

CITY OF SOLDOTNA
MUNICIPAL AIRPORT

LEASE AGREEMENT

THIS REAL ESTATE LEASE AGREEMENT (“Lease”) is made this ____ day of _____, 20____, by and between the **City of Soldotna**, a Municipal Corporation (“**the City” or “Soldotna”**), and _____, (“**Lessee**”).
Mailing address: _____.

The parties agree as follows:

1. **PREMISES**

Soldotna leases to the Lessee and the Lessee leases from Soldotna, the following described property, hereinafter called the “Premises,” located at the Soldotna Municipal Airport, hereinafter referred to as the “Airport,” in the City of Soldotna:

Legal Description: _____,

consisting of _____ sq. ft. at the Soldotna Municipal Airport. Lessee shall have quiet enjoyment of the Premises subject to:

- A. a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight will include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport.
- B. any and all of the covenants, terms, and conditions affecting Soldotna's title to the Premises.
- C. all requirements of the laws and regulations of the City of Soldotna relating to the leasing of lands and facilities and the granting of privileges at City airports.
- D. the right of ingress to and egress from the Premises and the right to enter any part of the Premises, including buildings thereon, for the purpose of inspection at any reasonable time.

2. **NO WARRANTY**

Neither the City, nor any of its officers, employees, agents, attorneys, or representatives have previously made, nor does under this agreement make, any representations or warranties. The Lessee takes the Premises on an “as is” basis and without any expressed or implied warranties. Except as set forth in paragraph 12 hereof (Environmental Provisions), none of the persons or entities described above shall in any way be liable for or with respect to the condition of the Premises or the suitability of the Premises for Lessee's intended use, or for any use whatsoever.

3. **INSPECTION OPPORTUNITY**

Lessee acknowledges that Lessee has had the opportunity to fully inspect the Premises and has found the Premises to be suitable for the Lessee’s intended uses. The Lessee is solely responsible for determining the sufficiency of the Premises for the intended use and the City makes no guarantees or warranties with respect to the Lessee’s intended uses.

4. **AUTHORIZED USES**

The Premises may be used only for parking, storage and maintenance of aircraft and aircraft systems for recreational purposes and the following for commercial purposes:

- A. Parking, storage and maintenance of aircraft and aircraft systems.
- B. Part 135 Air Taxi Charter Operations.
- C. Part 141 Flight Schools.
- D. Part 91 Contract Carriers.
- E. Part 121 Scheduled Air Carriers.
- F. Part 147 Maintenance Schools
- G. Other aviation-related uses as approved in writing by the City Manager.

5. **PROHIBITED USES**

The following uses are prohibited:

- A. Any use of the Premises other than those authorized in this Lease.

- B. The establishment or maintenance of any kind of living quarters on the premises for the Lessee, the Lessee's officers, employees, guests, or the general public.
- C. All non-aviation uses including but not limited to storage of non-aviation personal property.
- D. The outside storage on the Premises of junk, salvage aircraft or vehicle parts, non-operational support equipment, unused or damaged equipment or material, or solid waste or debris.
- E. The disposal on the Premises or the Airport of waste materials generated by Lessee, including any Hazardous Substance, slash, overburden, and construction waste.
- F. The stripping, wasting, or removing of any material from the Premises without the prior written approval of the City.
- G. Any use of the Premises that is in violation of a City Ordinance or an Airport regulation or FAA regulations or grant requirements applicable to any City grant related to the Airport.
- H. Erecting structures or allowing growth of natural objects that would constitute an obstruction to air navigation, or allowing any activity on the Premises that would interfere with or be a hazard to the flight of aircraft, or interfere with air navigation or communication facilities, serving the Airport.
- I. Any use or activity that is prohibited by applicable law or regulation.
- J. The sale of aviation fuel or lubricating oil is prohibited unless specifically allowed by this document.

6. **TERM**

- A. The initial term, being 5 years or less, of this Lease shall commence on _____, 20__ and end at midnight on June 30, 20__.
- B. The term of this lease may be extended at the option of the Lessee for 5 additional 5 year terms plus at the end of this period, the number of years to make the total term of the lease be 30 years, if Lessee 1) gives written notice to the City of Lessee's intention to exercise the option at least 90 days prior to the expiration of the initial lease term or any extensions thereof; 2) is in full compliance with all terms of this lease as of the date of notice of Lessee's intention and as of the date of

commencement of the extension term. All references to the term of this lease in this Lease shall include this extension.

- C. If Lessee has made improvements to the leased premises, Lessee shall have a preference right to a new lease following the expiration of the term of this Lease based on then existing provisions of the Soldotna Municipal Code as long as the property is still available for lease.
- D. All covenants and conditions of this lease shall remain in effect during any extension term except that the rental amount owing shall be subject to adjustment in accordance with Article 7.
- E. If the Lessee holds over and remains in possession of the Premises after the expiration of this agreement without a written extension or Lease Renewal, the holding over will not operate as a renewal or extension of the term of this agreement but only creates a tenancy from month to month, regardless of any rent payments accepted by the City. The Lessee's obligations for performance under this lease will continue until the month to month tenancy is terminated. In such case, the yearly rent will still be subject to increase under Article 7(A) and the Lessee will make monthly payments of 1/12 the yearly rent, due on the first of each month. Either party may terminate the holdover tenancy at any time by giving the other party at least thirty (30) days prior written notice.

