

ORDINANCE NO. 2012-236


AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ON BEHALF OF THE CITY OF DENTON A COMMERCIAL OPERATOR LEASE AGREEMENT BETWEEN THE CITY OF DENTON, TEXAS AND HTA AVIATION FOR APPROXIMATELY 26,055 SQUARE FEET OF LAND LOCATED AT 4910 LOCKHEED LANE AT THE DENTON AIRPORT; AND, PROVIDING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF DENTON, TEXAS HEREBY ORDAINS:

SECTION 1. The City Manager or his designee is hereby authorized to execute an airport lease agreement for commercial operator between the City of Denton and HTA Aviation in substantially the form of the Airport Lease Agreement which is attached to and made a part of this ordinance for all purposes.

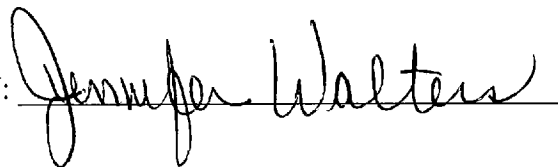
SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 19th day of September, 2012.

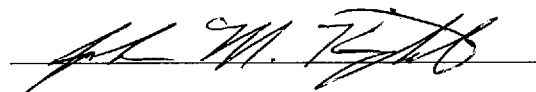


MARK A. BURROUGHS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: 

AIRPORT LEASE AGREEMENT
COMMERCIAL OPERATOR

This Lease Agreement (the "Lease Agreement" or "Agreement") is made and executed to be effective as of the 18th day of September, 2012 (the "Effective Date") at Denton, Texas, by and between the City of Denton, Texas, a municipal corporation, hereinafter referred to as "Lessor", and HTA Aviation, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, Lessor now owns, controls and operates the Denton Municipal Airport (the "Airport") in the City of Denton, County of Denton, State of Texas; and

WHEREAS, Lessee desires to lease certain premises at the Airport known as 4910 Lockheed Lane and to construct and maintain an aircraft hangar and related aviation facilities thereon;

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

I. GENERAL CONDITIONS OF LEASE AGREEMENT

A. PRINCIPLES OF OPERATIONS. The right to conduct aeronautical and related activities for furnishing services to the public is granted to Lessee subject to the terms hereof and to Lessee agreeing:

1. To furnish said services on a fair, equal and not unjustly discriminatory basis to all users thereof; and
2. To charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

B. NON-DISCRIMINATION. Lessee, for itself, its personal representatives, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, religion, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
2. In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, religion, color, sex, or national origin shall be excluded from participation in, denied

the benefits of, or otherwise be subjected to discrimination;

3. Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, 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, as said Regulations may be amended.

C. RIGHT OF INDIVIDUALS TO MAINTAIN AIRCRAFT. It is clearly understood by Lessee that no right or privilege has been granted in this Agreement which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees (including, but not limited to, maintenance and repair) that it may choose to perform.

D. NON-EXCLUSIVE RIGHT. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Title 49 U.S.C. §40103.

E. PUBLIC AREAS.

"Public Areas" or "Public Area" is that portion of the Airport, which is now or hereafter considered by the FAA, TxDOT, the City of Denton, or any other regulatory agency with oversight of the Airport to be the obligation and responsibility of the Lessor to operate and maintain for the common use and benefit of the general aviation public. The Airport Public Area includes, without limitation, any air navigation facility or structure designed and intended to serve the general public not specifically subject to an exclusive use agreement such as a lease agreement, license or permit. The Airport Public Areas include all runways, taxiways and other common-use paved, graveled or turfed areas and their respective protection zones, safety areas and/or object free areas; any other facility or facilities at the Airport that are eligible for federal or state grants or subsidies awarded on the basis of their serving the benefit of the public (including runways, taxiways, vehicle streets and alleys, public aircraft aprons/tarmac, vehicle parking areas, and drainage structures); field lighting and associated beacon and lighted wind and landing direction indicators; security, fire, and emergency medical facilities; directional signs; and perimeter or restricted access fences. Generally, the Public Area is the total area and facilities of the Airport exclusive of all non-public airport facilities, and may vary from time to time depending on the total land comprising the Airport and the change of land use at the Airport.

F. LESSOR AND THIRD PARTY RIGHTS.

1. Lessor reserves the right to further develop or improve the Public Area of the Airport and any other property at the Airport not part of the Leased Premises as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

2. Lessor shall be obligated to maintain and keep in good repair the Public Area, together with the right to direct and control all activities of Lessee in this regard.
3. During time of war or national emergency, Lessor shall have the right to lease the Public Area or any part thereof to the United States Government for military or naval use, and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the Lease Agreement to the Government, shall be suspended.
4. Lessor reserves the right 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 or safety of the Airport or constitute a hazard to aircraft or to aircraft navigation. The Lessee Improvements as currently contemplated in **Section II.D.** do not violate this provision.
5. This Lease Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States or agency thereof, relative to the operation or maintenance of the Airport.
6. This Lease is given and entered into and subject to all laws, ordinances, statutes, rules, regulations, directives, permits, or standards of any governmental authority, entity, or agency (including, without limitation, the City of Denton, Texas, the State of Texas, the Federal Aviation Administration, and the Texas Department of Transportation), whether now in existence or hereafter enacted, adopted or imposed, and including, without limitation, any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed.

II. LEASED PREMISES

Lessor, for and in consideration of, and subject to, the terms, covenants and conditions set forth in this Lease Agreement to be kept by Lessee, does hereby demise and lease unto Lessee, and Lessee does hereby lease from Lessor, for the lease term described in **Article III**, the following described land situated in Denton County, Texas:

A. LAND. A tract of land, being approximately 26,055 square feet or 0.598 acres, as described on Attachment "A", such attachment being incorporated herein by reference (the "Leased Premises").

Together with the right of ingress and egress to the Leased Premises and the right in common with others so authorized of passage, upon the Public Area, subject to reasonable regulations by the City of Denton and such rights shall extend to Lessee's employees,

passengers, patrons and invitees. For purposes of this Lease Agreement, the term "Leased Premises" shall mean all property located within the parcel described in Attachment "A", including all Lease Improvements (as defined below) constructed or assumed by the Lessee, but not including easements or property owned and/or controlled by the Lessor, if any, as described on Attachment "B".

B. LESSEE ACCEPTS LEASED PREMISES.

EXCEPT AS EXPRESSLY PROVIDED IN THIS LEASE AGREEMENT, LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESSED, STATUTORY, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, AS TO THE DESCRIPTION, TITLE, VALUE, QUALITY, QUANTITY, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE LEASED PREMISES AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE LEASED PREMISES, THE NATURE OF THE PAST OR HISTORIC USE OF THE LEASED PREMISES, AND/OR MERCHANTABILITY, SUITABILITY OR FITNESS FOR PURPOSE OF ANY OF THE LEASED PREMISES, ABSENCE OF LATENT DEFECTS AND COMPLIANCE WITH LAWS AND REGULATIONS RELATED TO THE LEASED PREMISES. Lessee further acknowledges that, in executing and accepting this Lease Agreement, it has relied solely upon its independent evaluation and examination of the Leased Premises, and public records relating to the Leased Premises and the independent evaluations and studies based thereon. Lessor makes no warranty or representation as to the accuracy, completeness or usefulness of any information furnished to Lessee, if any, whether furnished by Lessor or any third party. Lessor, its officers, employees, elected officials and agents assume no liability for the accuracy, completeness or usefulness of any material furnished by Lessor, if any, or any of its officers, employees, elected officials and/or agents, and/or any other person or party, if any and Lessee hereby releases such parties from and against any claims related to such matters. Reliance on any material so furnished shall not give rise to any cause, claim or action against Lessor, its officers, employees, elected officials and/or agents, and any such reliance shall be at Lessee's sole risk.

