

Recorder's Office Cover Sheet

Recording Requested By:

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Department: Airport



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KAREN ELLISON, RECORDER

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- Agreement
- Contract
- Grant
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NO. 2022-029

2/15/22
DATE

DOUGLAS COUNTY CLERK
MINDEN, NV

MINDEN-TAHOE AIRPORT

LAND LEASE LL 118

BY AL DEPUTY

This Land Lease (Lease) is entered into by Douglas County, Nevada (County), a political subdivision of the State of Nevada, which owns and operates the Minden-Tahoe Airport (Airport), and NORTHERN NEVADA AVIATION, LLC, a NEVADA LIMITED LIABILITY COMPANY (Lessee) with an address at Post Office Box 2950, Minden, Nevada 89423. County and Lessee may at times be referred to herein as the "Parties," or individually as the "Party."

RECITALS:

WHEREAS, the County owns and operates Minden-Tahoe Airport located in Douglas County, Nevada, as a general aviation and reliever facility, and is authorized to contract for the use of Airport premises and facilities and the provision of products and services thereon; and

WHEREAS, Lessee desires to lease the Premises for the Term set forth herein, and to make additional investments and improvements thereon, which Lessee agrees will be fully amortized upon the expiration of the Initial Term; and

WHEREAS, Lessee has satisfactorily demonstrated to County that Lessee complies with the Minden-Tahoe Airport's Leasing Policy; and

WHEREAS, County deems it advantageous to lease to Lessee the Premises under the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the terms herein, County and Lessee agree:

ARTICLE 1: Preliminary Matters

1.1. Definitions

The words and phrases contained in this Lease shall have the meanings ascribed to them in Exhibit A, hereto, or if not defined in Exhibit A, then those meanings ascribed in the Minden-Tahoe Airport's Rules and Regulations (or any successor document thereto), as adopted and revised by Resolution of the Douglas County Board of Commissioners.

1.2. Term

The "Initial Term" of this lease shall be thirty (30) calendar years, commencing on the **October 5, 2019** ("Effective Date"), and expiring on **October 4, 2049** unless sooner terminated in accordance with the terms of this Lease. Thereafter, so long as Lessee is not in Breach, Noncompliance, or Default under this Lease and has not on more than one prior occasion been in Breach, Noncompliance or Default (which has since been cured), Tenant shall have an option to extend the Initial Term for a period of five (5) years ("Option Term").

- a. Thereafter, if Lessee remains in possession of the Premises with County's written consent, such holding over shall not be construed as a renewal or extension of this Lease, but shall create only a month-to-month holdover tenancy under the same terms herein. County may terminate any holdover and repossess the Premises at any time by providing Lessee with thirty (30) days advance written notice.

1.3. **Leased Premises**

The Leased Premises consists of the parcel of real property, approximately 87,120 square feet (apx. 2 acres) in size, which is described and depicted on Exhibit B, hereto. Subject to the terms of this Lease, Lessee shall be entitled to the peaceful possession and quiet enjoyment of the Premises during the Term. The Parties agree that the depiction in Exhibit B will be surveyed and that the legal description will be incorporated into Exhibit B by subsequent Amendment. The County owns and maintains a water well, which is housed immediately adjacent to the terminal building and within the Premises. The County will retain the water well and building and approximately 500 square feet of land upon which the water well is located. The area will be noted on the survey and that portion of land will be excluded from the Premises; Lessee will not be charged rent for that area.

1.4. **Condition of Premises**

Lessee has inspected the Premises and has had an adequate opportunity to enter the Premises and satisfy itself as to the condition of the Premises. Lessee accepts the Premises in the condition existing on the Effective Date of this Lease. Lessee accepts the Premises in "as is" condition with no assurance, warranty, or guarantee of any kind including, without limitation, any representation or warranty as to the condition of the soil, water, or other material condition as might occasion unexpected costs for site preparation, development, or operations. County makes no representation as to the condition of the Premises, drainage or storm water runoff through the Premises and/or to the condition or quality of the Premises or Airport at the time of the signing of this Lease or thereafter.

1.5. **Reservation of Rights**

County expressly reserves the following rights from the Lease for the Premises:

- a. All gas, oil, water, geothermal, and mineral rights in and under the soil;
- b. A public right of flight through the air space above the ground;
- c. The right to grant utility easements to others over, under, through, across, or on the Premises, provided that: (1) such easements are at least five (5) feet from any building owned by Lessee; (2) such use will not unreasonably or materially interfere with Lessee's use of the Premises; and (3) such reservation or grant shall not result in any cost to Lessee;
- d. The right to regulate and control the use of all Airport and airfield facilities including, but not limited to, the airfield, aprons, ramps, taxiways, and taxi lanes as now exist and as might be constructed adjacent to the Premises; and,
- e. The right, during (and in preparation for) aviation related or special events conducted at the Airport, to require Lessee to relinquish operational use of any common area of Airport or unenclosed area of the Premises, provided that Airport shall not execute this right for more than 8 days in any 11 consecutive calendar months. Lessee shall not be entitled to any abatement or reduction of Rent or any

other compensation, recourse, or remedy as a result of Lessee's inability to use or access the Premises or Airport during such an event.

ARTICLE 2: Rent, Fees, and Charges

2.1. Security Deposit

Upon signing this Lease, Lessee shall pay Airport a Security Deposit in the amount of **\$3,920.40**, which is equal to three months' initial Rent ("Deposit"). The Deposit may be applied by County to discharge any outstanding obligations of Lessee under this Lease. If the County so applies any portion of the Deposit during the Term or any permitted holdover, then Lessee shall, within ten (10) calendar days thereafter, deposit additional funds with the County to promptly restore the original deposit amount.

Upon Expiration or earlier Termination, the Deposit will first be applied to any of Lessee's obligations, and the amount remaining shall be returned to Lessee within ninety (90) calendar days thereafter.

2.2. Rent

Beginning on **October 5, 2019**, Lessee shall pay County monthly Rent, in the amount of one twelfth of **\$.18** per square foot of the Premises. For the purposes of the Rent calculation, the Premises shall be deemed as consisting of **87,120** square feet. Based upon the foregoing, the initial Rent obligation shall equal **\$1,306.80** per month. After the execution of this Lease, the Parties agree that a survey of the Premises will be completed and incorporated into this Lease by Amendment. The Rent obligation will be adjusted by the same Amendment to match the actual size of the Premises if different than 87,120.

2.3. Rent Adjustments

a. Each year, the Rent may, in the County's discretion, be adjusted in accordance with the Consumer Price Index for All Urban Consumers, United States City Average, All Items ("CPI-U"), published by the United States Department of Labor's Bureau of Labor Statistics. If the CPI-U is discontinued or revised, then any such other federal index or computation, with which it is replaced, shall be applied in order to obtain substantially the same result as if the CPI-U had been applied; if no such index exists at the time of adjustment, then the Rent shall be increased by 2%.

i. If the County plans to adjust the Rent, then the County must provide Lessee with written notice at least 30 calendar days prior to the upcoming Anniversary Date, and the adjustment shall be effective as of the Anniversary Date. The adjustment shall continue thereafter until subsequently adjusted.

ii. The adjustment will be calculated as follows:

1. The County will calculate an "Adjustment Rate," which shall be equal to: (A) the unadjusted index for all items for the calendar month, which

is two months prior to the Anniversary Date on which the rent adjustment will take effect, divided by (2) the unadjusted index for the same calendar month preceding the most recent Rent Adjustment; or if no prior adjustment has been made then for the same calendar month preceding the Effective Date.

2. The adjusted Rent shall be equal to the Rent in effect at the time of adjustment multiplied by the Adjustment Rate.
- b. The County may, in its discretion, make occasional Fair Market Value adjustments to the Rent (FMV Adjustment) as follows:
- i. The purpose of a FMV Adjustment is to realign Lessee's Rent obligation to the then-existing fair market demand for airport tenancies.
 - ii. The County may make: one FMV Adjustment between the 15th and 25th Anniversary Dates, inclusive; one FMV Adjustment between the 25th and 35th Anniversary Dates, inclusive; and one FMV Adjustment between the 40th and 45th Anniversary Dates, inclusive.
 - iii. The FMV Adjustment, if any, shall be determined as follows:
 1. At least sixty (60) calendar days prior to the effective date of the FMV Adjustment, the County shall notify Lessee of its intent to complete a FMV Adjustment. The notice shall include (1) the effective date of the FMV Adjustment, and (2) County's proposed adjustment amount, which shall be based upon the Fair Market Value of the Premises without including any Improvements that were constructed by Lessee.
 2. Lessee's objections, if any, to the County's Fair Market Value determination shall be in writing and shall be delivered to the County at least thirty (30) calendar days prior to the effective date of the FMV Adjustment.
 3. Disputes regarding the Fair Market Value determination shall be resolved as follows:
 - a. Each party shall obtain, at the party's own cost, an appraisal prepared by an appraiser with an MAI Membership Designation from the American Institute of Real Estate Appraisers (or any successor organization, should the institute cease to exist). The appraisals shall determine the fair market rental value of the Premises, without regard for Improvements constructed by Lessee during the Term. The FMV Adjustment shall be equal to the arithmetic mean of the values in the two

appraisals; provided however that the FMV Adjustment shall never result in a downward adjustment of the Rent.

- b. If the dispute is not resolved prior to the effective date first noted by the County, then the FMV Adjustment shall be applied retroactively to said effective date.
- c. If so required by law, the Rent may be otherwise adjusted during the course of the Lease.

2.4. **Additional Fees and Charges**

- a. *Fees and Charges incurred by the County on Lessee's account:* Lessee shall promptly pay additional fees and charges, upon written notice of such fees by County, if County:
 - i. Has paid any sum or incurred any obligation or expense, which Lessee has agreed to pay or reimburse to County;
 - ii. Has paid or incurred any expense or obligation because of Lessee's failure, neglect, or refusal to perform any obligation under this Lease when due; or
 - iii. Has incurred any fine or other penalty as a result of the activities, operations, or other conduct of Lessee or anyone acting by or for Lessee, its officers, directors, managers, members, shareholders, agents, invitees, or licensees.
- b. *Triple Net Lease:* This Lease is triple net, meaning that, in addition to the charges specifically set forth herein, Lessee shall be responsible for the timely payment of all taxes, insurance, and maintenance obligations pertaining to the occupation or use of the Premises. Taxes may include state, local, and federal taxes, including property tax, excise tax, and special assessments. Lessee shall not permit any tax, assessment, fee, or charge to become delinquent.
- c. *Utilities:* Lessee is solely responsible for the acquisition and cost of utility services, including without limitation: water, sewer, electricity, telecommunication services, or gas. Lessee shall pay any fees associated with separately metering or accounting for the Premises for such utilities. Lessee shall pay all utility obligations when due, and shall not permit any utility fee or charge to become delinquent.
- d. *Other Fees and Charges:* Lessee shall promptly pay to County any obligation due under any other agreement between the Parties. Lessee shall not allow any fee or charge due under any other agreement between the Parties to become delinquent.

2.5. **Payment of Rent and Fees**

- a. *Legal Tender:* Payments due under this Lease shall be made in legal tender of the United States, and quantities reflect U.S. Dollars. Lessee shall make any payments by check or money order, made payable to and delivered to the County by the due date.

