AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Consent to Mortgage of Leasehold Interest; Comeric

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC of Gunnison County and Comerica Bank

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

AvFlight of Gunnison is seeking consent to giving a Leashold Mortgage to Comerica Bank. Per Section 10.1 of the Lease and Section 7.1 of the Operating Agreement, AvFlight is required to get consent from BOCC for the Mortgage.

Fiscal Impact:

Submitted by: Stephanie Williams **Submitter's Email Address:** swilliams@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 4/14/2016

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 4/7/16

Reveiwed by: Discharge Date: 4/12/2016 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 4/15/2016

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 5

Agenda Date: 4/19/2016

Revised April 2015

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

CONSENT TO MORTGAGE OF LEASEHOLD INTEREST

THIS CONSENT TO MORTGAGE OF LEASEHOLD INTEREST is entered into this ___ day of _____, 2016, by and between Comerica Bank, a Texas banking association, whose address is 3501 Hamlin Road, Ste. 3, Auburn Hills, Michigan 48326, Attention: Middle Market - Metro C Financial Center, Mail Code 5240 (hereinafter referred to as "Comerica") and the Board of County Commissioners of Gunnison County, Colorado, whose address is 519 Rio Grande Avenue, Gunnison, Colorado 81230 (hereinafter referred to as "County").

WHEREAS, Comerica has previously loaned or committed to loan to Avflight Corporation, a Michigan corporation, whose address is 47 West Ellsworth Road, Ann Arbor, MI 48108 (hereinafter referred to as "Avflight Corporation") $25,000,000 as evidenced by the Second Amended And Restated Master Revolving Note executed by Borrower and delivered to Mortgagee on or about December 22, 2015 (the "Loan") a portion of which has funded or will fund the acquisition and renovation by Avflight Gunnison Corporation, a Colorado corporation, whose address is 47 West Ellsworth Road, Ann Arbor, MI 48108 (hereinafter referred to as "Avflight Gunnison Corporation") of the land, building and other improvements on the land described in Exhibit A (collectively, the "Leased Premises") being leased by the County to Avflight Gunnison pursuant to the FBO Master Operating Agreement And Lease dated June 1, 2003, as amended, (the "Lease"), a copy of which are attached as Exhibit B; and

WHEREAS, Comerica has required that Avflight Gunnison grant to Comerica a Mortgage of its leasehold interest in the Leased Premises (the "Mortgage") as a condition to continued funding under the Loan.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the payment of One and no/100 ($1.00) Dollar and other good and valuable consideration the receipt of with is hereby acknowledged, the parties agree as follows:

1. The County hereby consents to the grant by Avflight Gunnison to Comerica of the Mortgage with respect to Avflight Gunnison's leasehold interest under the Lease and in the Leased Premises.

2. The County acknowledges that Comerica may have no means of determining in due course when the County claims default under the Lease. Therefore, the County agrees it will not claim a breach entitling to rescind, cancel or terminate its performance under the Lease, nor will it claim any right to additional consideration, time or performance, unless the County shall have given prior written notice to Comerica of such breach, and Comerica shall have sixty (60)

days from the receipt of such notice to remedy or cure any claims of breach by the County. During this period, upon Comerica's request, the County will continue its performance under the Lease in accordance with the terms thereof. No claim of rescission, cancellation or default under the Lease shall be binding upon Comerica in the absence of such notice nor shall anything herein require Comerica to remedy or cure any breach or default. Upon the cure of any default or breach by Comerica, the County shall continue to perform its obligations thereunder to or for the benefit of Comerica, if Comerica is then acting pursuant to this Agreement.

3. Comerica agrees that, in the event that Comerica forecloses on the Mortgage and takes possession of the Leased Premises, it will be bound by all of the terms and conditions of the Lease.

4. The County agrees that it will not terminate or cancel the Lease based upon Comerica's exercise of its right to have a receiver appointed to operate the Leased Premises as provided in the Mortgage, so long as Comerica and the receiver abide by the terms and conditions of the Lease.

5. Comerica acknowledges that, subject to the terms of this Agreement, the County has not subordinated its rights under the Lease to the Mortgage, that Avflight Gunnison's interest in the Leased Premises is subject to the Lease and that Comerica has no greater interest in the Leased Premises than that held by Avflight Gunnison.

6. Notwithstanding the rights granted to Comerica under this Agreement, the County reserves the right to proceed directly against Avflight Gunnison for any claim of breach occurring under the Lease so long as Avflight Gunnison remains in possession of the Leased Premises.

7. In addition to the rights on default granted to Comerica in the above paragraphs, the parties acknowledge that in the event of a declaration of a default based on non- monetary breaches of the Lease, Comerica may need additional time and cooperation to cure those defaults. In the event that the County gives notice to Avflight Gunnison of any alleged failure to perform any obligation or condition under the Lease, excluding obligations or conditions which can be satisfied by the payment of money, then Comerica shall have the right to notice and cure recited in paragraph 2 above, and additionally shall sufficient time (not more than 120 days) to cure the default by whatever steps are reasonable, including foreclosing on its Mortgage, taking possession of the Leased Premises and releasing, subleasing, or assigning to a new tenant for the Leased Premises approved by the County (which consent shall may be withheld at the sole discretion of the County). In the event that a new tenant is proposed, Gunnison County shall have the first right of refusal to be such tenant. The right of Comerica to extend its cure period under this paragraph in excess of the period granted above shall be conditioned upon the payment by Comerica of the rent provided for in the Lease during such period.

SIGNATURES ON NEXT PAGE

EXECUTED as of the date first written above.

WITNESSES:

_____

_____

BOARD OF COUNTY COMMISSIONERS OF GUNNISON, COLORADO

By:_____

_____, _____

WITNESSES:

_____

_____

COMERICA BANK, a Texas banking association

By:_____

March 31, 2016

STATE OF COLORADO)
) ss
COUNTY OF GUNNISON)

On this _____ day of_____, 2016, before me personally appeared_____the _____of the Board of County Commissioners of Gunnison County, Colorado, to me known to be the persons described in and who executed the foregoing instrument that they executed the same as their free act and deed.

_____

Notary Public, Gunnison County, Colorado
My Commission expires:_____

STATE OF MICHIGAN)
) ss
COUNTY OF)

On this 31st day of March, 2016, before me personally appeared Aaron Hasenjager, Relationship Manager of Comerica Bank, to me known to be the person described in and who executed the foregoing instrument that he executed the same as his free act and deed on behalf of the Bank.

MARY ROSE GRIFFIN
Notary Public - Michigan
Oakland County
My Commission Expires Aug 18, 2020
Acting in the County of Oakland

Notary Public, Oakland County, Michigan
My Commission expires: 8-18-20

EXHIBIT A

Legal Description of Leased Premises

EXHIBIT B

Lease

FBO MASTER OPERATING AGREEMENT AND LEASE

Gunnison/Crested Butte Regional Airport
Gunnison, Colorado

Between

The Board of County Commissioners of Gunnison County, Colorado
(the "County")

and

Gunnison Valley Aviation, LLC
("Operator")

Dated: June 1, 2003

Table of Contents

I. DEFINITIONS 2

II. USE OF AIRPORT FACILITIES 3
- 2.1 Non-Exclusive Use of Airport 3
- 2.2 Use of Airport Facilities 3
- 2.3 Construction of Improvements 3
- 2.4 Right of Ingress and Egress 3
- 2.5 Reserved Rights of County 4
- 2.6 Option to Relocate Premises 44

III. OBLIGATIONS OF OPERATOR 5
- 3.1 Rentals and Airport Use Fee 5
  - 3.1.1 Base Rental 5
  - 3.1.2 Adjustment to Base Rental 5
  - 3.1.3 Fuel Flowage Fee 6
  - 3.1.4 Setoff 6
  - 3.1.5 Late Payments 6
- 3.2 Minimum Services to be Provided by Operator 6
- 3.3 Insurance 8
- 3.4 Indemnification of the County 10
- 3.5 New Government Regulation 11
- 3.6 Costs of Operation 10
- 3.7 Maintenance and Inspection of Records 11
- 3.8 Other Obligations of Operator 11
- 3.9 County Rules & Resolutions 12
- 3.10 Representations of Operator 13

IV. OBLIGATIONS OF THE COUNTY 13
- 4.1 Quiet Enjoyment 13
- 4.2 Access to Premises 13

V. TERM 13
- 5.1 Term 13
- 5.2 Option to Renew 14
- 5.3 Holding Over 14
- 5.4 Exercise of Option

VI. TERMINATION, SURRENDER AND DAMAGES 15
- 6.1 Termination by Operator 15
- 6.2 Termination by the County 15
- 6.3 All Covenants Material 15

6.4 Remedies of the County 16
6.5 Disposition of Improvements Upon Termination 16

VII. ASSIGNMENT AND SUBLETTING 17
7.1 Assignment and Subletting 17
7.2 Successors to The County 17

VIII. OTHER AGREEMENTS 17
8.1 Rules and Regulations 17
8.2 Non-Discrimination 17
8.3 Inspection by the County 17
8.4 Minority Business Enterprise. 18
8.5 Condemnation 18
8.6 Liens 18
8.7 Force Majeure 18
8.8 Demolition of Premises 19
8.9 Relocation by the County 19
8.10 County's Right to Perform Operator's Obligations 19
8.11 Use of Ramp 19
8.12 Availability of Governmental Facilities 20
8.13 Alterations to Improvements 20
8.14 Snow Removal 139

IX. MISCELLANEOUS PROVISIONS 21
9.1 Headings 21
9.2 Time of Essence 21
9.3 Attorneys' Fees 21
9.4 Non-Wavier 21
9.5 Limitation of Benefit 21
9.6 Severability 21
9.7 Effect of Agreement 21
9.8 Non-Exclusive Right 21
9.9 Notices 22
9.10 Appeal of Manager's Decisions 22
9.11 Governing Law 23
9.12 Entire Agreement 23
9.13 Relationship of Parties 23
9.14 Effective Date of Agreement 23

Addendum #1: Fuel Facilities
Addendum #2: Hangars 1, 2, 3 & 4; and FBO Terminal Building

FBO MASTER OPERATING AGREEMENT AND LEASE
GUNNISON COUNTY AIRPORT

THIS FBO MASTER OPERATING AGREEMENT AND LEASE is made and entered effective the 1st day of June, 2003, between the BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO, a county organized under the laws of Colorado, having an address of 200 East Virginia, Gunnison, Colorado 81230 (the "County"), and GUNNISON VALLEY AVIATION, LLC, a Colorado limited liability company, having an address of 1 Airport Road, Gunnison Colorado 81230 ("Operator"). The County and Operator may be referred to herein as a "party" and collectively as the "parties."

RECITALS:

The County and Operator declare that:

A. The County is proprietor of the Gunnison/Crested Butte Regional Airport, located in Gunnison, Colorado, which it operates pursuant to Colorado Revised Statute Sections 41-4-101 *et seq.*, its other governmental powers, and its proprietary power as owner and operator of the Airport.

B. Operator is a fixed base operator ("FBO"), which maintains a base of operations at and uses the facilities of the Airport, pursuant to agreement and/or leases between the County and Operator's predecessors in interest, including but not necessarily limited to, a Lease and Use Agreement dated June 1, 1986, as amended by Amendment to Lease and Use Agreement, dated July 26, 1990, Amendment to Lease and Use Agreement #2, dated October 1991, Amendment to Lease and Use Agreement #3, dated June 4, 1992, and an Amendment to Lease and Use Agreement #4, dated June 1997; an Agreement to Lease and Shop Lease, dated November 5, 1980; and a Hangar Lease Agreement, dated November 2001, all of which either have expired or will expire by their terms on May 31, 2006 (collectively, the "Prior Agreements").

C. The County is the recipient of grant funds administered through the Federal Aviation Administration ("FAA"), and is therefore subject to certain federal laws, regulations and grant assurances, which govern in certain respects the County's regulation of business operations on the Airport.

D. The County and Operator desire to terminate the Prior Agreements described above, together with any and all other agreements or leases which may exist between them with respect to Operator's use and occupancy of any part of the Airport, and to instead enter into this FBO Master Operating Agreement and Lease, together with any Addenda which may be attached hereto, upon execution of this Agreement or hereafter, under which Operator shall continue to operate and occupy certain land and facilities at the Airport.

I. DEFINITIONS

As used in this Agreement, defined words and terms shall have the following meanings:

1.1 "Airport" is the Gunnison/Crested Butte Regional Airport, formerly known as the Gunnison County Airport, located in Gunnison, Colorado.

1.2 "Airport Manager" means the manager of the Airport as may be designated by the County, or his/her designee.

1.3 "Agreement" is this FBO Master Operating Agreement and Lease, together with any addendum, amendment or extension thereof signed by the parties.

1.4 "Premises" consist of such land area(s) on the Airport which may be granted for Operator's exclusive use through Addenda to this Agreement.

1.5 "Improvements" include structures erected on the Premises, all paving, fencing, grating and surfacing, underground and overhead wires, cables, pipes, tanks and drains; and all property of every kind and nature, which is attached to the Premises or which may not be removed without material injury to a structure, building or the Premises. Improvements shall not include paved areas, which have been conveyed to and accepted by the County for public use and for County maintenance and control, and concerning which Operator has not been granted exclusive use.

1.6 "Agreement Year" is each twelve-month period during the term of this Agreement. An Agreement Year shall commence on June 1st of each year, and end on May 31st of the following year.

1.7 "Environmental Law" means any requirement, liability or obligation arising under any applicable federal, state or local statute, law, regulation, ordinance, code, permit, order, decision or judgment relating to environmental matters, including, but not limited to the Federal Clean Air Act, Water Pollution Control Act, Resource Conservation and Recovery Act; Comprehensive Environmental Response Compensation and Liability Act; Hazardous Substances Transportation Act; and Toxic Substances Control Act; and applicable Colorado statutes dealing with petroleum storage tanks, including C.R.S. Sections 8-20.5-101 through 8-20.5-304.