THE EXECUTION AND DELIVERY OF THIS LEASE AGREEMENT IS ON A "WHERE IS", "AS IS", AND "WITH ALL FAULTS" BASIS, AND IS WITHOUT REPRESENTATION OR WARRANTY, EXPRESSED, STATUTORY OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, AS TO TITLE, THE DESCRIPTION, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE LEASED PREMISES AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE LEASED PREMISES, THE NATURE OF THE PAST OR HISTORIC USE OF THE LEASED PREMISES, THE QUALITY, QUANTITY AND VALUE OF THE LEASED PREMISES, FITNESS FOR PURPOSE, SUITABILITY, MERCHANTABILITY, ABSENCE OF LATENT DEFECTS AND COMPLIANCE WITH LAWS AND REGULATIONS RELATED TO THE LEASED PREMISES. Lessee has satisfied itself as to the title, type, condition, quality and extent of the property and property interests which comprise the Leased Premises and the interests and rights provided by this Lease Agreement.

C. IMPROVEMENTS PROVIDED BY LESSOR. [NONE: *There will be no improvements provided by Lessor, except as may be set forth in Article II.F., "Access to Utilities".*] The term "Lessor Improvements" shall mean those things on or adjacent to the Leased Premises belonging to, constructed by, or to be constructed by the Lessor. Unless otherwise noted herein, all Lessor Improvements are and will remain the property of Lessor.

D. IMPROVEMENTS PROVIDED BY LESSEE.

Lessee shall construct or cause to be constructed buildings and other improvements on the Leased Premises and the applicable portion of the Public Area, if any (the "Lessee Improvements"), as described in Attachment "A", at Lessee's sole cost, expense and risk (except as may be otherwise agreed to between Lessor and Lessee) in accordance with the plans and specifications which are subject to the review and approval in writing by the Lessor, as set forth herein and **Article VIII**, below. The term "Lessee Improvements" shall also include those real property and structural improvements having been made prior to the Effective Date and now existing on the Leased Premises, other than Lessor Improvements, if any. Lessee shall own such Lessee Improvements during the Lease Term, as provided in **Article VIII**. Except as provided otherwise in this Agreement, Lessee may not construct, locate, install, place or erect any other improvements upon the Leased Premises or the Public Area. Lessee shall also construct appropriate culverts or drainage as required by City ordinances, as well as other improvements as determined necessary by Lessor or as required by City ordinances

Construction of Lessee Improvements shall be commenced no later than 180 days (the "Commencement Period"), and completed no later than 270 days, after the Effective Date (the "Construction Period"). For the purposes hereof, construction of the Lessee Improvements shall be deemed to have commenced when all of the following events shall have occurred: (i) Lessor's written approval and acceptance of the final construction design plans and specifications; (ii) Lessee has been issued the required building permit(s) or licenses necessary to construct the Lessee Improvements; (iii) Lessee shall have received (and shall have provided or caused to be provided to Lessor) a true and correct copy of the FAA's determination to Lessee's filing Form 7460 Notice of Proposed Construction or Alterations or other such filings required by the FAA and, or TxDOT; (iv) execution of a contract with a qualified general contractor; (v) proof of required Builder's Risk Insurance Policy and Payment and Performance Bond, as required in **Article VIII**, below; and (vi) the initiation of actual mobilization of construction equipment on the Leased Premises and/or the area of the Public Area wherein Lessee Improvements are to be constructed, if any.

Construction of the Lessee Improvements shall be considered complete upon (i) the issuance of a Certificate of Occupancy for the Lessee Improvements (other than the Lessee Improvements located on the Public Areas); and (ii) acceptance by the Lessor of the Lessee Improvements constructed upon the Public Areas, if applicable.

In addition, as a condition precedent to the effectiveness of this Lease Agreement, within 60 days after the Effective Date of this Lease Agreement, Lessee shall provide to Lessor (i) a written estimate to construct Lessee Improvements certified by the design architect or

engineer and prepared by a contractor who has demonstrated experience in the successful construction of improvements similar to the Lessee Improvements (the "Construction Cost Estimate"); (ii) a written schedule of construction to complete Lessee Improvements; (iii) a written loan commitment from a lending institution providing for funding to cover the Construction Cost Estimate (collectively, "Conditions Precedent"); and, (iv) a metes and bounds legal description of the parcel identified in Attachment "A" prepared by a certified surveyor acceptable to Lessor. The approved legal description will be attached to this Agreement as Attachment "C". Should the Conditions Precedent not be met, either party may terminate this Lease Agreement by giving the other party written notice, in which case this Lease Agreement shall be null and void and of no further force and effect. Such termination shall not prevent the Lessee from submitting a new proposed lease request at a later date. The parties may extend the 60 day time period if agreed to by Lessor and Lessee, as evidenced in writing duly authorized and executed by both parties. Lessee is not entitled to take possession of the Leased Premises under this Lease Agreement until the Conditions Precedent have been fulfilled.

E. EASEMENTS. Lessor and Lessee by mutual agreement may establish, on the Leased Premises, easements for public access on roads and taxiways. Nothing contained herein shall be deemed to affect Lessor's rights provided in **Article X**, below.

F. UTILITIES.

1. Lessor represents that there are water, sewer and 3-phase electricity lines accessible at the northeast corner of the Leased Premises available to "tap-in" by Lessee, and that the same are sufficient for usual and customary service on the Leased Premises.
2. Lessee shall be responsible, at Lessee's sole cost and expense, for obtaining all utility connections at or for the Leased Premises and Lessee shall pay all charges for water, electricity, gas, sewer, telecommunications or any other utility connections, tap-in fees, impact fees, other fees or expenses of any kind and for services furnished to the Leased Premises during the Term hereof. Lessee agrees to contact all utility service providers and all other parties that may own or claim to own underground pipelines, telecommunications, cable or any other structure or facility, prior to any excavation or boring on or under the Leased Premises. Lessor shall in no event be liable or responsible for any cessation or interruption in any such utility services.

III. TERM

A. TERM. The term of this Lease Agreement shall be for a period of forty (40) years, commencing on the 1st day of October, 2012 (the "Commencement Date") and continuing through the 30th day of September 2052, unless earlier terminated under the provisions of the Lease Agreement (the "Lease Term" or "Term").

B. HOLDING OVER. If Lessee holds over and continues in possession of the Leased Premises after the Term of this Lease Agreement expires, the holding over may be considered by the Lessor, at the Lessor's option, a month to month tenancy binding Lessee to all terms and conditions as set forth herein with the following exception: The rental payment due Lessor herein shall be the amount per month at the last full month of the Term prior to expiration of this Lease Agreement, payable on the first day of each month thereafter, until the tenancy is terminated as provided herein. The holding over tenancy may be terminated at any time by Lessor or Lessee upon thirty (30) days written notice to the other party, or may be terminated by Lessor as a remedy in accordance with the terms of this Lease, as elected by Lessor.

IV. PAYMENTS, RENTALS AND FEES

Lessee covenants and agrees to pay Lessor, as consideration for this Lease Agreement, the following payments, rentals and fees:

A. LAND AND RENTAL. Rental shall be due and payable to Lessor in the sum of \$0.27 per net square foot, as determined and provided in Attachment "A", said sum being stipulated herein as \$7,034.85 per year (the "Original Rent"), payable in twelve (12) equal monthly installments in the sum of \$586.24 in advance, on or before the 15th day of each and every month during the term of this Lease Agreement. Lessee has the option to pay annual rentals and fees in whole on or before the 1st day of October, at the beginning of the City's fiscal year, each and every year of this Lease Agreement.

Notwithstanding the foregoing, the annual rental will be reduced by the current lease rate per square foot, as adjusted by the CPI-U referenced in **Section IV.C.**, times the number of square feet comprising all easements established in accordance with **Section II.E.**

The rent provided herein shall be net return to Lessor, free of any loss, expense or charge, including without limitation, maintenance, construction, reconstruction, repairs, replacement, insurance, taxes and assessments.

