Use Fees.**

2.1 User shall pay to Operator the monthly fees set forth in the Summary of Terms ("Use Fees") as follows: Space Use Fees are payable, in advance, on the first day of each month during the Term in consideration of User's use and occupancy of the Space and for the provision of other services, as applicable, for the Term; Fuel Charges shall be immediately payable by User by credit card, at the time such services are provided by Operator. Space Use Fees shall be prorated on a daily rate basis for any partial month during the Term. Upon execution of this Agreement, User shall pay and maintain with Operator a Security Deposit in the amount set forth in the Summary of Terms, representing two (2) months Space Use Fees. The Security Deposit shall be held by Operator to guarantee the full and faithful performance of User's payment obligations under this Agreement and may be applied by Operator without notice to User against any obligation of User due hereunder that is not paid when due. In the event Operator draws down on such Security Deposit, User shall promptly replenish the Security Deposit to the original amount. Upon termination or expiration of this Agreement, the Security Deposit shall be returned to User less any outstanding obligations to Operator at the time of the termination or expiration of this Agreement.

2.2 User agrees that Space Use Fees shall be subject to review and adjustment by Operator at one (1) year intervals following the Initial Term of the Agreement or from time to time by giving User not less than sixty (60) days written notice. After the effective date set forth in said notice, the new Space Use Fees shall become effective automatically for all purposes, unless and until further adjustments are made to the Space Use Fees in accordance with this

## **Section 2.2.**

2.3 In addition to the Space Use Fees and Fuel Charges, User shall pay Operator all applicable Airport use fees, facility fees, fuel flowage fees, and other fees imposed by the governing body of the Airport imposed or assessed on the provision of aircraft storage, fuel, or other services rendered by Operator hereunder, together with any sales, use, excise, or other taxes imposed by any governmental jurisdiction by virtue of said services. User shall also be be liable for all taxes, fees and other charges assessed or imposed on or by User's operations or businesses at the Airport. Under no circumstances shall Operator be liable for or required to pay any tax, fee, or other charge owed by User, including any taxes, fees or charges applicable to User or any of User's businesses owed to the Airport.

2.4 User shall only be obligated to pay separately for water, heat, gas, light, power, air conditioning, telephone, and other utilities, trash removal, and janitorial services if so indicated on the Summary of Terms.

2.5 If User fails to pay in full any User Fees or other amounts provided for in this Agreement within five (5) days after the same becomes due and payable, Operator shall be authorized to submit such charges for payment on User's credit card. User shall be obligated to pay a late charge equal to five percent (5%) of the amount, or any portion thereof, not so paid when due. In addition, any fees or other amounts, or any portion thereof, to be paid by User pursuant to this Agreement which are not paid in full within ten (10) days after the same becomes due and payable shall bear interest at a rate equal to two (2) percentage points above the then applicable Wall Street Journal Prime Rate (U.S. money center commercial banks) or its successor, accruing from the date such amount became due and payable to the date of payment thereof by User. Such interest shall constitute additional User Fees due and payable to Operator by User upon the date of payment of the delinquent payment referenced above.

## **3. Term and Termination.**

3.1 Provided User has furnished Operator with complete billing and credit information, including any requested credit application information and has placed its credit card information on file with Operator, this Agreement shall commence on the Effective Date and continue for the period of time set forth in the Summary of Terms (the "Initial Term"). After the Initial Term, this

Agreement shall continue in effect from year to year, being automatically renewed after each year (each a "Renewal Term"), unless either party gives written notice of termination, with or without cause, to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Term thereafter. The Initial Term together with each Renewal Term is referred to as the "Term."

3.2 Operator may terminate this Agreement at any time upon thirty (30) days prior written notice to User.

3.3 User may terminate this Agreement upon fifteen (15) days prior written notice to Operator if User sells the Aircraft or the Aircraft is lost or destroyed, and User does not replace the Aircraft.

3.4 This Agreement will automatically terminate upon the termination or expiration of the Master Lease Agreement for any reason, or as otherwise expressly directed in writing by the Airport, and no damages, monies, or compensation will be owed to User by Operator.

3.5 Each of the following events shall constitute a default under this Agreement on the part of User:

(a) the failure of User to pay and deliver to Operator any payment after same is due and to cure such default within five (5) business days after Operator gives User written notice of such default; provided, that, Operator shall only be obligated to provide such notice and opportunity to cure two (2) times during any consecutive twelve (12) month period;

(b) the failure of User to comply with any other provision of this Agreement as soon as reasonably practical and in any event within five (5) business days after written demand by Operator, except that if any non-monetary failure is not capable of being cured within such five (5) business day period, User shall be given a reasonable time to cure such failure so long as User has timely commenced curing such failure within the five (5) business day period and thereafter diligently proceeds to cure such failure as promptly as possible; and

(c) the filing of any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act by or against User or any voluntary or involuntary proceedings in any court shall be instituted to declare User insolvent or unable to pay User's debts, and in the case of any involuntary petition or proceeding if same is not dismissed within ninety (90) days from the date it is

filed, or if User makes an assignment for the benefit of its creditors, or if a receiver is appointed for any property of User or if User's interest hereunder is levied upon execution or its attached by process of law and not discharged or dismissed within ninety (90) days.

3.6 Operator may terminate this Agreement upon written notice to User in the event of any default by User or termination or expiration of the Master Lease Agreement, or as otherwise expressly directed in writing by the Airport. User shall remove all of User's property from the Space and pay to Operator all outstanding Use Fees and other charges due and owing Operator under this Agreement as promptly as practicable after the effective date of termination, but in all cases within five (5) business days of the effective date of termination. If User should fail to vacate the Space within such period, Operator may peaceably enter upon the Space and remove User's property without further notice, demand or court proceeding and without liability to User. Operator shall be under no duty or obligation to store or maintain any of User's property at any time and shall not be liable to User for any damage to or destruction of such property. If Operator stores the property, User shall be liable to Operator for the costs and expenses of transportation and storage.

4. **No Assignment or Sublicense.** User shall not assign, sublicense, or otherwise transfer this Agreement or its rights or obligations hereunder, in whole or in part without Operator's prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned. Any attempted assignment, sublicense, or other transfer without Operator's prior written consent shall be null and void.

#### 5. **Insurance.**

5.1 User agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, minimum insurance coverage(s) as set forth on Schedule 2 to this Agreement. All such required insurance, except worker's compensation, shall name Operator, Atlantic Aviation FBO, Inc., their respective direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors and employees as additional insureds (the "Additional Insureds") and respond on a primary basis. User and its insurance carrier(s) agree to waive any and all rights of subrogation in favor of the Additional Insureds, except where damage results



solely from the negligence or willful misconduct of the Additional Insureds. Prior to commencing the use or occupancy of the Space, User shall deliver to Operator a certificate evidencing the minimum insurance coverage required hereunder (the "Certificate"). User shall provide Operator with an updated Certificate promptly upon the renewal of any insurance policy described in the Certificate. User acknowledges that its potential liability under this Agreement is not limited to the amount of insurance coverage it maintains or the limits required herein.

5.2 Operator agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, adequate insurance.

**6. Indemnification Obligations; Limitations on Liability; Environmental.**

6.1 User agrees to indemnify, save and hold harmless Operator, Atlantic Aviation FBO, Inc., their direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors, invitees and employees to the full extent allowed by law from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, penalties, or damages (including, without limitation, attorneys' fees, investigative fees, expert fees, and court costs) for property damage, bodily injury, or death ("Claims") arising out of or in connection with: (i) User's performance or nonperformance, including without limitation, breach of any term, condition, covenant, or obligation herein, of this Agreement; (ii) User's use and occupancy of the Space; (iii) User's use of or activities at the Airport or other facilities of the Airport Authority; (iv) any release or spill of hazardous or toxic materials, petroleum, and/or regulated substances; or (v) the acts or omissions of User or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees, and guests or any other person or entity whom User controls or has the right to control or who is acting through or on behalf of User, regardless of where Claims may occur, except to the extent caused solely by the negligence or willful misconduct of Operator.

6.2 Operator covenants and agrees to repair, or cause to be repaired, at Operator's own cost and expense, any damage to the Aircraft to the extent such damage is caused solely by the negligence or willful misconduct of Operator while performing

towing, fueling and/or detailing services on or proximate to the Aircraft. Except as specifically provided herein, Operator shall have no obligation to keep, maintain or secure User's property, and User assumes all risk of loss or damage to its property located in the Space.

6.3 THE PARTIES AGREE THAT UNDER NO CIRCUMSTANCES SHALL THE AIRPORT, OPERATOR, ATLANTIC AVIATION FBO, INC., THEIR RESPECTIVE DIRECT AND INDIRECT SUBSIDIARIES AND AFFILIATED COMPANIES UNDER COMMON CONTROL WITH ATLANTIC AVIATION FBO, INC., BE LIABLE TO USER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, LOST PROFITS OR DIMINUTION IN VALUE) WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE).

6.4 User agrees not to store or maintain hazardous or toxic materials, petroleum, and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with exception of fuel and oil on board the Aircraft, as well as cleaning and other solvents used for aircraft maintenance, provided that storage of such solvents shall be in containers that meet the specifications, of applicable guidelines and regulations) without prior written authorization from Operator which may be withheld in Operator's reasonable discretion. In the event of a hazardous or toxic spill or release, User shall notify Operator immediately. User shall be responsible for proper handling, removal and disposal of all hazardous or toxic materials, petroleum, and/or regulated substances used or stored by User, its employees, agents, independent contractors and invitees, at the Space and/or in other area of the Hangar or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

6.5 The limitations and liabilities set forth in this Article 6 shall apply to User and the Aircraft at any location that is operated or managed by Operator, Atlantic Aviation FBO, Inc., or any of their respective direct and indirect subsidiaries or affiliated companies under common control with Atlantic Aviation FBO, Inc.

**7. Miscellaneous.**

7.1 No delay, waiver, omission, or forbearance on the part of Operator to exercise any right or power arising from any breach or default by User under this Agreement will constitute or be deemed a waiver by Operator of any such right or power including, without limitation, the right to declare User in default hereunder for any subsequent breach. To the extent that User enjoys any sovereign or analogous immunity pursuant to any domestic laws, as the same may be amended from time to time (or the benefit of any aspect thereof) with respect to this Agreement or User's obligations hereunder, User hereby irrevocably waives such immunity.

7.2 This Agreement, together with the Summary of Terms and the Schedules hereto, constitutes the entire agreement of the parties hereto and shall not be supplemented, amended or modified except by a written instrument duly executed by the parties hereto.

7.3 Article 6 and the right of Operator to collect User Fees due and owing shall survive and continue in full force in accordance with the terms of this Agreement notwithstanding any expiration or termination of this Agreement or the Master Lease Agreement.

7.4 This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where the Space is located, without regard to its conflicts of laws rules. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Master Lease Agreement, the Master Lease Agreement shall govern.

