AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Agreement; Off-Airport Ground Transportation

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County and Star Peak Services Ltd

Term Begins: 12/1/2018 **Term Ends:** 11/30/2019 **Grant Contract #:**

Summary:

The old agreement with Star Peak Services expired on 11/30/18. This is a new Off-Airport Ground Transportation Agreement with Star Peak Services to operate at GUC. Initial term is one year with the option to renew for up to two additional terms at one year each.

Fiscal Impact: Vehicle fee paid to Airport: $550/year; 10% of gross sales paid to the Airport

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: 12/4/2018

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

Comments:

Reveiwed by: Discharge Date: 12/4/2018 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/7/2018

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 12/18/2018

Revised April 2015

OFF-AIRPORT GROUND TRANSPORTATION AGREEMENT
Gunnison Crested Butte Regional Airport

THIS GROUND TRANSPORTATION AGREEMENT, made as of _____, between the BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO (hereinafter "County"), and **Star Peak Services Ltd** (hereinafter "Operator") witnesses:

WHEREAS:

A. The County owns and operates the Gunnison County Airport (hereinafter "Airport") which includes the Airport building complex (hereinafter "terminal") and does maintain various spaces for the use of the public, and from time to time does and shall license and/or lease and/or permit and/or contract for the use of parts of these areas to various individuals, partnerships, corporations or entities to serve the users of the Airport; and

B. The County has adopted Resolution 96-54 (hereinafter "Resolution") requiring that a ground transportation commercial operator shall conduct business at the Airport only pursuant to a written agreement with the County; and

C. The Resolution sets the fees to be paid by a ground transportation commercial operator pursuant to such a written agreement; and

D. Operator is engaged in the commercial business of ground transportation of persons and desires to use a portion of the Airport for the loading and unloading of such persons; and

E. Operator does not have a current written agreement with the County regarding use of the Airport; and

F. County and Operator desire to enter into a written agreement establishing and specifying the conditions under which Operator may conduct a ground transportation commercial operation at the Airport.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and the Operator do hereby mutually undertake, promise and agree, each for itself, to successors and assigns, as follows:

1. DEFINITIONS

1.1 "Commercial Vehicle" shall mean any vehicle, which provides for the carriage of persons or property to and from the Airport for which the passenger, either directly or indirectly, pays a charge. This definition expressly includes each vehicle used by any off Airport car rental entity to transport a customer of that entity to or from the Airport. This definition expressly excludes rental vehicles driven by the consumer.

1.2 "Courtesy Vehicle" shall mean a vehicle, regardless of size, which regularly carries persons between the Airport and off Airport locations for which no charge is paid, either directly or indirectly by passenger.

1.3 "Airport Manager" shall mean the Manager of the Airport or any individual designated by the Manager to act in his or her behalf.

1.4 "Employee" shall mean any employee, officer, or director of an Operator, or any other individual who operates a Commercial Vehicle or provides other service at the Airport for an Operator, and includes an individual Operator.

1.5 "Ground transportation commercial operation" shall mean any individual, partnership, corporation or other entity which provides ground transportation of humans, including but not limited to transportation by taxicab, van, limousine or bus, for a fee.

1.6 "Rental Car Operator" shall mean any individual, partnership, corporation, joint venture, or other entity which provides rental, for a fee.

1.7 "Person" shall mean any individual, partnership, corporation, joint venture, or other legal entity.

1.8 "Operator" shall mean the owner or operator of a Commercial Vehicle. Corporations, partnerships and other entities controlled by the same individual or group of individuals shall, for purposes of this Policy, be considered to be a single Operator. The actions and omissions of all employees, officers, directors, and agents of an Operator shall be deemed to be the acts or omissions of the Operator. Whenever an obligation, condition or requirement applies to an Operator, it shall apply equally to the Operator's employees, officers, directors and agents.

1.9 "Solicitation" shall mean communication or attempted communication for the purpose of encouraging a potential customer to engage an Operator for transportation in a Commercial Vehicle. Solicitation includes, but is not limited to, distribution of hand bills, mime and oral communication, the display of signs, other than pre-arranged reservations as outlined in this Plan.

1.10 "Taxi" shall mean a chauffeur-driven vehicle for hire having a capacity of seven passengers or less and which operates on demand over routes determined by the destination of the passenger.

1.11 "Terminal" shall mean the passenger terminal building at the Airport for scheduled air carriers.