B. LESSOR IMPROVEMENTS RENTALS. None. There are no Lessor Improvements on the Leased Premises as of the Effective Date.

C. PAYMENT, PENALTY, ADJUSTMENTS. All payments due Lessor from Lessee shall be made to Lessor at the offices of the Finance Department of the City of Denton, Comptroller's Office, 215 E. McKinney, Denton, Texas, unless otherwise designated in writing by the Lessor. If payments are not received on or before the 15th day of the month, the lesser of the maximum amount allowed by law and a five percent (5%) penalty, will be due as of the 16th. If payments are not received by the first of the subsequent month, an additional penalty of the lesser of the maximum amount allowed by law and one percent (1%) of the unpaid rental/fee amount will be due. The lesser of the maximum amount allowed by law and one percent (1%) will be added on the first of each subsequent month until the unpaid rental/fee payment is made. Notwithstanding anything herein to the contrary, any such penalty shall be limited to but not exceed the maximum amount provided

by law, if any

The Original Rent for the Leased Premises shall be readjusted at the end of each two (2) year period during the Lease Term, starting on the 2nd day of October 2016 and every two (2) years thereafter, on the basis of the proportion that the then current United States Consumer Price Index for all urban consumers (CPI-U) for the Dallas-Fort Worth Bureau of Labor Statistics bears to the May 2012 index, which was 207.828 (1982-84 = 100). Each rental adjustment, if any, shall occur on the 7th day of August, beginning 2014, and every second year thereafter on such date.

The adjustments in the yearly rent shall be determined by multiplying the Original Rent by a fraction, the numerator of which is the index number for the last month prior to the adjustment, and the denominator of which is the index number applicable at the execution of this Lease Agreement. If the product of this multiplication is greater than the Original Rent, Lessee shall pay this greater amount as the yearly rent until the time of the next rental adjustment as called for in this section. If the product of this multiplication is less than the Original Rent there shall be no adjustment in the annual rent at that time, and Lessee shall pay the previous year's annual rent until the time of the next rental adjustment as called for in this section. In no event shall any rental adjustment called for in this section result in an annual rent less than the previous year's annual rent. The adjustment shall be limited so that the annual rental payment determined for any given two-year period shall not exceed the annual rental payment calculated for the previous CPI adjustment by more than twenty percent (20%) percent.

If the consumer price index for all urban consumers (CPI-U) for the Dallas-Fort Worth geographical region, as compiled by the U.S. Department of Labor, Bureau of Labor Statistics, is discontinued during the Lease Term, the remaining rental adjustments called for in this section shall be made using the formula set forth above, but by substituting the index numbers for the Consumer Price Index-Seasonally Adjusted U.S. City Average For All Items For All Urban Consumers (CPI-U) for the index numbers for the CPI-U applicable to the Dallas-Fort Worth geographical region. If both the CPI-U for the Dallas-Fort Worth geographical region and the U.S. City Average are discontinued during the Lease Term, the remaining rental adjustments called for in this section shall be made using the statistics of the Bureau of Labor Statistics of the United States Department of Labor that are most nearly comparable to the CPI-U applicable to the Dallas-Fort Worth geographical region. If the Bureau of Labor Statistics of the United States Department of Labor ceases to exist or ceases to publish statistics concerning the purchasing power of the consumer dollar during the Lease Term, the remaining rental adjustments called for in this section shall be made using the most nearly comparable statistics published by a recognized financial authority selected by Lessor.

V. RIGHTS AND OBLIGATIONS OF LESSEE

A. USE OF LEASED PREMISES. Lessee is granted the non-exclusive privilege to engage in owner/operator activities providing only the following aviation services:

1. Hangar and Office Space Leasing. Lessee is granted the non-exclusive right to rent hangar and office space.
2. General Aircraft Maintenance. Lessee is granted the non-exclusive right to conduct airframe and power plant maintenance services.
3. Aircraft Management Services. Lessee is granted the non-exclusive right to manage aircraft and flight operations for third parties.
4. Aircraft Sales and Brokerage. Lessee is granted the non-exclusive right to engage in the sale and/or brokering of aircraft.
5. Tie-Down Services. Lessee is granted the non-exclusive right to charge for tie-down services on Lessee's property.

Lessee, its tenants, employees, invitees and guests shall not be authorized to conduct any services not specifically listed in this Lease Agreement. The use of the Leased Premises by Lessee, its tenants, employees, invitees or guests shall be limited to only those private, commercial, retail or industrial activities having to do with or related to airports and aviation, as provided herein. Except as specifically authorized in this Lease Agreement, no person, business or corporation may operate a commercial, retail or industrial business upon the Leased Premises or upon the Airport without a lease or license from Lessor authorizing such commercial, retail or industrial activity.

B. STANDARDS. Lessee shall meet or exceed the following standards and perform the following activities or actions:

1. Address. Lessee shall file with the Airport Manager and keep current its mailing addresses, telephone numbers and contacts where it can be reached in an emergency.
2. List. Lessee shall file with the Airport Manager and keep current a list of its sub-lessees and shall keep current and provide to the Airport Manager, as requested, a list of all aircraft hangared or tied down on the Leased Premises within the previous twelve (12) month period.
3. Conduct. Lessee shall contractually require its employees and sub-lessees (and sub-lessee's invitees) to abide by the terms of this Lease Agreement. Lessee shall promptly enforce its contractual rights in the event of a default of such covenants by such employees and sub-lessees (and sub-lessee's invitees).
4. Utilities, Taxes and Fees. Lessee shall meet and pay all expenses and payments in connection with the use of the Leased Premises and the rights and privileges herein granted, including the timely payment of utilities, taxes, permit fees, license fees and assessments lawfully levied or assessed.

5. Laws. Lessee, at Lessee's sole cost and expense, shall comply with all current and future federal, state and local laws, rules and regulations which may apply to the conduct of business contemplated and/or occupation of the Leased Premises, including rules, regulations and ordinances promulgated by Lessor, and Lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.
6. Maintenance of Property. Lessee shall be responsible for the maintenance, repair and upkeep of all property, buildings, paving, structures and improvements, including the mowing or elimination of grass and other vegetation on the Leased Premises and the Lessee Improvements constructed on the Public Area, if any, and shall keep the Leased Premises neat, clean and in respectable condition, free from any objectionable matter or thing, including trash or debris. Lessee agrees not to utilize or permit others to utilize areas on the Leased Premises which are located on the outside of any hangar or building for the storage of wrecked or permanently disabled aircraft, aircraft parts, automobiles, vehicles of any type, or any other equipment or items which would distract from the appearance of the Leased Premises.
7. Exterior Maintenance of Buildings. During the Lease Term, Lessor shall have the right to require, not more than once every five years, that the metal exterior of hangar(s) and building(s) located on the Leased Premises be inspected to identify any deterioration beyond normal wear. The Lessor may require Lessee to repair said exteriors according to Lessor's reasonable specifications, including paint and metal restoration, if needed. Lessee shall complete any repair in accordance with such specifications within one (1) year of receipt of notice from Lessor. Lessee shall pay all costs and expenses involved in the hangar or building restoration process.
8. Unauthorized Use of Leased Premises. Lessee may not use any of the Leased Premises for any use not authorized herein unless Lessor gives Lessee prior written approval of such additional use. Without limiting the foregoing, the Leased Premises shall not be used for the operation of a motel, hotel, restaurant, private club or bar, apartment house, flea market type sales, industrial, commercial, retail sales, storage of recreational vehicles, automobiles, or marine vehicles not incidental to uses permitted by this Lease, or any other use or purpose not expressly authorized by this Lease.
9. Dwellings. No dwelling or domicile may be built, moved to or established on or within the Leased Premises, nor may Lessee, its tenants, employees, invitees, or guests be permitted to reside or remain as a resident on or within the Leased Premises or other Airport premises. Lessee may have a pilot lounge, including restroom and shower facilities, for use by flight crew and passengers.
10. Quit Possession. Lessee shall quit possession of the Leased Premises at the

end of the Lease Term, or upon cancellation or termination of the Lease Agreement, and deliver up the Lease Premises to Lessor in as good condition as existed when possession was taken by Lessee and as Lessee has constructed, or accepted at the beginning of the Term, including the Lessee Improvements and Lease Improvements provided in **Section II.D.** and **Article VIII**, hereof, reasonable wear and tear excepted.