1.8 "Hazardous Substance" means any substance that is or at any time becomes defined as a hazardous waste, hazardous substance, hazardous material, toxic, pollutant, contaminant, petroleum, petroleum product or oil under any applicable federal, state or local statute, regulations, rule or ordinance, including an Environmental Law.

1.9 "Air Carrier" means a scheduled airline under FAA part 121 or part 135 that has either: (1) entered into a current written agreement with the County for use of a portion or

portions of the passenger terminal building at the Airport or (2) conducts regular non-passenger commercial service to the Airport.

1.10 "Time Share Aircraft" means an aircraft owned and operated by a time-share company that has entered into a current written agreement with Operator or its aviation fuel supplier under which it receives volume discounts for goods or services provided by the Operator.

II. USE OF AIRPORT FACILITIES

2.1 Non-Exclusive Use of Airport. Subject to the terms and conditions of this Agreement, Operator is granted the use of the Airport, in common with others similarly authorized, together with use of all common aeronautical facilities, equipment, improvements and services, which have been or may hereafter be provided at or in connection with the Airport from time to time, including, the landing field, roadways, runways, aprons, taxiways, landing lights, beacons, signals, radio aids and all other conveniences for flying, landings and takeoffs for the purpose of exercising the non-exclusive right to operate on and from the Airport a fixed base operation, to provide at a minimum the services described in paragraph 3.2 below, together with other aeronautical services to the public which are customarily provided by fixed base operators at other public airports in the Rocky Mountain region. Operator is prohibited from conducting commercial activities other than those described herein.

2.2 Use of Airport Facilities. In addition to Operator's rights to utilize the Airport for the conduct of its business under the terms and conditions set forth herein, Operator is granted the right to use certain Premises and/or Improvements owned by the County, as more fully set forth in Addenda to this Agreement.

2.3 Construction of Improvements. Operator may only construct and/or operate Improvements on the Premises as are approved by the County and as may be reasonably necessary for the purposes set forth in paragraph 2.1 above. Each such Improvement shall be constructed and operated in accordance with applicable County policies, rules and standards. No Improvements shall be constructed, installed or materially altered without the prior approval of the County, expressed by execution of a written Addendum hereto, containing such terms and conditions as are agreed to by the parties. .

2.4 Right of Ingress and Egress. Operator shall have the full and free right of ingress to and egress from the Premises for Operator, its employees, customers, guests and other invites.

2.5 Reserved Rights of County. County reserves the following rights with respect to the Airport, the Premises and the operations to be conducted thereon by Operator:

2.5.1 County reserves the right to unimpeded access over and across the surface of the Premises, except for the building Improvements situated thereon; provided, that County shall not, in the exercise of this reserved right, unduly interfere with Operator's

use of the Premises. County shall be entitled to enter upon the Premises and into the buildings and other Improvements thereon, at all reasonable times for the purpose of inspecting the same, preventing waste or loss or enforcing any of County's rights hereunder.

2.5.2 County reserves, for the use and benefit of the public, the right of flight for the passage of aircraft in the air space above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft utilizing the Airport.

2.5.3 County reserves the right to protect the aerial approaches of the Airport against obstruction, including the right to prohibit Operator from erecting, or permitting to be erected, any building or other structure on the Premises which would, in the judgment of the County, limit the usefulness of the Airport or constitute a hazard to aviation. In the event the aforesaid covenant is breached, County reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Operator.

2.5.4 County reserves the right, during the time of war or national emergency, to lease the Airport or any part thereof, including the Premises or any part thereof, to the United States Government for military purposes, and, in the event of such lease to the United States Government, the provisions of this Agreement shall be suspended insofar as such provisions may be inconsistent with the provisions of the lease to the United States Government.

2.5.5 County reserves the right to subordinate the provisions of this Agreement to the provisions of any existing or future agreement between the County and the United States Government, or the State of Colorado which has been or may be required as a condition precedent to the expenditure of State or federal funds for the development, maintenance or operation of the Airport.

2.5.6 County reserves the right to direct all activities of the Operator at the Airport in the event of an on-site emergency or in the event that Operator's activities are substantially interfering with the use by others of the Airport.

2.5.7 County reserves the right to further develop and/or improve the Airport, except for the Premises, as County deems appropriate without interference or hindrance by Operator, and the County shall have no liability hereunder to Operator by reason of any interruption to Operator's operations on the Premises occasioned by such development and/or improvement of the Airport; provided, that if Operator shall be unable to conduct its normal business operations on the Premises by reason of any such development and/or improvement of Airport, then the rent hereunder, exclusive of fuel flowage fees, shall abate during the period of such interruption.

2.6 Option to Relocate Premises. Should the County identify an additional or alternative location for the construction of general aviation facilities on the Airport, as it now exists or may hereafter be expanded, Operator shall have the first right to move its operation to such other location, provided, however, that any such move shall be at Operator's sole cost, expense and risk, and further provided that Operator's use of such new location shall be subject to the execution of a mutually agreement Addendum to this Agreement, which among other things shall provide for Operator's release and abandonment of existing Premises subject to this Agreement, in exchange for the use of new premises of not less than the same size as the existing Premises. Operator's first right of refusal under this paragraph shall terminate if it fails to enter into a substitute Addenda with County within 270 days of being notified by the County of the availability of such alternative space.

III. OBLIGATIONS OF OPERATOR

3.1 Rentals and Airport Use Fee.

3.1.1 Base Rental. Operator shall make annual rental payments to the County for its use of the Premises, in the amount set forth in Addenda to this Agreement ("Base Rental"). Rental payments shall be made in monthly installments and in advance. This Base Rent represents the Facility Fee, the Apartment Rental Fee, and the Miscellaneous Fee charged by County to Operator under the Prior Agreements.

3.1.2 Adjustment to Base Rental. The Base Rent shall be adjusted each year by comparing the consumer price index for all urban consumers (CPI-U) for the month in which the Agreement commences (the "Initial CPI"), with the CPI-U for the same month in each subsequent year of the basic or any option term (the "Subsequent CPI"). In the event the Subsequent CPI is greater or lesser than the Initial CPI, the Base Rent for the following twelve-month period shall be adjusted accordingly. In the event there is a dispute concerning the manner of increase or decrease, the initial Base Rent shall be multiplied by a fraction, the numerator of which is the Subsequent CPI and the denominator of which is the Initial CPI. The product shall be the revised Base Rent which shall be payable during the remainder of the term, unless and until the Base Rent is again adjusted in a subsequent year in accordance with this paragraph. Such revised Base Rent shall be payable monthly, in accordance with paragraph 3.1.1 above, in an amount equal to 1/12 of the adjusted Base Rent. Any such adjusted Base Rent shall commence on the first day of the month following said anniversary month, provided, however, that in recognition that CPI-U information is not immediately available, such adjustments in Base Rent shall be due and payable in arrears, thirty (30) days after the County's notice to Operator of such adjusted amount. In the event the CPI-U is no longer published, Base Rent shall be adjusted in accordance with a comparable index as determined by the U.S. Department of Labor.

3.1.3 Fuel Flowage Fee. Operator shall pay to the County, as additional rental, a fuel flowage fee on all gasoline and aviation fuel, including Jet A and Avgas, dispensed

by it, including fuel used in Operator's aircraft (the "Fuel Fee"). As of the date of this Agreement, Fuel Fee is established by the County at $0.00 per gallon for fuel dispensed to Air Carrier Aircraft, $0.05 per gallon for Time Share Aircraft, and $0.10 per gallon for all other fuel dispensed. County shall have the right to adjust the Fuel Fee from time to time, either by increase or decrease, by written notice to Operator, provided, that in no event shall the Fuel Fee under this paragraph charged to Operator be more than the Fuel Fee charged by the County to any other entity selling fuel at the Airport. Additional rent under this paragraph 3.1.3, shall be payable on or before the tenth day of the month following the month in which the fuel was dispensed. Such payment shall be accompanied by a report, certified by an authorized representative of Operator, setting forth the aviation fuel sales for such month and the computation of the Fuel Fee, all in such form and detail as County may reasonably request.

3.1.4 Setoff. Except as may be expressly set forth herein, Operator shall not have the right to set off against any amounts owed to the County for any claims it may have against the County unless and until said amounts are agreed to by the County or reduced to final judgment.

3.1.5 Late Payments. In the event any use fee or rental provided for in this Agreement is not paid within (20) days after the date due, Operator agrees to pay a late charge equal to one and one-half percent (1 1/2%) per month on the unpaid balance until paid.

3.2 Minimum Services to be Provided by Operator. In consideration for the right granted to Operator to operate and sell fuel on the Airport, Operator covenants and agrees to provide the following minimum services to the public at the Airport:

3.2.1 Operator shall provide for the sale of aircraft fuel, including Jet A and Avgas, and, in connection therewith, shall maintain fuel availability as necessary to meet the needs of aircraft utilizing the Airport, shall provide adequate fuel trucks and refueling equipment, and personnel adequately trained and certified in aircraft fueling and fuel handling safety procedures.

3.2.2 Operator shall provide or contract to provide aircraft charter and air taxi service to meet the public demand, operated by pilots with commercial and instrument ratings, which shall be reasonably available to the general public for departure from the Airport upon reasonable notice. Operator shall be responsible for obtaining such permits and certificates as are required by the Colorado Public Utilities Commission and/or the Federal Aviation Administration for aircraft charter and taxi services and any other services required by this Agreement.

3.2.3 Operator shall provide, appropriate flight training facilities and personnel, including but not limited to a certificated flight instructor, a certificated and airworthy aircraft, sufficient classroom space for ground school and FAA certified and approved

training materials and methods, to reasonably meet the demand for such services by the general public at the Airport. Operator will be responsible for maintaining certification of its flight-training instructors by the FAA

3.2.4 Operator shall provide Unicom operation by trained personnel, except during times when Operator and the Airport Manager mutually agree such service is not necessary; customary line service for all aircraft utilizing the Premises and, in connection therewith, shall provide assistance and parking direction for arriving aircraft, transportation and baggage transport assistance to and from Operator's terminal; prompt attention to servicing requests for such aircraft, parking, tie-down and hangar space (to the extent available); assistance for departing aircraft including de-icing, engine starting including APU for aircraft, and exit direction from the parking areas; and provide the equipment and trained personnel required to carry out the foregoing services.

3.2.5 Operator shall provide aircraft maintenance and repair services for general aviation aircraft utilizing the Premises and, in connection therewith, shall provide FAA certified aircraft maintenance and inspection personnel, holding an airframe and power plant (A&P) and an inspector rating, on the Premises, five (5) days per week, eight (8) hours per day, during normal daytime hours of Airport operation, and provide such equipment, tools and spare parts inventory as may be reasonably required for a fixed base operation of this size and traffic volume.

3.2.6 Operator shall provide personnel and equipment for the removal of disabled aircraft (other than aircraft of scheduled airlines) for all portions of the Airport.

3.2.7 Operator shall, as needed, provide a clean, comfortable, well-lighted general aviation terminal, passenger and crew services, and in connection therewith, shall provide a customer service counter, passenger waiting room, flight crew rest area, flight crew planning room and lavatory facilities; and shall provide trained personnel on duty at all normal hours of operation for the operation of the terminal facility and the assistance of passengers and flight crews. For purposes of this paragraph, the facilities existing on the date of this Agreement shall be deemed adequate for current activities on the Premises.

3.2.8 Operator shall be responsible for monitoring and maintaining security procedures established by the County at the Airport, to the extent of controlling access to the Premises at gates located adjacent to the FBO terminal. Operator will lock all gates adjacent to the FBO terminal after normal Airport operating hours and will immediately report to the County any security violations witnessed on other areas of the Airport.

3.2.9 Operator shall direct and supervise in a prompt and efficient manner all air traffic on the Premises, including aircraft ground traffic and the parking, tie-down and hangaring of aircraft.

3.2.10 Operator shall maintain normal hours of operation from 8:00 a.m. until 5:00 p.m., seven days a week. Operator reserves the right to vary normal hours of operation in accordance with the seasonal and daily demand for FBO services, and it shall open the Premises at other times by prior arrangement.

3.2.11 Operator shall furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided, that Operator may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

3.2.12 Operator shall have the right to separately negotiate service contracts with commercial air transportation, parcel companies and regular commercial providers which use the Airport, for services and maintenance specific to such provider's operation. These service contracts may provide services which are the same or similar to the services provided in this paragraph 3.2.

3.3 Insurance.

3.3.1 Operator shall carry broad form public liability insurance with responsible insurance underwriters qualified to transact business in Colorado, insuring Operator and the County, as their interest may appear, against all liability for injuries to persons (including wrongful death) and damages to property, caused by Operator's use and occupancy of the Premises and Improvements, or otherwise caused by the Operator's activities and operations on and from the Airport, including all aeronautical operations in which Operator is in any way engaged, with liability limits of not less than $2,000,000 for injury to or death of any one person, and not less than $5,000,000 for any occurrence involving injury to or death of more than one person, and not less than $2,000,000 for property damage resulting from any one occurrence. Such insurance shall include an endorsement covering any indemnity owed the County by Operator under this Agreement.

3.3.2 Operator agrees to comply with the provisions of all applicable federal and state laws pertaining to employer's liability insurance and to procure and maintain during the term of this Agreement all insurance coverages required thereby, including, but not by way of limitation, all insurance coverages provided for under the Workmen's Compensation Act of the State of Colorado.

3.3.3 Operator shall insure all Improvements against loss by fire and other casualty in an amount not less than their full replacement value. Such insurance shall be placed with a responsible insurance underwriter qualified to do business in Colorado.

3.3.4 If Operator shall fail to obtain and maintain insurance required by subparagraphs 3.3.1 through 3.3.3 above, the County may effect such insurance by taking out policies with companies satisfactory to the County. The amount of premiums paid for

such insurance by the County, together with an administrative fee equal to five percent (5%) of the premium paid, shall be immediately payable by Operator to the County as additional rental, upon receipt of notice that such premiums have been paid.