7.5 This Agreement may be executed by facsimile transmission, in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

7.6 User and Operator hereby voluntarily submit themselves to the jurisdiction of the Federal and State courts situated in the jurisdiction in which the Space is located for the resolution of any dispute arising under this Agreement, and User and Operator expressly waive any defense or claim of inconvenient forum. User shall pay Operator's fees and expenses, including reasonable attorney's fees and court costs, should Operator prevail in any suit or action brought for the collection or payment of any unpaid User Fees or other fees, charges, taxes or expenses due Operator under this Agreement.

7.7 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county public health unit.

\* \* \*

**SCHEDULE 1  
RULES AND REGULATIONS**

[NOTE: NEED TO ATTACH R&R APPLICABLE TO SPECIFIC LOCATION]

These guidelines are not all-inclusive and may be modified or added to at any time by Operator provided such guidelines are reasonable, uniformly applied and do not modify any provision of the Agreement.

1. Storage lockers situated in a hangar are to be acquired through Operator to ensure uniformity in color and size. These lockers shall be on casters to allow moving for cleaning purposes.
2. All Aircraft support equipment is to be secured and stored inside each tenant shop when not in use and at the end of the workday. This includes power carts, jacks, toolboxes and parts. Work stands and other equipment too large for the shops will be stored in a designated area of the hangars and the use of that space shall be charged to User.
3. A clean work area is the responsibility of User. It is Operator's intention to maintain a high degree of cleanliness at all times. All spills and debris are to be contained and cleaned by User immediately.
4. No vehicles are permitted in the hangar or other restricted areas, other than Operator-owned tugs for repositioning aircraft and forklift operations as necessary.
5. All radio and music reproduction equipment is banned from the hangar floor. User may play music inside of its shop or office Space at a reasonable volume level so long as it is not audible in other offices or on the hangar floor.
6. User shall not block open any hangar access doors or fire doors.
7. Operator will not provide car parking and transportation to the commercial airline terminal for individuals not directly using User's corporate aircraft at the Facility.
8. All of User's employees, agents, independent contractors and invitees shall obtain and display proper identification in accordance with prevailing regulations of the Airport for all areas of the Facility where required. All costs incurred in obtaining such required identification badge authorizations or endorsements shall be borne wholly by User.
9. User is not permitted to store or maintain hazardous or toxic materials and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with the exception of fuel and oil on board an aircraft as well as cleaning solvents, used for cleaning parts and accessories, provided that storage of such solvents will be in containers that meet the specifications, if any, of the applicable guidelines and regulations) without prior authorization from Operator which may be withheld at Operator's reasonable discretion. In the event of a hazardous or toxic material spill, User shall notify Operator immediately. User shall be responsible for the proper handling, removal and disposal of all hazardous or toxic materials and/or regulated substances generated by User, its employees, agents, independent contractors and invitees, as a result of its and their use of the Space and/or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

**SCHEDULE 2  
USER INSURANCE COVERAGE**

**[NOTE: NEED TO ATTACH INSURANCE REQUIREMENTS APPLICABLE TO SPECIFIC LOCATION]**

**Commercial General Liability:** Commercial General Liability Insurance which provides liability insurance coverage for bodily injury and property damage arising from User's use or occupancy of the Space provided for under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Aircraft Liability and Physical Damage:** The following insurance requirements shall apply to all Aircraft (including any substitute aircraft) identified on the Summary of Terms:

(i) Liability insurance for the Aircraft, both in flight and not in flight, with limits not less than fifty million dollars (\$50,000,000) for each occurrence, including bodily injury (including passenger bodily injury), property damage and personal injury liability damage arising from User's operations, including the ownership, maintenance or use of Aircraft or use or occupancy of the Space under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available; and

(ii) All risk ground and flight physical damage insurance covering the Aircraft and personal property therein against any loss, theft or damage. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Property Insurance:** Property Insurance in sufficient coverage amounts to insure against loss of or damage to all owned, leased and/or borrowed tools, equipment and other property of User and its agents, invitees and employees and coverage as is reasonable for loss of or damage to tools, equipment and property of third parties. Failure of the Customer to secure and maintain such insurance shall not, in any manner, obligate or render Operator, its agents or employees liable for claims of User or any third party for loss of or damage to such property.

<b>Worker's Compensation:</b>	Coverage A	Workers Compensation – to statutory requirements
	Coverage B	Employers Liability – coverage limit of not less than one million dollars (\$1,000,000)

**Automobile Liability Insurance:** Automobile Liability Insurance to a minimum limit of five hundred thousand dollars (\$500,000) per occurrence for all of User's owned, nonowned or hired vehicles operating on or proximate to the Airport premises. If User's activities require vehicle access and/or support equipment access to any areas of the Airport where aircraft are stored, serviced or operated, User shall further be required to obtain Comprehensive Automobile Liability coverage in an amount not less than one million dollars (\$1,000,000).

CONSENT TO SUBLEASE

2

PALM BEACH COUNTY, a political subdivision of the State of Florida, the "COUNTY", by and through its Department of Airports, under that certain Lease Agreement with Atlantic Aviation West Palm Beach LLC d/b/a Atlantic Aviation PBI, as assigned by Galaxy Aviation of Palm Beach, Inc. (the "LESSEE"), dated October 18, 2000 (R-2000-1067), as amended (the "Lease Agreement"), hereby consents to LESSEE entering into a Sublease Agreement effective November 1, 2017, (the "Sublease") with Field Management Services LLC, (the "SUBLESSEE") for the sublease of certain premises contained within the leasehold of LESSEE under the Lease Agreement.

Notwithstanding any provision of the Sublease to the contrary, the COUNTY hereby rejects any such provision in the Sublease, if any, which gives a greater right to the SUBLESSEE than that which the LESSEE has and, further, the COUNTY rejects any provision of the Sublease which purports to give the SUBLESSEE a right or interest in the premises independent of the LESSEE's Lease Agreement with the COUNTY. It is the express intent of the COUNTY in giving its consent that any forfeiture, loss, or termination of the LESSEE's Lease Agreement shall automatically terminate any sublease of the premises. In giving its consent to sublease the premises, Palm Beach County does not in any manner adopt, accept, or approve the terms of the Sublease or alter the terms of the Sublease.

It is the COUNTY's intent that the LESSEE shall remain liable to COUNTY for all rights and obligations contained in its Lease Agreement with the COUNTY.

APPROVED this \_\_\_ day of JAN 10 2018 20\_\_, by the County Administrator or the Director of the Department of Airports on behalf of and pursuant to the authority granted by the Board of County Commissioners.

By: [Signature]  
Title: Director of Airports

Approved as to Form and Legal Sufficiency:


By: [Signature]  
County Attorney

**USE AND OCCUPANCY AGREEMENT  
HANGAR SPACE  
SUMMARY OF TERMS**

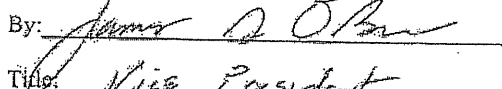
Contract No.	
Airport	Palm Beach International
Operator	Atlantic Aviation-West Palm Beach LLC d/b/a Atlantic Aviation PBI
Master Lease Agreement(s)	Lease Agreement, dated October 18, 2000, as amended, by and among Palm Beach County and Atlantic Aviation-West Palm Beach LLC (successor to Galaxy Aviation of Palm Beach, Inc.) (as the same may be further amended, modified, supplemented or restated).
Facility	3800 Southern Blvd West Palm Beach, FL 33406
User	Field Management Services, LLC 400 Skokie Blvd Suite 860 Northbrook, IL 60062
Aircraft	Type: Citation Sovereign Reg. No.: N101FC
Registered Owner of Aircraft	L&B Air LLC 400 Skokie Blvd Suite 860 Northbrook, IL 60062 Contact: Philip Green 630-215-4948
Description of Space	Guaranteed hangar space
Purpose(s) for Use of Space	Storage of Aircraft
Effective Date	11/1/2017
Initial Term	6 months (11/1/2017 - 4/30/2018)
Use Fees, Other Fees and Charges	Space Use Fee (monthly) +7% Florida sales tax Fuel will be via EJM contract fuel  Credit Card Information on File: Yes
Security Deposit	None
Janitorial Services	None

IN WITNESS WHEREOF, the parties have executed this Summary of Terms and the attached Use and Occupancy Agreement as of the Effective Date, and the person executing this Summary of Terms on behalf of User represents and warrants that he or she has full power and authority to do so.

**OPERATOR**

By:   
 Title: General Manager  
 Date: 9/12/17

**USER**

By:   
 Title: Vice President  
 Date: 9/7/2017

## USE AND OCCUPANCY AGREEMENT

This USE AND OCCUPANCY AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Operator and User. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Summary of Terms to which this Agreement is attached.

### 1. Use of Space and Provision of Fuel Services.

1.1 Operator grants User the right to use and occupy the Space and the right to use the apron and access facilities described in the Summary of Terms. The Space shall be used by User only for the purpose(s) set forth in the Summary of Terms. User shall notify Operator promptly if User expects to replace the Aircraft (either on a temporary or permanent basis) with a substitute aircraft, and all provisions of this Agreement applicable to the Aircraft shall apply to any such substitute aircraft of the same type). Operator shall provide such fuel services at the Airport as User shall request. This Agreement does not grant User the right to conduct, and User shall not conduct, any business at Operator's facility unless User has obtained all required permits, authorizations, and approvals for conducting such business.

1.2 User shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements, now in force or which may hereafter be in force, regulating the use, occupancy or alterations by User of the Space, and the rules and regulations set forth on Schedule 1 to this Agreement, if any, specifying additional terms, conditions and obligations of User as they relate to the Master Lease Agreement. User shall not cause or permit the Space to be used in any way (i) which constitutes (or would constitute) a violation of any law, ordinance, or governmental regulation or order, (ii) which unreasonably interferes with the rights of tenants or users of the Space, or (iii) which constitutes a nuisance or waste. User's rights granted herein are subject and subordinate to the terms and conditions of the Master Lease Agreement. Nothing in this Agreement shall create or purport to create any obligations of the Airport to User, and the Airport shall be deemed an intended third party beneficiary of this Agreement.

1.3 User shall keep and maintain the Space and every part thereof in good and clean condition and in accordance with reasonable rules or regulations established by Operator or the Airport from time to time during the Term. This provision is not intended to impose an obligation on User to repair the Space unless such repair is necessitated by the fault or neglect of User. User shall not make any alterations or additions to the Space without first obtaining Operator's written permission and shall

return occupancy at the termination of this Agreement in the same and in as good condition as exists on the Effective Date, except for reasonable wear and tear, damage by fire or casualty through no fault of User, and modifications expressly approved by Operator.

1.4 User shall provide reasonable advance notice to Operator of anticipated Aircraft flight activity. Operator shall maintain sufficient personnel and equipment to provide for the movement of the Aircraft as reasonably requested by User. Operator shall be solely responsible for the towing or repositioning of all Aircraft into and out of the Space. User expressly agrees not to undertake the towing or repositioning of the Aircraft. User shall be solely responsible for the securing of the Aircraft while positioned in the Space. Consistent with the foregoing obligation, User shall ensure the Aircraft is secured in such a manner that enables Operator to tow or reposition the Aircraft at any time for purposes of ingress and egress to the any portion of Operator's facility.