11. Indemnity and Release. Lessee shall indemnify, hold harmless and defend the Lessor, its officers, agents, elected officials and employees, and hereby releases Lessor, its officers, agents, elected officials and employees, from and against any and all claims, liens, suits, liabilities, causes of action, demands, losses, damages and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs, attorneys' fees and other reasonable costs (collectively, "Claims"), occasioned by, arising from or incidental or related to the Lessee's occupancy or use of the Leased Premises or the Airport, the activities of Lessee and/or any party acting under the authority of, or rights granted by, Lessee conducted in connection with or incidental to this Lease Agreement, and/or Lessees' breach or default under this Lease Agreement, including without limitation all such Claims based on common, constitutional or statutory law or regulation, whether existing as of the date hereof or as may be created or recognized hereafter. Lessee must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, customers, visitors, invitees, licensees and other persons, as well as the Leased Premises and Lease Improvements, while in, on, or involved in any way with the use or occupation of the Leased Premises.

Without limiting the indemnity and release provided herein, the Lessor shall assume no responsibility or liability for harm, injury, or any damaging events which are directly or indirectly attributable to premise defects, whether real or alleged, which may now exist or which may hereafter arise upon the Leased Premises, responsibility for all such defects being expressly assumed by the Lessee. The Lessee agrees that, without limiting the indemnity and release provided herein, this indemnity and release provision applies to all Claims arising from all premise defects or related to the condition of the Leased Premises and/or the Lease Improvements, of any kind or type.

THE LESSOR AND THE LESSEE EXPRESSLY INTEND THIS PROVISION TO RELEASE LESSOR, ITS OFFICERS, AGENTS, ELECTED OFFICIALS AND EMPLOYEES AND TO REQUIRE LESSEE TO INDEMNIFY AND DEFEND THE LESSOR, ITS OFFICERS, AGENTS, ELECTED OFFICIALS AND EMPLOYEES, FROM AND AGAINST ALL MATTERS SET FORTH IN THIS SECTION V.B.11. FROM THE CONSEQUENCES OF, CAUSED BY OR RELATED TO THE LESSOR'S OWN NEGLIGENCE , OF ANY

KIND, TYPE OR DEGREE, EXCEPT AS SPECIFICALLY PROVIDED BELOW. NOTWITHSTANDING THE TERMS OF THE PRECEDING SENTENCES, THIS INDEMNITY AND RELEASE PROVISION DOES NOT APPLY TO ANY CLAIM, WHERE THE INJURY, DEATH, OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE LESSOR UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY.

The provisions of this **Section V.B.11.** shall survive the expiration and termination of this Lease Agreement.

12. Chemicals and Other Substances. Lessee shall properly store, use, collect and dispose of all chemicals, chemical residues, paints and/or any other pollutant, contaminant, intermediate, hazardous substance, waste, asbestos containing material, petroleum product and any substance containing any of the above ("Chemical"); to properly store, confine, collect and dispose of Chemicals, including without limitation, paint spray in the atmosphere; and to comply with all local, state and federal statutes, rules, regulations and ordinances governing the storage, handling, use or disposal of such Chemicals. Further, the Lessee shall be solely responsible for, and without limiting the provisions of **Article V.B.11.**, shall indemnify Lessor against any and all claims, losses, liens, suits, fines, penalties, liabilities, damages, causes of action and demands, including without limitation, costs, liabilities and damages associated with the cleanup, remediation and disposal of said Chemicals, damage to the environment or natural resources, property damage and/or injury, disease or death of any person, related to discharges or releases, whether accidental or intentional, of any Chemical or any other matter, claim, loss, lien, suit, liability, damage, demand or cause of action associated with or related to the Chemicals.
13. Hazardous Activities. Should Lessee violate any statute, rule, restriction, order, ordinance or regulation of the City of Denton or the Federal Aviation Administration, or any other regulatory authority, or should the Lessee engage in or permit other persons or agents to engage in activities which could produce hazards or obstruction to air navigation, obstructions to visibility or interference with any aircraft navigational aid station or device, whether airborne or on the ground, then Lessor shall state such violation in writing and deliver written notice to Lessee or, if so elected by Lessor, Lessee's agent on the Leased Premises, or to the person(s) on the Leased Premises who are causing said violation(s), and upon delivery of such written notice, Lessor shall have the right to demand that the person(s) responsible for the violation(s) cease and desist from all such activity creating the violation(s). In such event, Lessor shall have the right to demand that corrective action, as required, be commenced immediately to restore the Leased Premises into conformance with the particular statute, rule, restriction, order, ordinance or regulation being violated or to remove or remediate any

hazard described herein. Should Lessee, Lessee's agent, or the person(s) responsible for the violation(s) fail to cease and desist from said violation(s) and to immediately commence correcting the violation(s), and to complete said corrections within twenty-four (24) hours following written notification, then Lessor shall have the right to enter onto the Leased Premises and correct the violation(s) at the sole cost and expense of Lessee, and Lessor shall not be responsible for any damages incurred to any improvements on the Leased Premises as a result of the corrective action process. In addition, such violation shall be considered a material default by Lessee authorizing Lessor, at its sole option and discretion, to immediately terminate and cancel this Lease Agreement and to exercise any and all other rights and remedies available to it under this Lease Agreement.

C. SIGNS. No signs, posters, or other similar devices ("Signage") shall be placed on the exterior of the Lease Improvements, Lessor Improvements, if applicable, or on any portion of the Leased Premises or Airport property without the prior written approval of Lessor. Lessee, at its sole expense, shall be responsible for the creation, installation and maintenance of all such Signage. Lessee, without limiting the general nature of **Section V.B.11.**, shall pay to Lessor any and all damages, injuries, or repairs resulting from the installation, maintenance or repair of any such Signage. Any Signage placed on the Leased Premises shall be maintained at all times in a safe, neat, sightly and good physical condition. All signage shall be removed from the Leased Premises by Lessee immediately upon receipt of instructions for removal of same from Lessor, including without limitation, upon expiration or termination of this Lease Agreement. If Lessee fails to remove the Signage then Lessor may do so at the sole cost and expense of Lessee. Subject to approval by Lessor as provided herein, Lessee may place two wall signs, no greater than thirty-two square feet each, identifying the commercial hangar operation. Notwithstanding anything contained herein to the contrary, all signage shall comply with all applicable City of Denton ordinances, including the City of Denton sign ordinance.

D. ENTRY. Lessor and its designees shall have the right to enter the Leased Premises upon reasonable advance notice (written or oral) and at any reasonable times for the purposes of inspecting the Leased Premises, performing any work which Lessor elects to perform under this Lease Agreement, and exhibiting the Leased Premises for sale, lease, or mortgage. Nothing in this section shall imply any duty upon Lessor to do any work or perform any activity, which under any other provision of this Lease Agreement Lessee is required to perform, and any performance by Lessor shall not constitute a waiver of any default by Lessee hereunder.

VI. COVENANTS BY LESSOR

Lessor hereby agrees as follows:

A. PEACEFUL ENJOYMENT. Upon payment of all rent, fees and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee (subject to the terms and conditions of this Lease Agreement) shall peaceably hold and

enjoy the Leased Premises and all rights and privileges herein granted; however, Lessee accepts this Lease Agreement subject and subordinate to any recorded mortgage, deed of trust, or other lien presently existing upon, or to any other matter of record in the Real Property Records of Denton County, Texas and/or that Lessee is otherwise charged with notice or inquiry notice, affecting the Leased Premises.

B. COMPLIANCE. Lessee will not be legally liable for any action of trespass or similar cause of action by virtue of any aerial operations of adjoining property in the course of normal take-off and landing procedures from the Airport.