3.3.5 Operator shall, upon execution of this Agreement and annually thereafter, furnish the Airport Manager with current certificates of insurance which shall provide that the County is an additional named insured under said policies, that any such indemnity is covered, and that the policies cannot be canceled or materially modified except upon ten (10) days advance written notice to the County.

3.3.6 Operator may insure in such additional amounts as Operator shall deem appropriate, or with respect to any other risk, including risk to personal property or trade fixtures located on the Premises.

3.3.7 Except as hereinafter provided, in the event of damage to or destruction of all or part of the Improvements, from any cause covered by an insurance policy in effect, Operator shall forthwith restore the Improvements to the same conditions that existed prior to the damage or destruction. Provided, however, if the damage or destruction to an Improvement owned by Operator, from any cause covered by insurance, shall occur during the last three years of this Agreement, or any extension or renewal hereof, then the County and Operator shall be entitled to share all proceeds of insurance in direct proportion to the equitable interests of each in the Improvements, as set forth in the Addendum to this Agreement which is applicable to such Improvement.

3.3.8 If the Improvements are damaged or destroyed by any cause not covered by insurance to the extent of ten percent (10%) or less of the replacement cost thereof, then Operator shall forthwith restore such Improvements to the same condition that existed prior to the damage or destruction. If the Improvements are damages or destroyed by causes not covered by the insurance and the damages are in excess of ten percent (10% of the replacement costs thereof, then Operator may terminate this Agreement as to the Improvements damaged or destroyed only, on written notice to the County within sixty (60) days after the occurrence. In the event of such termination, Operator shall, at the option of the County, remove the damaged Improvements from the Airport at its expense and risk and restore the Premises.

3.3.9 Notwithstanding the above, in the event damage or destruction to Improvements is caused by the intentional or negligent act of Operator, its agents or employees, Operator shall be required to restore the Improvements at the option of the County regardless of whether the same are covered by insurance.

3.3.10 Termination of this Agreement as to any particular Improvement shall not change in any way the duties and obligations of the parties under this Agreement as to other Improvements or Operator's operations at the Airport. Operator shall obtain the prior approval of the County with respect to the plans and specifications of any repair,

restoration, or rebuilding under this Paragraph 3.3.

3.4 Indemnification of the County. Operator agrees to indemnify, defend and hold the County harmless against all liability for injuries to persons or damage to property caused by intentional, unlawful or negligent acts or omissions of Operator, its agents, employees, invitees, customers or contractors at and from the Airport, or negligent, unlawful or intentional use or occupancy of the Premises, other than injuries or damage caused by the gross negligence or willful misconduct of the County.

3.5 New Government Regulation. In the event the County is required to make additional direct expenditures in connection with the implementation of any future federal or state regulation imposed upon the County as a result of Operator's operation, the County may call a conference for the purpose of discussing and determining methods of compliance and recovery from Operator and others similarly situated, if any, of costs so incurred, and Operator agrees to attend and negotiate in good faith regarding its participation in recovery of such costs.

3.6 Costs of Operation. Operator shall contract for the provision of all water, sewer and utility services to the Premises and shall pay all costs associated with such initial and continuing services, except to the extent that such services were provided to a particular facility by the County on the date of this Agreement. All costs of operations on the Premises, including payment and discharge of taxes and assessments of any kind on Operator's business and the Improvements shall be the responsibility of Operator.

3.7 Maintenance and Inspection of Records.

3.7.1 Operator shall keep and maintain true and accurate accounts, records, books and data (collectively, the "Records"), which shall, among other things, show all transactions in connection with the Operator's business at the Airport. Such records shall be kept in a form and manner satisfactory to the County and shall be complete and in sufficient detail so as to make possible reliable and accurate audits of Operator's business.

3.7.2 Insofar as Records relate in any way to Operator's rights or duties under this Agreement, they shall be available at the Operator's office at the Airport and the County and its agents shall have the right at all reasonable times and during ordinary business hours to inspect and examine such Records to the extent necessary to determine whether Operator is in compliance with the provisions of this Agreement. All information contained in and copies made of the Records by the County during any such inspection shall be kept confidential by the County, to the extent authorized by law.

3.7.3 Operator shall furnish the County an itemized statement of fuel delivered to the Premises for each year, within 60 days after the close of Operator's fiscal year. Operator shall also furnish all Records as are required to be kept herein, to the County at the Airport, within 15 days after being requested to do so. If at any time an examination

of the Records shall reveal an error in the payment of the Fuel Fee exceeding two percent (2%) of the amount actually paid, Operator shall pay such additional amount due and shall reimburse the County for the expense of such audit and all costs of collection.

3.7.4 Operator shall report to the County such statistical information on Operator's business activities as the County may reasonably require. Reports shall be submitted monthly on a form provided by the County. Portions of statistical information which the Operator may designate as confidential commercial or financial data, and which may in the County's determination be considered to be such data and be exempt from disclosure under the Colorado Public Records Act, shall be kept confidential by the County.

3.8 Other Obligations of Operator.

3.8.1 Operator's managers, officers or employees shall be properly trained and qualified flight and maintenance personnel. Operator's employees shall be neat, clean and courteous and shall be modestly and appropriately attired.

3.8.2 Operator, its agents and employees shall conduct and carry on its business at the Airport so as to maintain a professional and businesslike relationship with its competitors operating like businesses at the Airport, if any. Operator shall not engage in open and public disputes, disagreements, or conflicts tending to deteriorate the quality of the business of Operator or its competitors or be incompatible to the best interests of the public at the Airport. Operator shall not engage in unfair or high-pressure sales tactics for products or services offered by Operator.

3.8.3 When requested by the Airport Manager, Operator shall furnish to and collect from each pilot flying into out of the Airport such aviation information and/or survey data as may reasonably be required by the County in the operation of the Airport. Operator shall provide data collected from pilots upon request from the Airport Manager, in the form collected, without obligation for Operator to compile or collate data received.

3.8.4 Operator shall charge and collect any fees, charges or assessments from general aviation aircraft operators as may be imposed by regulation adopted by the County; such fees or charges may include, but not be limited to, the collection of landing fees; provided that, if the Operator is required to charge and collect any such fees, charges or assessments, the County and Operator shall agree to a reasonable service charge to be collected by Operator to reimburse it for its expenses in making such collections.

3.8.5 Operator shall not prohibit or prevent the owner of any aircraft from performing limited services on his own aircraft, including, but not by way of limitation, repairs and maintenance, or having such services performed by his own regular employees or agents. Such work must be performed, however, at a location jointly designated by the County and Operator. In no event will maintenance be performed on

ramp area normally used for parking or taxiing.

3.9 County Rules and Resolutions.

3.9.1 Operator shall make all pilots operating Operator's equipment in and out of the Airport aware of the County's rules and resolutions pertaining to the Airport, including those pertaining to noise abatement, as the same presently exists or shall hereafter be amended. Operator shall take appropriate action against any employees of Operator for operations contrary to said rules and resolutions in all cases where there exists no valid reason of safety or otherwise, for noncompliance.

3.9.2 All aeronautical operations by Operator, its agents and employees shall comply with the provisions of this paragraph 3.9 unless, in the judgment of the pilot in command, operations in compliance with this paragraph, under the circumstances then existing, would result in an unreasonable risk of harm to person or property, and there is no prudent or feasible alternative to deviation from the standard contained in said paragraph.

3.9.3 Operator shall distribute to pilots departing its facility a copy of the Airport's then current rules and resolutions relating to the Airport and cooperate with the County to implement such additional rules and resolutions as may be adopted in the future. County shall remain responsible for enforcement of its rules and regulations, and is not delegating or assigning its enforcement obligations to Operator under this Agreement.

3.10 Representations of Operator. Operator represents and warrants to the County as follows:

3.10.1 Operator, and those individuals executing this Agreement on behalf of Operator, represent and warrant that they are familiar with C.R.S. § 18-8-301, *et seq.* (Bribery and Corrupt Influences) and C.R.S. § 18-8-401, *et seq.* (Abuse of Public Office) and that they are aware of no violations of the provisions thereof with respect to this Agreement or operations to be conducted hereunder.

3.10.2 Operator, and those individuals executing this Agreement on behalf of Operator, represent and warrant that to the best of their knowledge no employee of the County has any personal or beneficial interest whatsoever in this Agreement or in the business to be conducted upon the Premises by Operator.

IV. OBLIGATIONS OF THE COUNTY

4.1 Quiet Enjoyment. The County agrees that on performing the covenants herein contained, Operator shall peacefully and quietly have, hold and enjoy the rights granted herein for the term.

4.2 Access to Premises. The County shall provide reasonable access within the Airport for extension and maintenance of electrical power, gas and telephone lines to serve the Premises.

V. TERM

5.1 Term. Subject to earlier termination as hereinafter provided, the primary term of this Agreement shall be the ten (10) year period commencing on June 1, 2003, and ending May 31, 2013.

5.2 Option to Renew. Subject to the provisions hereof, Operator shall have the option to renew this Agreement for one (1) additional term of twenty (20) years following expiration of the primary term, if:

5.2.1 Operator has first constructed on the Airport a single bay hangar having a maximum door height of not less than 18 feet and having floor dimensions of not less than 110 feet by 140 feet, and shall have entered into a mutually agreeable Addendum to this Agreement with the County relating to such hangar; for this purpose, County will make available land on the Airport to be added to the Premises, or if such additional land is not reasonably available, the County will agree to reasonable modifications and removal of existing improvements within the Premises so that such hangar can be constructed within the current Premises; and

5.2.2 Operator shall have constructed not less than ten (10) T-hangars on the Airport, to replace the current five T-Hangars, and entered into a mutually agreeable Addendum to this Agreement with the County relating to such hangars; and

5.2.3 At the time of its exercise of the option, Operator shall not be in default under the terms and conditions of this Agreement;

Provided, however, that during any option term of this Agreement, the base rental described in paragraph 3.1.1 above and the minimum insurance requirements of paragraph 3.3 may be raised at the County's option to those prevailing in the Rocky Mountain Area at the commencement of the option term, and provided further that the terms of each such addenda shall be a period reasonably necessary for Operator to amortize the cost of such facility, taking into consideration amortization terms used by similar airports in the Rocky Mountain region.

5.3 Exercise of Option. Operator may exercise its option by giving written notice to the County not more than eighteen (18) months, not less than one year, prior to the expiration of the primary term of this Agreement, of Operator's intent to exercise its option. The County and Operator agree to use their best efforts to agree on the then-current base rental and minimum insurance requirements, and to execute a lease extension agreement, within ninety (90) days after Operator's written notice of election is received by the County.

5.4 Holding Over. Holding over or failure to vacate the Premises at the end of the primary term or the extended term shall not be construed to be the granting or exercise of any additional term.

VI. TERMINATION, SURRENDER AND DAMAGES

6.1 Termination by Operator. Operator shall have the right, upon written notice to the County, to terminate the Agreement upon one years notice, or upon the happening of one or more of the following events if said event or events shall then be continuing:

6.1.1 The issuance by any court of competent jurisdiction of any injunction, order or decree preventing or restraining the use by Operator of all or any substantial part of the Premises, or preventing or restraining the use of the Airport for normal airport purposes or the use of any part thereof which may be used by Operator and which is necessary for Operator's operations on the Airport, which remains in force for a period of at least 90 days;

6.1.2 If the County shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it under this Agreement and shall fail to cure said default within 30 days following receipt of written demand from Operator to do so;

6.1.3 If all or a material part of the Airport shall be destroyed by fire, explosion, earthquake, other casualty, or acts of God or the public enemy; or

6.1.4 If the United States Government or any of its agencies shall occupy the Airport or any substantial part thereof, to such an extent as to interfere materially with Operator's operation for a period of 60 consecutive days or more.

6.2 Termination by the County. The County shall have the right to terminate this Agreement in the event of any of the following:

6.2.1 Default by Operator on its payment obligations under this Agreement, or any amendment or addendum hereto, and failure of Operator to cure such breach within 15 days after delivery of written notice;

6.2.2 Default in the performance of any covenant or agreement in this Agreement required to be performed by Operator other than the occurrence of the events described above in paragraph 6.2.1, and the failure of Operator to remedy such default for a period of 30 days after receipt from the County of written notice to remedy the same.

6.3 All Covenants Material. Covenants and agreements herein, which would ordinarily be considered to be material, shall be so considered herein. In addition, the parties recognize the special and unique nature of Airport operations; that the County operates the Airport under agreements with other governmental entities, pursuant to numerous laws, regulations and ordinances, and in furtherance of the public need, health and safety; each term, covenants and/or agreement the breach of which by Operator might materially adversely effect any such aspect of the County's operation of the Airport, shall also be deemed material, and any default in any such term, covenant and/or agreement shall be deemed to be a default in the

Agreement.

6.4 Remedies of the County. If Operator shall be in default of its obligations under this Agreement then, with or without terminating this Agreement under Section 6.2 above, the County may seek injunctive relief, specific performance and/or damages incurred as a result of Operator's default, and in compliance with Colorado law, including the Forcible Entry and Detainer Statute, C.R.S. Section 13-40-101 *et. seq*, the County may enter into and repossess the Premises and the Improvements, remove Operator's personal property by force if necessary, all without limitation on or prejudice to any other remedy available to the County at law or equity. Each right and remedy in this Agreement shall be cumulative and shall be in addition to every other right or remedy in this Agreement or existing at law or in equity or by statute or otherwise, including, without limitation, injunctive relief and specific performance.

6.5 Disposition of Improvements Upon Termination.

6.5.1 Upon termination or expiration of this Agreement, all Addenda to this Agreement under which the County leases Improvements to Operator shall also then terminate.