1.5 Operator reserves the right to use the Space during those times when the Aircraft is away from the Airport and to enter the Space at all reasonable times for the purpose of making any inspection it may deem appropriate to the proper enforcement of any of the covenants and conditions of this Agreement or the Master Lease Agreement or to undertake repairs, additions or alterations to the Space.

1.6 User may perform Aircraft maintenance, Aircraft cleaning, and other support-related services on the Aircraft exclusively through User's employees or through contracted third parties that, in Operator's opinion, have adequate insurance coverage, provided, however, that aircraft towing and fueling shall be performed exclusively by Operator or its designated agent(s). Upon the request of Operator, User shall cause any such third parties to execute a hold harmless and indemnification agreement in form and substance reasonably satisfactory to Operator and provide evidence to Operator of the insurance coverage maintained by any such third parties.

1.7 User acknowledges that there is limited space in Operator's hangar(s) at the Airport, and that as consideration for the grant of rights pursuant to this Agreement, this Agreement is expressly

conditioned on User's agreement to purchase its requirement for aviation fuel from Operator. The foregoing obligation applies only with respect to the Aircraft which is/are the subject of this Agreement and only with respect to the User's requirements for aviation fuel for said Aircraft while at the Airport. In the event User breaches its obligation to purchase its requirement for aviation fuel from Operator, this Agreement, may, at the option of Operator, be terminated forthwith. This Agreement creates only a license terminable as set forth herein. Nothing in this Agreement shall be construed or deemed to construe a grant of an interest in real property or to convey an estate or to vest property rights in User, nor shall this Agreement or its performance be interpreted to create a landlord/tenant, partnership, agency, joint venture, bailment, trust or fiduciary relationship between Operator and User.

## 2. Use Fees.

2.1 User shall pay to Operator the monthly fees set forth in the Summary of Terms ("Use Fees") as follows: Space Use Fees are payable, in advance, on the first day of each month during the Term in consideration of User's use and occupancy of the Space and for the provision of other services, as applicable, for the Term; Fuel Charges shall be immediately payable by User by credit card, at the time such services are provided by Operator. Space Use Fees shall be prorated on a daily rate basis for any partial month during the Term. Upon execution of this Agreement, User shall pay and maintain with Operator a Security Deposit in the amount set forth in the Summary of Terms, representing two (2) months Space Use Fees. The Security Deposit shall be held by Operator to guarantee the full and faithful performance of User's payment obligations under this Agreement and may be applied by Operator without notice to User against any obligation of User due hereunder that is not paid when due. In the event Operator draws down on such Security Deposit, User shall promptly replenish the Security Deposit to the original amount. Upon termination or expiration of this Agreement, the Security Deposit shall be returned to User less any outstanding obligations to Operator at the time of the termination or expiration of this Agreement.

2.2 User agrees that Space Use Fees shall be subject to review and adjustment by Operator at one (1) year intervals following the Initial Term of the Agreement or from time to time by giving User not less than sixty (60) days written notice. After the effective date set forth in said notice, the new Space Use Fees shall become effective automatically for all

purposes, unless and until further adjustments are made to the Space Use Fees in accordance with this Section 2.2.

2.3 In addition to the Space Use Fees and Fuel Charges, User shall pay Operator all applicable Airport use fees, facility fees, fuel flowage fees, and other fees imposed by the governing body of the Airport imposed or assessed on the provision of aircraft storage, fuel, or other services rendered by Operator hereunder, together with any sales, use, excise, or other taxes imposed by any governmental jurisdiction by virtue of said services. User shall also be be liable for all taxes, fees and other charges assessed or imposed on or by User's operations or businesses at the Airport. Under no circumstances shall Operator be liable for or required to pay any tax, fee, or other charge owed by User, including any taxes, fees or charges applicable to User or any of User's businesses owed to the Airport.

2.4 User shall only be obligated to pay separately for water, heat, gas, light, power, air conditioning, telephone, and other utilities, trash removal, and janitorial services if so indicated on the Summary of Terms.

2.5 If User fails to pay in full any User Fees or other amounts provided for in this Agreement within five (5) days after the same becomes due and payable, Operator shall be authorized to submit such charges for payment on User's credit card. User shall be obligated to pay a late charge equal to five percent (5%) of the amount, or any portion thereof, not so paid when due. In addition, any fees or other amounts, or any portion thereof, to be paid by User pursuant to this Agreement which are not paid in full within ten (10) days after the same becomes due and payable shall bear interest at a rate equal to two (2) percentage points above the then applicable Wall Street Journal Prime Rate (U.S. money center commercial banks) or its successor, accruing from the date such amount became due and payable to the date of payment thereof by User. Such interest shall constitute additional User Fees due and payable to Operator by User upon the date of payment of the delinquent payment referenced above.

## 3. Term and Termination.

3.1 Provided User has furnished Operator with complete billing and credit information, including any requested credit application information and has placed its credit card information on file with Operator, this Agreement shall



commence on the Effective Date and continue for the period of time set forth in the Summary of Terms (the "Initial Term"). After the Initial Term, this Agreement shall continue in effect from year to year, being automatically renewed after each year (each a "Renewal Term"), unless either party gives written notice of termination, with or without cause, to the other party at least sixty (60) days prior to the end of the Initial Term or any Renewal Term thereafter. The Initial Term together with each Renewal Term is referred to as the "Term."

3.2 Either party may terminate this Agreement at any time upon sixty (60) days prior written notice to the other.

3.3 User may terminate this Agreement upon fifteen (15) days prior written notice to Operator if User sells the Aircraft or the Aircraft is lost or destroyed, and User does not replace the Aircraft.

3.4 This Agreement will automatically terminate upon the termination or expiration of the Master Lease Agreement for any reason, or as otherwise expressly directed in writing by the Airport, and no damages, monies, or compensation will be owed to User by Operator.

3.5 Each of the following events shall constitute a default under this Agreement on the part of User:

(a) the failure of User to pay and deliver to Operator any payment after same is due and to cure such default within five (5) business days after Operator gives User written notice of such default; provided, that, Operator shall only be obligated to provide such notice and opportunity to cure two (2) times during any consecutive twelve (12) month period;

(b) the failure of User to comply with any other provision of this Agreement as soon as reasonably practical and in any event within five (5) business days after written demand by Operator, except that if any non-monetary failure is not capable of being cured within such five (5) business day period, User shall be given a reasonable time to cure such failure so long as User has timely commenced curing such failure within the five (5) business day period and thereafter diligently proceeds to cure such failure as promptly as possible; and

(c) the filing of any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act by or against User or any voluntary or involuntary proceedings in any court

shall be instituted to declare User insolvent or unable to pay User's debts, and in the case of any involuntary petition or proceeding if same is not dismissed within ninety (90) days from the date it is filed, or if User makes an assignment for the benefit of its creditors, or if a receiver is appointed for any property of User or if User's interest hereunder is levied upon execution or its attached by process of law and not discharged or dismissed within ninety (90) days.

3.6 Operator may terminate this Agreement upon written notice to User in the event of any default by User or termination or expiration of the Master Lease Agreement, or as otherwise expressly directed in writing by the Airport. User shall remove all of User's property from the Space and pay to Operator all outstanding Use Fees and other charges due and owing Operator under this Agreement as promptly as practicable after the effective date of termination, but in all cases within five (5) business days of the effective date of termination. If User should fail to vacate the Space within such period, Operator may peaceably enter upon the Space and remove User's property without further notice, demand or court proceeding and without liability to User. Operator shall be under no duty or obligation to store or maintain any of User's property at any time and shall not be liable to User for any damage to or destruction of such property. If Operator stores the property, User shall be liable to Operator for the costs and expenses of transportation and storage.

**4. No Assignment or Sublicense.** User shall not assign, sublicense, or otherwise transfer this Agreement or its rights or obligations hereunder, in whole or in part without Operator's prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned. Any attempted assignment, sublicense, or other transfer without Operator's prior written consent shall be null and void.

#### **5. Insurance.**

5.1 User agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, minimum insurance coverage(s) as set forth on Schedule 2 to this Agreement. All such required insurance, except worker's compensation, shall name Operator, Atlantic Aviation FBO, Inc., their respective direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants,

contractors and employees as additional insureds (the "Additional Insureds") and respond on a primary basis. User and its insurance carrier(s) agree to waive any and all rights of subrogation in favor of the Additional Insureds, except where damage results solely from the negligence or willful misconduct of the Additional Insureds. Prior to commencing the use or occupancy of the Space, User shall deliver to Operator a certificate evidencing the minimum insurance coverage required hereunder (the "Certificate"). User shall provide Operator with an updated Certificate promptly upon the renewal of any insurance policy described in the Certificate. User acknowledges that its potential liability under this Agreement is not limited to the amount of insurance coverage it maintains or the limits required herein.

5.2 Operator agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, adequate insurance.

**6. Indemnification Obligations: Limitations on Liability; Environmental.**

6.1 User agrees to indemnify, save and hold harmless Operator, Atlantic Aviation FBO, Inc., their direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors, invitees and employees to the full extent allowed by law from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, penalties, or damages (including, without limitation, attorneys' fees, investigative fees, expert fees, and court costs) for property damage, bodily injury, or death ("Claims") arising out of or in connection with: (i) User's performance or nonperformance, including without limitation, breach of any term, condition, covenant, or obligation herein, of this Agreement; (ii) User's use and occupancy of the Space; (iii) User's use of or activities at the Airport or other facilities of the Airport Authority; (iv) any release or spill of hazardous or toxic materials, petroleum, and/or regulated substances; or (v) the acts or omissions of User or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees, and guests or any other person or entity whom User controls or has the right to control or who is acting through or on behalf of User, regardless of where Claims may occur, except to the extent caused solely by the negligence or willful misconduct of Operator.

6.2 Operator covenants and agrees to repair, or cause to be repaired, at Operator's own cost and expense, any damage to the Aircraft to the extent such damage is caused solely by the negligence or willful misconduct of Operator while performing towing, fueling and/or detailing services on or proximate to the Aircraft. Except as specifically provided herein, Operator shall have no obligation to keep, maintain or secure User's property, and User assumes all risk of loss or damage to its property located in the Space.

6.3 THE PARTIES AGREE THAT UNDER NO CIRCUMSTANCES SHALL THE AIRPORT, OPERATOR, ATLANTIC AVIATION FBO, INC., THEIR RESPECTIVE DIRECT AND INDIRECT SUBSIDIARIES AND AFFILIATED COMPANIES UNDER COMMON CONTROL WITH ATLANTIC AVIATION FBO, INC., BE LIABLE TO USER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, LOST PROFITS OR DIMINUTION IN VALUE) WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE).