1.12 "Gross Revenues" or "Gross Receipts" shall mean all amounts received by Operator, or which Operator is entitled to receive for the transportation of passengers to and from the Airport. For car rental entities, gross sales are defined as time and mileage revenues for car rentals in all other cases gross sales are defined as the aggregate gross selling price of transportation to and from the Airport.

a. Gross revenues or gross receipts to the Operator shall be deemed received at the time the sales, lease or service transaction occurs giving rise to Operator's right to collect said monies, regardless of whether said transaction was conducted in person, by telephone, by wire (FAX, telex, etc.), by mail or by any other method of information transmission, whether the transaction was for cash or credit.

b. Gross revenues or gross receipts shall not include: (1) federal, state or municipal sales taxes separately stated and collected from customers; (2) amounts Licensee receives, or is entitled to receive, for refueling motor vehicles owned or leased by it; (3) amounts Licensee receives, or is entitled to receive, for charges for insurance coverage, including but not limited to personal accident insurance premiums and collision damage waiver charges.

2. USE OF AIRPORT FACILITIES

2.1 Grant of Non-Exclusive Use. Subject to the terms, limitations and conditions of, and to the extent Operator is authorized by the Agreement to operate Commercial Vehicles at the Airport, Operator is granted the non-exclusive use in common with others similarly authorized, of the loading, unloading and parking areas as directed by the Airport Manager.

2.2 Limitation on Use.

a. Operator's use of the Airport authorized and granted herein shall be limited to the operation of a ground transportation commercial operation for the carriage of persons or property.

b. The Operator's use of the Airport or any portion thereof, including any exclusive use spaces, may be temporarily restricted by the Airport Manager to the extent the Manager deems necessary to protect or enhance public health or safety, in the event of emergency or as necessary for security.

3. OBLIGATIONS OF OPERATOR

3.1 Acquire necessary permits and licenses associated with the lawful operation on its business upon the Premises.

3.2 Comply with all Airport Minimum Standards and Rules and Regulations, all City and County regulations and ordinances, all State and Federal regulations and laws, and all applicable sales and use tax requirements, effective at the time of this Lease and throughout the Primary and Renewal Terms hereunder.

3.3 Operator agrees to pay all wages, all applicable Federal and State withholding taxes, Social Security payments (FICA) Unemployment and Worker's Compensation for all of its employees. Any breach of these provisions shall be deemed a material breach of this Lease.

4. FEES, PERCENTAGE of GROSS and REPORTING

4.1 **Payment of Fees**. Operator agrees to pay the County fees for vehicles that are owned or leased and operated by Operator as consideration for such permit for the uses, services and privileges granted hereunder, according to the following schedule:

a. Annual Permit Fees

$550.00 (five hundred and fifty) per cab/limo per year,
$750.00 (seven hundred fifty) per van per year, and
$1,000.00 (one thousand) per bus/motor coach per year.

This fee is due and payable as a prerequisite to execution by the County of this Ground Transportation Agreement.

If Operator operates any vehicle for any amount of time at the Airport during the Term of this Agreement, Operator shall owe a fee for that vehicle.

If the Operator fails to register a vehicle used on the Airport, the County will send a bill for that vehicle(s) and a fine per incident per vehicle according to the Ground Transportation Rules and Regulations.

b. <u>Percentage Gross Revenue</u>

Further, Operator shall pay the County **10% (ten percent)** of Operator's gross sales derived from the aggregate gross selling price of all goods and services and receipts of all ground transportation transactions, at, to, from, within or from any part of the Airport facility to include any Fixed Base Operator (FBO) Service operated at the Airport, in monthly installments on or before the last day of each month for the previous month. The gross sales fee shall be for each individual Airport Ground Transportation fare or service.

4.2 A signed report must accompany payments which will include the month and dollar amount derived from Airport generated business. The report must break out and differentiate revenues received from both airport airline passenger business and revenues received from business generated at the FBO.

4.3 If the Permit Holder has not conducted business during any given period, a signed report stating such is still due.

4.4 All payments to be made will be considered delinquent if not received by the last day of the month in which the payment became due. In addition to such delinquent payment, a late charge of **$200.00 (two hundred)** will be assessed on the delinquent payments and interest will accrue on the delinquent payment at a rate of **18% (eighteen percent)** per month on all delinquent balances.