6.5.2 Upon termination or expiration of this Agreement all Improvements then still owned by Operator shall remain the property of Operator. If the County and Operator do not enter into a successor agreement, Operator may sell such Improvements only to an approved successor Operator that has entered into a contract with the County to conduct operations at the Airport. In recognition of the limited space available to serve the public at the Airport, upon such termination or expiration, and until sale to an approved successor Operator may be accomplished, if the County determines that such action is necessary to serve the public demand for aircraft storage space or services, the County shall be entitled to lease such Improvements from Operator at a fair market rate, which rate shall not be greater than that rate at which the County may reasonably recoup its cost of providing such space or services to the public. If Operator shall not have sold such Improvements within one year after termination or expiration of this Agreement, the County shall have the option, at its sole discretion, to compel Operator to sell its interest in such Improvements to an approved successor Operator or the County at a price equal to the original construction cost, depreciated using the straight line method and using a useful life of 21 years from the date of construction of each such Improvement.

VII. ASSIGNMENT AND SUBLETTING

7.1 Assignment and Subletting. Operator shall not at any time assign or sublet its rights or obligations under this Agreement or any part thereof without the written consent of the County. No such assignment or subletting shall release Operator from its obligations under this Agreement. All subcontracts or assignments to perform the obligations of Operator hereunder shall be filed with and shall be subject to the approval of the County, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, upon notice to the County, Operator shall have the right to assign all or part of its rights and obligations under this Agreement to an entity in which Operator or its principal members, E. Patrick Wiesner and Richard B. Hayes have a controlling interest.

7.2 Successors to The County. The rights and obligations of the County under this Agreement may be assigned by the County, at its option and without the necessity for the concurrence of the Operator. The County shall give prior written notice to Operator of any assignment of its rights and obligations under this paragraph.

VIII. OTHER AGREEMENTS

8.1 Rules and Regulations. Operator, its managers, officers and employees shall observe and obey all applicable laws, rules, regulations and standards presently existing or hereafter promulgated. Operator agrees that all rights granted under this Agreement are limited by any existing or subsequently adopted rules, including those prescribing methods of operations or dealing with noise abatement at the Airport.

8.2 Non-Discrimination. The Operator, in its operations and its use of the Airport, shall not, on the grounds of race, color, national origin or sex, discriminate or permit discrimination against any person or group of persons in any manner prohibited by applicable law, and shall abide by the provisions of Part 21 of the Rules and Regulations of the Office of the Secretary of Transportation effectuating Title VI of the Civil Rights Act of 1964, as amended or reenacted.

8.3 Inspection by the County. The County, through its authorized agents, shall have the right at all reasonable times to enter upon the Premises to inspect, to observe the performance by Operator of its obligations hereunder, and to do any act which the County may be obligated to do or have the right to do under this Agreement, any other agreement to which the County is a party, or applicable law.

8.4 Minority Business Enterprise.

8.4.1 It is the policy of the County that minority business enterprises, including firms owned and controlled by minorities and/or women as defined in 49 C.F.R. Part 24, shall have maximum opportunity to participate in the performance of its agreements.

8.4.2 In the performance of this Agreement, Operator hereby assures that no person shall be excluded from participation, denied benefits or otherwise discriminated against by Operator in connection with the award and performance of any contract, including leases covered by 49 C.F.R. Part 23 on the grounds of race, color, national origin or sex.

8.4.3 Operator assures that it will include this section 8.4 in all subleases and cause all sublessees to similarly include clauses in further subleases.

8.5 Condemnation. Nothing contained in this Agreement shall be deemed to limit or restrict in any way such lawful rights as Operator may have now or in the future to maintain claims against the federal, state or municipal government, or any department or agency thereof, or against any interstate body, commission or authority, or other public or private body exercising governmental powers, for damages or compensation by reason of the taking or occupation, by condemnation or otherwise, of all or a substantial part of the Premises, including Improvements, or of all or a material part of the Airport.

8.6 Liens. Operator shall not allow, and shall immediately cause to be removed any and all liens of any nature on the Premises or the Improvements, whether arising out of or imposed because of any construction, repair, work or labor performed or materials furnished by Operator or any of its contractors, subcontractors or suppliers upon the Premises or Improvements, arising out of or because of Operator's business at or from the Airport, or otherwise. For all contracts initiated after the date of this Agreement involving construction or repair to the Improvements in an amount in excess of $50,000, Operator shall require the posting of payment and performance bonds, in a form satisfactory to the County, in the amount of the contract price.

8.7 Force Majeure. Except with respect to Operator's payment obligations under paragraph 3.1 above, neither the County nor Operator shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, embargoes, shortage of material, vehicles, fuel or tires as the result of governmental decree, acts of God, acts of the public enemy, acts of superior governmental authority, extraordinary weather condition, riots, rebellion, sabotage or any other circumstances for which it is not responsible or which is not under its control. During the continuance of any such event, operator and County shall be relieved of the performance of their respective obligations hereunder which are so prevented, until the event or act is concluded, and at such time Operator's or County's performance of such obligations shall be correspondingly extended by the period of the event, unless this extension in performance is waived by both parties.

8.8 Demolition of Premises. If at the expiration of the primary term of any Addenda hereto, the Improvements subject to such Addenda are to become the property of the County, then at the County's option, exercised within 30 days of such date of expiration, if the Improvements are not serviceable or reasonably usable for their intended purpose, without the

expenditure of substantial sums, Operator shall demolish and remove such Improvement and restore and reclaim the Premises at its sole cost and expense.

8.9 Relocation by the County. In the event that proper development of the Airport requires that any part of the Premises be devoted to a use not in direct competition with Operator, the County shall have the right, upon one hundred eighty (180) days advance written notice to Operator, and without cost or expense to Operator, to relocate all or a part of the Premises and the Improvements. Said relocated Premises shall be of no less area, and as conveniently located as is reasonable, considering all demands for space at the Airport. All of Operator's Improvements and trade fixtures shall, without cost or expense to Operator, be relocated or replaced on said relocated Premises, and this Agreement shall continue in effect with respect to such relocated Premises. The County shall reimburse Operator for net financial losses, if any, directly attributable to an interruption in business operations caused by any such relocation.

8.10 County's Right to Perform Operator's Obligations. If Operator shall be in default in performance of any covenant or condition of this Agreement required to be performed by the Operator, the County may, without notice, perform such covenant or condition for the account and at the expense of Operator, including reasonable attorney's fee, in instituting, prosecuting or defending any action or proceeding instituted by reason of any default of the Operator; Operator shall reimburse the County for the amount of such expense. In the event the Operator becomes obligated to reimburse or otherwise pay the County any sum of money other than the specific use fees and rents provided for herein, the amount thereof shall be deemed additional use fee or rent and shall be added to any subsequent installment of the specific use fee or rent due and payable under this Agreement, and in such event, the County shall have the remedies for default in the payment thereof as provided by this Agreement.

8.11 Use of Ramp. Operator agrees that the aircraft parking ramp area east of a north-south line perpendicular to See Exhibit 1 is designated the commercial air carrier ramp for use on a non-exclusive basis by air carrier aircraft using the Airport. The commercial air carrier ramp is a secure area; Operator shall ensure that its employees, customers and other invitees do not enter the air carrier ramp without authorization or security screening. Operator agrees that general aviation aircraft shall not be parked on the commercial air carrier ramp without with the prior approval of the Airport Manager.

8.12 Availability of Governmental Facilities. In the event the existence, maintenance or operation of air navigation aids or other facilities supplied or operated by the United States or the State of Colorado at or in conjunction with the Airport are discontinued, the County shall have no obligation to furnish such facilities.

8.13 Alterations to Improvements. Subject to rules and minimum standards then in effect, Operator shall make no alteration, addition or improvement to the Premises or Improvements without the prior written consent of the County. Subject to the provisions of paragraph 6.5.2 above, any alteration, addition or improvement made by the Operator, whether or not consent shall have been given, and any fixtures installed as a part thereof, other than trade

fixtures, shall, at the option of the County, become the property of the County upon expiration or sooner termination of this Agreement. Operator shall on such occasion have the right to require Operator to remove any such fixture at Operator's expense. In the event of removal of any alteration, addition or improvement by Operator, the County may assess against the Operator the cost, if any, of placing the Premises or Improvements in the condition existing prior to such alteration, addition or improvement.

8.14 Snow Removal.

8.14.1 County shall, at County's own expense and subject and secondary to its obligation to maintain clear county roads, runways, taxiways and the air carrier ramp on the Airport, remove the snow from those areas of the Premises not closer than three feet from any building Improvements, which are open to public use and which are utilized for the passage, parking and storage of aircraft and the passage and parking of motor vehicles, in the same manner as County performs snow removal on portions of the Airport in general; provided, that snow removal on areas where aircraft and motor vehicles are parked shall be performed after snow removal is accomplished in other areas and subject to reasonable availability of County equipment and manpower. County shall not be required to move or relocate parked aircraft and/or vehicles to accomplish such snow removal.

8.14.2 Operator shall, at its own expense, move or relocate aircraft and vehicles to assist County in its snow removal obligations set forth above. Operator shall further, at Operator's own expense, effect snow removal in all other portions of the Premises, including the removal of snow under and about the parked aircraft and vehicles, the buildings, the walkways, and the other portions of the Premises which cannot readily be serviced by County's snowplowing equipment.

8.14.3 Operator shall remove snow and accumulations of ice within three feet of any building Improvement, and from all entrances and exits to the Improvements being operated by Operator, including buildings, fuel storage area, equipment storage area and any other facility operated or leased by Operator from others at the Airport.

IX. MISCELLANEOUS PROVISIONS

9.1 Headings. The section headings contained in this Agreement are for convenience in reference and are not intended to define or limit the scope of any provision.

9.2 Time of Essence. Time is of the essence in this Agreement.

9.3 Attorneys' Fees. In the event any action or proceeding is brought to take possession of the Improvements or to enforce compliance with this Agreement for failure to

observe any of its covenants, the prevailing party shall be awarded its reasonable attorney's fees and costs by the court.

9.4 Non-Wavier. Waiver by either party of or the failure of either party to insist upon the strict performance of any provision of this Agreement shall not constitute a waiver of the right or prevent any such party from requiring the strict performance of any provision in the future.

9.5 Limitation of Benefit. This Agreement does not create in or bestow upon any other person or entity not a party to this Agreement any right, privilege or benefit unless expressly provided in this Agreement. This Agreement does not in any way represent, nor should it be deemed to imply, any standard of conduct to which the parties expect to conform their operations in relation to any person or entity not a party.

9.6 Severability. Any covenant, condition or provision herein contained that is held to be invalid by any court of competent jurisdiction shall be considered deleted from this Agreement, but such deletion shall in no way affect any other covenant, condition or provision herein contained so long as such deletion does not materially prejudice the County or Operator in their rights and obligations contained in valid covenants, conditions or provisions.

9.7 Effect of Agreement. All covenants, conditions and provisions in this Agreement shall extend to and bind the parties, the successors of either party, the assigns of the County and the permitted assigns of Operator.

9.8 Non-Exclusive Right. The County has and may allow certain portions of the Airport to be used by other fixed-base or other operators at any time, and Operator shall not interfere in any manner with said other fixed-base operator(s) or with the facilities granted to such operator(s). Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended, and the County reserved the right to grant to others the privilege and right of conducting any one or all of the aeronautical activities specified herein, or any other activities of an aeronautical nature. The County reserves the right, during the term hereon, to reduce and reallocate space leased for the exclusive use of Operator in any case where the failure to do so might reasonably constitute the granting by County to Operator of such an exclusive right.

9.9 Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be, as determined by the person giving such notice, either hand delivered; mailed by registered or certified mail, return receipt requested; or delivered by overnight delivery service such as Federal Express or United Parcel Service. Service of such notice shall be deemed given and received when personally delivered; or three business days after mailing, properly addressed with postage prepaid; or the day following the delivery to an overnight delivery service with delivery charges prepaid. All notices shall be given to the required party at the following address:

County:

County Board of Commissioners
200 East Virginia
Gunnison, Colorado 81230

Operator:

Gunnison Valley Aviation, LLC
1 Airport Road
Gunnison, Colorado 81230

with a copy to:

Michael C. Dawson, Esq.
Wilderson, O'Hayre, Dawson & Frazier, P.C.
120 North Taylor
Post Office Box 179
Gunnison, Colorado 81230

Any party may change its address by giving written notice of a change of address to the other party in the manner above provided.

9.10 Appeal of Manager's Decisions. Whenever the Airport Manager is authorized by this Agreement to make discretionary decisions affecting Operator, the Operator shall be entitled to appeal such decision to the Board of County Commissioners. Any such appeal shall be in writing, shall be filed with the County within thirty days of the complained of decision, shall clearly state each basis for appeal, and shall include copies of any documents upon which the appeal is based. The pendency of an appeal shall not relieve the Operator from compliance with the decision of the Airport Manager appealed.

9.11 Governing Law. This Agreement shall be governing by and construed in accordance with the laws of the State of Colorado, and any action to enforce or interpret its provisions shall be brought in a court in and for Gunnison County, Colorado.

9.12 Entire Agreement. This Agreement embodies the entire agreement between the parties hereto concerning the subject matter hereof and supersedes all prior conversations, proposals, negotiations, understandings and agreements, whether written or oral. This Agreement may not be altered, modified or changed in any manner whatsoever except by a writing signed by both parties.

9.13 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties. It is

understood and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of landlord and tenant.

9.14 Effective Date of Agreement. This Agreement shall become effective on June 1, 2003, regardless of the last date upon which a party duly executes this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY

Attest:

Secretary Deputy Clerk

By:

GUNNISON VALLEY AVIATION, LLC.

Attest:

Secretary

By:

Patrick Wiesner, Managing Member

F:\Clients\Gunnison County Airport - 3778\FBO.01\FBOMasterAgree at 03-17-03.doc

ADDENDUM #1
(Fuel Facility)

TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC.

THIS ADDENDUM #1 is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the Board of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC. ("Operator"). For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement.** Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms, covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. **Use of Premises and Improvements.** Subject to the terms and condition hereof and of the Master Agreement, the County authorizes Operator to utilize the Premises and operate the Improvements depicted on **Exhibit 1** hereto, and generally known as the Gunnison Airport Fuel Facility ("Fuel Facility").

3. **Term.** The primary term of this Agreement shall be identical to the primary term of the Master Agreement, and if Operator exercises an option to extend the term of the Master Agreement, the term of this Addendum shall be extended in the same manner and for the same period.