6.4 User agrees not to store or maintain hazardous or toxic materials, petroleum, and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with exception of fuel and oil on board the Aircraft, as well as cleaning and other solvents used for aircraft maintenance, provided that storage of such solvents shall be in containers that meet the specifications, of applicable guidelines and regulations) without prior written authorization from Operator which may be withheld in Operator's reasonable discretion. In the event of a hazardous or toxic spill or release, User shall notify Operator immediately. User shall be responsible for proper handling, removal and disposal of all hazardous or toxic materials, petroleum, and/or regulated substances used or stored by User, its employees, agents, independent contractors and invitees, at the Space and/or in other area of the Hangar or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

6.5 [Reserved]

**7. Miscellaneous.**

7.1 No delay, waiver, omission, or forbearance on the part of Operator to exercise any right or power arising from any breach or default by User under this Agreement will constitute or be deemed a waiver by Operator of any such right or power including, without limitation, the right to declare User in default hereunder for any subsequent breach. To the extent that User enjoys any sovereign or analogous immunity pursuant to any domestic laws, as the same may be amended from time to time (or the benefit of any aspect thereof) with respect to this Agreement or User's obligations hereunder, User hereby irrevocably waives such immunity.

7.2 This Agreement, together with the Summary of Terms and the Schedules hereto, constitutes the entire agreement of the parties hereto and shall not be supplemented, amended or modified except by a written instrument duly executed by the parties hereto.

7.3 Article 6 and the right of Operator to collect User Fees due and owing shall survive and continue in full force in accordance with the terms of this Agreement notwithstanding any expiration or termination of this Agreement or the Master Lease Agreement.

7.4 This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where the Space is located, without regard to its conflicts of laws rules. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Master Lease Agreement, the Master Lease Agreement shall govern.

7.5 This Agreement may be executed by facsimile transmission, in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

7.6 User and Operator hereby voluntarily submit themselves to the jurisdiction of the Federal and State courts situated in the jurisdiction in which the Space is located for the resolution of any dispute arising under this Agreement, and User and Operator expressly waive any defense or claim of inconvenient forum.

7.7 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state

guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county public health unit.

\* \* \*

SCHEDULE 1  
RULES AND REGULATIONS

These guidelines are not all-inclusive and may be modified or added to at any time by Operator provided such guidelines are reasonable, uniformly applied and do not modify any provision of the Agreement.

1. Storage lockers situated in a hangar are to be acquired through Operator to ensure uniformity in color and size. These lockers shall be on casters to allow moving for cleaning purposes.
2. All Aircraft support equipment is to be secured and stored inside each tenant shop when not in use and at the end of the workday. This includes power carts, jacks, toolboxes and parts. Work stands and other equipment too large for the shops will be stored in a designated area of the hangars and the use of that space shall be charged to User.
3. A clean work area is the responsibility of User. It is Operator's intention to maintain a high degree of cleanliness at all times. All spills and debris are to be contained and cleaned by User immediately.
4. No vehicles are permitted in the hangar or other restricted areas, other than Operator-owned tugs for repositioning aircraft and forklift operations as necessary.
5. All radio and music reproduction equipment is banned from the hangar floor. User may play music inside of its shop or office Space at a reasonable volume level so long as it is not audible in other offices or on the hangar floor.
6. User shall not block open any hangar access doors or fire doors.
7. Operator will not provide car parking and transportation to the commercial airline terminal for individuals not directly using User's corporate aircraft at the Facility.
8. All of User's employees, agents, independent contractors and invitees shall obtain and display proper identification in accordance with prevailing regulations of the Airport for all areas of the Facility where required. All costs incurred in obtaining such required identification badge authorizations or endorsements shall be borne wholly by User.
9. User is not permitted to store or maintain hazardous or toxic materials and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with the exception of fuel and oil on board an aircraft as well as cleaning solvents, used for cleaning parts and accessories, provided that storage of such solvents will be in containers that meet the specifications, if any, of the applicable guidelines and regulations) without prior authorization from Operator which may be withheld at Operator's reasonable discretion. In the event of a hazardous or toxic material spill, User shall notify Operator immediately. User shall be responsible for the proper handling, removal and disposal of all hazardous or toxic materials and/or regulated substances generated by User, its employees, agents, independent contractors and invitees, as a result of its and their use of the Space and/or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

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**SCHEDULE 2  
USER INSURANCE COVERAGE**

**Commercial General Liability:** Commercial General Liability Insurance which provides liability insurance coverage for bodily injury and property damage arising from User's use or occupancy of the Space provided for under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Aircraft Liability and Physical Damage:** The following insurance requirements shall apply to all Aircraft (including any substitute aircraft) identified on the Summary of Terms:

(i) Liability insurance for the Aircraft, both in flight and not in flight, with limits not less than fifty million dollars (\$50,000,000) for each occurrence, including bodily injury (including passenger bodily injury), property damage and personal injury liability damage arising from User's operations, including the ownership, maintenance or use of Aircraft or use or occupancy of the Space under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available; and

(ii) All risk ground and flight physical damage insurance covering the Aircraft and personal property therein against any loss, theft or damage. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Property Insurance:** Property Insurance in sufficient coverage amounts to insure against loss of or damage to all owned, leased and/or borrowed tools, equipment and other property of User and its agents, invitees and employees and coverage as is reasonable for loss of or damage to tools, equipment and property of third parties. Failure of the Customer to secure and maintain such insurance shall not, in any manner, obligate or render Operator, its agents or employees liable for claims of User or any third party for loss of or damage to such property.

<b>Worker's Compensation:</b>	Coverage A	Workers Compensation – to statutory requirements
	Coverage B	Employers Liability – coverage limit of not less than one million dollars (\$1,000,000)

**Automobile Liability Insurance:** Automobile Liability Insurance to a minimum limit of five hundred thousand dollars (\$500,000) per occurrence for all of User's owned, nonowned or hired vehicles operating on or proximate to the Airport premises. If User's activities require vehicle access and/or support equipment access to any areas of the Airport where aircraft are stored, serviced or operated, User shall further be required to obtain Comprehensive Automobile Liability coverage in an amount not less than one million dollars (\$1,000,000).

CONSENT TO SUBLEASE

3

PALM BEACH COUNTY, a political subdivision of the State of Florida, the "COUNTY", by and through its Department of Airports, under that certain Lease Agreement with **Atlantic Aviation West Palm Beach LLC d/b/a Atlantic Aviation PBI**, as assigned by Galaxy Aviation of Palm Beach, Inc. (the "LESSEE"), dated October 18, 2000 (R-2000-1067), as amended (the "Lease Agreement"), hereby consents to LESSEE entering into a Sublease Agreement effective December 1, 2017, (the "Sublease") with Intrepid Production Holdings LLC c/o Airmax, (the "SUBLESSEE") for the sublease of certain premises contained within the leasehold of LESSEE under the Lease Agreement.

Notwithstanding any provision of the Sublease to the contrary, the COUNTY hereby rejects any such provision in the Sublease, if any, which gives a greater right to the SUBLESSEE than that which the LESSEE has and, further, the COUNTY rejects any provision of the Sublease which purports to give the SUBLESSEE a right or interest in the premises independent of the LESSEE's Lease Agreement with the COUNTY. It is the express intent of the COUNTY in giving its consent that any forfeiture, loss, or termination of the LESSEE's Lease Agreement shall automatically terminate any sublease of the premises. In giving its consent to sublease the premises, Palm Beach County does not in any manner adopt, accept, or approve the terms of the Sublease or alter the terms of the Sublease.

It is the COUNTY's intent that the LESSEE shall remain liable to COUNTY for all rights and obligations contained in its Lease Agreement with the COUNTY.

APPROVED this \_\_\_ day of JAN 10 2018 20\_\_, by the County Administrator or the Director of the Department of Airports on behalf of and pursuant to the authority granted by the Board of County Commissioners.

By: [Signature]  
Title: Director of Airports

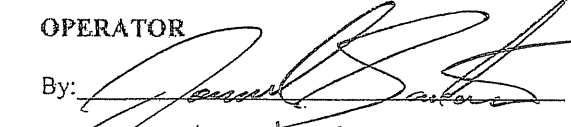
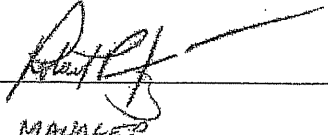
Approved as to Form and Legal Sufficiency:

By: Anne Helzant  
County Attorney

**USE AND OCCUPANCY AGREEMENT  
HANGAR SPACE  
SUMMARY OF TERMS**

Contract No.	
Airport	Palm Beach International
Operator	Atlantic Aviation West Palm Beach LLC
Master Lease Agreement(s)	
Facility	3800 Southern Blvd West Palm Beach, FL 33406
User	Intrepid Production Holdings LLC c/o Airmax
Aircraft	Type: G-450 - 7% Florida sales tax Reg. No.: N512RJ
Registered Owner of Aircraft	Name: Intrepid Production Holdings LLC c/o Airmax Address: Centennial Airport 8551 Aviator Lane Centennial, Colorado 80112  Phone: 303-790-2828
Description of Space	Guaranteed hangar space at Atlantic Aviation PBI
Purpose(s) for Use of Space	Storage of Aircraft
Effective Date	12/1/2017
Initial Term	6 month lease/ Ends May 31 <sup>st</sup> , 2017
Use Fees, Other Fees and Charges	Space Use Fee (monthly): ) +7% Florida sales tax Fuel: Tier Pricing based on Cost Plus 1000 gallons or less = Cost plus 1000 - 2000 gallons = Cost plus 2000 gallons + = Cost plus Credit Card Information on File: Request CC on file
Security Deposit	\$0 (representing two months Space Use Fees)
Janitorial Services	Yes or No. List

IN WITNESS WHEREOF, the parties have executed this Summary of Terms and the attached Use and Occupancy Agreement as of the Effective Date, and the person executing this Summary of Terms on behalf of User represents and warrants that he or she has full power and authority to do so.

<p><b>OPERATOR</b></p> <p>By: </p> <p>Title: <u>General Manager</u></p> <p>Date: <u>9/21/17</u></p>	<p><b>USER</b></p> <p>By: </p> <p>Title: <u>MANAGER</u></p> <p>Date: <u>9/21/17</u></p>
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## USE AND OCCUPANCY AGREEMENT

This USE AND OCCUPANCY AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Operator and User. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Summary of Terms to which this Agreement is attached.

### **1. Use of Space and Provision of Fuel Services.**

1.1 Operator grants User the right to use and occupy the Space and the right to use the apron and access facilities described in the Summary of Terms. The Space shall be used by User only for the purpose(s) set forth in the Summary of Terms. User shall notify Operator promptly if User expects to replace the Aircraft (either on a temporary or permanent basis) with a substitute aircraft, and all provisions of this Agreement applicable to the Aircraft shall apply to any such substitute aircraft of the same type). Operator shall provide such fuel services at the Airport as User shall request. This Agreement does not grant User the right to conduct, and User shall not conduct, any business at Operator's facility unless User has obtained all required permits, authorizations and approvals for conducting such business.