7. **RENT**

- A. Lessee shall pay \$_____, plus sales tax, annual rent for the first year of the Lease. The annual rent amount will be prorated if the first period is less than a full year. Commencing on July 1st of each year of the term and continuing for the succeeding year thereafter, the annual rent shall be adjusted upward by two and one-half per cent (2.5%), plus applicable sales tax. All rents must be paid in U.S. dollars.
- B. The annual rent may be increased on July 1 of each year of this lease if the City's annual premium for airport liability insurance exceeds \$15,000. In such circumstances, the annual rent shall be increased by two per cent (2%) in addition to the rent increase under paragraph (A) above. The amount of airport liability insurance required shall be subject to the sole determination of the City.
- C. Rent is due and payable no later than the first day of July each year during the term hereof. Rent shall be made payable to the City of Soldotna and delivered to City Hall or mailed to the City of Soldotna, 177 N. Birch, Soldotna, AK 99669 or any other address which the City may designate in writing.

- D. Rent for any period that is less than one year shall be prorated based on the rate for the full year.
- E. All unpaid rents will accrue interest at 10.5% per annum beginning thirty (30) days after payment is due.
- F. In addition to any interest payable under provision (E) of this article, each time the Lessee fails to pay any rent or fee by the date due, the Lessee shall also owe an administrative penalty of 5% of the amount of the late payment.
- G. Lessee acknowledges that any billing statement issued by the City is provided only as a courtesy. The Lessee is obligated to pay all rents and fees when due, regardless of whether or not the Lessee receives a billing statement from the City.
- H. In addition to the rent specified in (A) of this article, the Lessee agrees to pay to the appropriate parties all levies, assessments, fees and charges as follows:
 - 1. Taxes levied upon or assessed against the Premises or any buildings, structures, fixtures or improvements now or hereafter located thereon, or arising in respect of the occupancy, use or possession of the leased Premises, which are assessed and/or become payable during the term of this Lease.
 - 2. Taxes pertaining to the leasehold interest of the Lessee.

Lessee agrees to exhibit to the City, on demand, receipts evidencing payment of all taxes, assessments and public charges so payable by Lessee. These payments constitute part of Lessee's rent, and failure to pay these taxes in a timely fashion to the appropriate authority is equivalent to the non-payment of rent and may make the Lessee subject to default under this Lease.
- I. If the Federal Aviation Administration determines that the provisions regarding calculation of the lease rent causes the City to be in breach of the City's grant obligations, the parties agree to amend the lease rent provisions such that City's grant obligations are satisfied.

8. **IMPROVEMENTS**

- A. Lessee shall bear all responsibility for the proper placement of the improvements on the demised premises, so as to avoid any encroachment on other lands belonging to the City or on lands owned or leased by another.

- B. No structure, fixture or other improvement shall be constructed or maintained on the leased Premises until the plans, specifications and proposed location of which have received the written approval of the City or any other governmental entity or agency from which approval is required. If the description of the improvements attached to this lease is preliminary, final design plans must be submitted to the City and written approval by the City granted prior to construction. All fixtures or improvements constructed or installed shall comply with all public laws, ordinances and applicable regulations and shall be completed at the sole cost and expense of lessee and without any cost, expense or liability to the City whatsoever.
- C. The approval by the City of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural plan for the leased Premises and the building. Such plans and specifications are not approved for architectural or engineering design and by approving such plans and specifications, the City assumes no liability or responsibility for any defect in any structure, fixture or improvement constructed from such plans or specifications.
- D. All construction on the Premises must be neat, presentable, and compatible with its use and surroundings. Before placing fill material or beginning construction of any improvements on the Premises, the Lessee must first provide satisfactory proof to the City that Lessee has obtained all required permits (including any building permits required from Soldotna) and that the construction will comply with all applicable regulations including 14 C.F.R. Part 77. The City will review the proposed improvements. Approval will not be withheld except when proposed construction is not consistent with the uses authorized in this lease or when the proposed construction does not comply with valid engineering principles, generally accepted principles of prudent airport management, or federal, state or municipal law affecting the demised premises.
- E. The Lessee shall deliver to the City one reproducible copy of as-built drawings prepared by a land surveyor licensed in Alaska showing the location and dimensions of the improvements, giving bearings and distances to an established survey point. This copy must be delivered to the city within thirty (30) days after the completion of construction or placement of improvements upon the premises. If the Lessee constructs underground improvements, the Lessee shall appropriately mark the surface of the land with adequate surface markers. The type, quantity and distance between such markers shall be subject to the approval of the Airport Manager. Lessee shall bear all costs associated with construction of these improvements.
- F. Prior to commencing any improvements on the Premises costing more than twenty thousand dollars (\$20,000.00), individually or in the aggregate, Lessee shall obtain from the City and duly post and record an appropriate notice of the City's non-responsibility for such improvements, pursuant to the requirements of AS 34.35.065

or its successor. Lessee shall, upon the completion of any improvements to the Premises, promptly give and record an appropriate notice of completion respecting all such improvements, pursuant to the requirements of AS 34.35.071 or its successor.