4. **Rent Payments by Operator.** For the use of the Fuel Facility, Operator shall pay the County the fuel flowage fees that may be established by the County from time to time, as set forth in Section 3.1.3 of the FBO Master Operating Agreement, an annual rental of $6,000.00 payable in advance in monthly installments of $500.00. If this Addendum shall commence or expire by its terms at the middle of any month or year, amounts due for such month and year shall be prorated

5. **Operation of the Fuel Facility.** Operator shall, at its sole cost and risk, operate the Fuel Facility and make each repair and perform such maintenance as is reasonably necessary to ensure provision of aviation fuel services at the Airport and avoid risk to public health and safety. In its operation of the Fuel Facility, and the conduct of fueling operations:

5.1. Operator agrees to have properly trained personnel and adequate procedures for safely storing, dispensing and otherwise handling fuel or Hazardous Substance, shall pay all tank fees, and shall at all times store and handle such fuel and Hazardous Substances in accordance with the County's Aircraft Fueling Regulations, dated July 5, 1994, all Environmental Laws, applicable National Fire Protection Association (NFPA) Codes and Standards, FAR Part 139 (if applicable), and all other applicable federal, state and local laws, as they now exist or as they may hereafter be amended.

5.2. Operator shall furnish the County with copies of all material safety data sheets and reports that are required to be filed with any federal, state or local agency under all Environmental Laws, including the Superfund Amendment Reauthorization Act, the Emergency Preparedness Community Right-to-Know Act, and any other requirements of federal, state or local agency for reporting amounts and types of Hazardous Substance being stored or used on the Facility.

5.3. If the Operator, its agents, contractors, employees, guests or customers spills fuel, or if the presence of Hazardous Substance on the Fuel Facility, arising from or connected with the Operator's operations on the Airport, results in the contamination of the Fuel Facility or other properties, the Operator shall immediately notify the County, all applicable federal, state and local agencies with jurisdiction, and promptly take all actions, at the Operator's sole expense, necessary to remediate the contamination and restore the area. Contamination remediation and restoration of the affect properties must comply with all Environmental Laws and other local, state and federal laws, and not adversely impact the maintenance, operations and future development of the Airport as determined by the County.

5.4. All Hazardous Substances generated in operation and maintenance on the Fuel Facility, or in removal of improvements and restoration of the Fuel Facility, must be removed and disposed of in accordance with all Environmental Laws and in a manner acceptable to the U.S. Environmental Protection Agency, and any other local, state or federal agency that may have authority over Hazardous Substances, and in compliance with the provisions of this Addendum.

5.5. Each refueling vehicle used in connection with the Fuel Facility shall be equipped and maintained to comply at all times with all applicable requirements including without limitation, those prescribed by the State of Colorado and the local fire district having jurisdiction; and the National Fire

Protection Association (NFPA) Codes and Standards relating to fuel storage vessels or facilities of the type used.

5.6. If required by law, prior to transporting fuel onto the Airport, the Operator shall provide the County with a Spill Prevention Contingency and Control Plan (SPCC) that meets applicable regulatory requirements. Any updated version of such SPCC Plan shall be filed with the County at least ten (10) business days prior to implementation.

5.7. Within thirty (30) days of the date of this Addendum, in accordance with all applicable regulatory requirements and appropriate industry practices, the Operator shall develop and maintain written Standard Operating Procedures (SOP) for fueling and shall ensure compliance with applicable FAA standards and advisory circulars. The SOP shall include a training plan, fuel quality assurance procedures, record keeping and emergency response procedures for fuel spills and fires. The SOP shall also address the following: (1) fire protection, (2) public protection, (3) control of access to refueling vehicle storage areas, and (4) marking and labeling of refueling vehicles. The SOP shall describe, in detail, those methods that shall be used by the Operator to clean up fuel spills; should include equipment to be used, emergency contract personnel and their telephone numbers, and all other details as to how the Operator would contain such a spill; it should also describe, in detail, what methods the Operator intends to use to prevent any such spill from occurring. The County may conduct inspections of the Fuel Facility on a periodic basis to ensure compliance.

6. **Reserved License.** County reserves to itself a non-revocable license to enter and operate the Fuel Facility (the "License"), which License may be exercised by the County at any time or times when Operator is not providing fuel to aircraft requesting fuel service on the Airport, as required by the Master Agreement, this Addendum, and/or Minimum Standards in effect on the date hereof.

6.1 County shall give Operator forty-eight (48) hours notice of its intent to exercise its rights under the License, and County shall not exercise its rights under the License if Operator sooner commences to again provide fuel service. In any event, County agrees to suspend its exercise of the License when Operator again commences to provide fuel service at the Airport, as required by the Master Agreement, this Addendum, and/or Minimum Standards in effect on the date hereof.

6.2 The License retained by County hereunder shall not be assignable, but shall only be exercise by County, its properly trained and qualified officers, agents, employees and contractors.

6.3 Should County exercise the License and suspend its exercise upon Operator's recommencement of fuel service, as provided above, the County shall

restore the fuel tanks to the same or greater fuel level than existed when the County commenced to exercise the License.

6.4 County shall pay all costs attributable to its exercise of its License, and shall be entitled to retain all revenues generated from that exercise. In no event shall County, its officers, employees or agents be responsible to Operator or others for revenue and/or wages lost by Operator or others during Operator's use of such License. Other than expressly provided herein, County's remedies for Operator's default under the Lease shall not be altered, amended, diminished or waived by this paragraph or the County's exercise of the License. Operator shall have no obligation to exercise its license, and shall not be liable to Operator or others for any failure to exercise the License in whole or in part.

7. **Special Agreements Relating to the Fuel Facility.**

7.1 County agrees that it shall make, at its sole cost and expense, any capital improvements to the Fuel Facility, which is determined by a governmental entity having jurisdiction, to be required by law. Such capital improvements shall be accomplished, to the extent reasonably practicable, so as to minimize interference with and interruption of Operator's use and operation of the Fuel Facility.

7.2 Operator acknowledges that County may permit the construction, maintenance and operation of other fuel facilities on or serving the Airport, and may in County's discretion authorize their construction, maintenance and operation directly adjacent to the Fuel Facility or elsewhere. In no circumstance shall this Addendum be construed to be a grant by County to Operator of an exclusive right, privilege or opportunity to operate a fuel facility on or serve the Airport, nor shall it be construed to limit the right and opportunity of County to construct, maintain, operate or permit such additional fuel facility(s).

7.3 Subject to provisions of 7.1 above, Operator shall, at its expense, take such other actions and make such modifications, repairs and improvements on or to the Fuel Facility as may be necessary to comply with laws or regulations then in effect, and to qualify the Fuel Facility for federal or state sponsored insurance or indemnity coverage. To the extent that state or federal insurance coverage is not available, and to the extent of any deductible of such coverage, Operator shall insure the Fuel Facility and its operation thereof against damages for personal injury or property damage to the limits specified in the Master Agreement, and for damage to natural resources in an amount not less than $1,000,000.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY

Attest:

Clerk

By:

GUNNISON VALLEY AVIATION, LLC.

Attest:

Secretary

By:

Patrick Weisner, Managing Member

F:\Clients\Gunnison County Airport - 3778\FBO.01\Addendum #1 - Fuel FAcility at 031703.doc

ADDENDUM #2
(Hangars #1, #2, #3 and #4; and FBO Terminal Building)

TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC.

THIS ADDENDUM #2 is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the Board of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC. ("Operator"). For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement.** Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms, covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. **Use of Premises and Improvements.** Subject to the terms and condition hereof and of the Master Agreement, the County authorizes Operator to utilize and operate the Premises and Improvements depicted on **Exhibit 1** hereto, and generally known as Hangars #1, #2, #3 and #4 and the FBO Terminal Building (the "FBO Facilities").

3. **Term.** The primary term of this Agreement shall be identical to the primary term of the Master Agreement, and if Operator exercises an option to extend the term of the Master Agreement, the term of this Addendum shall be extended in the same manner and for the same period.

4. **Rent Payments by Operator.** For the use of the FBO Facilities, in addition to any use fee under the Master Agreement or any rental due under any other Addendum, Operator shall pay the County an annual rental of $52,956 payable in advance in monthly installments of $4,413. If this Addendum shall commence or expire by its terms at the middle of any month or year, amounts due for such month and year

shall be prorated. Such monthly rental shall be allocated among the FBO Facilities as follows: FBO terminal Building and Apartment, $1,413; Hangar #1 (shop hangar), $500; Hangar #2, $1,000; Hangar #3, $500; Hangar #4, $500, and $500 for the Fuel Facility.

5. **Maintenance of the FBO Facilities**.

5.1 The County shall keep the exterior of the FBO Facilities, excluding Hangar doors, in good condition and repair. In addition, the County shall keep the aircraft ramp area and parking lots of the Premises, if any, in such repair as it deems appropriate, taking into consideration the availability of funds.

5.2 If the County asserts that any major structural feature of an FBO Facility (excluding the FBO Terminal Building) such as, but not necessarily limited to the roof, is no longer serviceable and reasonably capable of repair or maintenance, then it agrees to promptly notify the Operator. Within 30 days after any such notification, the Operator will determine whether to repair itself or replace such structure feature at Operator's expense, and shall so inform the County. If the Operator elects not to replace the feature, the County may elect to terminate this Addenda as to such FBO Facility, effective on or after the date of the Operator's notification, with rental payments pro rated through the date of termination.

5.3 Operator shall, at its own expense, maintain the hangar doors and the interior of the FBO Facilities, including electrical, plumbing, and HVAC (wherever located), in good order and repair, and a neat and clean condition. Operator shall also collect and dispose of all trash, debris and garbage generated by its operations or found in or around the FBO Facilities and portions of the ramp and parking areas being operated by it, including the removal of weeds.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY

Attest:

Clerk

By:

GUNNISON VALLEY AVIATION, LLC.

Attest:

Secretary

By: _____
E. Patrick Wiesner, Managing Member

F:\Clients\Gunnison County Airport - 3778\FBO.01\Addendum #2 - Hangars 031703

ADDENDUM #3
(Hangar No. 6)

TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC

THIS ADDENDUM #3 is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the County of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC ("Operator"). For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement.** Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms, covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. **Construction and Use of Improvements.** Subject to the terms and conditions hereof and of the Master Agreement, the County authorizes Operator to demolish the existing hangar and construct and operate the new hangar facility and adjacent ramp improvements depicted and on the Premises shown on **Exhibit 1** hereto (collectively, "Hangar No. 6 hereinafter). Hangar No. 6 shall have a door height of not less than 14 feet and an interior square footage of not less than 14,000 square feet. Operator agrees to diligently and continuously pursue construction of Hangar No. 6 in accordance with applicable County codes and rules, and approved plans and specifications, and to complete such construction in a good and workmanlike manner. Ground area that is disturbed and not paved as ramp shall be promptly restored by Operator to, as near as practicable, it original condition. Promptly after construction, Operator shall submit to the County an "as built," engineer-certified drawing, accurately depicting the location of such new hangar facilities and adjacent ramp improvements, and showing their relationship to surrounding Airport facilities, which drawing shall be substituted for and become **Exhibit 1** to this Addendum.

3. **Term.** The primary term of this Agreement shall be identical to the primary term of the Master Agreement, and if Operator exercises an option to extend the term of the Master

Agreement, the term of this Addendum shall be extended in the same manner and for the same period.

4. **Rent Payments by Operator.** As ground rent for Hangar No. 6, and in addition to any use fee under the Master Agreement or any rental due under any other Addendum, Operator shall pay the County an annual rental of $2,660 payable in advance in monthly installments of $221.66 (the "Rental"). If this Addendum shall commence or expire by its terms at the middle of any month or year, amounts due for such month and year shall be prorated. The Rental shall be adjusted each year in accordance with paragraph 3.1.2 of the Master Agreement.

5. **Maintenance of Hangar Facilities.** Operator shall keep and maintain the interior and exterior of Hangar No. 6 in good order and repair, and in a safe sanitary, orderly and slightly condition, all at its own risk and expense. Such maintenance shall include, but not be limited to, painting if and in a color approved by the County, electrical, plumbing, structural repair and window replacement; and including with respect to surface areas, paving, sealing, dust control, snow and ice plowing and removal, mowing and weed control. Operator shall collect and dispose of all trash, debris and garbage generated by its operations or found in or around Hangar No. 6, including the removal of weeds, all at its own risk and expense.

6. **Transfer of Title to Fixed Improvements.**

6.1 Hangar No. 6 shall be permanently and inseparably attached to the Airport property and shall not be removed or materially altered without the written approval of the County. Title to Hangar No. 6 shall be vested in Operator while the Master Agreement is in effect, but upon expiration or sooner termination of the Master Agreement, for any cause whatsoever, other than a default by County under the Master Agreement, title to Hangar No. 6 shall immediately and automatically vest in the County. On such date, Operator agrees to then execute and deliver to the County all documents and take such reasonable actions, if any, as may be necessary to accomplish the transfer of title. Provided, however, that at the County's option, title to Hangar No. 6 shall not then transfer and Operator shall instead remove Hangar No. 6 and restore those portions of the Airport upon which it is constructed to their condition existing prior to the commencement date of this Addendum, at Operator's sole cost, expense and risk.