4.5 In place of the fees described in paragraph 4.1, a. and b., Operator may pay for a single permit according to the following rate schedule:

$175.00 (one hundred and seventy five) per cab/limo per trip,
$250.00 (two hundred and fifty) per van per trip, and
$475.00 (four hundred and seventy five) per bus/motor coach per trip.

5. TERM

5.1 Subject to earlier suspension or termination as hereinafter provided, the term of this Lease shall be a one (1) year period commencing December 1 2018, and ending November 30, 2019 (the "Initial Term"). The term of this Lease may be renewed at the sole discretion of the County for up to two (2) additional terms of one (1) year each. The first additional term commencing December 1, 2019 through November 30, 2020 and the second additional term commencing December 1, 2020 through November 30, 2021 and upon the same terms and conditions as the Initial Term (except as otherwise provided herein).

6. Insurance.

A Certificate of Insurance listing the following coverage's must be provided upon signing of the operator agreement:

Comprehensive General (Public) Liability (other than automobile)	$1,093,000 combined single limit for bodily injury and property damage
Automobile Bodily Injury	$2,000,000 per individual
Automobile Property Damage Liability	$1,093,000 per occurrence
Workers Comprehensive Liability	As required by the State of Colorado

Without limiting its liability, Concessionaire agrees to carry and keep in force an insurance policy naming Gunnison County, Gunnison-Crested Butte Regional Airport as additional insured on the certificate. Proof of Workers Compensation must also be provided.

7. Indemnification of County.

Operator agrees to defend, indemnify, and hold harmless the Board of County Commissioners of Gunnison County, Colorado, the elected and appointed officials and the employees and agents of Gunnison County (hereinafter "Gunnison County") from and against all liability losses, costs, charges, penalties obligations, expenses, attorney fees, litigations, judgments, damages, claims and demands of any kind what so ever; collectively "Claims" in connection with arising out of, or by any reason related to Operator's business or its actions pursuant to this lease.

8. Parking and Operation of Vehicles.

Operator agrees to observe the following requirements with respect to parking and operation of Commercial Vehicles at the Airport:

8.1 Any operator who awarded exclusive use of parking space in the sole discretion of the Airport Manager shall utilize such space for loading prior to utilizing non-exclusive spaces.

8.2 Operator shall not park Commercial Vehicles at the Airport overnight, unless specifically authorized by prior agreement with the Airport Manager.

8.3 Operator shall load and unload passengers and property and shall park Commercial Vehicles only in areas designated for Commercial Vehicle and Operator's use.

8.4 Operator shall adhere to traffic laws, posted signs and pavement markings.

8.5 Commercial Vehicles shall not be left unattended in loading and unloading spaces except as may be necessary to assist a passenger with baggage, or locate an incoming passenger with reservations in the area designated by the Airport Manager. If a vehicle is to be left unattended for longer than 30 minutes, it may be removed by the County to a holding area.

8.6 Operator shall not operate any Commercial Vehicle to, at, or from the Airport which is unsafe or which fails to meet safety standards applicable to such vehicle.

8.7 Operator shall at all times obey the lawful instructions of the Airport Manager with respect to the loading, unloading, parking and operation of Commercial Vehicles upon the Airport, and the conduct of Employees at the Airport.

9. PROVISION OF AUDIT AND INFORMATION.

9.1 Operator shall monthly provide the Airport Manager with information on the number, destination, and/or origin of passengers transported to and from the Airport, on forms established by the Airport Manager, no later than the 10th day of the month following the month in which service to or from the Airport has been provided. Statement shall be signed and certified as correct by an official of the Operator authorized to so certify.

9.2 Operator shall submit to the Airport Manager, upon request, copies of current, city, county, state or other permits or licenses pertaining to transportation of passengers and/or freight.

9.3 Annually, within thirty (30) days after the end of every operations year, at the expiration of the Operator's term and upon assignment of Operator's rights hereunder, Operator shall file a statement of gross revenues or gross receipts reportable under this Agreement, which report shall be prepared, signed and certified as correct by a corporate officer of Operator.