- b. *Due Date (Rent)*: Rent is due on the **5th** day of every month, and Lessee shall pay such Rent when due without adjustment, abatement, deduction, or offset. Rent payments are made in advance for the use of the Premises.
- c. *Due Date (Other)*: Unless otherwise specified herein, fees and charges are due as set forth on the invoice or notice from the County to Lessee, provided that such date shall never be sooner than the 10th calendar following delivery of the notice or invoice.
- d. *Late Payment Fee*: If any portion of Lessee's Rent or other payment obligation remains unpaid more than five (5) calendar days after it is due, then the County will assess a "Late Payment Fee" of One-Hundred Dollars (\$100.00), to compensate County for the additional administrative costs resulting from Lessee's failure to timely pay full and complete Rent. The Late Payment Fee is due upon the thirtieth day after it is assessed to Lessee's account.
- e. *Late Payment Interest*: If any outstanding Rent or other fee or charge obligation remains unpaid for more than 29 days, then the County shall assess interest on the unpaid balance, dating back to the date on which the Rent, fee or charge, first came due. Interest will be charged at the highest of either 18% per annum, or the maximum amount allowed by law. Interest shall not accrue with respect to disputed items being contested in good faith by Lessee, provided Lessee has delivered written notice of its dispute to County by no later than the due date of the disputed charge.
- f. *Late Payment Expenses*: Lessee shall pay and discharge all costs and expenses incurred or expended by County in collection of delinquent amounts due hereunder including, but not limited to, service charges, professional collection fees, and attorney's fees.
- g. *Application of Payment*: If at any time Lessee has an outstanding balance on Lessee's account, then Lessee's subsequent payments to County will be applied as follows: first to interest, then late payment fees, and finally the unpaid balance, with oldest charges being paid off first.
- h. *Advance Payment*: Lessee may deposit funds for Rent or other fees up to one year in advance, provided however that the County's acceptance of any advance funds shall not be deemed as the County's agreement as to the accuracy of the amount deposited or as agreement by the County that the Rent or other fees in effect at the time of payment will remain unchanged for any period of time.

ARTICLE 3: Lessee's Use of Airport and Premises

3.1. Access and Use

- a. *Ingress & Egress*: Lessee shall have the reasonable, nonexclusive right of ingress to and egress from the Premises over and across common areas and public roadways serving the Premises and Airport.

- b. *Parking*: Lessee shall have the right to use, as available and in common with others, the parking areas at Airport, which County has designated for such use. Lessee agrees to pay any fee or charge, as may be imposed in the future by resolution of the Board, for such use.
- c. *Aeronautical Use*: Lessee's use of Airport and airfield facilities shall be as directed and regulated by County, and Lessee shall not use the Airport or airfield facilities except as directed by the County. Lessee shall have the right, in common with others so authorized, to use the landing area and appurtenances of Airport, together with all facilities, improvements and services (including approach areas, runways, taxiways, taxi lanes, aprons, aircraft parking areas, navigational and avigational aids, lighting facilities, and other conveniences for flying, landing and takeoff of aircraft), to the extent that such facilities or services are made available for common use by the County. This right may be limited by the rights of other users of the airport, including uses relating to any firefighting activities.
- d. *General Aviation Use*: Lessee may occupy, use, develop, improve, maintain, and operate the Premises for the purpose of aircraft storage, and conducting related activities as specified herein, including the provision of facilities and amenities consistent with general aviation custom and usage, and for no other purpose.
- e. *No Residential Use*: Lessee shall not develop or use, nor permit the development or use of any hangar or other facility on the Premises for residential use.
- f. *Cost*: Lessee's occupancy, use, improvement, maintenance, and operation of the Premises shall be at Lessee's sole cost and expense, except as otherwise expressly provided herein.
- g. *Licenses, Certifications, and Permits*: Lessee shall obtain and maintain in effect at all applicable times and at its sole cost:
- i. Any licenses, certificates, and permits required for its development, improvement, occupancy, use, maintenance, and operation of the Premises; and
 - ii. Any licenses, permits, and other operating, use or safety certifications required by federal, state, and local regulatory agencies for its use, operations, and activities and associated operations on Airport property, specifically including the Premises
- Upon request, Lessee shall provide County with copies of any and all such licenses, permits and other documentation evidencing compliance herewith.
- h. *Hazardous Activities*: Lessee shall make active efforts to ensure that no act or omission, relating to Lessee's activities, would in any way create a hazard to persons or property, or would otherwise serve to jeopardize or invalidate any policies of

insurance or increase the premium rate(s) charged for any insurance carried on the Premises or Airport, or which would be in violation of federal, state or local laws, rules and regulations thereby subjecting the County or others to sanctions, fines or penalties impeding the operation of Airport. If such act or failure to act shall result in cancellation of any insurance policy, then Lessee shall, immediately upon notice by County, do whatever shall be necessary to cause reinstatement of that policy. Furthermore, if Lessee shall do or permit to be done any act not authorized hereunder or fail to do any act required under this Lease, regardless of whether or not such act constitutes a breach of this Lease, which causes an increase in premiums for any Airport insurance policy, Lessee shall immediately remedy such action and pay the increase in premiums, upon notice from County to do so; and, in any event, Lessee holds County harmless from and against any expense and damages resulting from any action as set forth herein.

3.2. **Conditions, Limitations and Use Restrictions**

Lessee's use of the Premises and Airport shall be subject to the following nonexclusive list of conditions, limitations, and restrictions:

- a. *Operational Safety*: Lessee shall at all times conduct its operations in a safe, prudent, professional, and lawful manner. Lessee's use hereunder shall not impede or unduly interfere with the operations of County, other tenants and authorized users of Airport, or the general public.
 - i. Any applicable laws, rules, or regulations may from time-to-time after the effective date of this Lease be modified or amended and Lessee expressly agrees to comply with any such modifications or amendments as they become effective during the Term of this Lease.
- b. *Interference with Airport Operation*: Lessee shall not make use of the Premises or Airport in any manner which might interfere with or permit interference with the use, operation or maintenance of the Airport. If this term is breached, County reserves the right to cause the abatement of such interference at the expense of Lessee and to place such temporary restrictions on the operations of Lessee as County deems necessary in the public interest.
- c. *Limited Use*: Except as explicitly provided under this Lease, Lessee's operations hereunder and those of its agents, invitees, licensees, and Sublessees are expressly limited to the Premises. Lessee is limited to the uses and operations as approved herein. As such, Lessee is expressly prohibited from expanding or altering its scope of uses and operations beyond the scope of this Lease or any other agreements entered into between the County and Lessee or to engage in commercial or business enterprise at Airport which is reserved to premises, use provisions, operating conditions, and restrictions not intended or covered hereunder or authorized by way of separate agreement between County and Lessee.

- d. *Disabled Aircraft*: As soon as possible after release by proper authorities, Lessee shall remove, any of its disabled aircraft from the airfield, landing area and ramp, place such disabled aircraft in an area as County might designate, and store such disabled aircraft only upon such terms as established by County. If Lessee fails to remove or ensure the removal of a disabled aircraft as expeditiously as possible, County may, but shall not be obligated to, cause the removal of the aircraft at Lessee's expense, and Lessee shall indemnify and hold County harmless from any claims or damages which might result from such removal.
- e. *Interference with Insurance*: Lessee shall not do or permit to be done anything, either by act or failure to act, that shall cause the suspension, cancellation, or violation or the provisions or any part thereof, of any policy of insurance for Airport, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Lease.
- f. *Improvements*: Lessee shall not install, nor permit the installation of any Improvement without County's prior written approval. Any Improvement installed without such approval shall be removed promptly at Lessee's cost.
- g. *Contracts with Third-Parties*: Lessee shall not contract for (or otherwise obtain) products or services, which are provided at or from the Premises by a third party, regardless of the nature of such products or services, unless the third party has a valid commercial operator agreement with the County to provide such products or services at the Airport. Lessee shall notify the County in advance of Lessee's intent to engage the third party.

ARTICLE 4: Condition and Maintenance of Premises

4.1. Fire Safety Procedures and Fire Protection System

Lessee shall comply with all fire safety rules, regulations, and procedures, including the International Fire Code, in effect or applicable to the Airport. Lessee shall install such extinguishing devices or fixtures on and in the Premises, as might be required by East Fork Fire Protection District. Storage of combustible and flammable liquid shall meet all fire code requirements. Lessee shall maintain in good working order on the Premises a quality fire protection system, which Lessee shall cause to be certified as meeting all applicable fire and safety standards, at least annually, by a qualified fire protection system inspector, with a copy of each such certification provided to County.

4.2. Security

- a. *Airport Security (Generally)*: Lessee shall comply with all rules and regulations of County as to Airport and airfield security. Lessee shall further comply with any and all federal, state, and local laws, rules and regulations governing airport and airfield security, as the same exist and as might hereafter be enacted, promulgated, augmented, and amended. Lessee's responsibilities expressly include, without limitation, implementing security plans and installing and operating security systems upon the Premises to meet any and all requirements of the TSA.

- b. *Perimeter Security*: The Premises have been identified as containing at least one boundary line along the perimeter of the airport. Lessee shall be responsible for the protection of the integrity of the security of the Airport perimeter for the portion abutting or intersecting the boundaries of the Premises. Lessee shall undertake measures necessary for the prevention of unauthorized access onto any restricted area of Airport by way of the Premises.
- c. *Security of Premises*: Lessee shall be responsible for providing its own security for the Premises including, but not limited to, improvements thereto, for any equipment, vehicles, materials and other personal property brought onto the Premises or Airport by or for Lessee, and for any services provided or activities conducted by Lessee or by anyone for Lessee under this Lease. County shall not be liable for any damages or theft of property from the Premises, and Lessee is solely responsible for safeguarding any property thereupon.
- d. *Bailee Disclaimer*: County in no way purports to be a bailee and is not responsible in any way for any damage to the property of others, including, but not limited to, the property of Lessee, its agents, invitees, and/or licensees including, but not limited to, any Sublessee.

4.3. Condition & Maintenance of Improvements

- a. *Generally*: Lessee shall maintain the Premises, including all Improvements, Trade Fixtures, and other facilities thereon, in a First-Class condition.
- b. *Cost*: Lessee shall be responsible, at its cost, for the complete installation, maintenance, repair, and operation of all improvements upon the Premises. County shall not be responsible for maintenance or repairs to the Premises or to any improvements thereto or Trade Fixtures thereon constructed or installed.
- c. *Condition*: Lessee shall maintain the Premises in a good, safe, clean, and attractive condition and in compliance with federal, state, and local laws, rules and regulations including, but not limited to, environmental laws. Lessee shall promptly make any repairs or otherwise address any deficiencies if the Premises fall out of compliance at any time.
- d. *Trash*: Lessee shall remove all trash and debris generated at the Premises for disposal away from the Premises and Airport, and shall be responsible for waste management at the Premises. The accumulation of trash, dust and debris, the piling of boxes, and other unsightly or unsafe materials, on or about the Premises or Airport, is strictly prohibited.
- e. *Sanitary and Industrial Waste Disposal*: As required by law, Lessee shall operate and maintain, in good working condition and at its cost, appropriate, adequate facilities for separating, neutralizing and treating any sanitary and/or industrial waste, foreign materials, and hazardous waste, and for the proper disposal thereof, as required by federal, state, and/or local law. Lessee shall ensure that it provides

at all times, appropriate, sanitary, and lawful means of disposing of waste, including human waste, from the Premises.