6.2 Upon expiration or sooner termination of the Master Agreement, all equipment and personal property placed by Operator, at its expense, in, on or about Hangar No. 6, other than fixtures, shall remain the property of Operator, which shall have the right at any time during the term, when not in default beyond applicable cure provisions hereof, to remove all such equipment and property. Any property affixed to Hangar No. 6 so that the same may not be removed without material damage to Hangar No. 6 or to the Airport, shall not be removed by Operator at any time without County approval, but shall become the property of the County upon expiration or sooner termination of the Master Agreement.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the _____ day of _____, 2004.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

Attest:

_____ By:_____

Secretary

GUNNISON VALLEY AVIATION, LLC

Attest:

_____ By:_____

Secretary

GUNNISON
04.95

ADDENDUM #4
(Five (5) T-Hangars – Hangar No. 7)
(Three (3) T-Hangars – Hangar No. 8)

TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC

THIS ADDENDUM #4 is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the County of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC ("Operator"). For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement.** Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms, covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. **Construction and Use of Improvements.** Subject to the terms and conditions hereof and of the Master Agreement, the County authorizes Operator construct and operate five (5) T-hangars in one building (Hangar No. 7) and three (3) T-hangars in a separate building (Hangar No. 8), and adjacent ramp improvements depicted and on the Premises shown on **Exhibit 1** hereto. Ground area that is disturbed and not paved as ramp shall be restored by Operator to, as near as practicable, its original condition. Operator agrees to diligently and continuously pursue construction of Hangar Nos. 7 and 8 in accordance with applicable County codes and rules, and approved plans and specifications, and to complete such construction in a good and workmanlike manner. Promptly after construction, Operator shall submit to the County an "as built," engineer-certified drawing, accurately depicting the location of such new hangar facilities and adjacent ramp improvements, and showing their relationship to surrounding Airport facilities, which drawing shall then be substituted for and become **Exhibit 1** to this Addendum.

3. **Term.** The primary term of this Agreement shall be identical to the primary term of the Master Agreement, and if Operator exercises an option to extend the term of the Master

Agreement, the term of this Addendum shall be extended in the same manner and for the same period.

4. **Rent Payments by Operator.** As ground rent for Hangar Nos. 7 and 8, and in addition to any use fee under the Master Agreement or any rental due under any other Addendum, Operator shall pay the County an annual rental of $499.20 for Hangar No. 7 and $316.80 for Hangar No. 8, for a total annual rental hereunder for the two Hangars of $816, payable $41.60 per month for Hangar No. 7 and $26.40 per month for Hangar No. 8, for a total of $68 per month rental hereunder, payable in advance (the "Rental"). If this Addendum shall commence or expire by its terms at the middle of any calendar year, amounts due for such calendar year shall be prorated. The Rental shall be adjusted each year in accordance with paragraph 3.1.2 of the Master Agreement. Rental payments hereunder shall commence on the first day of the month after substantial completion of construction of the Hangars, or December 1, 2004, whichever is earlier.

5. **Maintenance of Hangar Facilities.** Operator shall keep and maintain the interior and exterior of Hangar Nos. 7 and 8 in good order and repair, and in a safe sanitary, orderly and slightly condition, all at its own risk and expense. Such maintenance shall include, but not be limited to, painting if and in a color approved by the County, electrical, plumbing, structural repair and window replacement; and including with respect to surface areas, paving, sealing, dust control, snow and ice plowing and removal, mowing and weed control. Operator shall collect and dispose of all trash, debris and garbage generated by its operations or found in or around Hangar Nos. 7 and 8, including the removal of weeds, all at its own risk and expense. Operator understands that it is locating Hangar 8 adjacent to a major storm drainage system (the "System"). Operator, for itself and its tenants, hereby releases the County from any liability for damages to Hangar 8 or its contents, resulting directly or indirectly at any time from storm water, and Operator agrees to assume the risk of any such damage.

6. **Transfer of Title to Fixed Improvements.**

6.1 Hangar Nos. 7 and 8 shall be permanently and inseparably attached to the Airport property and shall not be removed or materially altered without the written approval of the County. Title to Hangar Nos. 7 and 8 shall be vested in Operator while the Master Agreement is in effect, but upon expiration or sooner termination of the Master Agreement, for any cause whatsoever, other than a default by County under the Master Agreement, title to Hangar Nos. 7 and 8 shall immediately and automatically vest in the County. On such date, Operator agrees to then execute and deliver to the County all documents and take such reasonable actions, if any, as may be necessary to accomplish the transfer of title. Provided, however, that at the County's option, title to Hangar Nos. 7 and 8 shall not then transfer and Operator shall instead remove Hangar Nos. 7 and 8 and restore those portions of the Airport upon which it is constructed to their condition existing prior to the commencement date of this Addendum, at Operator's sole cost, expense and risk.

6.2 Upon expiration or sooner termination of the Master Agreement, all equipment and personal property placed by Operator, at its expense, in, on or about Hangar Nos. 7 and 8, other than fixtures, shall remain the property of Operator, which shall have the

right at any time during the term, when not in default beyond applicable cure provisions hereof, to remove all such equipment and property. Any property affixed to Hangar Nos. 7 and 8 so that the same may not be removed without material damage to Hangar Nos. 7 and 8 or to the Airport, shall not be removed by Operator at any time without County approval, but shall become the property of the County upon expiration or sooner termination of the Master Agreement.

7. **Participation by Affiliate of Operator.** Operator and the County acknowledge that for the convenience of Operator, Hangars No. 7 and 8 may be constructed and owned by Blue Mesa, LLC ("Blue Mesa"), which is an affiliate of Operator. Blue Mesa has been provided with a copy of the Master Agreement and the Airport's Minimum Standards, and agrees to be bound by the terms and conditions thereof. Blue Mesa acknowledges that the Master Agreement grants operating rights at the Airport only to Operator, and not to Blue Mesa, and without further agreement of the County, only Operator shall have the right to conduct a commercial enterprise in and from Hangars No. 7 and 8. Blue Mesa also acknowledges that the Master Agreement grants certain legal and equitable rights and interests in Hangars No. 7 and 8 to the County, including the right to take title to Hangars No. 7 and 8 upon the happening of certain events, and by its signature below, and for valuable and adequate consideration, Blue Mesa grants and conveys to the County all and the same such rights and interests in Hangars No. 7 and 8.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the 8th day of November 2004.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

Attest:

GUNNISON COUNTY SEAL COLORADO

Kelly Balch
Secretary Deputy Clerk

By: Paul R. Fuhrl

GUNNISON VALLEY AVIATION, LLC

Attest:

Secretary

By: R. D. Harper
Managing Member

Blue Mesa LLC, having received advice of legal counsel, acknowledges that it has read and understands the forgoing Addendum #4 to the Master Operating Agreement and Lease, and consents and agrees to the same.

BLUE MESA, LLC

By _____
Print Richard B. Harper
Its: Managing Member
Dated 10/28/06

07-96

ADDENDUM #5
(New Hangar No. 4)
And
SECOND AMENDMENT
TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC

THIS ADDENDUM #5 and SECOND AMENDMENT is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the County of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC ("Operator

RECITALS

WHEREAS, the County and Operator entered into the Master Agreement in 2003, and a First Amendment to the Master Agreement in 2004, which together granted Operator certain rights to operate a fixed base operation on the Gunnison/Crested Butte Regional Airport;

WHEREAS, the County and Operator have entered into several addenda to the Master Agreement relating to particular facilities on the Airport: Addendum #1 relating to the fuel facility, Addendum #2 relating to Hangars Nos. 1, 2, 3 and 4; Addendum #3 relating to Hangar No. 6, and Addendum #4 relating to T-hangars collectively known as Hangars No. 7 and 8; and

WHEREAS, Operator wishes to demolish existing Hangar No. 4 and replace it with a new Hangar No. 4, and the County wishes to agree to such actions pursuant to the terms and conditions of this Addendum #5.

WHEREAS, if Operator demolishes existing Hangar No. 4 and replaces it with a new Hangar No. 4 in accordance with the terms of this Addendum, then the parties desire to amend the Master Agreement to extend its term as provided herein.

NOW THEREFORE, f"). or valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement.** Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms,

covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. Construction and Use of Improvements.

2.1 Subject to the terms and conditions hereof and of the Master Agreement, the County authorizes Operator to demolish the existing Hangar No. 4 and construct and operate a new hangar facility and adjacent ramp improvements depicted on the Premises shown on **Exhibit 1** hereto (collectively, "Hangar No. 4" hereinafter). Hangar No. 4 shall have a door height of not less than 28 feet and an interior square footage of not less than 10,000 square feet.

2.2 Operator agrees to diligently and continuously pursue construction of Hangar No. 4 in accordance with applicable County codes and rules, and plans and specifications approved by the County, and to complete such construction in a good and workmanlike manner. Ground area that is disturbed and not paved as ramp shall be promptly restored by Operator to, as near as practicable, its original condition. Promptly after construction, Operator shall submit to the County an "as built" engineer-certified drawing, accurately depicting the location of such new hangar facilities and adjacent ramp improvements, and showing their relationship to surrounding Airport facilities, which drawing shall be substituted for and become **Exhibit 1** to this Addendum. Upon submission of such drawing, Addendum #2 shall no longer apply to Hangar No. 4, and Hangar No. 4 shall instead be governed by this Addendum #5.

2.3 Operator agrees to invest and expend not less than $500,000.00 on direct third-party costs, for design, labor and materials in constructing Hangar No. 4 (the "Investment Obligation"). Upon completion of Hangar No. 4, Operator shall submit a sworn statement of the construction costs and the date of substantial completion, with such supporting documentation as the County may reasonably request. Such statement shall conclusively establish the construction cost of Hangar No. 4, and the extent to which Operator has met its Investment Obligation, unless challenged by the County within sixty (60) days of receipt. If the County and Operator cannot agree on the amount of construction costs, and/or whether Operator has met its Investment Obligation, the parties agree to mediate the matter in good faith prior to initiating any judicial action to resolve the dispute.

3. **Term.** The primary and option term of this Addendum #5 shall be the same as the primary and option terms of the Master Agreement; provided, however, that if Operator meets its Investment Obligation described in paragraph 2.3 above, the primary term of the Master Agreement shall be amended and extended to May 31, 2018, and if Operator exercises an option to extend the term of the Master Agreement, the term of this Addendum #5 shall be extended in the same manner and for the same period.

4. **Rent Payments by Operator.** As ground rent for Hangar No. 4, and in addition to any use fee under the Master Agreement or any rental due under any other Addendum, Operator shall pay the County the following Rent:

Years 1 through 3	$6,000.00	($500.00 per month) 2008, 2009, 2010
Years 4 through 8	$12,000.00	($1,000.00 per month)
Remaining Term	$12,000.00*	($1,000.00 per month*)
	***As adjusted by the change in CPI under paragraph 3.1.2 of the Master Agreement.**	

(the "Rental").

If this Addendum shall expire by its terms at the middle of any month or year, amounts due for such month and year shall be prorated. After the eighth (8th) year, the Rental shall be adjusted each year in accordance with paragraph 3.1.2 of the Master Agreement. Rental payments hereunder shall commence on the first day of the month after substantial completion of construction of new Hangar No. 4, or July 1st, 2008, whichever is earlier.

5. **Maintenance of Hangar Facilities.** Operator shall keep and maintain the interior and exterior of Hangar No. 4 in good order and repair, and in a safe, sanitary, orderly and slightly condition, all at its own risk and expense. Such maintenance shall include, but not be limited to, painting if and in a color approved by the County, electrical, plumbing, structural repair and window replacement; and including with respect to surface areas, paving, sealing, dust control, snow and ice plowing and removal, mowing and weed control. Operator shall collect and dispose of all trash, debris and garbage generated by its operations or found in or around Hangar No. 4, including the removal of weeds, all at its own risk and expense.

6. **Transfer of Title to Fixed Improvements.**

6.1 Hangar No. 4 shall be permanently and inseparably attached to the Airport property and shall not be removed or materially altered without the written approval of the County. Title to Hangar No. 4 shall be vested in Operator while the Master Agreement is in effect, but upon expiration or sooner termination of the Master Agreement, for any cause whatsoever, other than a default by County under the Master Agreement, title to Hangar No. 4 shall immediately and automatically vest in the County. On such date, Operator agrees to then execute and deliver to the County all documents and take such reasonable actions, if any, as may be

necessary to accomplish the transfer of title. Provided, however, that at the County's option, title to Hangar No. 4 shall not then transfer and Operator shall instead remove Hangar No. 4 and restore those portions of the Airport upon which it is constructed to their condition existing prior to the commencement date of this Addendum, at Operator's sole cost, expense and risk.

6.2 Upon expiration or sooner termination of the Master Agreement, all equipment and personal property placed by Operator, at its expense, in, on or about Hangar No. 4, other than fixtures, shall remain the property of Operator, which shall have the right at any time during the term, when not in default beyond applicable cure provisions hereof, to remove all such equipment and property. Any property affixed to Hangar No. 4 so that the same may not be removed without material damage to Hangar No. 4 or to the Airport, shall not be removed by Operator at any time without County approval, but shall become the property of the County upon expiration or sooner termination of the Master Agreement.

7. **Participation by Affiliate of Operator.** Operator and the County acknowledge that for the convenience of Operator, Hangar No. 4 may be constructed and owned by Hangar Four Partners, LLC ("Hangar Four"), which is an affiliate of Operator. Hangar Four has been provided with a copy of the Master Agreement, this Addendum #5 and the Airport's Minimum Standards, and agrees to be bound by the terms and conditions thereof. Hangar Four acknowledges that the Master Agreement grants operating rights at the Airport only to Operator, and not to Hangar Four, and without further written agreement of the County, only Operator shall have the right to conduct a commercial enterprise in and from Hangar No. 4. Hangar Four also acknowledges that the Master Agreement grants certain legal and equitable rights and interests in Hangar No. 4 to the County, including the right to take title to Hangar No. 4 upon the happening of certain events, and by its signature below, and for valuable and adequate consideration, Hangar Four grants and conveys to the County all and the same such rights and interests in Hangar No. 4.

8. **Minimum Services to be Provided by Operator**. The Master Agreement is amended to delete paragraph 3.2.3 thereof. Upon execution of this Addendum #5 by the parties, Operator shall no longer be required to provide an appropriate flight training facility or personnel.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the 18th day of September, 2007.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

Attest:

By:

GUNNISON COUNTY SEAL COLORADO

GUNNISON VALLEY AVIATION, LLC
A Colorado limited liability company

By:
Name: Richard B. Hayes
Title: Managing Member

GUNNISON COUNTY
LI: 04-93

FIRST AMENDMENT
TO
FBO MASTER OPERATING AGREEMENT AND LEASE

THIS FIRST AMENDMENT to FBO Master Operating Agreement and Lease effective the 8th day of November, 2004, between the BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO, a county organized under the laws of Colorado, having an address of 200 East Virginia, Gunnison, Colorado 81230 (the "County"), and GUNNISON VALLEY AVIATION, LLC, a Colorado limited liability company, having an address of 1 Airport Road, Gunnison, Colorado 81230 (the "Operator").