1. All buildings, structures, fixtures and permanent improvements placed or attached on or about the Premises by Lessee, other than fill or gravel which becomes part of the realty and property of the City and may not be removed from the Premises without the prior written approval of the City, shall remain the property of Lessee until such time as the expiration or termination of this Lease. Upon termination or expiration of this Lease, the Lessee shall, unless the City agrees in writing otherwise, remove the improvements at the Lessee's sole expense within thirty (30) days of termination or expiration of the Lease or a longer term agreed to by Lessee and City but in no event more than one-hundred-eighty (180) days after termination or expiration of the Lease

G. If all or part of the Premises or 50% or more of the building (regardless of whether the Premises are affected) are destroyed or rendered unusable by fire, earthquake or other similar cause, Lessee shall remove the debris from the Premises and clean up the Premises within one-hundred-eighty (180) days of the occurrence of such destruction.

H. Lessee shall reimburse the City for damages to the Premises caused by the removal of fixtures and improvements.

I. The Lessee shall keep the Premises free of all liens other than a security interest of a lender related to the financing of the improvements constructed as required by paragraph (A), subject to approval by the City, pay all costs for labor and materials arising out of any construction or improvements by the Lessee on the Premises, and hold the City harmless from liability for any liens, including costs and attorney fees.

9. **SECURED PARTIES RIGHTS AS AGAINST THE CITY**

A. Upon notice of termination being given due to a default by Lessee under the terms of this Lease, the holder of a security interest, which has been approved by the City in the leasehold, fixtures, improvements or chattels permissibly erected by Lessee (hereinafter "secured party"), shall have the following rights and no others:

1. In the event that notice of default is given to Lessee under article 18, the secured party shall be mailed a copy of said notice.
2. In the event that the lease is to be terminated due to an accrued default by Lessee, the secured party shall be mailed a copy of the termination notice.

3. The secured party has sixty (60) days from receipt of notice under (1) or (2) of this paragraph (A) to cure a default by Lessee of its obligations under this lease. Lessee's right to cure its own default is limited to the provisions of Article 20.
- B. Secured party takes a security interest in this lease subject to the provisions of this lease, including but not limited to its termination provisions, and enjoys no greater rights under it than does Lessee. If this Lease is terminated or naturally expires pursuant to its terms, the secured party's security interest in the lease is immediately extinguished.
- C. If the lease is terminated due to a default by the Lessee or expires and the Lessee has failed to remove fixtures or improvements permissibly erected by Lessee in which the secured party holds a security interest, then the secured party may exercise its rights to its collateral only after it provides to the City such reasonable security as may be demanded by the City to reimburse the City for damages to the Premises which may be incurred in the course of removal.

10. **MAINTENANCE AND SNOW REMOVAL**

- A. All structures on the Premises must be painted, finished, or covered with a permanent exterior surface at the Lessee's own expense. All structures must be clean, neat and presentable, as reasonably determined by the City.
- B. Lessee, at its own cost and expense, shall provide for all utilities, services, and maintenance as needed to facilitate the Lessee's use of the Premises.
- C. Lessee, at its own cost and expense, shall keep the Premises clean and in good condition and repair, free of hazard or nuisance during the entire term of this Lease, plus any extensions or holdover periods.
- D. Lessee is responsible for snow removal on the Premises, at no cost to the City. Lessee shall dispose of snow in an off-Premises location approved in writing by the City or provide suitable snow storage within the boundaries of the Premises in accordance with all applicable federal and state laws. Lessee shall not deposit snow on an apron, taxiway, safety area, or other aircraft-maneuvering surface provided for common use by others without the prior written approval of the City Manager. Lessee agrees to not allow an accumulation of snow on the Premises that would cause interference with adjoining leaseholders or other users of the Airport. The Lessee agrees to coordinate his snow removal and maintenance activities on the Airport with Soldotna's Airport personnel. The Lessee further agrees to comply with all reasonable decisions and directions of Soldotna's Airport management personnel regarding snow removal.

11. **INDEMNIFICATION**

- A. The Lessee will indemnify, save harmless, and defend the City, its officers, agents, and employees from and against any and all liabilities, losses, suits, administrative actions, claims, awards, judgments, fines, demands, damages, injunctive relief or penalties of any nature or kind to the full extent of the loss or obligation for property damage, personal injury, death, violation of any regulation or grant agreement, or any other injury or harm resulting from or arising out of any acts or commission of or omission by the Lessee, his agents, employees, customers, invitees or arising out of the Lessee's occupation or use of the premises demised or privileges granted, and to pay all costs connected therewith. This indemnification of the City by the Lessee shall include sums paid in settlement of claims, attorney fees, consultant fees, expert fees, or other costs and expenses, directly or indirectly arising from, connected to or on account of this Lease as it relates to the Lessee, the Lessee's activities at or relating to the Airport, or any act or omission by the Lessee, or by any of its officers, employees, agents, contractors or sub-lessees. These indemnity obligations are in addition to, and not limited by, the Lessee's obligation to provide insurance, and shall survive the expiration or earlier termination of this Lease.
- B. The Lessee shall give the City prompt notice of any suit, claim, action or other matter affecting the City to which paragraph A, above, may apply, together with a copy of any letter by an attorney on behalf of a complainant, any complaint filed in court, and any notice or complaint by any regulatory agency. The City shall have the right, at its option, to participate cooperatively in the defense of, and settlement negotiations regarding, any such matter, without relieving the Lessee of any of its obligations under this provision.
- C. As to any amount paid to others for personal injury or property damage with respect to which an act or omission of the City is a legal cause, notwithstanding paragraph 1 of this section, the Lessee and the City shall reimburse each other according to the principles of comparative fault. If liability to a third party is subject to apportionment according to comparative fault under this provision, the Lessee and the City shall seek in good faith to achieve non-judicial agreement as to apportionment of fault as between them. This apportionment of liability between the City and the Lessee shall not be construed to affect the rights of any person who is not a party to this Lease.
- D. If any portion of this Article is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions shall continue in full force and effect and be enforceable to the fullest extent permitted by law.