- f. *Landscaping*: Lessee shall maintain any landscaped area of the Premises in a healthy and attractive condition, and shall provide, if and to the extent applicable, for mowing, weeding, weed abatement, pruning, trimming, edging, and watering on a regular basis, and for replanting and replacing any landscaping fixture whenever and wherever necessary. Any new or replacement irrigation fixture or landscaping installation is subject to approval by County. Lessee shall provide for regular grounds maintenance, sweeping, and dust control. Lessee shall not permit the growth of trees or noxious weeds upon the Premises.
- g. *Pavement*: Lessee shall maintain all paved surfaced upon the Premises. Pavement shall be maintained to the highest level required by either Douglas County Code or those standards established by the FAA for airport pavements.
- h. *Snow Removal*: Lessee shall be responsible for prompt seasonal snow and ice removal from any paved surfaces upon the premises; such snow and ice removal shall be in coordination with County's snow removal plan. Lessee shall not displace snow, ice, or other debris from the Premises onto other Airport property.
- i. *Inclement Weather Conditions*: Lessee shall be responsible for securing all Improvements and personal property upon the Premises from inclement weather conditions.
- j. *Obligation to Rebuild*: If the Premises or Improvements thereupon are damaged by any casualty, then Lessee shall give prompt notice thereof to County. Lessee shall, at its cost and subject to the terms hereof, promptly restore, repair, replace, and rebuild the same, at least to the same extent, value, and as nearly as practical to the character and condition of improvements existing immediately prior to the occurrence of such damage or destruction. Lessee shall make all such restorations, repairs, replacements, and rebuilding consistent with the terms, requirements and limitations set forth in this Lease. Lessee's obligation under this section will not be relieved due to Lessee's failure or inability to complete repairs or reconstruction prior to the Expiration or Termination of this Lease. In such an event, County may elect, at its option, to complete the repairs or reconstruction at Lessee's expense.
- k. *Advance Notice*: Notwithstanding any other provision contained herein, Lessee shall not, in any event, enter into a contract for the construction, installation, repair, or modification of any Improvement upon the Airport or Premises, unless Lessee has first given County seventy-two (72) hours of advance notice prior to entering such contract.

4.4. **Environmental Compliance**

- a. *Environmental Laws (generally)*: Lessee shall not fail to comply with all federal, state, and local laws and regulations controlling pollution of the environment. Lessee shall take necessary precautions to prevent pollution of streams, lakes,

ponds, and reservoirs with fuels, oils, bitumen, chemicals, debris, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

- b. *Environmental Orders (generally)*: Lessee agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387), and any other law or act related to the protection of the environment or natural resources. In addition to any reporting requirements contained in the foregoing, Lessee agrees to report any violation(s) to the Airport immediately upon discovery.
- c. *Environmental Laws (hazardous materials)*: Lessee shall not fail to comply with all environmental laws and regulations pertaining to hazardous materials, including, but not limited to, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA), the laws of the State of Nevada and local ordinances governing environmental matters including, but not limited to, the transportation and storage of hazardous materials, substances and waste, as might now or hereafter be defined by such laws.
 - i. *Use of Hazardous Materials*: Lessee shall not improperly use, store, or dispose of (on the Premises or elsewhere at Airport) any petroleum product, or any material or substance now or hereafter classified as hazardous or toxic by any federal, state or local law.
 - ii. *Receipt of Hazardous Materials*: Lessee shall not (upon the Premises or elsewhere at the Airport) receive hazardous articles or materials for shipping, storage or disposal unless Lessee complies with all requirements established by local, state, and federal laws or regulations, and Lessee handles such articles or materials compliant with 14 C.F.R. Part 121.433a, any successor regulations, parts and materials handling directives, company manuals or a combination of these, as applicable, and as they might be amended.
 - iii. *Handling Hazardous Materials*: To the extent required by law, Lessee shall maintain written procedures for handling and disposing of petroleum products and hazardous and toxic materials and wastes. Lessee shall make such written procedures, if any are so required, available for County's review upon request.

4.5. Stormwater Management

- a. *Storm water discharge requirements*: Lessee warrants and represents that it is familiar with federal, state, and local storm water laws, which may affect the Premises. Such laws include, for example (40 C.F.R. Part 122) and state storm

water regulations provided by the Nevada Water Pollution Control Law set forth in NRS Sections 445.131 - 445.354, inclusive. Lessee shall comply with any applicable storm water law or regulation. Lessee shall not permit any unauthorized non-storm water discharge from its Improvements, facilities, or equipment. Lessee shall undertake all reasonably necessary actions to minimize the exposure of storm water and snow melt to Significant Materials, if any, generated, stored, handled, or otherwise used by Lessee, by adhering to County's requirements and to Best Management Practices.

- b. *Storm water Management Plan:* Lessee shall comply with the Airport's storm water management plan and any revisions, updates, or amendments as may be adopted by the Board during the Term. Lessee shall develop, maintain, and adhere to an effective storm water pollution prevention plan for the Premises. Lessee and County will coordinate to ensure that storm water pollution prevention plans are compatible across the Airport and in compliance with the Airport's storm water management plan.
- c. *Compliance with EPA directives:* Lessee shall timely comply with, subject to Lessee's right to appeal, if any, any storm water-related directive or request issued by the U.S. Environmental Protection Agency (EPA), or other successor organization thereto. Lessee shall, as necessary, certify non-storm water discharges from or within the Premises; collect storm water samples; prepare storm water pollution prevention or similar plans; implement good housekeeping measures and best management practices; and maintain necessary records.
- d. *Storm water Discharge Permit:* County has taken steps necessary to apply for or obtain a storm water discharge permit as required by the regulations for Airport, which might include or affect the Premises, and Lessee may be named as a co-permittee. Lessee shall comply with the terms of the County's Storm water discharge permit, as it may be updated or amended during the term of this Lease. Lessee may view a copy of County's storm water discharge permit by requesting the same from the Airport Manager. County will give Lessee written notice of any breach by Lessee of County's storm water discharge permit or of the terms hereof by Lessee, and Lessee shall undertake immediately and pursue diligently the cure thereof.

4.6. County's Right to Enter, Inspect, and Direct or Make Repairs

County, its officers, agents, employees, contractors, invitees, and/or licensees may enter the Premises for the purposes and in the manner set forth below. Lessee shall not obstruct nor hinder the County's efforts to enter Premises or perform work, nor shall Lessee make any claims against the County, provided that County acted in accordance with this Article. Nothing in this Section shall limit any other right of County hereunder, nor obligate County to undertake any inspection, installation, removal, adjustment, repair, or other activity on, in, at, under, around, or above the Premises or any other area of Airport. County may enter the Premises:

- a. Upon at least forty-eight (48) hours advance notice:
 - i. To verify Lessee's compliance with the terms of this Lease, including the requirement for Lessee to promptly make repairs as necessary.
 - ii. To inspect, install, repair, remove, or otherwise alter any FAA, TSA, or County facility or equipment which is on, in, under, or above the Premises.
 - iii. Upon directive from the TSA, FAA, or other agency with authority over airport operations, to install equipment, facilities, devices, or other items necessary or proper for the safe, secure, and efficient operation of the Airport.
- b. To perform maintenance and make repairs upon the Premises as follows:
 - i. If the County has reasonable cause to believe that the maintenance or repair need constitutes an emergency or presents an imminent threat to the health or safety of persons or property, then the County may enter the Premises to make necessary repairs, provided that the County subsequently provides Lessee with a Notice of Required Repairs within 2 business days.
 - ii. If the maintenance or repair need constitutes an actual or apparent violation of any state, federal, local law (including without limitation health or safety regulations), then the County may enter the Premises if Lessee has not completed or diligently pursued completion of the necessary repairs within 24 hours after the county notifies Lessee by telephone. County will also send Lessee a Notice of Required Repairs citing the relevant Lease provisions and laws or regulations.
 - iii. In all other cases, County must notify Lessee in advance and in writing by sending a Notice of Required Repairs to Lessee at least ten (10) calendars days in advance and provide Lessee with at least ten (10) calendar days within which to begin its diligent pursuit of the required repairs.

Any costs incurred by the County pursuant to this provision (including internal personnel costs billed at their regular rates) will be billed to Lessee with an additional administrative charge equal to 15% of the billed amount.

ARTICLE 5: Lessee Improvements

5.1. Generally

Lessee agrees that it will make certain Improvements, as follows:

- a. *Compliance:* Improvements shall be completed in accordance with Douglas County Code, this Lease, Airport Documents, and any other applicable State, federal or local law or regulation.

- b. *Airport Improvements*: Lessee may be required to complete, at its sole cost, improvements on the Airport and outside of the Premises, provided that Lessee's responsibility for such improvements shall be limited to those which might be required of Lessee by law or which would not be required but for Lessee's Improvements on the Premises.
- c. *Timing*: By no later than 18 months after the Effective Date of this Lease, Lessee shall cause the Improvements set forth in Exhibit C to be constructed and completed upon the Premises or Airport, subject to the requirements set forth herein. Improvements will be deemed completed upon the issuance of a Notice of Completion or Certificate of Occupancy by the overseeing regulatory authority.
 - i. The County may grant an extension for the construction of Improvements if the Lessee has submitted a written request for extension, which demonstrates by a preponderance of the evidence that, notwithstanding its diligence, Lessee cannot complete construction within the time required.
- d. *Additional Improvements*: Lessee may cause additional Improvements to be constructed upon the Premises, provided that such Improvements are constructed pursuant to the requirements set forth herein. Such improvements may include a hangar to be constructed in the vicinity of the existing self-serve fueling facilities.

5.2. Design and Planning

- a. *Design Review*: Any Lessee Improvement upon the Airport or Premises shall be subject to Design Review under Title 20 of the Douglas County Code. Lessee shall properly submit any necessary documentation for the review and shall ensure that it satisfies all conditions of the review. Lessee shall concurrently submit a duplicate, courtesy copy of the application to the Airport.
- b. *Airport Review Notice*: Lessee shall ensure that its application for Design Review is accompanied by a single-page notice stating that the Airport Manager's endorsement is required prior to final decision on the application.
 - i. The Airport Manager shall promptly review the application upon receipt for the purpose of determining if the proposed improvements are consistent with this Lease, other Airport Documents, the Airport Layout Plan, and the best interest of the airport.
- c. *Additional Documentation*: The County or Airport may request additional documentation from Lessee, including without limitation:
 - i. Construction technical specifications;
 - ii. Engineer's estimate of the total cost of proposed improvements;
 - iii. Critical Path Method (CPM) schedule of construction;
 - iv. Final equipment listing;
 - v. Will-serve letters from all utility service providers;
 - vi. Material Safety Data Sheets;

- vii. Permits;
 - viii. Copies of contracts between Lessee and any general contractor, and between the general contractor and any subcontractor;
 - ix. Final construction budget.
- d. *Permits*: Lessee shall identify, obtain, and maintain, at Lessee's cost, any necessary permits or permissions for any construction or development. Neither this Lease nor any Airport Document shall be construed as permitting any Improvement. Prior to the County's issuance of a Notice to Proceed, Lessee shall (1) confirm to County, in writing, that any and all required federal, state and municipal approvals, permits and other authorizations have been procured and (2) provide County with true, correct, complete copies thereof;
- e. *Preconstruction Meeting*: County may, at its discretion, schedule a preconstruction meeting to include Lessee, duly authorized representatives of Lessee, and any of Lessee's contractors and subcontractors. The purpose of the preconstruction meeting is to review permits, insurance, licenses, and other documentation, and to coordinate any work in accordance with the Lease.
- f. *Notice to Proceed*: Once all of Lessee's submittals (including plans, bonds, permits, insurance, etc.) to County are approved by the County, the County will issue a Notice to Proceed.
- g. *Commencement of Work*: Lessee shall not commence any work or construction until (1) Lessee has posted County's Notice of Non-Responsibility at the project site, and (2) the County issues Lessee a Notice to Proceed.