9.4 Operator shall maintain full and accurate books of account and records from which "gross revenue" and "gross receipts," as defined herein, the amount and nature of all business transacted on or though the Airport and the amount of percentage rental owed the County hereunder, particularly as it relates to all revenues or receipts attributable to Operator's business conducted at the Gunnison County Airport, can be determined and verified, according to standard and accepted accounting and auditing practices. The books of account and records that Operator must maintain must include, but need not be limited to, legible, true and accurate copies of all written and electronic records and reports kept in the normal course of Operator's business including, without limitation, all motor vehicle rental contracts, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursement journals, general ledgers, bank statements, bank books, bank deposit slips, annual federal income tax returns, state sales tax returns and all Airport-related revenue reports submitted by Operator to its franchisor. These books and records shall be maintained on a current basis and shall be stored at LICENSEE'S principal location for a period of at least thirty-six (36) months from the end of each monthly period, or for such longer period of time as County reasonably may direct in writing.

9.5 The County reserves the right to conduct audits of Operator's books of account and records, which audits may be conducted upon reasonable notice to Operator and during Operator's normal weekday business hours. In performing said audits, County shall be entitled to review, and Operator shall be obligated to provide the County, all of the books of account and records that Operator obligated to maintain pursuant hereto, as well as other documents and files in Operator's possession, custody or control at the time County advises Operator of its desire to audit Operator's records, that the County, or its auditor, believe, in their sole discretion, are useful, relevant or necessary to determine or verify the correct amount of gross revenues enjoyed by Operator, and the correct amount of percentage rental owed by Operator to the County, for the period involved. Should Operator fail to maintain the books of account and records required to be maintained pursuant hereto, or should Operator fail to permit County or its auditor to review Operator's books and records, and other documents and files, as required by this subparagraph, said default is agreed by the parties to be a material breach of this Agreement and Operator agrees to pay, as liquidated damages for such breach, an additional amount equal to fifty (50%) percent of the verifiable costs, fees and charges due from Operator hereunder for the period in question. If any audit shows percentage rentals and other charges that should have been paid to the County by the Operator pursuant to this Agreement were understated or underpaid for any period involved, Operator shall, within thirty (30) days notice of any such deficiency, pay to the County the full amount underpaid, plus eighteen percent (18%) interest, on such underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid.

In addition, if the amount of underpayment exceeds exactly one (1.0%) percent of the total annual percentage rental that was owed by Operator to the County for the audit period involved, Operator, in addition to paying the County the underpayment owed and interest accrued thereon, shall within thirty (30) days' notice reimburse the County for the cost of the audit not to exceed Fifteen Hundred Dollars ($1,500.00). If the audit discloses overpayment of the percentage rentals paid to the County by Operator, the County shall refund the amount of overpayment to Operator within thirty (30) days of said audit. The County shall hold all information obtained from any such audit in confidence, except as may be necessary to enforce the County's rights under this Agreement, except with respect to tax proceedings, and except with respect to any legal requirements or Court Order to disclose said information.

10. Rate Cards.

Operator shall submit to the Airport Manager a current rate at the beginning of each month.

11. Conduct and Qualification of Employees.

11.1 Operator shall make all Employees aware of Operator's responsibilities under this Agreement.

11.2 Operator and it Employees shall not engage in solicitation at the Airport. The Operator and its Employees is expressly forbidden from engaging in any form of solicitation with individuals or groups other than the pre-arranged reservation and shall not loiter in the Terminal or its environs nor enter the security screening area. Employees entering the Terminal Building for the purpose of meeting pre-arranged reservations shall be subject to the following specific restraints:

a. The Employee/Operator will not be allowed in the building earlier than 30 minutes prior to the current scheduled flight arrival of the person or group reservation being met.

b. The Employee will carry a sign meeting the specific size requirements of no larger than 12 inches by 18 inches and will contain only the name of the individual or group being met.

c. The Employee will stand in an area designated by Airport Management until making contact with the pre-arranged reservation. At no time shall the Employee roam the Terminal building, display, or stand in an area other than

that designated by Airport Management for meeting pre-arranged reservations.

d. Upon contacting the reserved party or individual, the operator will immediately guide that party outside to their waiting transportation.

e. If the Employee is petitioned for service by others, they must be directed to either the Telephone Reservation Board, or to the On-airport transport service provider counter.

f. The operator is expressly forbidden from engaging in any form of solicitation with individuals or groups other than the pre-arranged reservation.

g. Employees may under no circumstances provide service to anyone other than a pre-arranged reservation. If an individual or group makes transportation arrangements from the Airport Telephone Board, those reservations must be directed to the operators parking position. They cannot be accommodated by the operator's representative in the Terminal building meeting a previous pre-arranged reservation.