12. **ENVIRONMENTAL PROVISIONS**

A. DEFINITIONS. For purposes of this Section, the following terms shall have the following meanings:

"Environmental Claim" means any third party (including private parties, governmental agencies and employees) action, lawsuit, claim or proceeding relating to the Leased Premises which seeks to impose liability for (i) noise; (ii) pollution or contamination of the air, surface water, groundwater or land; (iii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation; (iv) exposure to hazardous or toxic substances or (v) non-compliance with the Toxic Substances Control Act.

"Environmental Permit" means any permit, license, approval or other authorization with respect to the Leased Premises under any applicable law, regulation or other requirement of the United States or of any state, municipality or other subdivision thereof relating to pollution or protection of health or the environment, including laws, regulations or other requirements relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or hazardous or toxic materials or wastes into ambient air, surface water, groundwater or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants or hazardous or toxic materials or wastes.

"Requirements of Environmental Law" means all requirements of environmental laws or regulations relating to the Leased Premises, including all requirements imposed by any law, rule, regulation or order of any federal, state or local judicial, regulatory or administrative agency, board or authority, which relate to (i) noise; (ii) pollution or protection of the air, surface water, groundwater or land; (iii) solid, gaseous or liquid waste generation, handling treatment, storage, disposal or transportation; (iv) exposure to hazardous or toxic substances; or (v) applicable requirements of the Toxic Substances Control Act.

B. CITY LIABILITY. Except as limited by Section 12 (C), City shall retain liability for, and City shall indemnify Lessee, its permitted assigns and their respective officers, directors, stockholders, and employees from and against all fines or penalties, liabilities, damages and losses, including but not limited to: remedial, removal, response, abatement, clean-up, investigative and monitoring costs and any other related costs and expenses, reasonably incurred (whether any claims or causes of action relating thereto be asserted in common law or under statute and regardless of form including strict liability and negligence) (collectively referred to as "Environmental Liabilities") arising from (a) any violation of Requirements of Environmental Law or Environmental Permits occurring prior to commencement of

the Term of this Lease (“the Lease Term”) and , (b) Environmental Claims based on acts, omissions or occurrences prior to the Lease Term. In no event shall City have any liabilities under this paragraph, and such liabilities are expressly disclaimed, for (i) any Environmental Liabilities resulting from or to the extent aggravated by the failure of the Lessee to take reasonable action to remedy or mitigate any Environmental Liabilities imposed or incurred after commencement of the Lease Term; and (ii) any Environmental Liabilities resulting in whole or in part from the violation of any Requirement of Environmental Law or Environmental Permit when that violation arises from any change, modification, amendment, revision or expansion of such Requirements of Environmental Law or Environmental Permit which occurred after Commencement of the Lease Term, and where such Environmental Liabilities relate to facilities, equipment or processes which were operated, used, or modified at any time after commencement of the Lease Term.

- C. **LESSEE LIABILITY.** Except as limited by Sections 12(B) and (E), Lessee shall be responsible for and shall indemnify City and its officials, insurers and employees from and against all environmental liabilities (whether any claims or causes of action relating thereto should be asserted in common law or under statute and regardless of form including strict liability and negligence) arising or occurring on or after commencement of the Lease Term (a) from any violation of the Requirements of Environmental Law; (b) with respect to Environmental Claims based on acts or omissions occurring on or after commencement of the Lease Term; and (c) failure to obtain or maintain, on or after commencement of the Term of this Lease, any Environmental Permit. After commencement of the Lease Term, Lessee alone shall have responsibility for and liability in connection with obtaining, maintaining, amending, modifying, extending or renewing Environmental Permits.
- D. **ALLOCATION OF LIABILITIES.** Environmental Liabilities with respect to any Environmental Claims or Requirements of Environmental Law or Environmental Permits which seek to redress or impose sanctions with respect to acts, omissions or occurrences which occur both prior to and on and after the commencement of the Lease Term shall be allocated between Lessee and City, in accordance with the responsibility of Lessee and City for the situation or problem giving rise to such Environmental Liabilities, except that City and its officers, insurers and employees shall have no responsibility and provide no indemnity for Environmental Liabilities arising out of any Requirement of Environmental Law or Environmental Permit where such Environmental Liabilities arise out of any change, modification, amendment, revision or expansion of the Requirement of Environmental law or Environmental permit made after commencement of the Lease Term.
- E. **HAZARDOUS SUBSTANCES:** Lessee shall strictly comply with all applicable laws, ordinances or regulations respecting the handling, containment and cleanup of discharges or releases of oil or hazardous substances, including petroleum fractions.

In the event of a discharge or release of oil or a Hazardous Substance, including petroleum fractions, resulting from Lessee's activities on or about the Premises, Lessee shall promptly and completely clean up the discharge or release, in strict compliance with applicable laws, ordinances or regulations. As used in the Lease, "Hazardous Substances" includes oil or petroleum fractions; asbestos; polychlorinated biphenyls (PCBs); any substance defined or listed by the State of Alaska or the Environmental Protection Agency as a hazardous substance under Title 46 of the Alaska Statutes or associated regulations or CERCLA, 42 U.S.C. 6901 et seq., or associated regulations; and any substance listed by the U.S. Department of Transportation or Environmental Protection Agency under 33 U.S.C. 1317, 49 C.F.R. 172.101 or 40 C.F.R. § 302.

