

## **NON-COMMERCIAL USE HANGAR LEASE AGREEMENT**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Denton, Texas, a Texas home-rule municipal corporation ("City"), and \_\_\_\_\_ ("Tenant"), **WHEREAS:**

A. The City owns certain hangars available for lease to private or public owners of aircraft located at the Denton Enterprise Airport ("Airport").

B. The City is willing to lease one of the hangars to Tenant pursuant to this Agreement.

**NOW**, in consideration of the matters set forth above (which are incorporated herein by reference), the exchange of the mutual promises set forth below, and other good and valuable consideration, the parties agree as follows:

1. **Leased Premises.** The City leases to Tenant, Hangar Number \_\_\_\_\_ (the "Premises" or the "Hangar") located on the Airport, as shown in Exhibit "A."

2. **Term of Lease.** The term of this Agreement shall commence on \_\_\_\_\_, 201\_\_\_\_, and shall continue in effect for twelve (12) months unless earlier terminated under the provisions of this Agreement. Tenant may terminate this Agreement without cause by giving City at least a thirty-day (30) written notice prior to termination. At least 30 days prior to the termination date of this Agreement, City shall notify Tenant of any rent increase required for the renewal of this Agreement and Tenant shall have the option to renew the term for another one year period. In the event Tenant remains in possession of the Premises after the Lease Term, without the execution of a new agreement, Tenant shall be considered to be occupying the Premises as a tenant from Month to Month, subject to all of the same conditions, provisions and obligations of this Agreement. The rent amount due City by Tenant during said Month to Month tenancy shall be 120% of the amount that was last in effect immediately prior to the time said Month to Month tenancy became effective. Under said Month to Month tenancy either Tenant or City may terminate this Agreement effective on the last day of any month, providing one serves the other written notice of intent to terminate at least 30 days in advance of the termination date.

3. **Rent.**

3.1. The monthly rent shall be \$\_\_\_\_\_ per month due in advance on the 1st day of each month commencing \_\_\_\_\_, 201\_\_\_\_. Rent shall be paid in person or mailed to the City of Denton, c/o Denton Enterprise Airport, 5000 Airport Road, Denton, Texas 76092, or made in any other manner as City may from time to time reasonably direct.

3.2. If Tenant fails to pay any installment of rent within 10 days of its due date, Tenant shall pay, along with the rent payment, a late charge of twenty-five dollars (\$25.00).

**4. Use of Premises.**

4.1. The aircraft to be hangared in the premises is described as follows:

Aircraft Make: \_\_\_\_\_

Aircraft Model: \_\_\_\_\_

Aircraft Year: \_\_\_\_\_

Serial No.: \_\_\_\_\_

Registered Owner: \_\_\_\_\_

N-number: \_\_\_\_\_

4.2. The premises to be used only for the storage of airworthy aircraft owned or leased by Tenant, and other aviation-related items. For the purposes of this agreement, an airworthy aircraft is defined as one that has successfully completed an annual inspection by a properly certified aircraft inspector according to the aircraft's logbook(s) within the preceding 12 month period.

4.3. Tenant may use a small refrigerator in the premises if the wiring capacity of the premises permits such usage.

4.4. Tenant shall not use the premises for any commercial activity. Storage of aircraft used by Tenant in connection with its customary non-aviation business shall not be considered to be a commercial activity. Under no circumstances will the sale of goods or services be operated out of the hangar.

4.5. Aircraft may not be inoperable or under repair for a period in excess of 120 consecutive days unless such condition is caused by circumstances beyond Tenant's control (e.g., inability to obtain parts).

4.6. If Tenant changes the aircraft to be stored in the hangar, Tenant, shall, within 10 days thereafter, report the information listed in 4.1 of the new aircraft in writing to the Airport Director at the address shown on this Lease.

4.7. Tenant agrees to and shall comply with all applicable ordinances, rules, and regulations established by the federal government, State of Texas, or City. Tenant further expressly represents, covenants, warrants, guarantees, and agrees that it shall fully comply with all Federal, State and City laws, ordinances, rules, and regulations protecting the environment. Tenant hereby expressly agrees to indemnify and hold City harmless from, and against any and all liability for fines and physical damage to property or injury or deaths to persons, including reasonable expense and attorney's fees, arising from or resulting out of, or in any way caused by, Tenant's violation of any applicable Federal, State, and local laws, ordinances, regulations, rulings, orders and standards, now or hereafter, promulgated for the purpose of protecting the environment. Tenant agrees to cooperate with any investigation or inquiry by any governmental agency regarding possible violation of any environmental law or regulation.

4.8. No explosives or combustible materials will be permitted within or about the hangar except for fuel in aircraft tanks or small containers of lubricants, cleaning materials, and other aviation-related materials stored in EPA or local Fire Marshall approved containers or cabinets.