VII. WEIGHT LIMIT OF AIRCRAFT

A. RUNWAYS AND TAXIWAYS. Lessee shall limit all aeronautical activity, including without limitation, landing, take-off and taxiing, to aircraft having an actual weight, including the weight of its fuel, of thirty thousand (30,000) pounds or less, unless and until such time that the runway and designated taxiways on the Airport have been improved to handle aircraft of such excessive weights. It is further agreed that, based on qualified engineering studies, the weight restrictions and provisions of this clause may be adjusted, up or down, and that Lessee agrees to abide by any such changes or revisions as such studies may dictate. "Aeronautical activity" referred to in this clause shall include any activity of the Lessee or its agents or subcontractors, and its customers and invitees, but shall not include those activities over which it has no solicitory part or control, such as an unsolicited or unscheduled or emergency landing. Violation of the provisions of this section on two or more occasions during the Term shall be sufficient to cause (i) the immediate termination of this Lease Agreement, without opportunity to cure by Lessee; (ii) shall otherwise constitute a default hereunder wherein Lessor may resort to all other remedies provided in this Lease Agreement; and (iii) without limiting the provisions of **Section V.B.11.**, subject Lessee to liability for any damages to the Airport that might result. Nothing contained herein shall be construed as creating any obligation on the part of Lessor to improve or modify any part of the Airport.

VIII. LEASEHOLD IMPROVEMENTS

A. ADDITIONAL CONSTRUCTION OR IMPROVEMENTS. In addition to the Lessee Improvements, subject to the terms of this **Article VIII**, Lessee may construct upon the Leased Premises, at its own cost and expense, buildings, hangars and structures, that Lessor and Lessee mutually agree in their discretion, are necessary for use in connection with the operations authorized by this Lease Agreement ("Additional Improvements"); provided however, Lessee shall comply with all of the requirements of this **Article VIII**.

B. REQUIREMENTS FOR LEASE IMPROVEMENTS. Before commencing construction activities related to the Lessee Improvements and/or the Additional Improvements upon the Leased Premises (the Additional Improvements and the Lessee Improvements are collectively referred to in this Lease Agreement as the "Lease Improvements"), Lessee shall submit to Lessor:

1. Documentation, specifications, or design work, prepared by an architect and/or engineer selected by Lessee which shall be reviewed and approved by the Lessor, which shall establish that the improvements to be built or constructed upon the Leased Premises and Public Area, if applicable, are in conformance with the overall size, shape, color, quality and design, in appearance and structure of the program established by Lessor on the Airport.
2. All plans and specifications showing the location upon the Leased Premises and Public Area, if applicable, of the proposed construction and improvements.
3. The estimated cost of such construction.

No construction may commence until Lessor has approved the plans and specifications and the location of the Lease Improvements and the Public Area, if applicable, and the estimated costs of such construction. Approval by the Lessor of construction in conformity with the terms of this Lease Agreement shall not be unreasonably withheld.

B.1. CONSTRUCTION OF LEASE IMPROVEMENTS.

1. Construction and modification of the Lease Improvements shall be performed in a good and workmanlike manner and in compliance with all applicable building codes, rules, standards, zoning and other ordinances and all state and federal standards (including, without limitation, Title III of the Americans With Disability Act of 1990, any state statutes, governing handicapped access or architectural barriers, and all rules, regulations and guidelines promulgated under such laws, as amended from time to time).
2. Without limiting the provisions of **Section V.B.11.**, Lessee shall promptly pay and discharge all costs, expenses, claims for damages or injury (including without limitation claims for personal injury or death, or property damage or destruction, or economic loss), liens and any and all other liabilities and obligations which arise in connection with such construction.
3. Lessee shall cause each contractor performing any work or otherwise occupying the Leased Premises or Public Area and/or Airport related to the Lease Improvements or pursuant to the authority provided to Lessee hereunder, to indemnify the Lessor and its officers, agents, elected officials and employees to the same extent provided by Lessee to Lessor in **Section V.B.11.**
4. Lessee shall properly and timely submit to the FAA, TxDOT, and any other governmental entity or agency having jurisdiction regarding the Airport, a Notice of Proposed Construction and any and all other documents or materials as may be required, when and as required.

5. Without limiting the rights to Lessor provided in **Section V.D.**, Lessor has the right and is authorized by Lessee at all times during any construction project to enter upon the Leased Premises to observe the performance of such construction. Nothing contained herein shall be construed as an obligation, of any kind or type, on the part of Lessor related to the construction activities and/or to assure Lessee's compliance with the provisions of this Lease Agreement.
6. No later than thirty (30) days after completion of the Lease Improvements, Lessee shall submit to Lessor detailed as-built plans of the Lease Improvements and documentary evidence acceptable to Lessor evidencing the total cost to construct the Lease Improvements ("Cost to Construct Lease Improvements").
7. No improvements to the Leased Premises, including without limitation, the Lease Improvements, may be removed from the Leased Premises during the Term hereof, unless otherwise specifically authorized herein.
8. Lessee shall cause the general contractor to obtain (i) payment bonds for construction contracts greater than Fifty Thousand and no/100 Dollars (\$50,000); and (ii) payment and performance bonds for construction contracts greater than One Hundred Thousand and no/100 Dollars (\$100,000), for each construction activity on the Leased Premises and Public Area, if applicable, each naming the Lessor as an Additional Obligatee. Lessee shall furnish such bonds to Lessor prior to any work on the Leased Premises or Public Area, if applicable. Additionally, any and all insurance provided by the general contractor to Lessee shall name the Lessor as an Additional Insured and/or Loss Payee, as applicable, and provide the following coverages, at a minimum:
 - Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 aggregate
 - Business Automobile Liability - \$500,000 per occurrence and \$1,000,000 aggregate
 - Workers' Compensation – Statutory Limits
 - Builder's Risk (if applicable) – 100% of the completed value

C. **OWNERSHIP OF IMPROVEMENTS.** Except as otherwise provided in this Lease Agreement, the improvements now located, or constructed or to be constructed upon the Leased Premises by Lessee (including without limitation, the Lease Improvements), but excluding the Lessor Improvements, if any, shall remain the property of Lessee during the Lease Term subject to the following conditions, terms and provisions:

1. Upon the termination of this Agreement, whether by expiration of the Term hereof or by reason of default on the part of Lessee, or for any other reason whatsoever, the improvements (including without limitation, the Lease Improvements), and all parts thereof, shall merge with the title of, or be

otherwise considered and deemed a part of the real property, free and clear of any claim of Lessee and all persons or entities claiming under or through Lessee (including, without limitation, any holder of a leasehold mortgage), and shall become the property of Lessor; provided, however:

- (i) if Lessee is not then in default hereunder, Lessee shall have the right to remove all personal property and trade fixtures owned by Lessee from the Leased Premises, but Lessee shall be required to repair any damage to the Leased Premises caused by such removal in a good and workmanlike manner and at Lessee's sole cost and expense; and
- (ii) Lessor may elect to require Lessee to remove all or part of the improvements (other than the Lessor Improvements) from the Leased Premises prior to the expiration or earlier termination of this Lease Agreement and restore the Leased Premises to the condition in which the same existed as of the Effective Date of this Lease, as concerns the improvements required to be removed by Lessor, which said removal shall be completed no later than the last day of this Lease Agreement, whether expired or earlier terminated, in which event Lessee shall promptly perform such removal and restoration in a good and workmanlike manner and at Lessee's sole cost and expense; and
- (iii) Upon such expiration or earlier termination, Lessee shall deliver the Leased Premises to Lessor in good condition, reasonable wear and tear excepted, and shall, at Lessor's request, execute a recordable instrument evidencing the termination of this Agreement, expressly stating the termination or expiration date thereof.

- 2. The Lessor Improvements, if any, shall remain the property of Lessor at all times during and after the expiration or earlier termination of this Lease Agreement.
- 3. Nothing contained herein shall be construed to limit or prohibit Lessor and Lessee from mutually agreeing to either (i) amend or modify this Lease Agreement or, (ii) enter into a new agreement to supersede and replace this Lease Agreement, which may, among other things, effectively extend or otherwise defer the transfer of title and ownership of the Lease Improvements to Lessor as provided for in this **Section VIII.C.**, prior to the expiration of this Lease Agreement. However, nothing contained herein shall be deemed or construed to require any amendment or modification of this Lease or the entering into of a new lease agreement. Any such action shall be at the sole and absolute discretion of Lessor and Lessee.