5.3. Construction

- a. *Coordination*: Lessee shall cooperate, and shall ensure its agents including, but not limited to, its contractors and their subcontractors, cooperate with the County in scheduling or performing any work required by this section at the Airport or upon the Premises.
- b. *Notices to Airmen*: The Airport is the only entity which may initiate or cancel NOTAMs on airport conditions and it is the only entity that can close or open a runway. The Airport must coordinate the issuance, maintenance, and cancellation of NOTAMs about airport conditions resulting from construction activities and must provide information on closed or hazardous conditions on airport movement areas to the FAA Flight Service Station so that it can issue a NOTAM. Lessee must notify the Airport Manager when scheduling construction or projects that would require or necessitate the modification of NOTAMs.
- c. *Emergency Notification*: In the event of an emergency, Lessee shall notify the Manager immediately and, when necessary, call 911. Lessee must coordinate after hours contact procedures with the Airport prior to construction.

- d. *Notification to the FAA:* Any person proposing construction or alteration of objects that affect navigable airspace, as defined in Part 77, must notify the FAA. This includes construction equipment, stockpiles, and proposed parking areas for this equipment.
- e. *Impeding aircraft operations:* Lessee shall obtain approval from the Airport prior to beginning any work in all areas of the airport. No operating runway, taxiway, or air operations area shall be crossed, entered, or obstructed while it is operational. All equipment and material stockpiles shall be stored a minimum of 400 feet from the centerline of an active runway. No equipment will be allowed to park within the approach area of an active runway at any time. No equipment shall be within 200 feet of an active runway at any time. Lessee understands and agrees that it shall provide for the free and unobstructed movement of aircraft in the air operations areas of the airport with respect to Lessee's own operations or the operations of Lessee's subcontractors, or other agents. Lessee further understands and agrees that it will not interfere with or obstruct the operation of visual and electronic signals (including the power supplied thereto) used in the guidance of aircraft while operating to, from, or upon the airport.
- f. *Marking and Identification:* Lessee shall provide marking, lighting, and other acceptable means of identifying personnel, equipment, vehicles, storage areas, and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport.
- g. *Punch-Lists:* Lessee shall ensure that all Improvements comply with all applicable federal, state and municipal laws and with Lessee's plans as approved by County, and shall conduct a "punch list" review of the improvement project, to ensure any defect, error or omission is corrected, so that all improvements are made, and work performed, in a First-Class manner.
- h. *Completion:* Upon the completion of any improvement, and prior to Lessee's occupancy thereof, Lessee shall submit to County a copy of Lessee's acceptance letter or other similar document certifying completion, and a certified copy of any certificate or permit which might be required by any federal, state or municipal agency in connection with the completion or occupancy thereof.
- i. *Final Records:* Lessee shall, within thirty (30) calendar days of completion, submit to Airport an itemized statement of the total cost of any improvements, and copies of all invoices and other records in connection therewith. Lessee shall also furnish to County a complete, legible set of final, reproducible, "as built" drawings, and in digital format as specified by County Code of any and all improvements. County may, at its discretion, request additional information from Lessee regarding costs, and Lessee shall provide that information within thirty (30) calendar days of County's request therefor.

5.4. **Financial Requirements**

- a. *Financial Capacity*: Lessee shall furnish to Airport a financial statement showing, to County's satisfaction at its discretion, Lessee's financial capacity (including through the use of loans or credit) to pay all costs of a proposed improvement. Any such financial statement shall be treated as privileged and/or confidential to the extent required or allowed by law.
- b. *Performance Security and Payment Bonds*: At all times during the construction of Improvements, Lessee shall maintain performance security and payment bonds, covering the materials wages and benefits associated with the work involved in the Improvements. Such bonds must be acceptable as to form and surety by County, at its discretion and consistent with the requirements of DCC Title 20. The bonds shall protect County from liability, losses or damages arising from the work associated with the Improvements. Lessee shall ensure that County is listed as an additional obligee under such bonds. Lessee shall furnish copies of the bonds to the County upon request.
- c. *Notice of Posted Security*: Prior to commencing any improvement or other project, Lessee shall, at its cost, record a notice of posted security and otherwise comply with NRS 108.2403, and provide evidence to County, in a form satisfactory to County, that Lessee has so complied; and that Lessee has in fact posted the security in accordance with NRS Chapter 108.
- d. *Prompt Payment*: Lessee shall pay when due all claims for labor or materials at or for use on the Premises.
- e. *Free from Liens*: Lessee shall not engage in any conduct which results in the attachment to the Premises of a mechanic or materialman's lien. If a mechanic's or materialman's lien attaches to the Premises as a result of any improvement project, and Lessee, in good faith, contests the validity of any such lien, or of any other claim or demand placed on the Premises, then Lessee shall, at its cost, defend and protect itself, County, the Premises and Airport against the same, and shall pay and satisfy any such judgment that might be rendered thereon before the enforcement thereof against County, the Premises or Airport. If County requires, and to the extent required by NRS, Lessee shall furnish to County a surety bond in an amount equal to 150% of the amount of such contested lien claim or demand, indemnifying County against liability for the same.

COMPLIANCE WITH NEVADA LAW. PURSUANT TO NRS 108.234(2)(e), LESSEE IS REQUIRED TO COMPLY WITH THE PROVISIONS OF NRS CHAPTER 108 APPLICABLE TO A TENANT, WHICH PROVISIONS INCLUDE OBTAINING SECURITY FOR MECHANICS' AND MATERIALMEN'S LIENS AND RECORDING A NOTICE OF POSTED SECURITY BEFORE CAUSING A WORK OF IMPROVEMENT TO BE CONSTRUCTED, ALTERED OR REPAIRED UPON PROPERTY THE

TENANT IS LEASING. ANY FAILURE OF LESSEE TO COMPLY SHALL BE A MATERIAL BREACH OF THIS LEASE.

5.5. Ownership of Improvements & Amortization

- a. All improvements and Trade Fixtures installed by or on behalf of Lessee hereunder shall remain the property of Lessee until expiration or earlier termination of this Lease. If this Lease is terminated prior to the end of the Initial Term, then Lessee may remove any of its Improvements, provided that Lessee restores to the Premises to their preexisting, undisturbed condition. Any Improvements constructed upon the Premises shall automatically revert or transfer to County upon the expiration of the Initial Term, provided that County may direct Lessee to remove the Improvements at Lessee's cost as set forth in this Lease.
- b. Upon the expiration or termination of this Lease, County shall not be liable to Lessee for purchase, repayment, or reimbursement of any Improvement or Trade Fixture on the Premises or Airport, or for payment of any alleged remaining unamortized value thereof and/or any other cost relating thereto.

ARTICLE 6: Insurance

6.1. General Insurance Requirements

- a. Lessee shall, at its sole cost and expense, procure and maintain in effect insurance coverage with limits not less than those set forth herein. Lessee shall obtain any insurance required by this Lease from insurance companies that are duly licensed or authorized in Nevada to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Lease shall have an A.M. Best rating of A-VII or better.
- b. Insurance certificates shall show that written notice of cancellation or of any material change in coverage shall be delivered to the Airport in advance of the effective date of the change.
- c. Upon the effective date of the Lease, Lessee shall deliver to County certificates of insurance establishing that Lessee has obtained and is maintaining the policies, coverages, and endorsements required by the Lease. During the month of January each year, Lessee must provide the Airport with annual insurance coverage documentation. The County may, from time to time, demand other or additional evidence of required insurance.
- d. The County does not represent that the insurance coverage and limits established in this Lease necessarily will be adequate to protect Lessee or Lessee's interests. Insurance limits required herein shall not be deemed as a limitation on Lessee's liability.
- e. All policies (primary and excess) and Certificates of Insurance shall include Lessee as a named insured. All policies shall be primary coverage for any and all claims and losses arising from the use, occupancy and operation of the Leased Premises and the

Airport. All policies shall name, and Certificates shall show by separate endorsement that policies name, the County as an Additional Insured and shall waive all rights of subrogation against the County for the coverage; any other insurance available to County shall be excess and shall not contribute with this insurance.

- f. At a minimum, Lessee is required to provide and maintain the following insurance:

Liability (including bodily injury & property damage)

Each occurrence: \$ 1,000,000

Each passenger: \$ 100,000

Required Extensions:

1. Physical Damage Full insurable value of all aircraft
2. Ground Hangarkeeper's Liability
3. Premises
4. Contractual, including coverage for assumption of liability set forth in this Lease;
5. Liability while operating mobile equipment on Airport property, if and to the extent applicable and necessary; and
6. Personal Injury, in the amount of \$75,000.

Fire & Extended Risk

Each Occurrence: \$1,000,000

Aggregate: \$2,000,000

Automobile Liability Policy

Covering owned, non-owned and hired automobiles, if any, for use on the Premises or elsewhere on the Airport, with minimum limit of \$1,000,000.00 combined single limit per occurrence.

Workers' Compensation, and related coverages

Employer's Liability:

Bodily injury, each accident \$ 1,000,000

Bodily injury by disease, each employee \$ 1,000,000

Bodily injury/disease aggregate \$ 1,000,000

Foreign voluntary worker compensation Statutory

Other: Statutory, as required¹

- g. The Parties agree that the County maintains the right to revise—by Resolution adopted by the Board of County Commissioners—the insurance requirements set forth herein as to amounts, limitations and types of coverage, and Lessee hereby agrees to comply with such revised requirements upon notice from County.

6.2. Project Insurance Requirements

- a. Lessee shall maintain, or require any contractor to maintain, insurance protecting County and Lessee from exposure to claims during the construction of any

¹ Lessee shall be responsible for ensuring that all Workers' Compensation Insurance and Employer's Liability coverage has been acquired and maintained in accordance with the laws of the State of Nevada.

Improvements. This insurance shall include, without limitation and as applicable, comprehensive or commercial general liability, motor vehicle liability, "wrap-up," workman's compensation and builder's risk, the last equal to the maximum probable loss covering the design and construction and all materials and equipment to be used therefor.

- b. In addition to any other insurance coverage carried by or for Lessee hereunder, in any contract pertaining to improving the Premises, Lessee shall require any contractor to cause County to be insured against the risk of claims and/or demands by third persons against County. Such insurance shall be in a combined single limit of not less than one million dollars (\$1,000,000.00) for bodily injury and property damage. County may revise this requirement as to amounts, limitations, and types of coverage, and Lessee shall comply, and shall ensure that its contractor complies, with such revision promptly upon receipt of written notice from County stating the revision and the reason therefore.

6.3 Insurance Claims

Upon damage to or destruction of the Premises or any improvement thereto or thereon, Lessee shall file a timely, complete claim for such loss with the appropriate insurer and pursue diligently the processing of such claim. If Lessee fails timely to file such a claim, then County may do so and pursue the processing thereof. Upon receipt by Lessee and County of the proceeds of any applicable insurance policy, those proceeds shall be deposited into an escrow account, approved in writing by County at its discretion, so as to be available to pay for the cost of such restoration, repair, replacement or rebuilding. Such proceeds shall be disbursed during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary restoration, repair, replacement, or rebuilding of such damaged improvements, then Lessee shall pay any additional sums required into that account. If the amount of such insurance proceeds is in excess of the cost thereof, then the amount of such excess shall be remitted to Lessee.