11.3 Only Employees who are properly licensed and qualified with respect to the Commercial Vehicle operated shall be permitted by Operator to operate such vehicle upon the Airport.

11.4 Employees shall at all times have a neat, clean and modest appearance. Clothing shall include shoes and shirts and may bear reasonable insignia indicating affiliation with Operator. Personnel must demonstrate professional and courteous conduct at all times while on the Airport.

11.5 Employees may meet reservations at baggage pickup area, and may display a sign (per section 10.2) with the passenger(s) or group name, but may not loiter in the terminal after making contact. Employees will not be allowed in the baggage area prior to passenger(s) scheduled arrival.

11.6 At the discretion of Airport Management, Operator violating the above rules and regulations will be prohibited from conducting further business at Gunnison-Crested Butte Regional Airport for a period of 30 days. Second time or habitual violators may be permanently barred from conducting business at the Gunnison-Crested Butte Regional Airport.

11.7 Operator shall ensure that all Employees attend orientation sessions, which the Manager may schedule from time to time.

11.8 Operator shall at all times obey the lawful instructions of the Manager with respect to the loading, unloading, parking and operation of Commercial Vehicles upon the Airport, and the conduct of Employees at the Airport.

110.9 Any violation or complaint of an Operator's employee will be forwarded to the respective person noted below.

12. Registration of Commercial Vehicles.

12.1 Operator agrees to register with the Airport Manager each Commercial Vehicle it utilizes in providing service at the Airport, and not to use any unregistered vehicle to provide such service. The Commercial Vehicles listed on the Registration Sheet annexed hereto as Exhibit 1 are hereby registered.

12.2 Operator agrees that prior to using at the Airport any Commercial Vehicle not registered above, may bring said vehicle and registration to the Airport for registration by the Airport Manager.

12.3 Operator must submit written notice of change of registration of vehicles by the 15th of each month.

12.4 Any decals issued by the Airport Manager shall be displayed at all times in the lower right hand corner of the front windshield of each Commercial Vehicle operating at the Airport. Operator shall operate no Commercial Vehicle at the Airport which does not display a current decal, without the Airport Manager's prior approval.

12.5 Each Commercial Vehicle operated at the Airport shall bear a sign which clearly discloses the identity of Operator or of a trade name under which Operator does business at the Airport. Trade names under which Operator does business at the Airport are:

(1) Rocky Rides LTD

13. TERMINATION, SURRENDER AND DAMAGES

13.1 Termination by Operator.

Operator may terminate this Agreement, by providing 30 days written notice to the County. Termination shall not entitle Operator to a refund of any fees paid in advance.

13.2 Termination or Suspension by County.

a. If Operator fails to make any payment due hereunder within ten (10) days after notice of the overdue payment is sent to Operator at the address set forth for Operator herein, the County may, at its option, and in addition to other remedies, terminate this Agreement.

b. The County shall also have the right to terminate this Agreement in the event of the appointment of receiver of Operator's assets or the default by Operator in the performance of any covenant or agreement herein required to be performed by Operator other than the payment of money, and the failure of Operator to remedy such default for a period of twenty (20) days after receipt from County of written notice to remedy the same.

c. Notwithstanding the provisions of paragraph 13.2.2 above, if Operator fails to observe its obligations under Paragraphs 3.5.1 through 3.5.12 of this Agreement or any predecessor Agreement between the parties, the County, through the Airport Manager may:

5.2.3.1 Issue written warnings to the Operator;

5.2.3.2 Suspend, by written order, the Operator's authority under this Agreement to operate to, from and upon the Airport for any period of up to 30 days for each such violation, or;

5.2.3.3 Suspend, by written order, an Employee's authority to operate a commercial vehicle to, from and upon the Airport for any period of up to 30 days for each such violation, or;

5.2.3.4 Terminate by written order, the Operator's authority under this agreement to operate from and upon the Airport for multiple violations within the same calendar year, which year is agreed to be December 1 through November 30.

13.3 Delayed Termination or Suspension.

In the event of default by Operator, the Airport Manager in his/her discretion may impose termination or suspension of authority immediately, as set forth in Section 5.2 above, or delay such suspension or termination for imposition during the next period in which Airport enplanements again approximate the period during which the violation(s) occurred. Violations and defaults under this Agreement may be considered by the Airport Manager in imposing suspensions or termination under any successor agreement.