1.2 User shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements, now in force or which may hereafter be in force, regulating the use, occupancy or alterations by User of the Space, and the rules and regulations set forth on Schedule 1 to this Agreement, if any, specifying additional terms, conditions and obligations of User as they relate to the Master Lease Agreement. User shall not cause or permit the Space to be used in any way (i) which constitutes (or would constitute) a violation of any law, ordinance, or governmental regulation or order, (ii) which unreasonably interferes with the rights of tenants or users of the Space, or (iii) which constitutes a nuisance or waste. User's rights granted herein are subject and subordinate to the terms and conditions of the Master Lease Agreement. Nothing in this Agreement shall create or purport to create any obligations of the Airport to User, and the Airport shall be deemed an intended third party beneficiary of this Agreement.

1.3 User shall keep and maintain the Space and every part thereof in good and clean condition and in accordance with reasonable rules or regulations established by Operator or the Airport from time to time during the Term. This provision is not intended to impose an obligation on User to repair the Space unless such repair is necessitated by the fault or neglect of User. User shall not make any alterations or additions to the Space without first obtaining Operator's written permission and shall return occupancy at the termination of this Agreement in the same and in as good condition as exists on the Effective Date, except for reasonable wear and tear,

damage by fire or casualty through no fault of User, and modifications expressly approved by Operator.

1.4 User shall provide reasonable advance notice to Operator of anticipated Aircraft flight activity. Operator shall maintain sufficient personnel and equipment to provide for the movement of the Aircraft as reasonably requested by User. Operator shall be solely responsible for the towing or repositioning of all Aircraft into and out of the Space. User expressly agrees not to undertake the towing or repositioning of the Aircraft. User shall be solely responsible for the securing of the Aircraft while positioned in the Space. Consistent with the foregoing obligation, User shall ensure the Aircraft is secured in such a manner that enables Operator to tow or reposition the Aircraft at any time for purposes of ingress and egress to the any portion of Operator's facility.

1.5 Operator reserves the right to use the Space during those times when the Aircraft is away from the Airport and to enter the Space at all reasonable times for the purpose of making any inspection it may deem appropriate to the proper enforcement of any of the covenants and conditions of this Agreement or the Master Lease Agreement or to undertake repairs, additions or alterations to the Space.

1.6 User may perform Aircraft maintenance, Aircraft cleaning, and other support-related services on the Aircraft exclusively through User's employees or through contracted third parties that, in Operator's opinion, have adequate insurance coverage, provided, however, that aircraft towing and fueling shall be performed exclusively by Operator or its designated agent(s). Upon the request of Operator, User shall cause any such third parties to execute a hold harmless and indemnification agreement in form and substance reasonably satisfactory to Operator and provide evidence to Operator of the insurance coverage maintained by any such third parties.

1.7 User acknowledges that there is limited space in Operator's hangar(s) at the Airport, and that as consideration for the grant of rights pursuant to this Agreement, this Agreement is expressly conditioned on User's agreement to purchase its requirement for aviation fuel from Operator. The foregoing obligation applies only with respect to the Aircraft which is/are the subject of this Agreement and only with respect to the User's requirements for aviation fuel for said Aircraft while at the Airport. In the event User



breaches its obligation to purchase its requirement for aviation fuel from Operator, this Agreement, may, at the option of Operator, be terminated forthwith. This Agreement creates only a license terminable as set forth herein. Nothing in this Agreement shall be construed or deemed to construe a grant of an interest in real property or to convey an estate or to vest property rights in User, nor shall this Agreement or its performance be interpreted to create a landlord/tenant, partnership, agency, joint venture, bailment, trust or fiduciary relationship between Operator and User.

## **2. Use Fees.**

2.1 User shall pay to Operator the monthly fees set forth in the Summary of Terms ("Use Fees") as follows: Space Use Fees are payable, in advance, on the first day of each month during the Term in consideration of User's use and occupancy of the Space and for the provision of other services, as applicable, for the Term; Fuel Charges shall be immediately payable by User by credit card, at the time such services are provided by Operator. Space Use Fees shall be prorated on a daily rate basis for any partial month during the Term. Upon execution of this Agreement, User shall pay and maintain with Operator a Security Deposit in the amount set forth in the Summary of Terms, representing two (2) months Space Use Fees. The Security Deposit shall be held by Operator to guarantee the full and faithful performance of User's payment obligations under this Agreement and may be applied by Operator without notice to User against any obligation of User due hereunder that is not paid when due. In the event Operator draws down on such Security Deposit, User shall promptly replenish the Security Deposit to the original amount. Upon termination or expiration of this Agreement, the Security Deposit shall be returned to User less any outstanding obligations to Operator at the time of the termination or expiration of this Agreement.

2.2 User agrees that Space Use Fees shall be subject to review and adjustment by Operator at one (1) year intervals following the Initial Term of the Agreement or from time to time by giving User not less than sixty (60) days written notice. After the effective date set forth in said notice, the new Space Use Fees shall become effective automatically for all purposes, unless and until further adjustments are made to the Space Use Fees in accordance with this Section 2.2.

2.3 In addition to the Space Use Fees and Fuel Charges, User shall pay Operator all applicable Airport use fees, facility fees, fuel flowage fees, and

other fees imposed by the governing body of the Airport imposed or assessed on the provision of aircraft storage, fuel, or other services rendered by Operator hereunder, together with any sales, use, excise, or other taxes imposed by any governmental jurisdiction by virtue of said services. User shall also be liable for all taxes, fees and other charges assessed or imposed on or by User's operations or businesses at the Airport. Under no circumstances shall Operator be liable for or required to pay any tax, fee, or other charge owed by User, including any taxes, fees or charges applicable to User or any of User's businesses owed to the Airport.

2.4 User shall only be obligated to pay separately for water, heat, gas, light, power, air conditioning, telephone, and other utilities, trash removal, and janitorial services if so indicated on the Summary of Terms.

2.5 If User fails to pay in full any User Fees or other amounts provided for in this Agreement within five (5) days after the same becomes due and payable, Operator shall be authorized to submit such charges for payment on User's credit card. User shall be obligated to pay a late charge equal to five percent (5%) of the amount, or any portion thereof, not so paid when due. In addition, any fees or other amounts, or any portion thereof, to be paid by User pursuant to this Agreement which are not paid in full within ten (10) days after the same becomes due and payable shall bear interest at a rate equal to two (2) percentage points above the then applicable Wall Street Journal Prime Rate (U.S. money center commercial banks) or its successor, accruing from the date such amount became due and payable to the date of payment thereof by User. Such interest shall constitute additional User Fees due and payable to Operator by User upon the date of payment of the delinquent payment referenced above.

## **3. Term and Termination.**

3.1 Provided User has furnished Operator with complete billing and credit information, including any requested credit application information and has placed its credit card information on file with Operator, this Agreement shall commence on the Effective Date and continue for the period of time set forth in the Summary of Terms (the "Initial Term"). After the Initial Term, this Agreement shall continue in effect from year to year, being automatically renewed after each year (each a "Renewal Term"), unless either party gives written notice of termination, with or without cause, to the other party at least sixty (60) days prior to the end of the Initial Term or any Renewal Term thereafter. The Initial Term together with each Renewal Term is referred to as the "Term."

3.2 Operator may terminate this Agreement at any time upon sixty (60) days prior written notice to User.

3.3 User may terminate this Agreement upon fifteen (15) days prior written notice to Operator if User sells the Aircraft or the Aircraft is lost or destroyed, and User does not replace the Aircraft.

3.4 This Agreement will automatically terminate upon the termination or expiration of the Master Lease Agreement for any reason, or as otherwise expressly directed in writing by the Airport, and no damages, monies, or compensation will be owed to User by Operator.

3.5 Each of the following events shall constitute a default under this Agreement on the part of User:

(a) the failure of User to pay and deliver to Operator any payment after same is due and to cure such default within five (5) business days after Operator gives User written notice of such default; provided, that, Operator shall only be obligated to provide such notice and opportunity to cure two (2) times during any consecutive twelve (12) month period;

(b) the failure of User to comply with any other provision of this Agreement as soon as reasonably practical and in any event within five (5) business days after written demand by Operator, except that if any non-monetary failure is not capable of being cured within such five (5) business day period, User shall be given a reasonable time to cure such failure so long as User has timely commenced curing such failure within the five (5) business day period and thereafter diligently proceeds to cure such failure as promptly as possible; and

(c) the filing of any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act by or against User or any voluntary or involuntary proceedings in any court shall be instituted to declare User insolvent or unable to pay User's debts, and in the case of any involuntary petition or proceeding if same is not dismissed within ninety (90) days from the date it is filed, or if User makes an assignment for the benefit of its creditors, or if a receiver is appointed for any property of User or if User's interest hereunder is levied upon execution or its attached by process of law and not discharged or dismissed within ninety (90) days.

3.6 Operator may terminate this Agreement upon written notice to User in the event of any default by User or termination or expiration of the Master

Lease Agreement, or as otherwise expressly directed in writing by the Airport. User shall remove all of User's property from the Space and pay to Operator all outstanding Use Fees and other charges due and owing Operator under this Agreement as promptly as practicable after the effective date of termination, but in all cases within five (5) business days of the effective date of termination. If User should fail to vacate the Space within such period, Operator may peaceably enter upon the Space and remove User's property without further notice, demand or court proceeding and without liability to User. Operator shall be under no duty or obligation to store or maintain any of User's property at any time and shall not be liable to User for any damage to or destruction of such property. If Operator stores the property, User shall be liable to Operator for the costs and expenses of transportation and storage.

**4. No Assignment or Sublicense.** User shall not assign, sublicense, or otherwise transfer this Agreement or its rights or obligations hereunder, in whole or in part without Operator's prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned. Any attempted assignment, sublicense, or other transfer without Operator's prior written consent shall be null and void.

#### **5. Insurance.**

5.1 User agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, minimum insurance coverage(s) as set forth on Schedule 2 to this Agreement. All such required insurance, except worker's compensation, shall name Operator, Atlantic Aviation FBO, Inc., their respective direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors and employees as additional insureds (the "Additional Insureds") and respond on a primary basis. User and its insurance carrier(s) agree to waive any and all rights of subrogation in favor of the Additional Insureds, except where damage results solely from the negligence or willful misconduct of the Additional Insureds. Prior to commencing the use or occupancy of the Space, User shall deliver to Operator a certificate evidencing the minimum insurance coverage required hereunder (the "Certificate"). User shall provide Operator with an updated Certificate promptly upon the renewal of any insurance policy described in the Certificate. User acknowledges that its potential liability under this Agreement is not limited to the amount of insurance coverage it maintains or the limits required herein.

5.2 Operator agrees that it will maintain at its

expense at all times during the Term in full force and effect, with insurers of recognized responsibility, adequate insurance.