ARTICLE 7: Indemnification & Legal Action

7.1. Indemnification

Lessee shall keep, save, release, protect, defend (at the election of County), indemnify, and hold harmless County, from and against any and all claims, fines, demands, suits, causes of action, liability, and damages including, but not limited to, costs of court and administrative proceedings and fees of attorneys and other professionals incurred by County, unless caused solely by the tortious or other wrongful conduct of County, in connection with:

- a. Lessee's operations or conduct on the Premises and other areas upon the Airport;
- b. Any act or omission by Lessee or Lessee's agents, which is related to the terms and provisions of this Lease;
- c. Lessee's development, improvement, use, occupancy, maintenance, management, and operation of the Premises;

- d. Defects in aircraft, vehicles, equipment, fixtures, and other products owned, used, operated, installed or stored by Lessee on any Airport location, including the Premises;
- e. Any hazardous or toxic substance, material or waste (as now or hereafter defined or classified under applicable federal, state or local law), including petroleum products, which is brought, deposited, stored on or removed from the Premises or Airport by (or on behalf of) Lessee; or contamination of the Premises, neighboring property, or any other Airport property resulting from any of the foregoing. The foregoing may include, without limitation, claims relating to any tanks, dispensers, pipes, lines, cables, conduits, or other facilities or equipment on or about the Premises, sued for the delivery, storage or dispensing of fuel or other petroleum products.

This indemnification of County by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal, reclamation, or restoration work, upon or under the Premises or neighboring property, if originating from the Premises. Lessee's obligation to indemnify County as provided herein shall survive the expiration or early termination of this Lease.

7.2. Pending Action or Claim

Upon receiving notice of any claim or the like, Lessee shall, at its cost, immediately investigate and, if necessary, cure or commence to cure by taking all action prescribed by applicable federal, state and local laws. Lessee shall immediately notify Airport in writing of:

- a. any environmental or other enforcement, clean-up, removal, or other governmental or regulatory action instituted, completed or threatened pursuant to any federal, state or local law;
- b. any claim made or threatened by any person against Lessee for damages, contribution or cost recovery, compensation, loss or injury resulting from or claimed to result from the presence of hazardous material or the condition of the Premises;
- c. any occurrence which might reasonably give rise to or result in a claim as set forth, above;
- d. any claim, demand, or the like which in any way affects or might affect County; and,
- e. reports to any regulatory agency or governmental authority arising out of or in connection with the delivery to, storage on or removal from the Premises of hazardous material, including any complaints, notices, warnings, or asserted violations in connection therewith.

Lessee shall provide Airport with copies of all documentation related to the foregoing. Nothing herein shall be construed as limiting Lessee's right to compromise and/or defend against a claim, demand or the like to the extent of its interest therein.

7.3. Designation of In-State Agent
[NOT APPLICABLE]

7.4. Lease Determinations & Appeal Process

- a. *County Representatives*: The Board has designated the Airport Manager as the individual which shall have the authority to make determinations regarding Lessee's compliance with the terms of this Lease.
- b. *Determination of Breach*: If the Airport Manager determines that Lessee is noncompliant, in breach, or otherwise in Default under this Lease, then the Airport manager will make a written, final determination and provide a notice to the Lessee, as more specifically set forth other sections of this Lease. The written determination shall include a statement which unambiguously clarifies that it constitutes a "final determination."
- c. *Appeal of Manager's Decision*: Lessee may appeal the Airport Manager's final determination to the Douglas County Board of Commissioners. Lessee must file a notice of its intent to appeal with the Clerk of the Board by no later than the tenth (10) business day after the Manager's decision is delivered to Lessee.
 - i. Lessee's notice of appeal shall contain a written statement of the reasons why the Manager's final determination is erroneous or contrary to law. The written statement and shall be complete with supporting evidence, citations to Lease provisions or other authoritative documents.
 - ii. Lessee's notice of appeal shall be accompanied with the appeal fee, which is established by resolution of the Board.
- d. *Review by BOCC*: the Board shall act as the appellate body for the Airport Manager's final determination. The appellate body, except as specifically stated herein, shall hear the appeal and render its decision within 60 calendar days after the filing of the notice of appeal and applicable fees.
 - i. The appellate body may affirm, reverse, or modify only those items raised in the appeal.
- e. *Modification of Appeal Process*: The Board may, by ordinance, establish or modify the process for appeals of final determinations made by the Airport Manager. If the Board adopts such an ordinance, then Lessee agrees to adhere to the established appeal process to the extent it differs from the foregoing.

7.5. Legal Costs

If any civil action or other judicial, quasi-judicial, or administrative action or proceeding is instituted to enforce any term of this Lease, to determine or declare the rights and duties of the parties hereto or to recover any amount due hereunder, then the losing party shall pay the prevailing party such sum as the court or other judicial or quasi-judicial tribunal might adjudge reasonable as attorney fees and/or legal or other costs, in addition to any sum awarded as damages or as a cost or disbursement permitted by statute or rule.

7.6. Liability Limitation

- a. *NRS Chapter 41*: The County will not waive and intends to assert available NRS Chapter 41 Limitations in all cases.
- b. *Punitive Damages*: Contract liability of either party shall not be subject to punitive damages.
- c. *Third Party Non-Compliance*: County shall not be liable to Lessee for any act or conduct, including unlawful conduct, by any Airport tenant, user, contractor, or other third party, unless otherwise expressly provided herein. Lessee shall not be a third-party beneficiary of any contract between the County and another; nor shall County have any duty to Lessee to enforce any such contract.
- d. *County Liability*: County shall not be liable to Lessee for any injury or damage whatsoever that might result to any person or property by or from any cause whatsoever, except as might be caused by the gross negligence or willful misconduct of Airport. Under no circumstance shall County ever be responsible for incidental or consequential damages to Lessee, regardless of how such damages arise or are incurred by Lessee. Except as otherwise expressly provided herein, County shall not be liable to Lessee, its officers, directors, managers, members, shareholders, agents, invitees and/or licensees for any loss or damage caused by, resulting from, arising out of, relating to or in connection or conjunction with the interruption or cessation of Lessee's activities or operations hereunder.

7.7. Interpretation

- a. The wording of this Lease shall be construed simply, according to its fair meaning, and not strictly for or against either party. There shall be no presumption for or against the drafter in interpreting or enforcing this contract.
- b. References to Articles, Sections, Paragraphs or Exhibits are to articles, sections, paragraphs or exhibits hereof or hereto, unless otherwise specified.
- c. "Hereby," "herein," "hereof," "hereto," "hereunder" and similar words refer to this Lease.
- d. Words denoting persons include firms, partnerships, corporations, associations, trusts, and other legal entities, as well as natural persons.

- e. Headings preceding the text of sections, any cover page, table of contents, index and/or marginal notes are solely for convenience of reference, and are not parts of this Lease nor affect its meaning.
- f. Words importing the singular include the plural and vice-versa.
- g. Where general wording and specific wording appear to conflict, the specific shall take precedence over the general.
- h. References or citations to legislative acts, statutes, administrative regulations, and the like are to such acts and the like in their form as of the commencement of the Term, and as they might be amended, recodified, or supplanted.
- i. The various Articles, Sections, Paragraphs, Exhibits, clauses, and terms shall be read and construed together, to avoid ambiguity or contradiction where logically possible.
- j. If any Article, Section, Paragraph, clause, or term is deemed, by any court or other judicial or quasi-judicial tribunal having jurisdiction, to be illegal, invalid, or unenforceable, it shall be severed from the remainder of this Lease, which shall remain in full force.

7.8. Governing Law & Jurisdiction

This Lease was entered and shall be performed in the County of Douglas, State of Nevada, and the laws of the State of Nevada and Douglas County, Nevada shall govern the rights and duties of the parties and the interpretation of this Lease. Any action, claim or dispute, or other legal issue regarding this Lease shall be resolved by binding arbitration, with an arbiter to be selected from a list maintained by the Nevada Supreme Court of senior judges. If the parties cannot agree to an arbiter, then the County will make the decision. Both parties agree to pay an equal share for the senior judge and any other related court fees. Each party is responsible for their own attorney fees.

ARTICLE 8: End of Lease

8.1. Expiration, Termination & Surrender

- a. *Expiration*: This Lease shall expire at the end of the Term, which includes the Option Term if properly exercised. Upon Expiration, Lessee shall have no further right hereunder, except as otherwise expressly provided herein. No notice of expiration of the Term shall be necessary.
- b. *Termination*: Upon termination, Lessee shall immediately surrender the Premises to County, which may recover the following amounts from Lessee:
 - i. Any unpaid fees or charges accrued through the date of termination; and

- ii. Any costs incurred by County to enforce this Lease or incurred in retaking possession of the Premises, including court costs, attorney fees, other legal expenses.
- c. *Not Termination*: Acts by the County, such as acts of maintenance, efforts to procure a new lessee or other user for the Premises, or the appointment of a receiver or similar person on County's initiative to protect County's interests hereunder shall not constitute a termination of Lessee's rights or obligations hereunder.
- d. *Surrender*: Upon Expiration, or earlier termination, Lessee shall peaceably surrender use of the Premises in good condition, reasonable wear and tear, acts of God and other casualties excepted, and County may effect that surrender by any lawful means. Consistent with the other provisions within this section, upon Expiration or Termination:
 - i. Lessee shall thereupon have no further rights to access the Premises, except as otherwise expressly provided herein.
 - ii. County may remove any abandoned Trade Fixtures or other personal property from the Premises.
 - iii. County may remove any Improvements upon the Premises.
 - iv. County may otherwise direct the disposition of Improvements, Trade Fixtures or Personal Property upon the Premises.
 - v. Lessee shall remain liable to County for any loss or damage on account of any holding over against County's will after the expiration or termination of this Lease, whether such loss or damage may be contemplated at this time or not.
- a. *Trade Fixtures & Improvements*: Consistent with the terms of this Lease, Lessee shall, prior to Expiration or Termination of this Lease, promptly dismantle and remove its Trade Fixtures and personal property from the Premises and Airport, provided that, if the Premises are damaged by reason of, or in the course of, the removal thereof, then Lessee, at its cost, shall promptly repair any and all such damage and restore the Premises to its condition prior to the commencement of Lessee's use thereof, any reasonable wear and tear excepted. In particular, but without limitation, County may, at its discretion, direct Lessee to remove, at Lessee's cost, any and all underground storage tanks or above-ground tanks used for the handling of fuel, oil, or other petroleum products, and to remediate the Premises and/or any other area of Airport which might require or warrant remediation relating to Lessee's possession and/or use thereof.
 - vi. The failure to remove Trade Fixtures shall not constitute an extension or holdover of the Term. If Lessee fails so to remove its Trade Fixtures or Improvements (as directed) or to restore or remediate the Premises, then

County may, at its discretion, perform or have performed that removal and restoration, and Lessee shall reimburse County the cost thereof, plus an administrative charge of fifteen percent (15%). County shall not be liable to Lessee for any loss of or damage to the Improvements or any Trade Fixture as a result of its exercise of its rights hereunder.

- b. *Abandonment*: Trade Fixtures or other property remaining on the Premises after termination shall be deemed abandoned, unless Lessee has notified County in writing that Lessee intends to remove the property within ten (10) calendar days after termination, in which case the Trade Fixtures or other property remaining on the Premises shall not be deemed abandoned until the tenth (10th) calendar day after termination.
- c. *Cooperation*: Upon the expiration or earlier termination of this Lease, Lessee shall cooperate with County and with any succeeding lessee or other user in the transition of possession of the Premises from Lessee to such successor.

8.2. **Termination by Lessee**

If Lessee is not in Default, then Lessee may terminate this Lease by delivering written notice to the County ninety (90) calendar days in advance of Lessee's intent to terminate, provided that:

- a. A court of competent jurisdiction, the FAA, or other federal agency has issued an order or injunction specifically applicable to Lessee or the Premises that prevents or restrains Lessee's otherwise lawful and permissible use of the Premises, and such injunction has remained in effect for a period of at least ninety (90) calendar days; or
- b. The County has failed to perform an obligation when due under this Lease, and the County fails to cure or to commence duly diligent efforts to cure such default for a period of thirty (30) calendar days after receipt of Lessee's written notice to cure the breach; or
- c. The United States of America or any authorized agency thereof assumes the operation, control, or use of the Premises, or any substantial part thereof, in such a manner as substantially to restrict Lessee, for a period of at least ninety (90) calendar days, from operating thereon.