IX. COLLATERAL ASSIGNMENT

- A. CONSENT TO ENCUMBER. Lessee shall not collaterally assign this Lease or

otherwise encumber the estate created by this Lease Agreement without the written consent of Lessor, which such consent shall be at Lessor's sole discretion. As conditions to such consent, Lessor may require from Lessee and/or the Secured Party (herein so called) any commitment, condition or requirement deemed necessary or advisable by Lessor, including without limitation, provision for:

1. Express agreement that the Lessee shall in no way be released from any of its obligations under this Lease Agreement, including without limitation, the obligation to pay rent;
2. The Secured Party to promptly provide Lessor notice of any default by Lessee in any obligation to Secured Party;
3. The Secured Party to provide notice to Lessor at least fifteen (15) days prior to (i) accelerating any indebtedness owed by Lessee to Secured Party; (ii) initiation of any foreclosure proceedings; and/or (iii) any other actions to enforce any financial obligation of Lessee to Secured Party.

B. USE OF LOAN PROCEEDS.

1. Any funds borrowed by Lessee in which this Lease Agreement or the estate created by this Lease Agreement are utilized as security or collateral, in whole or in part, may be used only for (i) obtaining funds for the construction of the Lease Improvements, as described in **Section II.D.** and **Article VIII** hereof; (ii) for acquisition of the leasehold estate created by this Lease; or (iii) any other purpose which may be approved from time to time by Lessor, in writing, in its sole discretion.

C. LIEN. No lien contemplated by this **Article IX** shall constitute a lien on Lessor's fee title. Any indebtedness secured by a lien against or on the estate created by this Lease Agreement or this Lease shall at all times be and remain inferior and subordinate to conditions, covenants and obligations of this Lease Agreement and to all of Lessor's rights under this Lease Agreement.

X. RIGHT OF EASEMENT

Lessor shall have the right to establish easements, at no cost to Lessor, upon the Leased Premises for the purpose of (i) providing underground utility services to, from or across the Airport property; or (ii) for the construction of public facilities and/or infrastructure on the Airport. However, any such easements shall not interfere with Lessee's use of the Leased Premises and Lessor shall restore the Leased Premises to as close to its original condition as is reasonable practicable upon the installation of any utility services on, in, over or under any such easement at the conclusion of such construction. Construction within the easement upon the Leased Premises shall be completed within a commercially reasonable time.

XI. ASSIGNMENT OF LEASE

Lessee expressly covenants that it (i) will not assign this Lease Agreement; (ii) convey more than fifty percent (50%) of the voting interest in its business or entity as of the Effective Date of this Lease Agreement, through the sale of stock or otherwise; or (iii) transfer, license, or sublet the whole or any part of the Leased Premises for any purpose, except for rental of hangar space or tie-down space for storage of aircraft only, without the prior written consent of Lessor. Lessor agrees that it will not unreasonably withhold its approval of such sale, sublease, transfer, license, or assignment of the facilities for Airport related purposes. The provisions of this Lease Agreement shall remain binding upon the Lessee and the sublessees and assignees, if any, of Lessee.

XII. CASUALTY LOSS/CONDEMNATION

A. CASUALTY/TOTAL OR PARTIAL DESTRUCTION. In the event the Leased Premises, or any improvements located thereon, are damaged by casualty, regardless of the extent of the damage or destruction or whether insurance proceeds, if any, are sufficient, Lessee shall, at its sole cost, risk and expense, promptly, but in no event to be later than six (6) months after such casualty, commence and complete with diligence, the restoration, repair and/or replacement of any such improvements to substantially the same condition as they existed prior to the casualty loss, conditioned upon the following provisions:

1. Any and all activities related to the restoration, repair and replacement of the damaged improvements, shall be subject to (i) Lessor's prior approval, as provided in **Section II.D.** and **Article VIII**, as applicable to the improvement affected by casualty; and (ii) the provisions set forth in this **Section XII.A.**
2. Lessor, as loss payee under the all risk property insurance coverage required by this Lease Agreement, shall be entitled to approve disbursements of the insurance proceeds as restoration, repair and replacement activities are completed by Lessee.
3. Lessee shall take and complete whatever actions are necessary, if applicable, to obtain disbursement authority of insurance proceeds from any secured party possessing a lien on the leasehold estate created by this Lease Agreement.
4. In the event Lessee fails to promptly commence restoration, repair and/or replacement of the damaged improvements in conformance with the provisions hereof, Lessee shall be in default under this Lease Agreement, in which event Lessor may seek any remedies available hereunder, and Lessee shall provide such endorsements or take any other actions necessary, including without limitation, any action required of any secured party, to

cause all of the insurance proceeds payable due to such damage or casualty loss to be paid to Lessor.

B. TOTAL OR PARTIAL CONDEMNATION.

1. If the Leased Premises or any part of them are taken by condemnation as a result of any action or proceeding in eminent domain, or are transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, this Article governs Lessor's and Lessee's interest in the award or consideration for the transfer and the affect of the taking or transfer of this Lease Agreement.
2. In the event the entire Leased Premises are taken or transferred as described in **Section XII.B.1.**, above, this Lease Agreement and all the rights, titles and interest under it will cease on the date that title to the Lease Premises vests in the condemning authority, and the proceeds of the condemnation shall be the property of Lessor.
3. If only part of the Leased Premises is taken or transferred, as described in **Section XII.B.1.**, above, this Lease Agreement shall terminate if, in Lessee's reasonable judgment, the remainder of the Leased Premises is in such a location, or is in such form, shape or reduced size, that Lessee's operations cannot be effectively and practicably operated upon the remaining portion of the Leased Premises. In such event, this Lease Agreement and all rights, title and interest under it will cease on the date that the title to the portion of the Leased Premises taken or transferred vests in the condemning authority. The proceeds of the condemnation shall be the property of Lessor.
4. In the event part of the Leased Premises is taken or transferred as described in **Section XII.B.1.**, above, and, in Lessee's reasonable judgment, the remainder of the Leased Premises is in such a location and in such form, shape or size, that Lessee's operations may be effectively and practicably operated on the remaining portion of the Leased Premises, this Lease shall terminate with the respect to the portion of the Leased Premises taken or transferred as of the date title to such portion vests in the condemning authority, but shall continue in full force with respect to the portion of the Leased Premises not taken or transferred. Notwithstanding the partial termination of this Lease Agreement, Lessee shall pay to Lessor One Hundred Percent (100%) of the rent due and payable under this Lease Agreement as if such partial taking had not occurred. The proceeds of the condemnation shall be the property of Lessor.
5. Nothing contained in this **Article XII** shall be construed to prohibit Lessor from voluntarily conveying all or part of the Leased Premises to any party with condemning authority under state or federal laws, however, any such voluntary conveyance shall be treated as a taking within the meaning of this **Article XII**.

6. Notwithstanding the above, in the event the condemning authority, as described in **Section XII.B.1.**, above, is the Lessor, the proceeds of the condemnation attributable to the Leased Premises shall be the property of Lessee.

XIII. INSURANCE

A. REQUIRED INSURANCE. Regardless of the activities contemplated under this Lease Agreement, Lessee shall maintain continuously in effect at all times during the term of this Lease Agreement, at Lessee's sole expense, the following minimum insurance coverage:

1. Commercial General Liability covering the Lessee, its employees, agents, tenants and independent contractors, and its operations on the Airport. Coverage shall be in an amount not less than \$1,000,000 per occurrence and provide coverage for premises/operations and contractual liability AND where exposure exists in the opinion of Lessor, coverage for: products/completed operations; explosion, collapse and underground property damage; and environmental impairment.
2. All risk property insurance on a one-hundred percent (100%) replacement cost basis covering loss or damage to all facilities and improvements located on the Leased Premises, either as a part of this Lease Agreement or erected by the Lessee subsequent to this Lease Agreement. Under no circumstances shall the Lessor be liable for any damages to fixtures, merchandise or other personal property of the Lessee or its sub-lessees.
3. Business Automobile Liability to include coverage for Owned/Leased Autos, Non-Owned Autos and Hired Cars:

For operation in aircraft movement areas the limit of liability shall be \$100,000 per occurrence.