**6. Indemnification Obligations; Limitations on Liability; Environmental.**

6.1 User agrees to indemnify, save and hold harmless Operator, Atlantic Aviation FBO, Inc., their direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors, invitees and employees to the full extent allowed by law from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, penalties, or damages (including, without limitation, attorneys' fees, investigative fees, expert fees, and court costs) for property damage, bodily injury, or death ("Claims") arising out of or in connection with: (i) User's performance or nonperformance, including without limitation, breach of any term, condition, covenant, or obligation herein, of this Agreement; (ii) User's use and occupancy of the Space; (iii) User's use of or activities at the Airport or other facilities of the Airport Authority; (iv) any release or spill of hazardous or toxic materials, petroleum, and/or regulated substances; or (v) the acts or omissions of User or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees, and guests or any other person or entity whom User controls or has the right to control or who is acting through or on behalf of User, regardless of where Claims may occur, except to the extent caused solely by the negligence or willful misconduct of Operator.

6.2 Operator covenants and agrees to repair, or cause to be repaired, at Operator's own cost and expense, any damage to the Aircraft to the extent such damage is caused solely by the negligence or willful misconduct of Operator while performing towing, fueling and/or detailing services on or proximate to the Aircraft. Except as specifically provided herein, Operator shall have no obligation to keep, maintain or secure User's property, and User assumes all risk of loss or damage to its property located in the Space.

6.3 THE PARTIES AGREE THAT UNDER NO CIRCUMSTANCES SHALL THE AIRPORT, OPERATOR, ATLANTIC AVIATION FBO, INC., THEIR RESPECTIVE DIRECT AND INDIRECT SUBSIDIARIES AND AFFILIATED COMPANIES UNDER COMMON CONTROL WITH ATLANTIC AVIATION FBO, INC., BE LIABLE TO USER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL,

SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, LOST PROFITS OR DIMINUTION IN VALUE) WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE).

6.4 User agrees not to store or maintain hazardous or toxic materials, petroleum, and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with exception of fuel and oil on board the Aircraft, as well as cleaning and other solvents used for aircraft maintenance, provided that storage of such solvents shall be in containers that meet the specifications, of applicable guidelines and regulations) without prior written authorization from Operator which may be withheld in Operator's reasonable discretion. In the event of a hazardous or toxic spill or release, User shall notify Operator immediately. User shall be responsible for proper handling, removal and disposal of all hazardous or toxic materials, petroleum, and/or regulated substances used or stored by User, its employees, agents, independent contractors and invitees, at the Space and/or in other area of the Hangar or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

6.5 The limitations and liabilities set forth in this Article 6 shall apply to User and the Aircraft at any location that is operated or managed by Operator, Atlantic Aviation FBO, Inc., or any of their respective direct and indirect subsidiaries or affiliated companies under common control with Atlantic Aviation FBO, Inc.

**7. Miscellaneous.**

7.1 No delay, waiver, omission, or forbearance on the part of Operator to exercise any right or power arising from any breach or default by User under this Agreement will constitute or be deemed a waiver by Operator of any such right or power including, without limitation, the right to declare User in default hereunder for any subsequent breach. To the extent that User enjoys any sovereign or analogous immunity pursuant to any domestic laws, as the same may be amended from time to time (or the benefit of any aspect thereof) with respect to this Agreement or User's obligations hereunder, User hereby irrevocably waives such immunity.

7.2 This Agreement, together with the

Summary of Terms and the Schedules hereto, constitutes the entire agreement of the parties hereto and shall not be supplemented, amended or modified except by a written instrument duly executed by the parties hereto.

7.3 Article 6 and the right of Operator to collect User Fees due and owing shall survive and continue in full force in accordance with the terms of this Agreement notwithstanding any expiration or termination of this Agreement or the Master Lease Agreement.

7.4 This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where the Space is located, without regard to its conflicts of laws rules. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Master Lease Agreement, the Master Lease Agreement shall govern.

7.5 This Agreement may be executed by facsimile transmission, in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

7.6 User and Operator hereby voluntarily submit themselves to the jurisdiction of the Federal and State courts situated in the jurisdiction in which the Space is located for the resolution of any dispute arising under this Agreement, and User and Operator expressly waive any defense or claim of inconvenient forum. User shall pay Operator's fees and expenses, including reasonable attorney's fees and court costs, should Operator prevail in any suit or action brought for the collection or payment of any unpaid User Fees or other fees, charges, taxes or expenses due Operator under this Agreement.

7.7 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county public health unit.

\* \* \*

**SCHEDULE 1  
RULES AND REGULATIONS**

**[NOTE: NEED TO ATTACH R&R APPLICABLE TO SPECIFIC LOCATION]**

These guidelines are not all-inclusive and may be modified or added to at any time by Operator provided such guidelines are reasonable, uniformly applied and do not modify any provision of the Agreement.

1. Storage lockers situated in a hangar are to be acquired through Operator to ensure uniformity in color and size. These lockers shall be on casters to allow moving for cleaning purposes.
2. All Aircraft support equipment is to be secured and stored inside each tenant shop when not in use and at the end of the workday. This includes power carts, jacks, toolboxes and parts. Work stands and other equipment too large for the shops will be stored in a designated area of the hangars and the use of that space shall be charged to User.
3. A clean work area is the responsibility of User. It is Operator's intention to maintain a high degree of cleanliness at all times. All spills and debris are to be contained and cleaned by User immediately.
4. No vehicles are permitted in the hangar or other restricted areas, other than Operator-owned tugs for repositioning aircraft and forklift operations as necessary.
5. All radio and music reproduction equipment is banned from the hangar floor. User may play music inside of its shop or office Space at a reasonable volume level so long as it is not audible in other offices or on the hangar floor.
6. User shall not block open any hangar access doors or fire doors.
7. Operator will not provide car parking and transportation to the commercial airline terminal for individuals not directly using User's corporate aircraft at the Facility.
8. All of User's employees, agents, independent contractors and invitees shall obtain and display proper identification in accordance with prevailing regulations of the Airport for all areas of the Facility where required. All costs incurred in obtaining such required identification badge authorizations or endorsements shall be borne wholly by User.
9. User is not permitted to store or maintain hazardous or toxic materials and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with the exception of fuel and oil on board an aircraft as well as cleaning solvents, used for cleaning parts and accessories, provided that storage of such solvents will be in containers that meet the specifications, if any, of the applicable guidelines and regulations) without prior authorization from Operator which may be withheld at Operator's reasonable discretion. In the event of a hazardous or toxic material spill, User shall notify Operator immediately. User shall be responsible for the proper handling, removal and disposal of all hazardous or toxic materials and/or regulated substances generated by User, its employees, agents, independent contractors and invitees, as a result of its and their use of the Space and/or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

**SCHEDULE 2  
USER INSURANCE COVERAGE**

**[NOTE: NEED TO ATTACH INSURANCE REQUIREMENTS APPLICABLE TO SPECIFIC LOCATION]**

**Commercial General Liability:** Commercial General Liability Insurance which provides liability insurance coverage for bodily injury and property damage arising from User's use or occupancy of the Space provided for under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Aircraft Liability and Physical Damage:** The following insurance requirements shall apply to all Aircraft (including any substitute aircraft) identified on the Summary of Terms:

(i) Liability insurance for the Aircraft, both in flight and not in flight, with limits not less than fifty million dollars (\$50,000,000) for each occurrence, including bodily injury (including passenger bodily injury), property damage and personal injury liability damage arising from User's operations, including the ownership, maintenance or use of Aircraft or use or occupancy of the Space under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available; and

(ii) All risk ground and flight physical damage insurance covering the Aircraft and personal property therein against any loss, theft or damage. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Property Insurance:** Property Insurance in sufficient coverage amounts to insure against loss of or damage to all owned, leased and/or borrowed tools, equipment and other property of User and its agents, invitees and employees and coverage as is reasonable for loss of or damage to tools, equipment and property of third parties. Failure of the Customer to secure and maintain such insurance shall not, in any manner, obligate or render Operator, its agents or employees liable for claims of User or any third party for loss of or damage to such property.

<b>Worker's Compensation:</b>	Coverage A	Workers Compensation – to statutory requirements
	Coverage B	Employers Liability – coverage limit of not less than one million dollars (\$1,000,000)

**Automobile Liability Insurance:** Automobile Liability Insurance to a minimum limit of five hundred thousand dollars (\$500,000) per occurrence for all of User's owned, nonowned or hired vehicles operating on or proximate to the Airport premises. If User's activities require vehicle access and/or support equipment access to any areas of the Airport where aircraft are stored, serviced or operated, User shall further be required to obtain Comprehensive Automobile Liability coverage in an amount not less than one million dollars (\$1,000,000).

CONSENT TO SUBLEASE

4

PALM BEACH COUNTY, a political subdivision of the State of Florida, the "COUNTY", by and through its Department of Airports, under that certain Lease Agreement with **Atlantic Aviation West Palm Beach LLC d/b/a Atlantic Aviation PBI**, as assigned by Galaxy Aviation of Palm Beach, Inc. (the "LESSEE"), dated October 18, 2000 (R-2000-1067), as amended (the "Lease Agreement"), hereby consents to LESSEE entering into a Sublease Agreement effective December 1, 2017 , (the "Sublease") with Five Point Aerial Survey, (the "SUBLESSEE") for the sublease of certain premises contained within the leasehold of LESSEE under the Lease Agreement.

Notwithstanding any provision of the Sublease to the contrary, the COUNTY hereby rejects any such provision in the Sublease, if any, which gives a greater right to the SUBLESSEE than that which the LESSEE has and, further, the COUNTY rejects any provision of the Sublease which purports to give the SUBLESSEE a right or interest in the premises independent of the LESSEE's Lease Agreement with the COUNTY. It is the express intent of the COUNTY in giving its consent that any forfeiture, loss, or termination of the LESSEE's Lease Agreement shall automatically terminate any sublease of the premises. In giving its consent to sublease the premises, Palm Beach County does not in any manner adopt, accept, or approve the terms of the Sublease or alter the terms of the Sublease.

It is the COUNTY's intent that the LESSEE shall remain liable to COUNTY for all rights and obligations contained in its Lease Agreement with the COUNTY.

APPROVED this      day of JAN 10 2018 20  , by the County Administrator or the Director of the Department of Airports on behalf of and pursuant to the authority granted by the Board of County Commissioners.