8.3. **Lessee Default**

Upon Lessee's Default, County will provide Lessee with a written "Notice of Default," stating the basis of the Default and providing a method for Lessee to appeal the determination. Lessee shall be deemed to be in Default if:

- a. *Noncompliance (first or second offense)*: Lessee is Noncompliant, and (if it is Lessee's first or second instance of Noncompliance) Lessee fails to cure such noncompliance for a period of more than 30 days after receiving an Initial Notice

of Noncompliance from the County. Lessee shall be deemed to be Noncompliant if:

- i. Lessee fails to perform any duty, or to satisfy any obligation, as required by this Lease or the Airport Documents;
 - ii. Lessee causes or permits any activity that is violative of this Lease or other Airport Documents, to occur on the Premises or at the Airport; or Lessee engages in any act or omission that is prohibited by the terms of this Lease or other Airport Documents.
 - iii. Lessee fails to perform any duty, or satisfy any obligation, as required by Douglas County Code; state, local, or federal law; or as required by any other rule or regulation imposed by any governmental entity with jurisdiction over the Leased Premises.
 - iv. Lessee is a business entity and fails to maintain active registration as a business entity with the Nevada Secretary of State.
 - v. Lessee fails to provide the Airport Manager documentation or other evidence of Lessee's compliance with the terms of this lease after the Airport Manager has requested such evidence.
- b. *Noncompliance (after second offense)*: Lessee is Noncompliant and has been Noncompliant on at least two prior occasions.
- c. *Safety Violation*: Lessee creates or permits a Safety Violation, and Lessee fails to diligently pursue remedial efforts within 24-hours of County's Initial Notice of Safety Violation. A Safety Violation includes any of the following:
- i. If Lessee permits to continue, for a period of more than six (6) calendar days, the existence of an unsanitary condition at, on, in, around or about the Premises or Airport, provided that such condition was caused by, resulted from, or arose out of or in connection or conjunction with, the activities of Lessee.
 - ii. If Lessee permits to continue, for a period of more than ten (10) calendar days, the existence of any condition that is violative of the International Fire Code, as adopted and incorporated into the Douglas County Code.
 - iii. If Lessee permits the Premises to be vacated for a period exceeding ten (10) calendar days without providing the County with advanced written notice.
 - iv. If Lessee fails to properly store or secure hazardous materials, including petroleum products.
- b. *Lease Transfer*: Lessee causes, or fails to prevent, the assignment, transfer, passing, or divestment of any of Lessee's rights or obligations under this Lease, unless the

Board of County Commissioners has given prior written consent to such transaction. Default under this provision shall include:

- i. Any assignment or transfer by court order or by a third party.
- ii. The appointment of a receiver, trustee, liquidator, or similar figure (pertaining to Lessee's property upon the Premises or Lessee's interest in the Lease) in any legal proceeding.
- c. *Federal Direction*: The United State of America (through the FAA or any other agency with oversight over the Airport) takes administrative or legal action to enforce any nondiscrimination covenant of this Lease, or to enforce any other provision of this Lease, other Airport Documents, or federal law, and directs the County to terminate this lease pursuant to the final decision in that matter.
- d. *Unlawful Activities*: Lessee causes or permits any unlawful activity, to occur upon the Premises or elsewhere on Airport property; or Lessee engages in any unlawful activity upon the Premises or elsewhere on the Airport.
- e. *Untruthfulness*: Lessee makes any representation to the County regarding Lessee's compliance with this Lease, other Airport Documents, or applicable laws, and that representation is not true.

If Lessee is a business entity, then any act or omission by any of its officers, directors, managing members, or other individuals acting on its behalf, will be attributed to Lessee as though Lessee itself committed the act or omission.

8.4. County Remedies

Upon Default by Lessee as described in this Lease, County may exercise any Remedy (or combination of Remedies), set forth herein or which is provided at law or equity. Thirty (30) calendar days after County's written Notice of Default is delivered to Lessee:

- a. County may terminate this Lease for cause, by delivering a Notice of Termination; and such termination shall be effective immediately on the date that the Notice of Termination is delivered, unless a later date is specified in the notice.
 - i. Except as set forth herein, if Lessee cures the Default after the County delivers the Notice of Default, the County may, but is not required to, waive its right to proceed to Termination.
- b. If, in the County's sole discretion, the County determines that Lessee's Default can be cured in a reasonable amount of time and that Lessee's continued tenancy is in the best interest of the Airport, County may expressly permit Lessee to engage in remedial efforts for a period to be determined by County. If the Default is cured within the determined period, then the cured Default shall not be used as a basis to terminate this Lease; provided, however, that the cured Default may later be used

as evidence of Lessee's Noncompliance on a prior occasion. If the Default is not cured within the determined period, then County may immediately terminate this Lease.

- c. If County Terminates this Lease, then Lessee's right to the Premises is automatically Terminated unless the Parties otherwise agree in writing and County may exclude Lessee from the Premises by any lawful means.
- d. County may grant rights to possess or use all or any portion of the Premises to one or more third-parties for Lessee's account. In so doing:
 - i. County shall use reasonable efforts to mitigate its damages, and
 - ii. Lessee shall be responsible to County for any and all costs incurred by the County in conjunction with County's efforts; and
 - iii. Lessee remain responsible to County for the payment of fees and other charges due hereunder on the dates due as set forth herein, less any net revenues accruing to County as a result of any grant of rights to a third person; and
 - iv. No act by County under this Paragraph shall terminate this Lease unless County so notifies Lessee, in writing, that County elects to terminate this Lease.
- e. The County may have a receiver appointed to collect fees and other charges payable to Lessee and/or to conduct Lessee's operations on the Premises. The County's act of filing a petition for the appointment of a receiver nor the consequent appointment of a receiver shall constitute an election by County to terminate this Lease unless otherwise specified by County in writing.

ARTICLE 9: Lease Transfers, Assignments and other Transactions

9.1. Assignment, Transfer and Subleasing

- a. *County Permission Required:* Except as otherwise expressly provided herein, Lessee shall not, in any manner, assign, transfer, sublease, or otherwise convey an interest in this Lease, nor sublease the Premises or any part thereof, without the prior written consent of County, which consent shall not be unreasonably withheld. Further, Lessee shall not pledge, oblige, encumber, or otherwise obligate this Lease, the Premises, Airport, or its interest therein, by any security interest, pledge, note or any other instrument in the nature thereof.
 - i. If Lessee desires to assign, transfer, sublease or otherwise convey an interest in this Lease, then Lessee shall submit to the County a written request for consent. The written request shall be completed in accordance with the Airport's Leasing Policy that is in effect at the time of the request.

- i. The request shall be accompanied by a non-refundable administrative Lease Processing Fee. The Lease Processing Fee is set by the Board of County Commissioners by Resolution.
 - ii. The request shall also be accompanied by a digital, editable copy of Lessee's proposed assignment, transfer or sublease agreement.
 - iii. The County will evaluate the request in accordance with the Leasing Policy that is in effect at the time the completed request (including payment) is received by the County.
 - iv. The County may request additional information from Lessee regarding the proposed assignment, transfer or sublease.
 - v. The County may deny consent if it determines, in its sole discretion, that Lessee has not demonstrated that the proposed assignee, transferee, or sublessee is qualified in accordance with the Leasing Policy.
 - vi. The County may require amendments to Lessee's proposed assignment, transfer, or sublease agreement prior to consenting to the transaction.
- b. *Corporate Transactions:* If Lessee is a business entity, then any transfer of Lessee's stock, membership interest, or similar change of ownership shall be deemed an assignment and therefore subject to the terms of this Article, unless (1) there is no change in management personnel, and (2) Lessee retains at least 51% of the ownership interest.
- c. *Bona Fide Lenders:* Lessee must obtain the County's prior written consent in order to give, assign, transfer, mortgage, hypothecate, grant control of or encumber Lessee's interest under this Lease, and the leasehold estate so created, to a bona fide lender, a state or federally chartered lending institution, or a chartered insurance company or pension fund, on the security of the leasehold estate. If the County's consent is given, then Lessee may sign any and all instruments in connection therewith necessary and proper to complete such loan and perfect the security therefor to be given to such lender. One (1) copy of any and all such security devices or instruments shall be filed with County no later than seven (7) Business Days after the effective date thereof, and Lessee shall give County written notice of any change or amendment thereto. Any such encumbrance holder shall have the right, at any time during the time of the loan and while this Lease is in full force and effect, to do any act or thing required of Lessee in order to prevent a forfeiture of Lessee's rights hereunder, and all such acts or things so done shall prevent a forfeiture of Lessee's rights hereunder as if done by Lessee.
- d. *County's Fee Interest:* County will not subject its fee interest to the lien of any leasehold financing obtained by Lessee hereunder. County's fee interest shall be

superior and prior to Lessee's leasehold interest; provided, however, that on commencement of the Term, the Premises shall be free and clear of all encumbrances. Thereafter, any Deed of Trust placed on the Premises by County shall expressly provide that it is subject and subordinate to: (A) this Lease and Lessee's rights hereunder, (B) any mortgage then in existence on the Improvements and the leasehold estate as permitted by this Lease; and (C) Lessee's rights as permitted by this Lease to encumber the leasehold estate and the Improvements thereto.

- e. *Foreclosure*: Provided that Lessee complied with the requirements of Title 9 of this Lease, and provided that County had the first right of refusal to reacquire the Leased Premises, the County's written consent will not be required for:
 - i. A transfer of this Lease as the result of a sale under the power of sale or at a judicial foreclosure or a deed or assignment to the encumbrance holder in lieu of foreclosure.

9.2. Lessee's Responsibility for Third-Parties

Lessee understands and agrees that it is responsible for the conduct, actions, and omissions of itself, its agents, invitees, licensees, contractors, employees, representatives, and members (collectively "LTPs"). To the extent that Lessee is prohibited from engaging in any conduct or action under the terms of this Lease, such prohibition applies also to Lessee's LTPs. Lessee's failure to prevent its LTPs from engaging in prohibited conduct will be viewed as though Lessee, itself, engaged in such prohibited conduct. Lessee further understands that:

- a. Lessee shall be responsible and liable for any and all actions or omissions by any of its LTPs, and such responsibility and liability shall extend as if those actions or omissions were committed by the Lessee itself.
- b. Lessee is and will remain responsible to all parties for its acts and omissions and the acts and omissions of its LTPs, and County will in no way be responsible therefor. Lessee shall retain sole responsibility for safeguarding persons and property and its activities on Airport, including the Premises, at its sole cost, expense and liability.
- c. Lessee shall operate, and shall require LTPs to operate, in a safe, lawful, prudent, and professional manner, in accordance with all applicable regulations currently in effect and as they might be amended, and pursuant to directives issued by County in connection therewith. As applicable, Lessee shall make available to its LTPs copies of County's Airport Operations Manual, Airside Driving Rules and Regulations, Airport Rules and Regulations, and other applicable regulatory and procedural information.