RECITALS

A. The County and Operator entered into an FBO Master Operating Agreement and Lease (the "Master Agreement") effective June 1, 2003;

B. The Master Agreement provided terms under which Operator may have the option to renew the Master Agreement for an additional term;

C. The parties have discovered that such terms are, for reasons beyond the control of the parties, not practically obtainable on the Airport, and the parties wish to amend the Master Agreement to provide terms which are attainable, but which nonetheless serve the respective purposes of the parties.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Subparagraphs 5.2.1 and 5.2.2 of the Master Agreement are hereby deleted in their entirety and replaced with the following:

> 5.2.1 Operator, directly or through a entity in which Operator or its principal members, E. Patrick Wiesner and Richard B. Hayes have a controlling interest, has first constructed on the Airport a single bay hangar having a maximum door height of not less than 14 feet and having a square footage of not less than 14,000 square feet, and shall have entered into a mutually agreeable Addendum to this Agreement with the County relating to such hangar; for this purpose, the County will make available land on the Airport to be added to the Premises, or if such additional land is not reasonably available, the County will agree to reasonable modifications and removal of existing improvement within the Premises so that such hangar can be constructed within the current Premises;

5.2.2 Operator, either directly or through an entity in which Operator or its principal members, E. Patrick Wiesner and Richard B. Hayes have a controlling interest, shall have constructed not less than eight (8) T-hangars on the Airport, to replace the current five (5) T-hangars, and entered into one or more mutually agreeable Addenda to this Agreement with the County relating to such hangars; and

2. Except as expressly set forth above, the Master Agreement shall not be amended, but every term and condition thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

GUNNISON COUNTY SEAL COLORADO

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

Attest:

Kelly Balch
Secretary Deputy Clerk

By: Paul R. Field

GUNNISON VALLEY AVIATION, LLC

Attest:

Secretary

By: Hayes
Managing Member

THIRD AMENDMENT
TO THE
FBO MASTER OPERATING AGREEMENT AND LEASE

Between the
County of County Commissioners of Gunnison County
and
Gunnison Valley Aviation, LLC

THIS THIRD AMENDMENT is to the FBO Master Operating Agreement and Lease, dated June 1, 2003 (the "Master Agreement"), between the County of County Commissioners of Gunnison County, Colorado (the "County") and Gunnison Valley Aviation, LLC ("Operator

RECITALS

WHEREAS, the County and Operator entered into the Master Agreement in 2003, and a First Amendment to the Master Agreement in 2004, which together granted Operator certain rights to operate a fixed base operation on the Gunnison/Crested Butte Regional Airport;

WHEREAS, the County and Operator have entered into several addenda to the Master Agreement relating to particular facilities on the Airport: Addendum #1 relating to the fuel facility, Addendum #2 relating to Hangars Nos.1, 2, 3 and 4; Addendum #3 relating to Hangar No. 6, and Addendum #4 relating to T-hangars collectively known as Hangars No. 7 and 8; Addendum #5 and Second Amendment relating to Hanger No. 4, and

WHEREAS, County and Operator desire to amend the Master Agreement to modify the aircraft maintenance and repair requirements as provided herein.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Operator hereby agree as follows:

1. **Relationship to Master Agreement**. Upon execution by duly authorized representatives of the County and Operator, this Addendum shall become a part of the Master Agreement and shall be binding upon the parties. The definitions, terms, covenants and conditions of the Master Agreement, including the default and remedy provisions thereof, are hereby incorporated by reference and made a part of this Addendum, as if they were fully set forth herein, and references herein to this Addendum shall include the provisions of the Master Agreement. If any definition, term, covenant or condition of this Addendum shall be in conflict with any provision of the Master Agreement, the definition, term, covenant or condition of this Addendum shall prevail.

2. **Minimum Services to be Provided by Operator**. The Master Agreement is amended to replace paragraph 3.2.5 with the following:

> **3.2.5 Operator shall provide aircraft maintenance and repair services for general aviation aircraft utilizing the Premises and, in connection therewith, shall have available FAA certified aircraft maintenance and inspection personnel, holding an airframe and power plant (A&P) and an inspector rating, and provide such equipment, tools and spare parts inventory as may be reasonably required for a fixed base operation of this size and traffic volume. For the purposes of this paragraph, "reasonably required" means that direct revenues equal or exceed direct expenses for a period of the preceding twelve (12) months related to aircraft maintenance and repair services.**

IN WITNESS WHEREOF, the parties have executed this Addendum as of the 12th **day of** September, ~~2010~~ 2011.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY

Attest:

By:

GUNNISON VALLEY AVIATION, LLC
A Colorado limited liability company

By:
Name: PAT PAPERUS
Title: General Manager

REQUEST FOR SUBLEASE
"AGREEMENT REGARDING GROUND LEASE, CONSTRUCTION, OWNERSHIP AND OPERATION OF A HANGAR"

September 24, 2002

To the Board of County Commissioners of the County of Gunnison, Colorado
c/o Gunnison County Manager
200 East Virginia
Gunnison, CO 81230

As of January 1, 1995, the Board of County Commissioners entered into an "Agreement Regarding Ground Lease, Construction, Ownership and Operation of a Hangar" ("Lease") with Mid-States Millwork, Inc. ("Mid-States") pursuant to which Mid-States agreed to construct, lease and operate a hangar at the Gunnison County Airport. The Lease term of the Lease is thirty (30) years. Under the terms of the Lease Mid-States performed all required obligations.

Under the terms of the Lease, Paragraph 10 Sublease/Assignment, provides the Lease is assignable with "the prior written approval of Lessor [the Board] which approval shall not be unreasonably withheld." On September 1, 1997, Mid-States did assign the Lease to Bush Leasing Services, Inc. (a Florida Corporation) ("Bush"), by executing a "Sale of Hangar Lease" agreement.

In accord with the Lease, Bush respectfully requests the Board's approval of the assignment of the Lease, pursuant to Paragraph 10 of the Lease, to K Hangar, LLC (a Colorado Limited Liability Company), E Patrick Wiesner, Member and Manager with an address of 7009 S. Potomac, Englewood, CO, and a telephone number of (303) 397-7600.

If this assignment is acceptable, please acknowledge the approval of the Board by signing below. If additional statements or representations are required, please inform Mr. Wiesner what these requirements are. Finally, please release Bush from any additional obligations under the Lease in accord with Paragraph 10.c. thereof.

Thank you for your consideration!

_____
K Hangar, LLC
E. Patrick Wiesner, Member and Manager

_____
Gunnison County Board of County Commissioners
By: Paul R. Field

AGREEMENT REGARDING GROUND LEASE, CONSTRUCTION, OWNERSHIP AND OPERATION OF A HANGAR

This Agreement Regarding Ground Lease, Construction, Ownership and Operation of a Hangar ("Agreement") entered into as of the 1st day of January, 1995, by and between the Board of County Commissioners of the County of Gunnison, Colorado, ("Lessor") and Mid-States Millwork, Inc., a Missouri corporation with authority to do business in the State of Colorado ("Lessee").

WITNESSTH:

WHEREAS, Lessor now owns, controls and operates the Gunnison County Airport (the "Airport") in the County of Gunnison, State of Colorado; and

WHEREAS, the construction of hangars and long term lease of ground space for hangar facilities are desirable to the proper accommodation of general aviation at the Airport; and

WHEREAS, Lessor and Lessee desire to enter into an agreement providing for the construction, lease and operation of a hangar at the Airport;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, the parties hereby agree as follows:

1. **TERM**

1.1 The term of this Agreement shall be for a period of thirty (30) years, commencing on the 1st day of January, 1995, and continuing through the 31st day of December, 2024 (the "termination date"), unless earlier terminated under the provisions of this Agreement. 12/31/24

1.2 If, before December 31, 1999, Lessee sells and conveys its entire interest in this Lease, including but not limited to ownership of the hangar constructed pursuant to this Lease, to a party wholly independent of ("Purchaser"), the Purchaser shall have the option, exercisable within ninety (90) days of the closing between Lessee and Purchaser, and with thirty (30) days written notice to Lessor, to extend the term of this Agreement for an additional period of five (5) years from and after the Termination Date, upon the same terms and conditions as are contained in this Agreement. No other or further extension shall be permitted.

2. LEASE OF THE PREMISES

2.1 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the following premises (the "Premises") the legal description of which is given on Exhibit A, attached hereto and made a part hereof, together with the right of ingress and egress for both vehicles and aircraft.

3. CONSTRUCTION OF HANGAR AND OTHER IMPROVEMENTS

3.1 As consideration and essential consideration for this Agreement, the Lessee shall furnish and perform or cause to be performed, at Lessee's sole cost, all of the labor, materials, supervision and other services necessary to complete construction of an aircraft hangar ("Hangar") as described in the Specifications, Exhibit B. Lessee shall have the right to add one office and restroom inside the Hangar at a later date. Plans for such office and restroom must be approved by Lessor before construction; such approval shall not be withheld unreasonably.

3.2 As additional and essential consideration for this Agreement, the Lessee shall furnish and perform or cause to be performed, at Lessee's sole cost, all of the labor, materials, supervision and other services necessary to complete paving and other improvements ("Improvements") as described in the Specifications, Exhibit B.

3.3 Lessee shall construct the Hangar and Improvements in a first class, substantial and workmanlike manner to the satisfaction of the County in strict accordance with the provisions of Exhibit B.

3.4 Lessee shall complete the construction of the Hangar and Improvements no later than March 1, 1995.

3.5 Lessee shall construct the Hangar and Improvements on the Premises as described in Section 2 and portrayed in a plot plan attached hereto as Exhibit C.

3.6 Lessor shall have the right to inspect the Hangar and Improvements during and at completion of construction. Lessee's obligations under this Section 3 shall not be fulfilled until Lessor has accepted, in writing, final construction of the Hangar and Improvements; such acceptance shall not be withheld unreasonably.

4. USE OF THE PREMISES AND HANGAR

4.1 The Premises and Hangar shall be used only for storage of all types of private and commercial aircraft, as defined in Minimum Standards and Requirements for the Conduct of Commercial

Aeronautical Services and Activities at the Gunnison County Airport ("Aircraft"); each and every other use is precluded unless a further written agreement for adequate consideration is negotiated and executed by the Lessor and Lessee. Such storage shall be available to the public as is available. No other private or commercial activity of any kind whatsoever shall be conducted by Lessee, its employees, invitees, agents or otherwise, in, from or around the Hangar. No maintenance on aircraft shall be performed in the Hangar without the prior written approval of Lessor, except such minor maintenance as would normally be performed by the aircraft owner without the benefit of an aircraft mechanic. In utilizing the Hangar during the term of this Agreement, Lessee agrees to and shall comply with all applicable ordinances, rules and regulations established by any federal, state or local government agency or by Lessor, including but not limited to any regulation on "through-the-fence" operations, aircraft fueling and the environment. All outside building aesthetics and landscaping must be approved by the County.

4.2 Lessee may not preclude or restrict, in any fashion whatsoever, the use or passage by the public on or over the ramp area.

4.3 On the termination of this Agreement, by expiration or otherwise, Lessee shall peacefully surrender possession of the Premises, Hangar and Improvements in good condition and repair, ordinary wear and tear excepted and remove all aircraft therefrom.

4.4 Lessee shall charge non-discriminatory rates for the storage of aircraft in the Hangar as defined by applicable Federal Aviation Administration regulations.

4.5 Lessee covenants and agrees not to install any fixtures or make any alterations, additions or improvements to the Hangar without prior written approval of Lessor which approval shall not be unreasonably withheld. All fixtures installed or additions and improvements made to the Hanger shall, upon completion of such additions and improvements, become Lessor's property and shall remain in the Hangar at termination of this Agreement, however terminated, without compensation or payment to Lessee unless such fixtures installed or improvements are removed in such a fashion as to avoid or repair any damage to the Hangar.

4.6 Lessee shall immediately notify Lessor of any accident causing damage of $500.00 or more involving the Premises or Hangar, which notification shall specify to the extent known by Lessee, the time and place of the accident, the extent of the damage, the names and addresses of the parties involved, persons injured, known witnesses, and owners of properties damaged. Lessee shall advise Lessor of all correspondence, papers,

notices, and documents received by Lessee in connection with any claim or demand involving or relating to the Premises or Hangar or its operation, and shall aid in any investigation instituted by Lessor and in the recovery of damages from third persons liable therefor.

4.7 Operating Standards. In providing any of the required and/or authorized services or activities specified in this Agreement, Lessee shall operate for the use and benefit of the public and shall meet or exceed the following standard:

a. Lessee shall comply with those provisions of the Minimum Standards and Requirements for the Conduct of Commercial Aeronautical Services and Activities at the Gunnison County Airport ("Minimum Standards") as they may be amended, as are applicable to aircraft storage. In the event of a conflict between such Minimum Standards and this Agreement, the provisions of this Agreement shall control.

b. Lessee shall be liable for and shall meet all expenses and payments in connection with the use of the Premises and the rights and privileges herein granted, including taxes, permit fees, license fees and assessments lawfully levied or assessed upon the Premises or property at any time situated therein and thereon. Lessee may, at its sole expense and cost, contest any tax, fee or assessment.

c. Lessee shall comply with all federal, state and local laws, rules and regulations which may apply to the conduct of the business contemplated and Lessee shall maintain in effect and post in a prominent place all necessary and/or required licenses or permits.