4.9. No refueling of the aircraft is allowed while any part of the aircraft remains inside the hangar.

4.10. Upon a sale or casualty to a Tenant's aircraft, Tenant shall replace the aircraft within 180 days. In the event that Tenant is unable to do so based upon extenuating circumstances beyond Tenant's control, Tenant may request City to extend this time period, which extension may be granted by City in its sole discretion.

4.11. Tenant shall not operate any motor vehicle on the Airport apron, runway system, or taxiway system at any time, except that the loading or unloading of aircraft on the FBO apron is permitted. The exclusive means of access to the premises will be through the Skyline Drive.

4.12. Unless Tenant is in its hangar, Tenant shall park any vehicle belonging to Tenant, or its guests or licensees in the public parking area outside of the fence, or, when Tenant's aircraft is not in the hangar, in the hangar.

4.13. Tenant shall not allow its aircraft engine to be run inside a hangar.

## **5. Miscellaneous.**

5.1. The City reserves the right to deny access to the Airport and its facilities to any person, firm, or corporation that fails or refuses to obey and comply with the rules and regulations contained herein.

5.2. The City shall maintain the hangar lock. One key will be maintained by Tenant. The master key will be maintained by the Airport Director or its authorized representative. The master key will only be used in case of an emergency or for inspections. Under no circumstances will Tenant replace the lock provided by City.

5.3. The City reserves the right at all times to enter the hangar for security, fire, and other lawful purposes (including inspections reasonably appropriate to ensure compliance with the provisions of this Lease). All routine inspections shall be done during normal business hours and in conformity with City's Airport policies (including those requiring two employees to be present during inspections). The City shall leave a notice on the premises following inspections indicating the time and date of the inspection, who was present, and the purpose of the inspection; provided, however, no notice shall be required if: (a) the inspection was a law enforcement purpose; or (b) the City had previously mailed a notice to Tenant, at least a week prior to the inspection, advising Tenant of the week in which the inspection would occur and the purpose of the inspection.

6. **Aircraft Maintenance and Repairs/Chemicals.** The following provisions govern maintenance and repair of aircraft stored in the hangar.

6.1. Repairs of aircraft shall be governed by, and performed in compliance with, Part 43 of the Federal Aviation Administration Regulations (14 C.F.R. Part 43). Terms defined in Part 43 shall have the same meaning in this paragraph.

6.2. Painting, other than minor touch-up painting of aircraft by Tenant, is prohibited in the hangar.

6.3. No maintenance or repairs, other than preventive maintenance, may be performed inside of a hangar.

6.4. Tenant shall be permitted to perform only preventive maintenance on its aircraft.

6.5. The provisions of subparagraphs 6.3 through 6.5 shall not apply to experimental aircraft construction and maintenance to the extent they are exempt from the provisions of 43 of the Federal Aviation Administration Regulations, but such activities shall be subject to applicable Federal Aviation Administration Regulations (e.g. 14 C.F.R. §65.104).

6.6. Tenant agrees to properly store, collect and dispose of all chemicals and chemical residues, and petroleum products and residues; to properly store, confine, collect and dispose of all paint, including paint spray in the atmosphere, and paint products; and to comply with all local, state, and federal regulations governing the storage, handling or disposal of such chemicals, petroleum products and paints. Tenant shall cover any and all costs for clean-up of

any hazmat spill on the Premises, or any part of the Denton Enterprise Airport, if the spill was caused by the negligence or willful misconduct of the Tenant, its agents, employees, or guests.

## **7. Maintenance of Premises.**

7.1. City shall maintain the structural integrity of the hanger, including doors, and will provide Tenant with access to water, electricity and normal building maintenance.

7.2. The Tenant shall maintain the interior of the hangar in a neat and orderly condition, and shall keep the hangar floor clean and clear of excess oil, grease, or toxic chemicals.

7.3. The Tenant shall make no structural, electrical, or any other modifications or alterations to the premises, or remove any structures, wiring, plumbing or other facilities, without first submitting to City the plans and specifications for the proposed modifications and obtaining a written approval from City (which approval may be subject to reasonable conditions imposed by City) and without first obtaining all applicable permits from governments with jurisdiction over the activities. All fixtures, alterations, changes and improvements built, constructed or placed on the premises by Tenant shall, at City's option, become the property of City and remain on the premises at the expiration or earlier termination of this Lease, or City may require Tenant to restore the premises, in whole or in part, to its condition prior to such fixtures, alterations, changes or improvements.

7.4. The Tenant shall be responsible for all damages to the premises caused by Tenant or arising from Tenant's use of the premises, except those caused by "acts of God," or those arising from normal wear and tear or from deliberate or negligent acts of City or its employees. If Tenant does not promptly repair any damages for which it is responsible hereunder after notification by City, City may, but shall not be obligated to, make repairs at Tenant's expense which shall become due and payable as part of Tenant's rent on the next monthly billing cycle.