14. ASSIGNMENT

14.1 Assignment. Operator shall not at any time assign its rights under this Agreement or any part thereof without the prior written consent of the County; provided, however, that the foregoing shall not prevent the assignment of such rights to any corporation with which Operator may merge or consolidate, or which may succeed to the business of Operator. No such assignment shall release Operator from its obligations to pay any and all of the rentals and charges and to otherwise perform Operator's obligations set forth herein.

14.2 Successors to County. The rights and obligations of the County under this Agreement may be assigned by the County, at the option of the County, and without the necessity for the concurrence of the Operator in any such assignment.

15. OTHER AGREEMENTS

7.1 Airport Rules and Regulations. Operator agrees to observe and obey rules and regulations that may be adopted by Gunnison County from time to time respecting use of the Airport.

15.2 Agreement Subordinate. This Ground Transportation Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the County and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the County for Airport purposes, and the expenditure of federal funds for the extension, expansion or development of the Airport.

15.3 Non-Discrimination. The Operator, in operations at and 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. The Operator 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.

15.4 County reserves the right to grant leases, licenses, uses, permits or rights including but not limited to additional ground transportation agreements to other parties to operate on the Airport.

15.5 The County reserves the right to direct, in its reasonable discretion, Operator's operations in the event that Licensee's operations are unreasonably interfering with the use by others of the Airport; e.g., to restrict the use of "public" areas of the terminal and public-access curbs, sidewalks and roadways in favor of the traveling public.

15.6 County reserves the right to further plan, develop, improve, remodel and/or reconfigure the Airport, and/or terminal including existing vehicle and pedestrian traffic patterns, as

County deems appropriate, without interference or hindrance by the Operator, and County shall have no liability hereunder to Operator by reason of any interruption to Operator's operations on the Premises occasioned by such County activities.

15.7 Uncontrollable Circumstances. Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of these terms, covenants or conditions of this Agreement, due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstances for which such party is not responsible or which it is not in its power to control.

15.8 It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right.

16. MISCELLANEOUS PROVISIONS

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

16.2 Time of Essence. Time is of the essence in this agreement

16.3 Non-Waiver. 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.

16.4 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.

16.5 Governmental Immunity. Nothing in this Agreement is, or shall be construed to be, a waiver, in whole or in part, by the Board of County Commissioners of Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

16.6 Advice of Independent Counsel. Each party to this Agreement has sought and obtained, to the degree it has deemed necessary and beneficial, the advice of independent legal counsel regarding this Agreement.

16.7 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.

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

16.9 Notices. Notices provided for herein shall be sufficient if sent by Certified Mail, Return Receipt Requested, postage prepaid, to the addresses set forth above or to such other addresses as the parties may from time to time designate in writing.

16.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Exclusive jurisdiction and venue for any legal proceedings related to this agreement shall be in the state district court governing Gunnison, Colorado.

16.11 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.

16.12 Modification of Agreement. This Agreement may not be altered, modified or changed in any manner whatsoever except by writing signed by all parties hereto.

17. IMMIGRATION COMPLIANCE CERTIFICATION.

17.1 Contractor certifies that it does not and will not knowingly contract with or employ illegal aliens to work under this contract. Contractor further certifies that it has required its subcontractors to certify that they do not knowingly contract with or employ illegal aliens to work under this contract. Finally, Contractor certifies that it has attempted to verify the eligibility of its employees and subcontractors to work through the Basic Pilot Employment Verification Program (operated by the Department of Homeland Security

20. NOTICES

20.1 All notices or other written correspondence desired or required to be sent pursuant to this Lease shall be sent by to the respective parties as follows:

If to County: Airport Manager
Gunnison Crested Butte Regional Airport
519 W. Rio Grande
Gunnison, CO 81230

If to the Operator: Rocky Rides LTD.
Jordan Anderson
P O Box 3182
Crested Butte, CO 81224

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

BY_____
Phil Chamberland, Chairperson

_____
Jonathan Houck, Commissioner

_____
John Messner, Commissioner

Attest:

_____

OPERATOR
Rocky Rides, LTD.

By _____
Jordan Anderson, Owner

Attest: Signed before me on November 16, 2018 by Jordan Anderson

Cynthia Bolton
Notary Public

CYNTHIA BOLTON
Notary Public - State of Colorado
Notary ID 20024016583
My Commission Expires May 20, 2022