By: *Sam Kelly*  
Title: Director of Airports

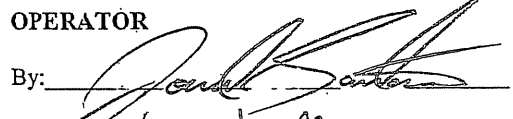
Approved as to Form and Legal Sufficiency:

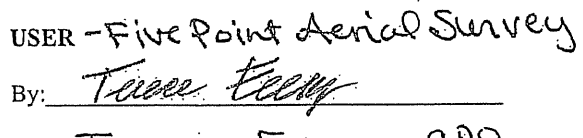
By: *Anne Welfant*  
County Attorney

**USE AND OCCUPANCY AGREEMENT  
HANGAR SPACE  
SUMMARY OF TERMS**

Contract No.	
Airport	Palm Beach International
Operator	Atlantic Aviation PBI
Master Lease Agreement(s)	
Facility	3800 Southern Blvd West Palm Beach, FL 33406
User	Five Point Aerial Survey
Aircraft	Type: Cessna Caravan 208 Reg. No N508RB
Registered Owner of Aircraft	Five Point Aerial Survey Box #133 1000 PBLA West Palm Beach, FL 33406 Contact: Kenneth Voiret 561-602-8432
Description of Space	Guaranteed hangar space
Purpose(s) for Use of Space	Storage of Aircraft
Effective Date	12/1/2017 <sup>(B)</sup>
Initial Term	12 month lease/ Ends <del>November 30</del> <sup>(B)</sup> 2018, reference Section 3.1, auto-renew annually, unless terminated with 60 days' written notice.
Use Fees, Other Fees and Charges	Space Use Fee (monthly): <u>17</u> <sup>(B)</sup> (any changes in price must submitted to user for review and approval) Credit Card Information on File:
Security Deposit	\$0.00/not applicable
Janitorial Services	Yes or <u>No</u> . List

IN WITNESS WHEREOF, the parties have executed this Summary of Terms and the attached Use and Occupancy Agreement as of the Effective Date, and the person executing this Summary of Terms on behalf of User represents and warrants that he or she has full power and authority to do so.

**OPERATOR**  
By:   
Title: General Manager  
Date: 12/1/17

**USER - Five Point Aerial Survey**  
By:   
Title: Terence Feeney - CPO  
Date: 11/30/17



## USE AND OCCUPANCY AGREEMENT

This USE AND OCCUPANCY AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Operator and User. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Summary of Terms to which this Agreement is attached.

### 1. Use of Space and Provision of Fuel Services.

1.1 Operator grants User the right to use and occupy the Space and the right to use the apron and access facilities described in the Summary of Terms. The Space shall be used by User only for the purpose(s) set forth in the Summary of Terms. User shall notify Operator promptly if User expects to replace the Aircraft (either on a temporary or permanent basis) with a substitute aircraft, and all provisions of this Agreement applicable to the Aircraft shall apply to any such substitute aircraft of the same type). Operator shall provide such fuel services at the Airport as User shall request. This Agreement does not grant User the right to conduct, and User shall not conduct, any business at Operator's facility unless User has obtained all required permits, authorizations and approvals for conducting such business.

1.2 User shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements, now in force or which may hereafter be in force, regulating the use, occupancy or alterations by User of the Space, and the rules and regulations set forth on Schedule 1 to this Agreement, if any, specifying additional terms, conditions and obligations of User as they relate to the Master Lease Agreement. User shall not cause or permit the Space to be used in any way (i) which constitutes (or would constitute) a violation of any law, ordinance, or governmental regulation or order, (ii) which unreasonably interferes with the rights of tenants or users of the Space, or (iii) which constitutes a nuisance or waste. User's rights granted herein are subject and subordinate to the terms and conditions of the Master Lease Agreement. Nothing in this Agreement shall create or purport to create any obligations of the Airport to User, and the Airport shall be deemed an intended third party beneficiary of this Agreement.

1.3 User shall keep and maintain the Space and every part thereof in good and clean condition and in accordance with reasonable rules or regulations established by Operator or the Airport from time to time during the Term. This provision is not intended to impose an obligation on User to repair the Space unless such repair is necessitated by the fault or neglect of User. User shall not make any alterations or additions to the Space without first obtaining Operator's written permission and shall

return occupancy at the termination of this Agreement in the same and in as good condition as exists on the Effective Date, except for reasonable wear and tear, damage by fire or casualty through no fault of User, and modifications expressly approved by Operator.

1.4 User shall provide reasonable advance notice to Operator of anticipated Aircraft flight activity. Operator shall maintain sufficient personnel and equipment to provide for the movement of the Aircraft as reasonably requested by User. Operator shall be solely responsible for the towing or repositioning of all Aircraft into and out of the Space. User expressly agrees not to undertake the towing or repositioning of the Aircraft. User shall be solely responsible for the securing of the Aircraft while positioned in the Space. Consistent with the foregoing obligation, User shall ensure the Aircraft is secured in such a manner that enables Operator to tow or reposition the Aircraft at any time for purposes of ingress and egress to the any portion of Operator's facility.

1.5 Operator reserves the right to use the Space during those times when the Aircraft is away from the Airport and to enter the Space at all reasonable times for the purpose of making any inspection it may deem appropriate to the proper enforcement of any of the covenants and conditions of this Agreement or the Master Lease Agreement or to undertake repairs, additions or alterations to the Space.

1.6 User may perform Aircraft maintenance, Aircraft cleaning, and other support-related services on the Aircraft exclusively through User's employees or through contracted third parties that, in Operator's opinion, have adequate insurance coverage, provided, however, that aircraft towing and fueling shall be performed exclusively by Operator or its designated agent(s). Upon the request of Operator, User shall cause any such third parties to execute a hold harmless and indemnification agreement in form and substance reasonably satisfactory to Operator and provide evidence to Operator of the insurance coverage maintained by any such third parties.

1.7 User acknowledges that there is limited space in Operator's hangar(s) at the Airport, and that as consideration for the grant of rights pursuant to this Agreement, this Agreement is expressly

conditioned on User's agreement to purchase its requirement for aviation fuel from Operator. The foregoing obligation applies only with respect to the Aircraft which is/are the subject of this Agreement and only with respect to the User's requirements for aviation fuel for said Aircraft while at the Airport. In the event User breaches its obligation to purchase its requirement for aviation fuel from Operator, this Agreement, may, at the option of Operator, be terminated forthwith. This Agreement creates only a license terminable as set forth herein. Nothing in this Agreement shall be construed or deemed to construe a grant of an interest in real property or to convey an estate or to vest property rights in User, nor shall this Agreement or its performance be interpreted to create a landlord/tenant, partnership, agency, joint venture, bailment, trust or fiduciary relationship between Operator and User.

## **2. Use Fees.**

2.1 User shall pay to Operator the monthly fees set forth in the Summary of Terms ("Use Fees") as follows: Space Use Fees are payable, in advance, on the first day of each month during the Term in consideration of User's use and occupancy of the Space and for the provision of other services, as applicable, for the Term; Fuel Charges shall be immediately payable by User by credit card, at the time such services are provided by Operator. Space Use Fees shall be prorated on a daily rate basis for any partial month during the Term. Upon execution of this Agreement, User shall pay and maintain with Operator a Security Deposit in the amount set forth in the Summary of Terms, representing two (2) months Space Use Fees. The Security Deposit shall be held by Operator to guarantee the full and faithful performance of User's payment obligations under this Agreement and may be applied by Operator without notice to User against any obligation of User due hereunder that is not paid when due. In the event Operator draws down on such Security Deposit, User shall promptly replenish the Security Deposit to the original amount. Upon termination or expiration of this Agreement, the Security Deposit shall be returned to User less any outstanding obligations to Operator at the time of the termination or expiration of this Agreement.

2.2 User agrees that Space Use Fees shall be subject to review and adjustment by Operator at one (1) year intervals following the Initial Term of the Agreement or from time to time by giving User not less than sixty (60) days written notice. After the effective date set forth in said notice, the new Space Use Fees shall become effective automatically for all

purposes, unless and until further adjustments are made to the Space Use Fees in accordance with this Section 2.2.

2.3 In addition to the Space Use Fees and Fuel Charges, User shall pay Operator all applicable Airport use fees, facility fees, fuel flowage fees, and other fees imposed by the governing body of the Airport imposed or assessed on the provision of aircraft storage, fuel, or other services rendered by Operator hereunder, together with any sales, use, excise, or other taxes imposed by any governmental jurisdiction by virtue of said services to the extent any such tax is applicable to User. User shall also be liable for all taxes (to the extent applicable to User), fees and other charges assessed or imposed on or by User's operations or businesses at the Airport. Under no circumstances shall Operator be liable for or required to pay any tax, fee, or other charge owed by User, including any taxes, fees or charges applicable to User or any of User's businesses owed to the Airport.

2.4 User shall only be obligated to pay separately for water, heat, gas, light, power, air conditioning, telephone, and other utilities, trash removal, and janitorial services if so indicated on the Summary of Terms.

2.5 If User fails to pay in full any User Fees or other amounts provided for in this Agreement within five (5) days after the same becomes due and payable, Operator shall be authorized to submit such charges for payment on User's credit card. User shall be obligated to pay a late charge equal to five percent (5%) of the amount, or any portion thereof, not so paid when due. In addition, interest penalties will be paid in accordance with the local Government Prompt Payment Act, Florida State Statutes 218.70-218.76 (2016).

2.6

## **3. Term and Termination.**

3.1 Provided User has furnished Operator with complete billing and credit information, including any requested credit application information and has placed its credit card information on file with Operator, this Agreement shall commence on the Effective Date and continue for the period of time set forth in the Summary of Terms (the "Initial Term"). After the Initial Term, this Agreement shall continue in effect from year to year, being automatically renewed after each year (each a

"Renewal Term"), unless either party gives written notice of termination, with or without cause, to the other party at least sixty (60) days prior written notice to other party. . The Initial Term together with each Renewal Term is referred to as the "Term."

3.2 Either party may terminate this Agreement at any time upon sixty (60) days prior written notice to the other party to the Agreement.

3.3 User may terminate this Agreement upon fifteen (15) days prior written notice to Operator if User sells the Aircraft or the Aircraft is lost or destroyed, and User does not replace the Aircraft.

3.4 This Agreement will automatically terminate upon the termination or expiration of the Master Lease Agreement for any reason, or as otherwise expressly directed in writing by the Airport, and no damages, monies, or compensation will be owed to User by Operator.

3.5 Each of the following events shall constitute a default under this Agreement on the part of User:

(a) the failure of User to pay and deliver to Operator any payment after same is due and to cure such default within five (5) business days after Operator gives User written notice of such default; provided, that, Operator shall only be obligated to provide such notice and opportunity to cure two (2) times during any consecutive twelve (12) month period;

(b) the failure of User to comply with any other provision of this Agreement as soon as reasonably practical and in any event within five (5) business days after written demand by Operator, except that if any non-monetary failure is not capable of being cured within such five (5) business day period, User shall be given a reasonable time to cure such failure so long as User has timely commenced curing such failure within the five (5) business day period and thereafter diligently proceeds to cure such failure as promptly as possible; and

(c) the filing of any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act by or against User or any voluntary or involuntary proceedings in any court shall be instituted to declare User insolvent or unable to pay User's debts, and in the case of any involuntary petition or proceeding if same is not dismissed within ninety (90) days from the date it is filed, or if User makes an assignment for the benefit of its creditors, or if a receiver is appointed for any

property of User or if User's interest hereunder is levied upon execution or its attached by process of law and not discharged or dismissed within ninety (90) days.

3.6 Operator may terminate this Agreement upon written notice to User in the event of any default by User or termination or expiration of the Master Lease Agreement, or as otherwise expressly directed in writing by the Airport. User shall remove all of User's property from the Space and pay to Operator all outstanding Use Fees and other charges due and owing Operator under this Agreement as promptly as practicable after the effective date of termination, but in all cases within five (5) business days of the effective date of termination. If User should fail to vacate the Space within such period, Operator may peaceably enter upon the Space and remove User's property without further notice, demand or court proceeding and without liability to User. Operator shall be under no duty or obligation to store or maintain any of User's property at any time and shall not be liable to User for any damage to or destruction of such property. If Operator stores the property, User shall be liable to Operator for the costs and expenses of transportation and storage.