F. FUEL

1. If fuel or any other hazardous materials are handled on the Premises, the Lessee agrees to have properly trained personnel and adequate procedures for safely storing, dispensing, and otherwise handling fuel or hazardous materials in accordance with all applicable federal, state and local laws.
2. In the event of a fuel spill on the Premises, the Lessee shall immediately notify the Alaska Department of Environmental Conservation and the City of Soldotna and act promptly to contain the fuel spill, repair any damage, absorb and clean up the spill area, and restore the Premises to a condition satisfactory to the City and otherwise comply with the applicable portions of state law at the sole cost of Lessee.
3. If Lessee stores bulk fuel on the premises, all fuel stored on the Premises shall have a containment basin/tank capable of handling 110% of the fuel storage tank capacity. All fuel storage tanks, containment areas and plumbing shall be installed in accordance with all applicable federal, state and local laws. The City reserves the right, in the sole discretion of the City, to oversee the installation of bulk storage tanks on the premises at the sole expense of the Lessee.
4. No Lessee shall temporarily store more fuel on the Premises than is necessary for the continued operation of the aircraft in use. If fuel is kept on the Premises it must be kept in small enough quantities and in appropriate containers that it does not constitute a safety risk to employees, customers, clients, passengers or airport staff, or constitute a safety risk to the airport itself or other structures on, near or around the Premises.

G. REMEDIATION

1. In the event of a Hazardous Substance spill on the Premises, Lessee will immediately notify the City and the Alaska Department of Environmental Conservation and act promptly, at its sole expense, to contain the spill, repair any damage, absorb and clean up the spill area, and restore the Premises to a condition satisfactory to the City and otherwise comply with the applicable portions of any environmental law.
2. In addition to any notices required by this Lease, Lessee will immediately notify and copy the City in writing of any of the following:
 - a. any permit, enforcement, clean up, lien, removal or other governmental or regulatory action instituted, completed, or threatened pursuant to an environmental law.
 - b. any claim made or threatened by any person against Lessee or arising from the Lessee's operations authorized by this Lease, relating to damage, contribution, compensation, loss or injury resulting, from, or claimed to result from any Hazardous Substances in, on, or under the Airport; or
 - c. any report made by, or on behalf of, Lessee to any environmental agency arising out of or in connection with any Hazardous Substances in, on or removed from the Premises, including any complaints, notices, warnings, or asserted violations.
3. Remediation and restoration of the contaminated area must meet all applicable state and federal regulations and must meet the requirements of all governing regulatory authorities.

H. ENVIRONMENTAL AUDIT: Lessee will provide the City with all investigative data, test results, reports, and any other information gathered or analyzed as part of or in relation to any Environmental Assessment, characterization or audit on the Premises or the Airport that Lessee performs or causes to be performed after the starting date of this Lease. Lessee will submit the data, result, report or information to the City within 60 days following the date on which it becomes available to Lessee.

13. INSURANCE

- A. For non-commercial uses, the Lessee is not required to provide insurance coverage on the Premises as a condition of this Lease.
- B. For Commercial uses the following insurance is required:

1. Liability Insurance. During the entire Lease Term, and during any holdover thereafter, whether or not authorized by Lessor, Lessee shall keep in full force and effect a policy or policies of general liability insurance which includes bodily injury, property damage, and personal injury acceptable to Lessor with respect to the Leased Premises and the business operated by Lessee in which the limits for each shall be not less than ONE MILLION DOLLARS per occurrence or such higher limits as Lessor may specify from time to time consistent with prudent business practice then prevailing in the State of Alaska; provided, however, that no such limit shall in any way limit Lessee's liability or be construed as a representation of sufficiency to fully protect Lessee or Lessor. The policy or policies purchased pursuant to this paragraph shall name both Lessor and Lessee as insureds, with respect to the Leased Premises and the business operated by Lessee on the Leased Premises.

2. Property Insurance. During the Lease Term and any holdover thereafter, whether or not authorized by Lessor, Lessee shall keep all improvements now or hereafter erected or placed on the Leased Premises insured against loss or damage on an all risk basis in an amount equal to the full replacement cost of all such improvements and shall pay all premiums thereon at the time and place the same are payable. Every policy shall be made payable in case of loss or damage to the Lessee and Lessor jointly and shall be distributed according to their interests in the improvements unless otherwise specified by this paragraph.

3. Policy Provisions. Each policy of comprehensive general liability or property insurance described in paragraphs B 1. and B 2. above shall:

a. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim, any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for Lessor, Lessee, or any person claiming by, through, or under any of them;

b. Provide that such policy requires thirty (30) days notice to Lessor of any proposed cancellation, expiration, or change in material terms thereof and that such policy may not be cancelled, whether or not requested by Lessee, unless the insurer first gives not less than thirty (30) days prior written notice thereof to Lessor; and

c. Contain a waiver by the insurer of any right of subrogation to proceed against Lessor or against any person claiming by, through, or under Lessor.

4. Any minimum aircraft liability insurance required by Alaska or Federal law must be maintained by the Lessee in the amounts appropriate to the type of use of the Premises by the Lessee. The Lessee must maintain all required minimum insurance under AS 02.40.010, 14 CFR 205 and any other applicable statutes.