ARTICLE 10: Governmental Conditions

10.1. Airport Requirements

The Airport receives grant funding from the Federal Aviation Administration, and is therefore subject to requirements set forth in the FAA's "Airport Sponsor Assurances." In consideration of the foregoing and of the promotion of civil aviation in general, the Parties agree as follows:

- a. *Right of Flight:* County reserves unto itself, its successors in interest and assigns, for the use and benefit of the public, the right of flight for the passage of aircraft in the airspace above the surface of the Premises. This right of flight shall include the right to cause in that airspace such noise, vibrations, dust, fumes, heat, wind, air movement and similar phenomena as might be inherent in the operation of any aircraft now known or hereafter used for navigation or flight through that airspace for landing at, taking off from or operating on or at Airport.
- b. *No Exclusive Rights:* Nothing in this Lease shall be construed as granting or authorizing the granting of an exclusive right within the meaning of the Federal Aviation Act of 1958, as applicable.
- c. *Height Restriction:* Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree, above the mean sea level elevation applicable to the most critical area of Airport, in accordance with 14 C.F.R. Part 77. If this Part is breached, County may enter the Premises and remove the structure or object or cut the tree, all of which shall be at Lessee's cost.
- d. *Subordination of Lease:* The Parties agree that this Lease shall be subordinate to the terms of any instrument or document under which County acquired the Airport land or improvements thereto, of which the Premises are a part, and shall be given only such effect as will not conflict nor be inconsistent with such terms. This Lease shall be subordinate to the terms of any existing or future contract between County and the United States of America relating to the development, operation or maintenance of Airport, the entering of which has been or might be required as a condition precedent to the expenditure of federal funds for the development of Airport. Such contract documents are public records and may be requested by Lessee at any time in accordance with NRS Chapter 239.
- e. *Nondiscrimination:* Lessee, for itself, its representatives, successors in interest, and assigns, as a part of the consideration hereof, agrees, as a covenant running with the land, that (a) no person, on the ground of race, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over or under the Premises and the furnishing of services thereon, no person, on the ground of race, color, sex, or national origin, shall be excluded from participation in, denied the benefits of or otherwise subjected to discrimination; and (c) Lessee shall use the Premises in compliance with all other requirements of Title VI of the Civil Rights Act of 1964, 14 C.F.R. 152 and 49

C.F.R. Part 21, Subtitle A, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, and as Title VI and those Parts might be amended.

- f. *Nondiscrimination (NRS)*: In connection with work performed hereunder, Lessee shall comply with the provisions of NRS 338.125, and Lessee shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age. In addition, Lessee shall require the inclusion of these terms in all contracts for work on the Premises:

In connection with the performance of the work, the contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, gender identity or expression, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

- g. *Disadvantaged Business Enterprises*: 49 C.F.R. Part 23, Disadvantaged Business Enterprises (DBE), and as it might be amended, and other similar regulations which might be enacted, might apply to Lessee's activities hereunder, unless exempted by those regulations. Lessee shall comply with the applicable regulatory agencies in reference thereto. The requirements of these regulations include, without limitation, compliance with DBE participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if so directed, the contracting of specified percentages of goods and services contracts to DBEs.
- h. *Americans With Disabilities Act*: 49 C.F.R. Part 27, "Nondiscrimination on the basis of disability in programs or activities receiving Federal financial assistance," and as it might be amended, all applicable rules and regulations of the Department of Transportation and the Department of Justice for airport operators, all applicable Air Carrier Access Act rules (14 C.F.R. Part 382, "Nondiscrimination on the basis of disability in air travel") and such other similar regulations that might be enacted, might apply to Lessee's activities hereunder, unless exempted by those regulations. Lessee shall comply with the regulatory requirements relating thereto, which compliance might include, but not be limited to, designating a coordinator pursuant to Section 504 of the Americans With Disabilities Act, participating in complaint procedures, conducting self-inspections, receiving input from organizations of persons with disabilities and participating in efforts to improve program and structural accessibility. These efforts might be subject to review by the various responsible agencies, the submission of various reports and, if so directed, the offering of specified services to support the equitable access and use of Airport and air transportation by persons with disabilities.

- i. *National Emergency*: This Lease shall be subject to whatever right the United States of America now has, or in the future might have, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or nonexclusive use of Airport, by the United States during time of war, whether declared by the United States Congress or not, other military action, national emergency or the like.

10.2. **Certifications**

Lessee certifies, to the best of its knowledge and belief, that:

- a. *Anti-Lobbying*: No federally appropriated funds have been paid or will be paid, by or on behalf of Lessee, to any person for influencing or attempting to influence an officer or employee of any federal agency or a member, officer or employee of Congress, in connection with the award, making or entering of any federal contract and/or the extension, continuation, renewal, amendment or modification of any federal contract.
 - i. If any funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency or a member, officer or employee of Congress, in connection with any federal contract relating to this Lease, then Lessee shall complete and submit Standard Form-LLL, Disclosure of Lobby Activities, or as it might be revised or supplanted.
 - ii. Lessee shall require the inclusion of this certification language in the award documents for all sub-awards at all tiers, and shall require all sub-recipients to certify and disclose accordingly.
- b. *Citizenship (Ownership)*: Lessee is not owned nor controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against United States business entities, published by the Office of the United States Trade Representative or any successor thereto;
- c. *Citizenship (Contract)*: Lessee has not knowingly (after diligent investigation) entered into any contract or subcontract hereunder with a contractor that is a citizen or national of a foreign country on that list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on that list; and has not procured any product or subcontracted for the supply of any product, for use hereunder, that is produced in a foreign country on that list.
 - i. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 C.F.R. Part 30.17, no contract shall be awarded to any party hereunder that is unable to certify to the above. If Lessee knowingly procures or subcontracts for the supply of any product or service of a foreign country on that list for use hereunder, the FAA may

direct, through County, cancellation of such contract, at no cost to the United States of America or the County.

- ii. Lessee shall ensure the incorporation by reference of this provision for certification, without modification, in each contract and in all subcontracts. Lessee may rely upon the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous. Lessee shall provide immediate written notice to County if it learns that a prospective contractor's certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances, and shall require its contractors and their subcontractors to provide immediate written notice to County and Lessee if such contractor or subcontractor learns that its certification was erroneous or has become so by reason of changed circumstances.

These certifications are a material representation of fact upon which County relied when entering this Lease. If it is determined that Lessee or any contractor or subcontractor thereof knowingly rendered an erroneous certification, the FAA may direct, through County, termination of the contract or subcontract, at no cost to the United States of America. Nothing contained herein shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of Lessee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Lessee acknowledges and agrees that these certifications concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious or fraudulent certification might render the maker subject to prosecution under 18 U.S.C. Section 1001.

10.3. Federal Review

This Lease is subject to any applicable review by the FAA, the TSA and/or any other federal agency having jurisdiction, to determine compliance with federal law and any preexisting contractual requirements associated with the airport's eligibility for federal grant funding, and shall be in full force and effect pending such review and approval by the FAA, the TSA or other agency. Upon such review, the parties shall modify any term hereof which might be determined to be in violation of the foregoing requirements.

Agencies having jurisdiction over Airport, County, the Premises or Lessee might promulgate, enact or implement regulatory or other legal changes. Lessee shall be responsible for obtaining all Notices of Proposed Rule Making and/or similar documents directly from such agencies. County may, but shall not be obligated to, provide notice of proposed changes, but nothing contained herein shall render this provision unenforceable by virtue of Lessee's failure to receive notice of proposed changes.

ARTICLE 11: General Provisions

11.1. Representations and Warranties

Except as otherwise expressly provided herein, no representation nor warranty, whether oral or written, express or implied, made before, upon or after the signing hereof, shall be incorporated herein or otherwise modify the terms hereof.

a. As to Lessee:

- i. Lessee represents and warrants that Lessee has the skill, experience, expertise and other resources necessary to possess, develop, use and maintain the Premises, and otherwise perform its obligations hereunder, in a First-Class manner, acceptable to County at its discretion, throughout the Term and any holdover, compliant with all terms hereof;
- ii. Lessee represents and warrants that Lessee has or can seasonably procure adequate financing, including insurance and bonds as required, to plan, design, install, maintain, possess and use the Premises and any Improvements thereupon, including the procurement of all necessary approvals, permits and other authorizations from any entity having jurisdiction over the Premises and the keeping of adequate reserves for their maintenance and repair as provided herein; and
- iii. Lessee represents and warrants that Lessee has had a full and fair opportunity to review this Lease, all Airport Documents, and laws or regulations pertaining to its use or development of the Premises. Lessee's review included the opportunity to consult with an attorney of Lessee's own choosing. Lessee understands and agrees to abide by the foregoing.
- iv. Lessee represents and warrants that, as of the signing hereof, Lessee's possession and intended use of the Premises do not conflict with the Master Plan, and/or any other plan currently in effect for Airport. Lessee represents that it will not make any use of the Premises which would be in conflict with the Master Plan or any other Airport Document.

b. As to County:

- i. County represents and warrants that it owns the Premises and is capable of demising them to Lessee; and
- ii. County has no present knowledge, information nor belief that any lien, encumbrance, judgment or the like exists which would substantially interfere with Lessee's beneficial use and enjoyment of the Premises.
- iii. County makes no representation, assurance, warranty or guarantee relating to the suitability of the Premises or any other area of Airport for any use, shall have no obligation to repair, maintain, renovate or otherwise incur any

cost or expense with respect to the Premises, any other area of Airport, or any improvement or Trade Fixture now or hereafter installed or used as a part of the Premises or elsewhere on, at or about Airport, and shall have no liability to Lessee arising out of any defect, latent or patent, in the Premises or elsewhere at Airport.

- iv. *Condition of Airport:* County makes no representations or warranties as to the present or future conditions of the Airport. Subject to its annual budget priorities, personnel, and federal funding availability, County will maintain the runways, taxilanes and other airfield areas as part of its standard, regular airside pavement maintenance program. This responsibility shall not be deemed as limiting the County's ability to recover damages from Lessee or other parties who have damaged or otherwise necessitated maintenance or repairs to the Airport facilities. County may, at its discretion or as required by law, further develop and/or improve Airport and/or any portion or area thereof, and take such action as it deems necessary or advisable at its discretion to develop the Airport, regardless of the desires or view of Lessee and without interference or hindrance from it, except as otherwise expressly provided herein. County's right to develop and improve Airport includes development, construction or installation of facilities, structures or other Improvements. County has no duty to Lessee or any Sublessee to develop or improve Airport.
- v. *Special Events:* County may, at its discretion, conduct or host special activities or events near or about the Premises or elsewhere at or about Airport. County shall not be liable to Lessee or any Sublessee for any actual or alleged cost or loss, including, but not limited to, any actual or alleged loss of revenue or good will, caused by, resulting from, arising out of, relating to or in connection or conjunction with such special events.
- vi. *Master Plan:* County, its officers, agents and employees shall not be liable for any effort or action toward implementation of the current or any future airport master plan, airport layout plan, or other similar plan; Lessee waives any right to claim damages or other compensation arising from such effort or action.

11.2. Notice

Except as otherwise expressly provided herein, all notices required to be given hereunder shall be in writing and shall be deemed given, provided, delivered, and received upon: (A) personal delivery by a registered process server; or (B) three (3) Business Days after deposit in the United States Mail as certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth herein, regardless of whether the return receipt confirms delivery consistent herewith:

To Airport (County): **Douglas County**
Attn: Minden-Tahoe Airport Manager
P.O. Box 218

**1146 Airport Road
Minden, Nevada 89423**

To Lessee: **Northern Nevada Aviation
Attn: Hutt Aviation
PO Box 2950
Minden, Nevada 89423**

With a Copy to: **Alling & Jillson, Ltd
Attn: Richard J. McGuffin, Esq.
P.O. Box 3390
Lake Tahoe, Nevada 89449**

The parties, or either of them, may designate in writing any change in address or addresses, including electronic or "email" addresses, and/or in identity of substitute or supplementary persons to be sent notices. Notwithstanding the foregoing, the parties may send notices or other documents concerning day-to-day operations and use of the Premises by first-class mail, postage prepaid, to County or Lessee at the addresses given above, or by electronic mail.