For other operations the limit of liability shall be consistent with the amount set by State Law.

B. ADDITIONAL COVERAGES. In addition to the above referenced coverage, the following insurance is required if, in the opinion of Lessor, the activity or exposure exists or is contemplated:

1. Aircraft Fuel/Oil Storage and Dispensing – Comprehensive Commercial General Liability shall include coverage or separate coverage for Environmental Impairment Liability.
2. Aircraft Sales or Aircraft Charter and Air Taxi – Aircraft Liability in the amount of \$1,000,000 per occurrence to include Hull Coverage and

Liability. In addition, Passenger Liability in an amount of \$100,000 per person (per passenger seat) shall be provided.

3. Aircraft Rental or Flight Training - Aircraft Liability in the amount of \$1,000,000 per occurrence to include Hull Coverage and Liability, Passenger Liability in the amount of \$100,000 per person (per passenger seat) and Student/Renter Liability covering all users in the amount of \$500,000 per occurrence.
4. Specialized Commercial Flying (including crop dusting, seeding, and spraying, banner towing and aerial advertising, aerial photography and surveying, fire fighting, power line or pipe line patrol) - Aircraft Liability in the amount of \$1,000,000 per occurrence to include Hull Coverage and Liability. In addition, Passenger Liability in an amount of \$100,000 per person (per passenger seat) shall be provided.
5. Aircraft Storage, Maintenance and/or Repair - Aircraft Liability in the amount of \$1,000,000 per occurrence to include Hull Coverage and Liability. In addition, Hanger Keepers Liability in the amount of \$500,000 per occurrence, shall be provided.

The requirement for Hangar Keepers Liability shall not apply to individual owner/operators whose primary use of the hangar space is the storage of their own aircraft. The requirement does not apply to such individuals notwithstanding the fact that they may, from time to time, permit the storage of non-owned aircraft in the hangar space and charge a fee for the storage of such aircraft so long as such use is in the nature of a rent-sharing agreement rather than a commercial aircraft storage business.

C. COVERAGE REQUIREMENTS. All insurance coverage shall comply with the following requirements:

1. All liability policies shall be endorsed to include the City of Denton, and its officers and employees as an Additional Insured. All all-risk property policies shall be endorsed to name the City of Denton as a loss payee. All required insurance policies shall provide for a minimum of 30 days written notice to the City of any cancellation or material change to the policy.
2. All insurance required by this Lease Agreement must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to the examination and approval of the City's office of Risk Management for their adequacy as to content, form of protection and providing company.
3. Required insurance naming the City as an additional insured must be primary insurance and not contributing with any other insurance available to the City whether from a third party liability policy or other. Said limits of

insurance shall in no way limit the liability of the Lessee hereunder.

4. The Lessor shall be provided with a copy of all such policies and renewal certificates. Failure of Lessee to comply with the minimum specified amounts or types of insurance as required by Lessor shall constitute Lessee's default of this Lease Agreement.
5. During the Lease Term, or any extension thereof, Lessor herein reserves the right to, with one hundred twenty (120) days notice, adjust or increase the liability insurance amounts required of the Lessee, and to require any additional rider, endorsement, provisions, or certificates of insurance, and Lessee hereby agrees to provide any such insurance requirements as may be required by Lessor.

XIV. DEFAULT BY LESSEE AND LESSOR

A. EVENTS OF DEFAULT OF LESSEE. The term "Event of Default", as used herein, shall mean the occurrence of any one or more of the following events:

1. Failure of Lessee (i) to pay any installment of rent or any other sum payable to Lessor hereunder; or (ii) to pay or cause to be paid ad valorem taxes, utilities or insurance premiums, or any other payment which Lessee is to make under this Lease Agreement, on the date that same is due and such failure shall continue for a period of thirty (30) days after the date on which such payment is due;
2. Lessee shall become insolvent, apply for or consent to the appointment of a receiver, trustee, custodian, intervenor, liquidator or other similar official of itself, the Leased Premises, or all or substantial part of Lessee's assets, make a general assignment for the benefit of creditors, or commence a voluntary case or action under any applicable bankruptcy, rehabilitation, insolvency or other similar law now or hereafter in effect;
3. A court having jurisdiction of or over the Leased Premises or Lessee shall enter a decree or order for relief in respect of Lessee in any case or proceeding under any applicable bankruptcy, rehabilitation, insolvency or other similar law now or hereafter in effect, or appointing a receiver, trustee, custodian, intervenor, liquidator or other similar official for Lessee, the Leased Premises, or all or a substantial part of Lessee's assets, or ordering the winding up or liquidation of Lessee's affairs and such decree or order shall remain unstayed and in effect for a period of sixty (60) consecutive days;
4. Lessee shall make a transfer in fraud of creditors;
5. Abandonment or cessation of use of the Leased Premises for the purposes

leased by Lessee, as provided herein, for a period of thirty (30) consecutive days; or

6. Lessee fails to punctually and properly perform, keep or observe any of the terms, covenants, agreements or conditions herein contained and such failure shall not be cured within ninety (90) days after written notice thereof to Lessee, unless a shorter notice period, or no requirement of notice, is otherwise specifically prescribed herein.

B. TERMINATION AND REMEDIES ON DEFAULT BY LESSEE.

1. In the event of an Event of Default by Lessee, if such Event of Default shall be continuing after the applicable notice of default period provided in this Lease Agreement, if applicable, Lessor may declare this Lease Agreement, and all rights and interests created by it, terminated. If Lessee elects to terminate, this Lease Agreement will cease as if the day of Lessee's election were the day originally fixed in the Lease Agreement for its expiration. Lessor, at its option, may resume possession of the Leased Premises and re-let them for the remainder of the Term at the rent obtainable for the account of Lessee, who shall make good any deficiency therein.
2. Any termination of this Lease Agreement shall not relieve Lessee from the obligation of paying any sum or sums due and payable to Lessor under the Lease Agreement at the time of termination and/or any claim for damages then or previously accruing against Lessee under this Lease Agreement. Any such termination shall not prevent Lessor from enforcing the payment of any such sum or sums or claim for damages by any remedy provided by law, contract, equity, or otherwise, including without limitation, recovering damages from Lessee arising from or related to any default under this Lease Agreement. All Lessor's rights, options and remedies under this Lease Agreement shall be construed to be cumulative, and no one of them is exclusive of the other. Lessor may pursue any or all such remedies or any other remedy or relief provided by law, contract, equity or otherwise, whether or not expressly stated in this Lease Agreement.
3. In the event of an Event of Default by Lessee, Lessor may, but shall not be required, remedy the Event of Default by any necessary action and, in connection with such remedy, may pay expenses and costs related to such curative efforts. In such event, Lessee shall pay Lessor for all sums expended or obligations incurred by Lessor in connection with curing Lessee's default.
4. Lessor and Lessee agree that, for the purposes of posting notice prescribed by Section 93.002 (f) of the Texas Property Code, the front door of the Leased Premises is 4910 Lockheed Lane, Denton, Texas 76207.

C. EVENTS OF DEFAULT OF LESSOR. The term "Event of Default", as used herein, shall mean that Lessor defaults in performing any term, agreement or covenant that Lessor is required to perform under the Lease Agreement, and such default shall not be cured within ninety (90) days after written notice thereof to Lessor describing with specificity the claim of default, along with all required actions of Lessor to cure such default. It is expressly agreed and stipulated that until such notice of default is provided, and such cure period has expired, no such act or event shall be deemed an Event of Default by Lessor hereunder.

D. REMEDIES ON DEFAULT BY LESSOR. If Lessor defaults in performing any term, agreement or covenant that Lessor is required to perform under this Lease Agreement, Lessee may, after notice to Lessor, as provided in **Section XIV.C.**, remedy the Event of Default by any necessary action and, in connection with such remedy, may pay expenses. Lessor shall pay Lessee all sums reasonably expended or reasonable obligations incurred by Lessee in connection with remedying Lessee's default, so long as such claimed default is an Event of Default hereunder. Lessee may, if not so reimbursed, deduct the costs and expenses from rent subsequently due under this Lease Agreement.