## **8. Indemnity and Insurance.**

8.1. Tenant shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities of Tenant, its agents, employees, contractors or invitees on the premises including, without limitation, harm or personal injury to third persons during the term of this Agreement, except those caused by the deliberate or negligent act or failure to act of City or its agents or representatives.

8.2. The City may maintain fire and casualty insurance on the premises for its benefit but such insurance shall not cover any property of Tenant and all proceeds payable thereunder shall be the sole property of City. If the premises are damaged by any casualty not the result of the negligent or deliberate acts of Tenants, its licensees, invitees, and guests, City may terminate this lease or may, at its option, repair the damage. If City elects to repair, rent shall be abated until repairs are completed.

8.3 Tenant shall, at its sole cost and expense, procure and maintain in effect at all times during the term of this Agreement insurance coverage with limits not less than those set forth with insurers and under forms of policies satisfactory to the Airport Manager, acceptance of which shall not unreasonably be withheld. The Airport Manager reserves the right to require complete copies of such insurance policies for the purpose of determining acceptability. Tenant shall furnish City with copies of policies or certificates from insurance carrier(s) showing all insurance required hereunder to be in full force and effect during the entire term of this Agreement. Certificates shall show by separate endorsement and policies shall contain the provision that written notice of cancellation or of any material change in coverage under said policies shall be delivered to the Airport Manager thirty (30) days in advance of the effective date thereof; provided, however, Tenant shall be responsible for such notification to City whether or not the insurer complies. Tenant shall maintain all insurance hereunder with insurance underwriters authorized to do business in the State of Texas satisfactory to the Airport Manager. Tenant is required to provide and maintain the following insurance: Aircraft Liability Insurance and/or Excess Coverage, Bodily Injury and Property Damage, with a minimum limit of \$1,000,000.00 single limit each occurrence and \$100,000 per passenger, which shall include, but not be limited to, the aircraft physical damage, premises and operations, and contractual, including coverage for assumption of liability set forth in this Lease. All policies (primary and excess) and Certificates of Insurance shall be provided by the named insured to the City evidencing proper limits of coverage as set forth above. All policies shall be primary coverage for all claims and losses arising from the use, occupancy and operation of the Premises and the Airport. All policies shall name, and Certificates shall show by separate endorsement that policies name, the City, its Council members, agents and employees as Additional Insured; provided, however, any other insurance available to City shall be excess and shall not contribute with this insurance. City has and reserves for all purposes of this Agreement the right to revise the insurance requirements set forth herein as to amounts, limitations and types of coverage, and Tenant agrees to comply with such revised requirements upon notice from City. City shall have the right to determine its own legal counsel in all matters under this Agreement.

8.4. Tenant shall at its sole cost repair any damage to the premises resulting from negligent or deliberate acts of Tenant, its licensees, invitees, and guests.

8.5. City shall not be responsible for any damage to any property of Tenant (including, without limitation, aircraft) or of others located on the premises, nor for the loss of

or damage to any property of Tenant or of others by theft or otherwise. City shall not be liable for any injury or damage to persons or property resulting from fire, smoke, explosion, falling plaster, steam, gas, electricity, water, rain, or leaks from any part of the premises or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place of by dampness or by any other cause of whatsoever nature. City shall not be liable for any latent defect in the premises or in the building of which they form a part. All property of Tenant kept or stored on the premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold City harmless from any and all claims arising out of damage to same, including subrogation claims by Tenant's insurance carriers, except those caused by the deliberate or negligent act or failure to act of City or its agents or representatives.

**9. CONDITION OF PREMISES; NO WARRANTIES.**

9.1. City represents and warrants that the premises comply with applicable building and fire codes in effect at the time of the premises' construction, and that any changes in such codes since such time do not require additional improvements to the premises (except upon a rebuilding or renovation thereof).

**9.2. EXCEPT AS SET FORTH IN THE PRECEDING SUBPARAGRAPH;**

**9.2.1. TENANT ACKNOWLEDGES THAT BY ENTERING INTO POSSESSION OF THE PREMISES, IT SHALL BE DEEMED: TO HAVE INSPECTED THE PREMISES; AND TO HAVE ACCEPTED THE PREMISES "AS IS," "WITH ALL FAULTS" OF ANY NATURE WHATSOEVER; AND**

**9.2.2. TENANT ACKNOWLEDGES THAT NEITHER CITY NOR ANY AGENT OF CITY HAS MADE ANY WARRANTY OR REPRESENTATION, OF ANY NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE PREMISES, INCLUDING, WITHOUT LIMITATION, SOIL CONDITIONS, ENVIRONMENTAL CONDITIONS, BUILDING CONSTRUCTION OR SUITABILITY OF THE PREMISES FOR TENANT'S PURPOSES.**