5. The Lessee will provide the City with proof of insurance coverage in the form of an insurance policy or a certificate of insurance, together with proof that the premiums have been paid, showing the types and monetary limits of coverage secured. All insurance required by this provision must provide that the City be notified at least thirty (30) days prior to any termination, cancellation, or material change in the insurance coverage. The City reserves the right to require complete, certified copies of all required policies at any time.

14. **ASSIGNMENT OR SUBLEASE**

Lessee may not assign or sublet the Premises, without the prior written approval of the City, which approval shall not be unreasonably withheld. Reasonable grounds for withholding of approval shall include, but not be limited to, lack of creditworthiness of the proposed assignee or sublessee. However, no assignment or subletting of the Premises shall be approved until the assignee agrees to be subject to and governed by the provisions of this Lease in the same manner as the original Lessee. An assignment of this Lease or any part thereof for loan security purposes shall not be construed as a subordination of the City's rights hereunder, nor a subordination of its fee. No subletting of the Premises or any portion thereof by Lessee shall annul Lessee's obligation to pay the rent required for the full term of this Lease.

15. **EMINENT DOMAIN**

In the event that a substantial part of the Premises is taken or damaged by eminent domain, such that the remainder is economically not viable to lease, then this Lease may be terminated by either party on 30 days' written notice. If the taking does not render the Premises economically not viable to lease, then the rent shall be abated in the same proportion as the taken portion of the Premises bears to the whole. Lessee shall have no claim to any portion of the compensation for the taking or damaging of the Premises; provided, however, that this shall not preclude Lessee from receiving compensation for the taking or damaging of any buildings, structures, fixtures and permanent improvements placed or attached on or about the Premises by Lessee from the condemning authority.

16. **AIRPORT CLOSURE**

- A. If the City closes the airport to aircraft operations for sixty (60) consecutive days or less, this Lease will remain in full force and effect without adjustment.
- B. If the City closes the Airport to aircraft operations for more than sixty (60) consecutive days, but not permanently, and this Lease is for aviation or direct aviation support uses, the Lessee may, upon written notice to the City, either terminate the Lease or retain the Lease and receive a fifty (50%) percent rent reduction or credit for that portion of the closure that exceeds sixty (60) days.

- C. If the City permanently closes the Airport to aircraft operations Lessee may terminate this agreement by written notice to the City.
- D. In the event the City cannot procure insurance coverage in policy limits necessary to adequately protect its taxpayers, the airport shall be closed, without any liability to the City, on twenty-four hours' written notice to Lessee.

17. **DEFAULT**

- A. Lessee will be found in default of Lessee's obligations under this lease if, at any time during the term of this Lease or any extension hereof, Lessee shall have:
 - 1. Failed to make payment of any installment of rent or of any other sum herein specified to be paid by Lessee, or
 - 2. Failed to observe or perform any of Lessee's other covenants, agreements or obligations hereunder.

If any such default (failure to make payments or failure to observe covenants, agreements or obligations) shall not be cured within sixty (60) days after mailing of written notice, the City shall have the right at its election, then or at any time thereafter while such default shall continue, to give Lessee notice of termination of this Lease. In such a case, the City will send a notice of termination indicating that the term of this Lease shall end. This notice will specify a "termination date" which shall not be less than sixty (60) days after the date of mailing of such notice. Lessee hereby covenants to peaceably and quietly yield up and surrender to the City, not later than the termination date, said Premises and all structures, buildings, improvements and equipment located thereon, subject to Lessee's removal rights, and to execute and deliver to the City such instrument or instruments as shall be required by the City as will properly evidence termination of Lessee's rights hereunder or its interest therein.

- B. In the event of termination of this Lease, the City shall have the right to repossess the Premises and all structures, buildings, improvements and equipment, without process of law or any form of suit or proceedings, subject to Lessee's removal rights, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination, and damages arising out of any breach on the part of Lessee. The City shall also have the right, without resuming possession of the Premises or terminating this Lease, to sue for and recover all rents and other sums, including damages, at any time and from time to time accruing hereunder.
- C. The City shall not be in default of any of its obligations hereunder unless and until it shall have unreasonably failed to perform said obligation within sixty (60) days, or

such additional time as may be reasonably required, after receipt of written notice by the City specifying the default.

18. **CANCELLATION**

The City may cancel this lease and recover possession of the Premises upon the happening of any of the events listed below. The City will give the Lessee written notice that the Lessee has thirty (30) days until the lease is cancelled. Cancellation can be prevented by the Lessee if the breach is cured within that thirty (30) day period prior to cancellation.

- A. The Lessee's failure to pay when due the rents or fees specified in this lease, including any increases made pursuant to this lease.
- B. The Lessee's violation of the enumerated prohibited uses under Article 5 of this Lease.
- C. The return for insufficient funds of checks for payment of rents or fees.
- D. The use of the Premises by the Lessee for any purpose not authorized by this lease.
- E. The filing of a petition in bankruptcy by or against the Lessee.
- F. The entry by any court of a judgment of insolvency against the Lessee.
- G. The failure of the Lessee to perform any provision or covenant in this lease.
- H. The failure to pay appropriate taxes.
- I. The use of the Premises in violation of Soldotna Municipal Code provisions; or
- J. The conducting of any criminal activity on the Premises by the Lessee, its employees or agents that constitutes a felony (under Alaska or Federal law).