4.8 Signs. During the term of this Agreement, Lessee shall have the right, at its expense, to place in or on the Premises a sign or signs identifying Lessee. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved by Lessor and in conformance with any overall directional graphics or sign program established by Lessor. Lessor's approval shall not be withheld unreasonably. Notwithstanding any other provision of this Agreement, said sign(s) shall remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

4.9 Trade Fixtures. During the term of this Agreement, Lessee shall have the right, at its expense, to place in or on the Premises trade fixtures, furnishings, personal property, equipment and materials necessary to perform any services required or authorized or convenient hereunder. Said trade fixtures, furnishings, personal property, equipment and materials shall remain the property of Lessee; such trade fixtures may be

removed by Lessee only if done in such a fashion as to avoid or repair any damage to the Hangar.

4.10 Nonexclusive Right. It is not the intent of this Agreement to grant to Lessee the exclusive right to provide any or all of the services described in this Article IV at any time during the term of this Agreement. Lessor reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Lessee. Lessor does, however, covenant and agree that:

a. It shall enforce all minimum operating standards or requirements for all applicable aeronautical endeavors and activities conducted at the Airport;

b. Lessor shall comply with all applicable Airport Sponsor Assurances given by Lessor to the Federal Aviation Administration. Enforcement of this paragraph 4.10(b) shall be at the discretion of the Federal Aviation Administration and shall not create a private right of enforcement in Lessee;

c. It will not permit the conduct of any aeronautical endeavor or activity at the Airport except under an approved lease or permit issued by the Lessor.

4.11 Aerial Approaches. Lessor reserves the right (but shall not be obligated to the Lessee) to maintain and keep in repair the landing area and taxiways of the Airport and to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building, or other structure on or adjacent to the Airport which, in the opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft. The Lessor reserves the right to take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the Airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. Lessor agrees that the location and dimensions of Lessee's Hangar currently do not interfere with any such approaches nor constitute any other airport hazard.

4.12 Airport Development. The Lessor reserves the right in its sole discretion to further develop or improve the landing area of the Airport. Lessor covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Agreement subject to normal uses of the Airport, the Lessor's right of eminent domain and those rights reserved to the County in this Agreement.

4.13 Right of Entry. The Lessor, or its agent, may enter upon the Premises, Hangar and Improvements at any reasonable time, and for any purpose necessary, incidental to, or connected with the performance of the Lessee's obligations under this Agreement or in the exercise of Lessor's functions as owner and operator of the Airport.

4.14 Snowplowing. The Lessor, or its agent, shall provide snowplowing to the Premises, Hangar and Improvements, as needed and as equipment is available pursuant to the Gunnison County Snow Plow Management Plan as it may be amended. Lessor shall use reasonable care in removing snow and ice from the vicinity of the Hangar and in managing aeronautical operations at the Gunnison County Airport so as to avoid damage to the Hangar and other improvements.

4.15 Pavement Maintenance. Lessee shall pave with asphalt the ramp area adjacent to the Hangar and the taxiway accessing the Hangar. Thereafter, Lessor shall provide sealing and all other periodic maintenance to such ramp area and taxiway, including replacement, in the discretion of Lessor.

5. RENT AND FEES

5.1 In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:

a. Rent. A rental of $800.00 per annum for the Premises through December, 1999; thereafter, the remainder of the term of the Agreement, regardless of any sale and conveyance pursuant to paragraph 1.2, a rental of $960.00 per annum for the premises.

6. PAYMENTS

6.1 The rental payment specified in Section 5 above, shall be paid monthly in advance in the sum of $66.67 per month through December, 1999; thereafter, for the remainder of the term, the sum of $80.00 per month. The first payment to be made on or before the first day of January, 1995, and each next payment to be made on or before the first day of each month thereafter during the term of this Agreement. Lessee shall be entitled to a 10% discount on all rental payments which are prepaid in five year installments.

6.2 A delinquency charge of $100.00 per month shall be added to payments required by Section 5 above, which are rendered more than ten (10) days delinquent.

6.3 All payments due Lessor from Lessee shall be mailed or delivered to the Finance Office, Gunnison County, 200 East Virginia, Gunnison, CO 81230.

7. CONVEYANCE OF HANGAR UPON EXPIRATION OF TERM

7.1 As further and valuable consideration for this Agreement, it is expressly agreed by the County and Lessee that, immediately upon expiration of the term of this Agreement, or immediately upon earlier termination under the provisions of this Agreement, Lessee shall convey to the County, by assignment in the form attached hereto in Exhibit D, with no encumbrances whatsoever, all right and interest in the Hangar and improvements to the Hangar.

7.2 During the term of this Agreement, each and every right of any lienholder of the Hangar or improvements to it shall be subordinated to the County.

8. UTILITIES

8.1 Lessee shall have the right to use the utility service facilities serving the Airport at the commencement of the term of this Agreement. In addition, should Lessee's use of the Premises, Hangar or Improvements require extension of such utility service facilities, Lessee shall, at its sole expense, make or have made such extension subject to reasonable approval of the County as to the route of such extension or connection.

8.2 County's obligations under this Section shall be limited to utilities extended by a public utility company to the Airport property line; nothing herein shall obligate the County to permit any utility to be extended to or connected to the Premises that is not otherwise available to County at the Airport property line.

8.3 If the County is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, its obligation under this Section shall be abated accordingly.

8.4 All utility services for the Premises and Hangar shall be in the name of Lessee. Lessee agrees to pay the cost of all such utilities. In the event Lessee fails to pay any utility bill when due, Lessor, at its option, may pay the same and collect from Lessee the amounts so disbursed, plus interest at the rate of five percent (5%) per month or fraction thereof.

9. **LESSEE'S GENERAL USE OF ALL PUBLIC AIRPORT FACILITIES**

9.1 Lessee shall have the general use of all public Airport facilities and improvements of a public nature which are now or may hereafter be connected with or appurtenant to the Airport.

10. **SUBLEASE/ASSIGNMENT**

10.1 Lessee shall have no right to sublease the Premises or Hangar Space or to assign this Agreement without the prior written approval of Lessor, which approval shall not be unreasonably withheld. Any such sublease or assignment shall:

a. require reasonable additional payment to Lessor, which will be negotiated and which shall not exceed twenty five percent (25%) of the rent set forth herein;

b. require provision of all of the material provisions for aircraft storage of the Minimum Standards And Requirements For The Conduct Of Commercial Aeronautical Services And Activities At The Gunnison County Airport as they may be amended;

c. release Lessee from any further obligation hereunder subject to Lessor's prior written approval, which approval shall not be unreasonably withheld; and

d. require provision of all of the material provisions of this Agreement. The parking of aircraft not owned or leased by Lessee on the Premises or in the Hangar shall not constitute a sublease.

11. **INSURANCE**

11.1 Lessee shall procure and maintain during the term of this Agreement, for insurance of at least the following:

1. Hanger Keepers' Liability Insurance; each occurrence: $2,000,000.00.

11.2 The insurance company or companies, writing the required policy, or policies, shall be licensed to do business in the State of Colorado.

11.3 All such insurance shall include the Lessor and its officers, employees and agents as additional named insured. Lessee shall furnish evidence of its compliance with this Part 3 of the Airport Manager with proper certification that such insurance is in force and will furnish additional certification as evidence of changes in insurance not less than ten (10) days prior to any such change. The Lessee shall ensure that, in the event of cancellation of coverages, ten day (10) prior notice of cancellation shall be conveyed to the Lessor by the underwriter.

11.4 All such insurance coverages shall be in force during the period of any construction of the Premises or Improvements and prior to his entry upon the Airport for the conduct of Lessee's business.

11.5 Lessee shall maintain, and furnish to Lessor evidence of, its compliance with the Colorado Statutes with respect of Workmen's Compensation and Unemployment Insurance, where applicable.

12. CASUALTY

12.1 In the event the Hangar, or the means of access thereto, shall be damaged by fire or any other cause, the rent payable hereunder shall not abate provided that the Hangar is not rendered untenantable by such damage. If the Hangar is rendered untenantable and Lessee elects to repair the Hangar, the rent shall abate for the period during which such repairs are being made, provided the damage was not caused by the acts or omissions of Lessee, its employees, agents or invitees, in which case the rent shall not abate. If the Hangar is rendered untenantable and Lessee elects not to repair the Hangar, this Agreement shall terminate.

13. INDEMNITY

13.1 Lessee agrees to release, indemnify, defend and hold County, its officers, employees and agents harmless from and against any and all liabilities, damages, business interruptions, delays, losses, claims, judgments, of any kind whatsoever, including all costs, attorneys' fees, and expenses incidental thereto, which may be suffered by, or charged to, County by reason of any loss of or damage to any property or injury to or death of any person arising out of or by reason of any use of the Premises or Hangar including but not limited to any breach, violation or non-performance by Lessee or its employees or agents of any covenant or condition of the Agreement or by any act or failure to act of those persons unless caused by the Lessor's negligence, intentional willful misconduct or violation of this Agreement.

13.2 Nothing in this Agreement is or shall be construed to be a waiver of Governmental Immunity by the Lessor.

13.3 Subject to normal uses of the airport and Lessor's right of eminent domain, Lessor covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Agreement.

14. DISCLAIMER OF LIABILITY

14.1 Lessor hereby disclaims, and Lessee hereby releases Lessor from any and all liability whether in contract or tort (including

p.9 970-641-4089 Gunnison Valley Aviation

strict liability and negligence) for any loss, damage or injury of any nature whatsoever sustained by Lessee, its employees, agents or invitees during the term of this Agreement, including but not limited to loss, damage or injury to the aircraft or other property of Lessee that may be located or stored in the Hangar, unless such loss, damage or injury is caused by Lessor's negligence or intentional willful misconduct. The parties hereby agree that under no circumstances shall Lessor be liable for indirect, consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence), such as, but not limited to, loss of revenue or anticipated profits or other damage related to the leasing of the Hangar under this Agreement.

15. NONDISCRIMINATION

15.1 Notwithstanding any other provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration of this Agreement does hereby covenant and agree, as a covenant running with the land, that:

a. No person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises;

b. In the construction of any improvements on, over or under the Premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, or denied the benefits of, such activities, or otherwise be subjected to discrimination;

c. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations ("C.F.R."), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

16. FORCE MAJEURE

16.1 Lessor shall not be liable for its failure to perform this Agreement or for any loss, injury, damage or delay of any nature whatsoever resulting therefrom caused by any Act of God, fire, flood, accident, strike, labor dispute, riot, insurrection, war or any other cause beyond Lessor's control. Lessee shall not be liable for its failure to perform this Agreement or for any loss,

p.10 970-641-4089 Johnson Valley Aviation

injury, damage or delay of any nature whatsoever resulting therefrom caused by any Acts of God, fire, flood, accident, strike, labor dispute, riot, insurrection, war or any other cause beyond Lessee's control.

17. **RELATIONSHIP OF PARTIES**

17.1 The relationship between Lessor and Lessee shall always and only be that of Lessor and Lessee. Lessee shall never at any time during the term of this Agreement become the agent of Lessor, and Lessor shall not be responsible for the acts or omissions of Lessee, its employees, or agents. Lessee shall not be responsible for the acts or omissions of Lessor, its employees or agents.

18. **REMEDIES CUMULATIVE**

18.1 The rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive, and shall be in addition to all other rights and remedies available to either party in law or equity.

19. **NOTICES**

19.1 Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested:

a. If to Lessor, addressed to:

Gunnison County Manager
200 East Virginia
Gunnison, CO 81230

b. If to Lessee, addressed to:

Mid-State Millwork, Inc.
4201 West 110th Terrace
Leawood, Kansas 66211

Notices shall be deemed to have been received on the date of receipt as shown on the return receipt.

20. **INTEGRATION**

20.1 This Agreement constitutes the entire agreement between the parties, and as of its effective date supersedes all prior independent agreements between the parties related to the leasing of the Hangar. Any change or modification hereof must be in writing signed by both parties. No approval for a change or modification shall be unreasonably withheld by either party.

21. WAIVER

21.1 The waiver by either party of any covenant or condition of this Agreement shall not thereafter preclude such party from demanding performance in accordance with the terms hereof.

22. SUCCESSORS BOUND

22.1 This Agreement shall be binding on and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto.

23. DEFAULT

23.1 This Agreement shall be breached if:

a. Lessee shall default in the payment of any rental payment hereunder or Lessee shall breach the nondiscrimination provisions of Section 15 and such default shall continue for ninety (90) days after receipt by Lessee of Notice thereof from Lessor, in which event Lessor shall, at its option, have the right to terminate this Agreement and to remove the Aircraft and any other property of Lessee from the Hangar using such force as may be reasonably necessary, without being deemed guilty of trespass, breach of peace or forcible entry and detainer; or

b. Lessee shall default in the performance of any covenant herein, other than the covenant to pay rent or the nondiscrimination provisions of Section 15, and such default shall continue for ninety (90) days after receipt by Lessee of notice thereof from Lessor, in which event Lessor's exclusive remedy shall be to institute an action for specific performance to compel Lessee's compliance with the provisions hereof, with the prevailing party to be reimbursed for all cost and expenses incurred, including reasonable attorneys' fees.

24. SUBORDINATION TO REQUIREMENTS OF THE UNITED STATES

24.1 This Agreement shall be subject and subordinate to the provisions of any exiting or future agreement between Lessor and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the Airport; provided, however, that Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises, and to compensation for taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of Lessor or the United States pursuant thereto.

Gunnison Valley Aviation 970-641-4089 p.12

25. **SEVERABILITY**

25.1 If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction over the parties to this Agreement, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of parties.

26. **HEADINGS**

26.1 The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.

27. **GOVERNING LAW AND VENUE**

27.1 This Agreement is to be construed in accordance with the laws of the State of Colorado. The venue of any action brought pursuant to or regarding this Agreement shall be County Court or District Court, Gunnison County, Colorado.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

By: Fred Field
Fred Field, Chairperson

Attest:
Jeanne M. Rietthiger

MID-STATES MILLWORK, INC., a Missouri Corporation

By: Anthony V. Kostucik Jr.
President

Attest:
Judith A. Kostucik
Secretary

(06/14/95)\k\mid-stat.agr