**10. Default.** Tenant shall be deemed to be in default under this lease in the event that:

10.1. Tenant fails to pay any rent as and when due hereunder and fails to cure such default within 5 business days of written notice from City of such failure;

10.2. Tenant violates, or fails to comply with, any other provision of this lease, and fails to cure such default within 5 days of written notice from City of such violation or failure. Notwithstanding the foregoing, if Tenant has previously violated a term, condition, or covenant of this Lease, and is provided with notice of and an opportunity to cure such violation, any subsequent violation of the same term, condition, or covenant shall constitute an Event of Default without further notice or opportunity to cure; or

10.3. Tenant uses the premises for any illegal purpose or in connection with any illegal activity.

11. **Remedies.** If any default occurs (including the expiration of any opportunity to cure), City shall have the right, at the option of City, to pursue all remedies available at law or equity, including the termination of this Agreement and all rights of Tenant hereunder. Notwithstanding City's termination of the Agreement, Tenant shall remain liable to City for all claims for damages, costs or attorneys' fees arising prior to such termination.

12. **Notices.**

12.1. All notices, requests, consents and other communications required or permitted under this agreement shall be in writing (including faxed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, faxed, or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by notice complying with the terms of this paragraph:

12.1.1. If to Tenant: At the address or fax number underneath Tenant's signature line.

12.1.2. If to City: City of Denton, Denton Enterprise Airport, 5000 Airport Road, Denton, Texas 76092, fax: (940) 349-7289.

12.2. Each such notice shall be deemed delivered:

12.2.1. On the date delivered if by personal delivery;

12.2.2. On the date faxed if by fax; and

12.2.3. If the notice is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; (b) the date upon which delivery is refused; (c) the date upon which notice is designated by the postal authorities as not delivered; or (d) the third business day after mailing.

12.3. If a notice is delivered by multiple means, the notice shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.

13. **Attorneys' Fees.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, and court costs (including, without limitation, all such fees, taxes, costs and expenses incident



to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party.

14. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

15. **Landlord's Lien.** City shall have at all times a lien for all rentals and all other sums of money becoming due hereunder from Tenant upon all aircraft, goods, wares, equipment and other personal property situated on the leased premises and such property shall not be removed there from without the consent of City until all arrearage in rent and other sums of money then due to City shall first have been paid. Upon the occurrence of an event of default by Tenant, City may, in addition to any other remedy provided herein or by law, enter upon the leased premises and take possession of the aircraft or any and all goods, wares, equipment and other personal property situated therein without liability for trespass or conversion, sell the same upon 5 days written notice to Tenant (said period of time being herein agreed to be reasonable) at public or private sale, with or without having such property at the sale, at which City or its assign may purchase, and apply the proceeds thereof, less any and all expenses connected with the taking of possession and sale of the property and a credit against any sums due by Tenant to City. Any surplus shall be paid to Tenant and Tenant agrees to pay any deficiency forthwith. Alternatively, the lien hereby granted may be foreclosed in the manner provided by law for foreclosure of security interest of in any other form provided by law. The statutory lien for rent is not hereby waived, the expressed contractual lien herein granted being in addition thereto.

16. **Subordination of Agreement.** This agreement shall be subordinate to the provisions of any existing or future agreement between the City and the State of Texas or the United States 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 state or federal funds for the development of the airport.

17. **Assignment/Subletting.** Tenant shall not assign this Agreement, or sublet the premises, in whole or part, without the prior written consent of City which may be withheld by City in its sole discretion. The parking of aircraft not owned or leased by Tenant shall be deemed a prohibited assignment or sublease.

18. **Reference to Parties.** Each reference herein to the parties shall be deemed to include their successors, permitted assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.

19. **Waiver.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

20. **Governing Law.** This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Texas and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Texas.

21. **Jurisdiction and Venue.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Denton County, Texas. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Denton County or the United States District Court, Eastern District of Texas, Sherman Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

22. **Rights of Third Parties.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

23. **Severability of Illegal Provisions.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.

24. **Section Headings.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

25. **Amendment.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both of the parties to this Agreement.

26. **Entire Agreement.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to make objection. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

**THEREFORE**, the parties have executed this Agreement on the date set forth above.

**City of Denton, Texas**

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APPROVED AS TO FORM AND LEGALITY:

ANITA BURGESS,  
CITY ATTORNEY

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**Tenant**

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\_\_\_\_\_  
(Sign here)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Printed Name (If Tenant is a corporate or  
other entity, print name of entity, name of  
person signing, and title of person signing)

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Cell: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

**Exhibit “A”**