19. **REASONABLE CURE**

- A. In the case of a violation that cannot be reasonably cured within 30 days, a notice of cancellation issued by the City to Lessee is stayed if, within the 30-day notice period, Lessee begins and continues expeditious action to cure the violation. The City will determine if a violation cannot be reasonably cured within 30 days and what constitutes expeditious action.
- B. In the case where, in City's sole determination, Lessee's violation is considered an imminent threat to the airport, public health or safety, or the environment, City will

direct Lessee to stop the activity immediately and may reduce the period to cure the violation, or the City may correct the violation pursuant to Article 20.

20. **RIGHT OF CITY TO PERFORM**

If Lessee fails or refuses to perform any action that has been deemed an imminent threat the City will have the right, but not the obligation, to perform any or all such actions required to expeditiously correct the imminent threat. Lessee shall reimburse the City for any cost, including legal fees and administrative costs reasonably incurred by the City in acting to correct the imminent threat violation.

21. **VACATION**

At the expiration, cancellation or termination of this lease, Lessee must peaceably and quietly vacate the Premises and return possession to the City. The Premises must be left in a clean, neat and presentable condition to the satisfaction of the City.

22. **DISPOSITION OF IMPROVEMENTS**

A. Within sixty (60) days following the effective date of the expiration, termination, or cancellation of this lease, improvements or other property, real or personal, owned by the Lessee on the Premises must either:

1. be removed by the Lessee if required by the Lessor if removal will not cause injury or damage to the Premises; or
2. with the Lessor's consent be sold to the succeeding Lessee.

B. The Lessor may grant additional time for the removal of improvements if hardship is established by the Lessee.

C. Title to any improvements or other property owned by the Lessee, which is not disposed of pursuant to this section will vest in the Lessor. At its option, the Lessor retains the right to require Lessee to remove any improvements at the end of the Lease which are a hazard or whose continuing presence on the premises exposes the Lessor to loss, cost or expense at the sole cost and expense of the Lessee.

23. **ENTRY AND RE-ENTRY**

In the event that the Lease should be terminated or upon Lessee's abandonment of the Premises or a portion of the Premises, the City or its agents, servants, or representatives may, immediately or any time thereafter, re-enter, and resume possession of the Premises or portion thereof, and remove all persons and property therefrom, without being liable for any damages therefore. No re-entry by the City shall be deemed an acceptance of a surrender of the Lease.

24. **CONTINUING OBLIGATIONS UNTIL PREMISES VACATED**

Lessee shall continue to pay the City rent after the expiration, termination, or cancellation of this lease and to abide by the lease obligations, including providing proof of insurance coverage, through the date Lessee relinquishes possession of and completely vacates the Premises. The City will consider the Premises completely vacated if Lessee has:

- A. Remediated any environmental contamination for which Lessee is responsible;
- B. Removed or otherwise disposed of any Lessee-owned permanent or removable improvements and personal property which this Lease allows to be removed or the City directs to be removed; and
- C. Restored the Premises to a neat and clean physical condition acceptable to the City.

25. **COSTS UPON DEFAULT/INTEREST**

If either party should default in the performance of any of its obligations under this Lease and an action is brought for the enforcement thereof, the defaulting party shall pay to the other all the expenses incurred, including full, actual, reasonable attorney's fees. Any sums due from Lessee under this Lease shall accrue interest at 10.5% per annum from the date they are due until paid in full.

26. **DISASTERS**

- A. The Lessee or the City may cancel this lease upon written notice to the other party if;
 - 1. The Premises becomes unusable through no fault of either party and performance under this Lease becomes impossible; or
 - 2. The Airport becomes unusable through no fault of either party and the performance under this Lease becomes impossible.
- B. If the Lessee elects in writing that it will continue to operate after notice from the City to the Lessee that the Airport has become unusable, the Lessee's obligations under the Lease will continue, but the City shall be under no obligation to continue to perform.
- C. Causes for termination of the Lease under this provision include but are not limited to acts of God, acts of the public enemy, acts of the United States, fires, floods, epidemics, quarantine restrictions and strikes.

27. **NATIONAL EMERGENCY**

In case of any national emergency declared by the federal government, neither party may hold the other liable for any inability to perform any part of this Lease as a result of the national emergency.

28. **RESERVATION OF RIGHTS**

The City specifically reserves the right to:

- A. grant to others the rights and privileges not specifically and exclusively granted to Lessee.
- B. adopt rules and regulations related to use of the Soldotna Airport and the Premises.
- C. make grants to third parties or reserve to Soldotna easements or rights-of-way through, on, or above the Premises. No such easement or right-of-way may be granted or reserved which unreasonably interferes with Lessee's use of the Premises.

29. **DISCRIMINATION**

Lessee covenants and agrees that except as allowed by 42 U.S.C 2000e-1 for a religious corporation or association, discrimination on the grounds of race, color, religion, national origin, ancestry, age, physical handicap or sex will not be permitted against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or state law. Lessee recognizes the right of the City to take any action necessary to enforce this covenant, including actions required pursuant to any federal or state law.

30. **AFFIRMATIVE ACTION**

Lessee agrees that it will undertake an affirmative action program if so required by 14 CFR Part 152, Subpart E, to insure that no person will be excluded from participating in any employment activities covered by 14 CFR Part 152, Subpart E on the grounds of race, creed, color, national origin, physical handicap or sex. Lessee hereby agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by said subpart. Lessee further agrees that it will require that its covered sub-organization(s) provide assurance to Soldotna to the same effect that they will also undertake affirmative action programs and require assurances from their sub-organizations, if so required by 14 CFR Part 152, Subpart E.

Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as the regulation may be amended.

31. **RADIO INTERFERENCE**

At the City's request, Lessee shall discontinue the use of any machine or device which, in the sole opinion of the City, unduly interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

32. **GENERAL COVENANTS**

- A. **COSTS AND EXPENSES:** Costs and expenses incident to this Lease, including but not limited to recording costs, shall be paid by the Lessee.
- B. **RETENTION OF RENT:** In the event that the City terminates this Lease because of any breach by the Lessee, the City shall retain any unused balance of the rental payment last made by the Lessee as partial or total liquidated damages for the breach.
- C. **FIRE PROTECTION:** The Lessee will take all reasonable precautions to prevent and take all necessary action to suppress destructive or uncontrolled fires and comply with all laws, regulations and rules promulgated and enforced by the City for fire protection at the Airport.
- D. **CAPTIONS:** The captions of the provisions of this Lease are for convenience only and do not necessarily define, limit, describe or construe the contents of any provision.
- E. **RIGHTS OF CONSTRUCTION:** This Lease is intended to make public property available for private use, while protecting the public interest to the greatest extent possible. Following the rule that transfers of interest in public property are to be strictly construed in favor of the public property landlord, all rights granted to the Lessee under this Lease will be strictly construed and all rights of the City will be liberally construed.
- F. **LESSEE ACKNOWLEDGEMENT/AMBIGUITIES CLAUSE:** The Lessee acknowledges that the Lessee has read this Lease and fully understands its terms, that the Lessee has been fully advised or has had the opportunity of advice by separate legal counsel and voluntarily executes this Lease. Lessee also acknowledges and agrees that the rule of interpretation under which ambiguities in a document are construed against the drafter will not apply to this Lease.

33. **NOTICES**

- A. Any notice required by this agreement must be hand delivered or sent by registered or certified mail to the appropriate party at the address set forth in this Lease or to any other address which the parties subsequently designate in writing. A mailed notice

shall be deemed delivered on the date it is deposited in a U.S. general or branch post office.

- B. This Lease is of no effect until it has been signed by the City Manager of the City of Soldotna or his designated representative.

34. **LAWS AND TAXES**

- A. At no expense to the City, Lessee will conduct all activities or business authorized by this Lease in compliance with all federal, state and local laws, ordinances, rules and regulations. Lessee must obtain all necessary licenses and permits, pay all taxes and special assessments lawfully imposed upon the Premises, and pay any other fees and charges assessed under applicable public statutes or ordinances.
- B. Governing Law/Venue. This Lease shall be construed and governed by the laws of the State of Alaska. Any disputes related to this Lease shall exclusively be litigated in the courts of the State of Alaska, Third Judicial District in Kenai, Alaska.
- C. Lessee agrees to notify the City of any claim, demand, or lawsuit arising out of Lessee's occupation or use of the Premises. Upon the City's request, Lessee will cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit affecting the Premises.

35. **NO PARTNERSHIP OR JOINT VENTURE CREATED**

It is expressly understood that the City shall not be construed or held to be a partner or joint venture of Lessee in the conduct of the Lessee's activities or business on the Premises. The relationship between the City and Lessee is, and shall at all times remain, strictly that of landlord and lessee, respectively.

36. **NO WAIVER**

The failure of the City to insist in any one or more instances upon the strict performance by Lessee of any provision or covenant in this Lease may not be considered as a waiver or relinquishment for the future, but the provision or covenant will continue in full force. The waiver by the City of any provision or covenant in this Lease cannot be enforced or relied upon unless the waiver is in writing signed on behalf of the City.

37. **MODIFICATION**

The City may modify this lease to meet the revised requirements of federal or state grants or to conform to the requirements of any revenue bond covenant to which the City of Soldotna is

a party. Any such modification may not act to reduce the rights or privileges granted Lessee by this lease, nor act to cause Lessee financial loss.

38. **VALIDITY OF PARTS**

If any provision or covenant of this Lease is declared to be invalid by a court of competent jurisdiction, the remaining covenants and provisions will continue in full force.

39. **INTERRELATIONSHIP OF PROVISIONS**

The basic provisions, general covenants, special covenants, supplements, addendums, and drawings attached as exhibits are essential parts of this Lease and are intended, to provide for the use of the Premises, and to describe the respective rights and obligations of the parties to this Lease. In case of a discrepancy, figured dimensions govern over scaled dimensions unless obviously incorrect. Special covenants govern over basic provisions, both of which govern over general covenants.

40. **INTEGRATION AND MERGER**

This Lease sets forth all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Premises whether oral or written. No modification or amendment of this Lease is effective unless in writing and signed by both the parties.

41. **APPROVAL BY SOLDOTNA**

Any approvals required of Soldotna by this Lease will not be unreasonably withheld.

42. **SUCCESSORS IN INTEREST**

This Lease shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have subscribed their names as of the date above written.

CITY OF SOLDOTNA:

LESSEE:

City Manager: _____
Date: _____

Printed Name: _____
Date: _____

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The Foregoing Instrument was acknowledged before me by Lawrence A. Semmens, City Manager, City of Soldotna, on this _____ day of _____, 20__.

Witness my hand and seal.

Notary Public for Alaska
My Commission Expires: _____

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The Foregoing Instrument was acknowledged before me by _____, on this _____ day of _____, 20__.

Witness my hand and seal.

Notary Public for Alaska
My Commission Expires: _____