**4. No Assignment or Sublicense.** User shall not assign, sublicense, or otherwise transfer this Agreement or its rights or obligations hereunder, in whole or in part without Operator's prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned. Any attempted assignment, sublicense, or other transfer without Operator's prior written consent shall be null and void.

#### **5. Insurance.**

5.1 User agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, minimum insurance coverage(s) as set forth on Schedule 2 to this Agreement. All such required insurance, except worker's compensation, shall name Operator, Atlantic Aviation FBO, Inc., their respective direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors and employees as additional insureds (the "Additional Insureds") and respond on a primary basis. User and its insurance carrier(s) agree to waive any and all rights of subrogation in favor of the Additional Insureds, except where damage results solely from the negligence or willful misconduct of

the Additional Insureds. Prior to commencing the use or occupancy of the Space, User shall deliver to Operator a certificate evidencing the minimum insurance coverage required hereunder (the "Certificate"). User shall provide Operator with an updated Certificate promptly upon the renewal of any insurance policy described in the Certificate. User acknowledges that its potential liability under this Agreement is not limited to the amount of insurance coverage it maintains or the limits required herein.

5.2 Operator agrees that it will maintain at its expense at all times during the Term in full force and effect, with insurers of recognized responsibility, adequate insurance.

**6. Indemnification Obligations; Limitations on Liability; Environmental.**

6.1 User agrees to indemnify, save and hold harmless Operator, Atlantic Aviation FBO, Inc., their direct and indirect subsidiaries and affiliated companies under common control with Atlantic Aviation FBO, Inc., the Airport, and each of their respective officers, directors, agents, servants, contractors, invitees and employees to the full extent allowed by law from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, penalties, or damages (including, without limitation, attorneys' fees, investigative fees, expert fees, and court costs) for property damage, bodily injury, or death ("Claims") arising out of or in connection with: (i) User's performance or nonperformance, including without limitation, breach of any term, condition, covenant, or obligation herein, of this Agreement; (ii) User's use and occupancy of the Space; (iii) User's use of or activities at the Airport or other facilities of the Airport Authority; (iv) any release or spill of hazardous or toxic materials, petroleum, and/or regulated substances; or (v) the acts or omissions of User or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees, and guests or any other person or entity whom User controls or has the right to control or who is acting through or on behalf of User, regardless of where Claims may occur, except to the extent caused solely by the negligence or willful misconduct of Operator. User shall not be responsible to Operator for damages resulting out of bodily injury (including death) or damages to property which are judicially determined to be solely attributable to the negligence of Operator or its respective agents, servants, employees, subsidiaries, and officers. Any indemnification by

User, as provided in this Agreement, shall only be to the extent and limit provided in Section 768.28, Florida Statutes, and shall not be considered a waiver of any statutory or constitutional sovereign immunity protections.

6.2 Operator covenants and agrees to repair, or cause to be repaired, at Operator's own cost and expense, any damage to the Aircraft to the extent such damage is caused solely by the negligence or willful misconduct of Operator while performing towing, fueling and/or detailing services on or proximate to the Aircraft. Except as specifically provided herein, Operator shall have no obligation to keep, maintain or secure User's property, and User assumes all risk of loss or damage to its property located in the Space.

6.3 THE PARTIES AGREE THAT UNDER NO CIRCUMSTANCES SHALL THE AIRPORT, OPERATOR, ATLANTIC AVIATION FBO, INC., THEIR RESPECTIVE DIRECT AND INDIRECT SUBSIDIARIES AND AFFILIATED COMPANIES UNDER COMMON CONTROL WITH ATLANTIC AVIATION FBO, INC., BE LIABLE TO USER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, LOST PROFITS OR DIMINUTION IN VALUE) WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE).

6.4 User agrees not to store or maintain hazardous or toxic materials, petroleum, and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with exception of fuel and oil on board the Aircraft, as well as cleaning and other solvents used for aircraft maintenance, provided that storage of such solvents shall be in containers that meet the specifications, of applicable guidelines and regulations) without prior written authorization from Operator which may be withheld in Operator's reasonable discretion. In the event of a hazardous or toxic spill or release, User shall notify Operator immediately. User shall be responsible for proper handling, removal and disposal of all hazardous or toxic materials, petroleum, and/or regulated substances used or stored by User, its employees, agents, independent contractors and invitees, at the Space and/or in other area of the Hangar or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by

User at its expense in accordance with Local, State, and Federal guidelines and regulations.

6.5 The limitations and liabilities set forth in this Article 6 shall apply to User and the Aircraft at any location that is operated or managed by Operator, Atlantic Aviation FBO, Inc., or any of their respective direct and indirect subsidiaries or affiliated companies under common control with Atlantic Aviation FBO, Inc.

**7. Miscellaneous.**

7.1 No delay, waiver, omission, or forbearance on the part of Operator to exercise any right or power arising from any breach or default by User under this Agreement will constitute or be deemed a waiver by Operator of any such right or power including, without limitation, the right to declare User in default hereunder for any subsequent breach.

7.2 This Agreement, together with the Summary of Terms and the Schedules hereto, constitutes the entire agreement of the parties hereto and shall not be supplemented, amended or modified except by a written instrument duly executed by the parties hereto.

7.3 Article 6 and the right of Operator to collect User Fees due and owing shall survive and continue in full force in accordance with the terms of this Agreement notwithstanding any expiration or termination of this Agreement or the Master Lease Agreement.

7.4 This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where the Space is located, without regard to its conflicts of laws rules. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the Master Lease Agreement, the Master Lease Agreement shall govern.

7.5 This Agreement may be executed by facsimile transmission, in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

7.6 User and Operator hereby voluntarily submit themselves to the jurisdiction of the Federal and State courts situated in the jurisdiction in which the Space is located for the resolution of any dispute arising under this Agreement, and User and Operator expressly waive any defense or claim of inconvenient forum. User shall pay Operator's fees and expenses,

including reasonable attorney's fees and court costs, should Operator prevail in any suit or action brought for the collection or payment of any unpaid User Fees or other fees, charges, taxes or expenses due Operator under this Agreement.

7.7 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county public health unit.

7.8 Confidentiality: Operator will not disclose, discuss, or communicate, either directly or indirectly, any information obtained or received regarding this Agreement including the use of the hangar and aircraft stored therein, to any third party, person, entity or organization, other than to the extent necessary in the performance of its obligations under this Agreement.

\* \* \*

**SCHEDULE 1  
RULES AND REGULATIONS**

These guidelines are not all-inclusive and may be modified or added to at any time by Operator provided such guidelines are reasonable, uniformly applied and do not modify any provision of the Agreement.

1. Storage lockers situated in a hangar are to be acquired through Operator to ensure uniformity in color and size. These lockers shall be on casters to allow moving for cleaning purposes.
2. All Aircraft support equipment is to be secured and stored inside each tenant shop when not in use and at the end of the workday. This includes power carts, jacks, toolboxes and parts. Work stands and other equipment too large for the shops will be stored in a designated area of the hangars and the use of that space shall be charged to User.
3. A clean work area is the responsibility of User. It is Operator's intention to maintain a high degree of cleanliness at all times. All spills and debris are to be contained and cleaned by User immediately.
4. No vehicles are permitted in the hangar or other restricted areas, other than Operator-owned tugs for repositioning aircraft and forklift operations as necessary.
5. All radio and music reproduction equipment is banned from the hangar floor. User may play music inside of its shop or office Space at a reasonable volume level so long as it is not audible in other offices or on the hangar floor.
6. User shall not block open any hangar access doors or fire doors.
7. Operator will not provide car parking and transportation to the commercial airline terminal for individuals not directly using User's corporate aircraft at the Facility.
8. All of User's employees, agents, independent contractors and invitees shall obtain and display proper identification in accordance with prevailing regulations of the Airport for all areas of the Facility where required. All costs incurred in obtaining such required identification badge authorizations or endorsements shall be borne wholly by User.
9. User is not permitted to store or maintain hazardous or toxic materials and/or regulated substances as defined by Local, State, and Federal environmental regulations on or in the Space (with the exception of fuel and oil on board an aircraft as well as cleaning solvents, used for cleaning parts and accessories, provided that storage of such solvents will be in containers that meet the specifications, if any, of the applicable guidelines and regulations) without prior authorization from Operator which may be withheld at Operator's reasonable discretion. In the event of a hazardous or toxic material spill, User shall notify Operator immediately. User shall be responsible for the proper handling, removal and disposal of all hazardous or toxic materials and/or regulated substances generated by User, its employees, agents, independent contractors and invitees, as a result of its and their use of the Space and/or contiguous common areas. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with Local, State, and Federal guidelines and regulations.

**SCHEDULE 2  
USER INSURANCE COVERAGE**

**Commercial General Liability:** Commercial General Liability Insurance which provides liability insurance coverage for bodily injury and property damage arising from User's use or occupancy of the Space provided for under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Aircraft Liability and Physical Damage:** The following insurance requirements shall apply to all Aircraft (including any substitute aircraft) identified on the Summary of Terms:

(i) Liability insurance for the Aircraft, both in flight and not in flight, with limits not less than fifty million dollars (\$50,000,000) for each occurrence, including bodily injury (including passenger bodily injury), property damage and personal injury liability damage arising from User's operations, including the ownership, maintenance or use of Aircraft or use or occupancy of the Space under the terms of this Agreement in an amount not less than fifty million dollars (\$50,000,000) each occurrence and in the annual aggregate in accordance with industry standards. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available; and

(ii) All risk ground and flight physical damage insurance covering the Aircraft and personal property therein against any loss, theft or damage. Such insurance shall include war risks, hijack and other perils liability coverage to the extent such is commercially available.

**Property Insurance:** Property Insurance in sufficient coverage amounts to insure against loss of or damage to all owned, leased and/or borrowed tools, equipment and other property of User and its agents, invitees and employees and coverage as is reasonable for loss of or damage to tools, equipment and property of third parties. Failure of the Customer to secure and maintain such insurance shall not, in any manner, obligate or render Operator, its agents or employees liable for claims of User or any third party for loss of or damage to such property.

<b>Worker's Compensation:</b>	Coverage A	Workers Compensation – to statutory requirements
	Coverage B	Employers Liability – coverage limit of not less than one million dollars (\$1,000,000)

**Automobile Liability Insurance:** Automobile Liability Insurance to a minimum limit of five hundred thousand dollars (\$500,000) per occurrence for all of User's owned, nonowned or hired vehicles operating on or proximate to the Airport premises. If User's activities require vehicle access and/or support equipment access to any areas of the Airport where aircraft are stored, serviced or operated, User shall further be required to obtain Comprehensive Automobile Liability coverage in an amount not less than one million dollars (\$1,000,000).