XV. ASSUMPTION BY UNITED STATES GOVERNMENT

Lessee, subject to the terms hereof, may terminate this Lease Agreement and its obligations hereunder, by providing thirty (30) days written notice, upon or within thirty (30) days after the assumption or recapture by the United States Government, or any authorized agency thereof, of the operation of the Airport and the Leased Premises, to the resulting extent that the uses of the Leased Premises, as prescribed in this Lease Agreement, cannot effectively and practicably be operated by Lessee, in the reasonable judgment of Lessor.

XVI. MISCELLANEOUS PROVISIONS

A. ENTIRE AGREEMENT. This Lease Agreement constitutes the entire understanding between the parties and as of its Effective Date supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof shall be in writing duly authorized and signed by both parties.

B. BINDING EFFECT. All covenants, stipulations and agreements herein shall run with the land and extend to, bind and inure to, the benefit of the legal representatives, successors and assigns of the respective parties hereto.

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

D. NOTICE. Notices or other communications required or permitted to be given under

this Lease Agreement must be (i) given in writing and personally delivered or mailed by prepaid certified or registered mail, return receipt requested; or (ii) transmitted by telephonic facsimile, as follows:

1. If to Lessor, addressed to:

City Manager
City of Denton
215 E. McKinney Street
Denton, Texas 76201
Fax No. 940.349.8596

With copies to:

Airport Manager
5000 Airport Road
Denton, Texas 76207
Fax No. 940.

City Attorney
215 E. McKinney
Denton, Texas 76201
Fax No. 940.382.7923

2. If to Lessee, addressed to:

HTA Aviation
300 N. Hwy 377
Roanoke, Texas 76262

With Copies to:

Any notice provided herein shall be deemed to have been given (whether actually received or not) on the day it is personally delivered as aforesaid, or, if mailed, on the third day after it is mailed as aforesaid, or, if transmitted by telephonic facsimile, on the day such notice is transmitted, whichever is earliest to occur. Any party may change its address for the purposes of this Lease Agreement by giving notice of such change to the other parties pursuant to this **Section XVI.D.**

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

F. GOVERNING LAW AND VENUE. THIS LEASE AGREEMENT IS TO BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND IS FULLY PERFORMABLE IN DENTON COUNTY, TEXAS. EXCLUSIVE VENUE FOR ANY ACTION RELATED TO THIS LEASE AGREEMENT SHALL BE SOLELY IN A COURT OF COMPETENT JURISDICTION IN DENTON COUNTY, TEXAS.

G. NO WAIVER. No waiver by Lessor or Lessee of any default or breach of covenant or term of this Lease Agreement may be treated as a waiver of any subsequent default or breach of the same or any other covenant or term of this Lease Agreement.

H. NO AGENCY. During all times that this Lease Agreement is in effect, the parties agree that Lessee shall not in any event be deemed an agent or employee of the Lessor, nor shall this Lease Agreement be construed to create or constitute a joint enterprise.

I. FORCE MAJEURE. None of the Parties shall be in default or otherwise liable for any delay in or failure of performance under this Lease Agreement if such delay or failure arises by any reason beyond their reasonable control, including any act of God, any acts of the common enemy or terrorism, the elements, earthquakes, floods, fires, epidemics, riots, failures or delay in transportation or communications. However, lack of funds shall not be deemed to be a reason beyond a party's reasonable control. In the event either party hereto is not able to perform under this Lease Agreement due to an alleged event of force majeure, as set forth herein, such party shall provide notice to the other party, on or before five (5) calendar days after the occurrence of such event (i) specifically describing such force majeure event; (ii) describing with specificity the acts to be taken by the party claiming force majeure to remedy the force majeure event; and (iii) the estimated time to remedy the force majeure event. In the event the notice as set forth herein is not provided it shall be deemed for all purposes that no such force majeure event has occurred.

J. RELEASE OF LESSOR. If Lessor sells or transfers all or part of the Leased Premises and as a part of the transaction assigns its interests as Lessor in this Lease Agreement, then as of the effective date of the sale, assignment or transfer, Lessor shall have no further liability under this Lease to Lessee, except with respect to liability matters that have accrued and are unsatisfied as of such date. Underlying this release is the parties' intent that Lessor's covenants and obligations, express and implied, under this Lease Agreement will bind Lessor and its successors and assigns only during and in respect of their successive periods of ownership of the underlying fee estate of the Leased Premises.

K. LESSEE REFERENCES. In the event requested by Lessor, Lessee shall deliver, from time to time as requested, credit and banking references as Lessor may reasonably request, during the term of this Lease Agreement.

L. MEMORANDUM OF LEASE. Upon request of either party hereto, the parties shall execute a Memorandum of Lease for the purpose of imparting to the public notice of the existence of this Lease Agreement, and/or its subsequent amendment, modification or early termination, to be filed in the Real Property Records of Denton County, Texas.

M. AIRPORT SPONSOR. Notwithstanding any provision contained herein to the contrary, Lessor may limit or temporarily obstruct access to the Leased Premises and/or Public Areas of the Airport in connection with or related to events occurring at the Airport. Lessee stipulates that Lessor shall have such right to limit or temporarily obstruct such access and hereby releases Lessor, its officers, elected officials, agents and employees from any losses, damages or claims of any kind or type that Lessee may have related to such limited or obstructed access. Unless this Lease Agreement otherwise allows such obstruction or Lessor and Lessee otherwise agree, Lessor shall not completely obstruct access to the Leased Premises for a period in excess of twenty-four (24) consecutive hours related to such special events.

N. SUBLESSEES AND ASSIGNEES. In the event this Lease Agreement provides applicability of any of its provisions to sub-lessees or assigns, such provision shall be deemed to mean solely the sub-lessees or assignees of Lessee, as may be permitted by Lessor.

O. TIME OF ESSENCE. It is expressly agreed by Lessor and Lessee that time is of the essence with respect to this Lease Agreement.

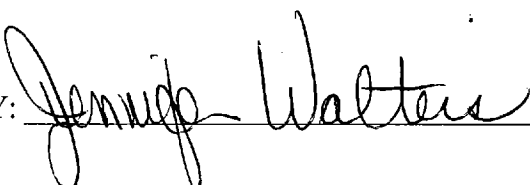
IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the Effective Date first above written.

CITY OF DENTON, TEXAS, LESSOR

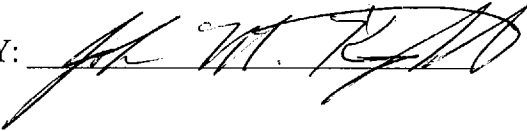
BY: 

GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

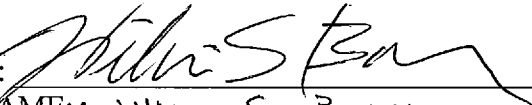
BY: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: 

LESSEE

HYA AVIATION

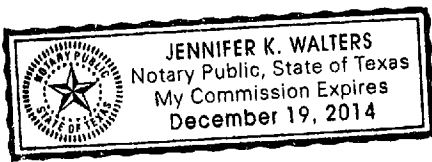
BY: 
NAME: William S. Brown
TITLE: Vice President.

ACKNOWLEDGMENTS

THE STATE OF TEXAS §

COUNTY OF DENTON §

This instrument was acknowledged before me on the 28th day of September, 2012, by George C. Campbell, City Manager of the City of Denton, Texas, on behalf of said municipality.



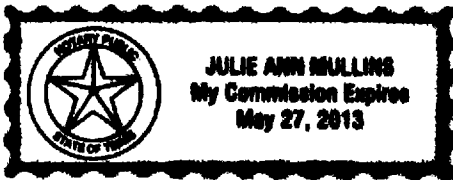
Jennifer K. Walters
NOTARY PUBLIC, STATE OF TEXAS

LESSEE NOTARY

THE STATE OF TEXAS §

COUNTY OF DENTON §

This instrument was acknowledged before me on the 21 day of August, 2012 by William S. Brown



Julie Ann Mullins
NOTARY PUBLIC, STATE OF TEXAS