11.3. Miscellaneous

- a. *Amendments*: This Lease may be amended only by a writing duly approved and signed by authorized representatives of the parties.
- b. *Other Contracts*: Except as otherwise expressly provided herein, the terms of this Lease shall not affect the terms of any other lease or other contract between County and Lessee.
- c. *Rights Cumulative*: The rights and remedies of County and Lessee specified in this Lease are not intended to be and shall not be exclusive of one another or of any right of County or Lessee at law or in equity, unless otherwise so stated.
- d. *Conflict of Interest*: To the best of the parties' knowledge, information and belief upon the signing hereof, no officer, agent or employee of County is directly or indirectly a party to, or otherwise a beneficiary of, this Lease. Ownership of stock in a publicly traded corporation, or use of Lessee's products and/or services as a patron or Sublessee, shall not be considered a breach of this Section.
- e. *Nonliability of Agents or Employees*: No Trustee, officer, director, agent or employee of County or Lessee shall be charged personally or held contractually liable by or to the other party under the provisions of or in connection with this Lease, because of any breach hereof or because of its or their execution or attempted execution hereof.
- f. *No Waiver*: No waiver of breach or default by either party of any term herein to be performed by the other shall be construed as, or operate as, a waiver of any prior,

contemporaneous or subsequent breach, noncompliance, or default of any term herein to be performed by the other party.

- g. *Relationship of Parties*: Nothing contained herein shall be deemed or construed by County or Lessee as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between them. Neither the method of computation of fees and charges, any other provision contained herein nor any act of County or Lessee shall create a relationship other than that of lessor and lessee. In particular, but without limitation, and consistent with Section 8.04, County shall have no duty under this or any other lease to or contract with Lessee, except as otherwise expressly provided therein, to protect Lessee from acts or omissions of any third party, whether or not such third party has any contract with County allowing it to transact business and/or otherwise operate at, on, about or to and from Airport.
- h. *Successors and Assigns*: This Lease shall be binding upon and inure to the benefit of the successors in interest and assignees of County and Lessee, where permitted hereunder.
- i. *No Third-Party Beneficiary*: This Lease is intended solely for the benefit of County and Lessee. No right of any alleged third-party beneficiary, whether express or implied, is created hereby, nor shall any third party claim hereunder against County or Lessee.
- j. *No Brokerage*: County and Lessee dealt with each other directly and entered this Lease in their own rights and capacities, not through any broker, agent or other similar representative. This Lease was not procured nor initiated by any such person, nor were the Premises offered or leased to Lessee by or through any such person. No broker's commission or fee, finder's fee, referral fee or other similar amount shall be paid, owed or accrued, directly or indirectly, in connection herewith, as a result hereof or in relation hereto.
- k. *Signature Authority*: Each natural person signing this instrument, for or on behalf of a legal entity party hereto, represents, warrants, assures and guarantees to the other such natural person, and to the other such legal entity, that he or she is duly authorized and has legal power and/or authority so to sign.
- l. *Force Majeure*: Neither party shall be liable to the other for any failure, delay or interruption in performance caused by circumstances beyond its control including, but not limited to, war, whether declared by the United States Congress or not, other military action, national emergency, terrorism, government shutdown, civil disobedience or unrest, natural disaster, Act of God, strike, boycott, picketing, slowdown, work stoppages or labor matters of any other type, whether affecting either party, its contractor or subcontractor, such circumstances also including, but not limited to, any laws or regulations of the United States of America and/or any

request or directive of the Department of Homeland Security, the TSA, the FAA or any other federal agency relating to aviation security.

i. Lessee understands that there are regulatory and other legal risks inherent in operating at an airport which is subject to federal law and to requirements of the airport's owner or operator, such as County, developed in accordance therewith. No abatement, reduction, diminution or forgiveness of Rent shall attach as a result of the enactment, promulgation and/or enforcement of any such law or the like including, but not limited to, any closure of the Airport. No abatement, reduction nor diminution of Rent or any other amount owed Airport by Lessee shall be allowed for any inconvenience, interruption, cessation or loss of business or other loss to Lessee, caused by any present or future law of the United States of America, any state, county, municipality or other public entity, by priorities, rationing or curtailment of labor or materials, or by any cause set forth under "Force Majeure," above.

m. *Merger and Integration:* This Lease, together with **Exhibits A, B, and C**, attached hereto (collectively "Lease Documents"), any document incorporated herein by reference and any amendment document duly signed by the parties, constitutes the parties' complete, entire, final agreement on the subject matter hereof, and all other representations heretofore made, oral or written, are merged herein. No oral or written statement, representation nor warranty made, by any person, before, upon, or after the signing hereof, shall modify this Lease or bind County. The Lease Documents are intended to be complimentary to one another and shall be so construed to the extent reasonably possible. To the extent that the documents are in conflict with one another, they shall have the following order of precedence: This Lease, then **Exhibit A, then Exhibit B, and finally Exhibit C.**

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WHEREFORE, the parties have set their hands, on the date written below.

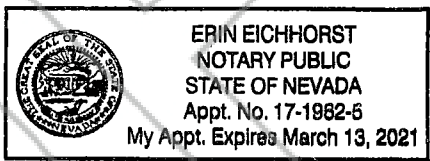
LESSEE:

By: Alan T. Gargwish
Name: Alan T. Gargwish
Title: President
Date: 10-03-19

STATE OF NEVADA)
COUNTY OF DOUGLAS)

This instrument was acknowledged before me, a Notary Public, on the 3rd day of October 2019, by Alan T. Gargwish

Erin Eichhorst
Notary Signature



LESSOR:

Douglas County
By: Patrick Cates
Patrick Cates, County Manager
As authorized by the Douglas County Board of Commissioners in a public meeting on September 5, 2019.

Date: 10-3-19

Exhibit A: Definitions

- A.1. **“Airport” defined.** “Airport” means the Minden-Tahoe Airport, owned and operated by Douglas County.
- A.2. **“Airport Documents” defined.** “Airport Documents” means the Minimum Standards, Rules and Regulations, Douglas County’s Airport Operations Manual, Douglas County’s Airside Driving Rules and Regulations, and the Douglas County Code, and any other document regulating or directing conduct upon the airport, which is adopted by Resolution or Ordinance by the Board.
- A.3. **“Airport Master Plan” or “Master Plan” defined.** “Airport Master Plan” or “Master Plan” means County’s plan for the development and/or improvement of Airport, approved in July 2011, and as that Plan might be revised.
- A.4. **“Anniversary Date” defined.** “Anniversary Date” means the day and month of the Effective Date of this Lease.
- A.5. **“Best Management Practices” or “BMP” defined.** “Best Management Practices” or “BMP” means those practices and procedures employed to prevent or reduce source water pollution including, but not limited to, the construction of runoff or retention basins and the replanting of eroding surfaces, to effectuate the purposes of storm water laws.
- A.6. **“Chairman” defined.** “Chairman” means the Chairman of the Douglas County Board of County Commissioners.
- A.7. **“County” defined.** “County” means the County of Douglas, State of Nevada.
- A.8. **“Board of County Commissioners” or “Board” defined.** “Board of County Commissioners” or “Board” means the Douglas County Board of County Commissioners, and any successor body.
- A.9. **“Business Day” defined.** “Business Day” means any calendar day, excluding Saturdays, Sundays and nonjudicial days of the State of Nevada.
- A.10. **“Certificate of Occupancy” defined.** “Certificate of Occupancy” has the meaning ascribed to it in Title 20 of the Douglas County Code.
- A.11. **“Effective Date” defined.** “Effective Date” has the meaning ascribed to it in Article 2 of the Lease.
- A.12. **“Federal Aviation Administration” or “FAA” defined.** “Federal Aviation Administration” or “FAA” means the United States of America, Department of Transportation, Federal Aviation Administration, or any successor agency.
- A.13. **“First Class” defined.** “First Class” means:
- a. As to improvements: improvements designed, made, built, constructed, installed, finished, decorated and maintained consistent with the highest contemporary standards, of the local custom and usage in the relevant trade or business, for improvements similar to them in size and use, such similar improvements fewer than five (5) calendar years old, and reasonably equivalent to improvements classified as "Class A" or a similar classification by relevant professionals for similar improvements with regard to their size and use; and
 - b. As to products and services: those of the most superior, excellent or best kind of their general class, belonging to the head or chief of several classes into which that general type of goods or services is divided.

- A.14. **“Fund” defined.** “Fund” means the fund for cleaning up discharges of petroleum, as defined by NRS 590.750.
- A.15. **“Hazardous Material” defined.** “Hazardous Material” has the meaning ascribed to it in Title 49 of the Code of Federal Regulations, including any revisions thereof during the Term of the Lease. The term expressly includes petroleum products.
- A.16. **“Initial Term” defined.** “Initial Term” has the meaning ascribed to it in Article 2 of this Lease.
- A.17. **“Improvement” defined.** “Improvement” means any solid material or structure, which is placed or erected; any construction, reconstruction, demolition, or alteration of the size of any structure including any facility of any kind; any alteration to vegetation. For the purpose of this definition, “structure” includes but is not limited to any building, road, pavement, pipe, flume, conduit, siphon, aqueduct, telephone line, underground installation of any kind, and electrical power transmission and distribution lines.
- A.18. **“Lease” defined.** “Lease” means this Land Lease together with all Exhibits, Addenda and Appendices hereto. The term includes any amendments, provided such amendments have been duly approved and executed by both parties.
- A.19. **“Leased Premises” or “Premises” defined.** “Leased Premises” or “Premises” means real property demised to Lessee, as more particularly described and depicted herein and on Exhibit B, attached hereto.
- A.20. **“Lease Year” defined.** “Lease Year” means a period of twelve (12) consecutive full calendar months. The first Lease Year shall begin on the Effective Date of this Lease, and each succeeding Lease Year shall commence upon the anniversary date of Effective Date.
- A.21. **“Leasing Policy” defined.** “Leasing Policy” means the Minden-Tahoe Airport Leasing Policy, which is adopted by resolution of the Board. This term includes any amendments or revisions which may be adopted by the Board after the Effective Date of this Lease.
- A.22. **“Minimum Standards” defined.** “Minimum Standards” means the Minimum Standards for Commercial Aeronautical Activities at the Minden-Tahoe Airport as adopted by Resolution of the Board. This term includes any amendments or revisions which may be adopted by the Board after the Effective Date of this Lease.
- A.23. **“Notice of Completion” defined.** “Notice of Completion” has the meaning ascribed to it in Title 20 of the Douglas County Code.
- A.24. **“Notice to Proceed” defined.** “Notice to Proceed” means a letter or other document, issued by County, authorizing Lessee to proceed with an improvement or installation.
- A.25. **“Option Term” defined.** “Option Term” has the meaning ascribed to it in Article 2 of this Lease.
- A.26. **“Rent” defined.** “Rent” means the monthly payment obligation owed by Lessee to County for the right to occupy the premises.
- A.27. **“Rules and Regulations” defined.** “Rules and Regulations” means the Minden-Tahoe Airport’s Rules and Regulations, as adopted by the Board. This term includes any amendments or revisions which may be adopted by the Board after the Effective Date of this Lease.
- A.28. **“Significant Materials” defined.** “Significant Materials” means materials or substances as defined in and/or subject to pertinent storm water laws, including, but

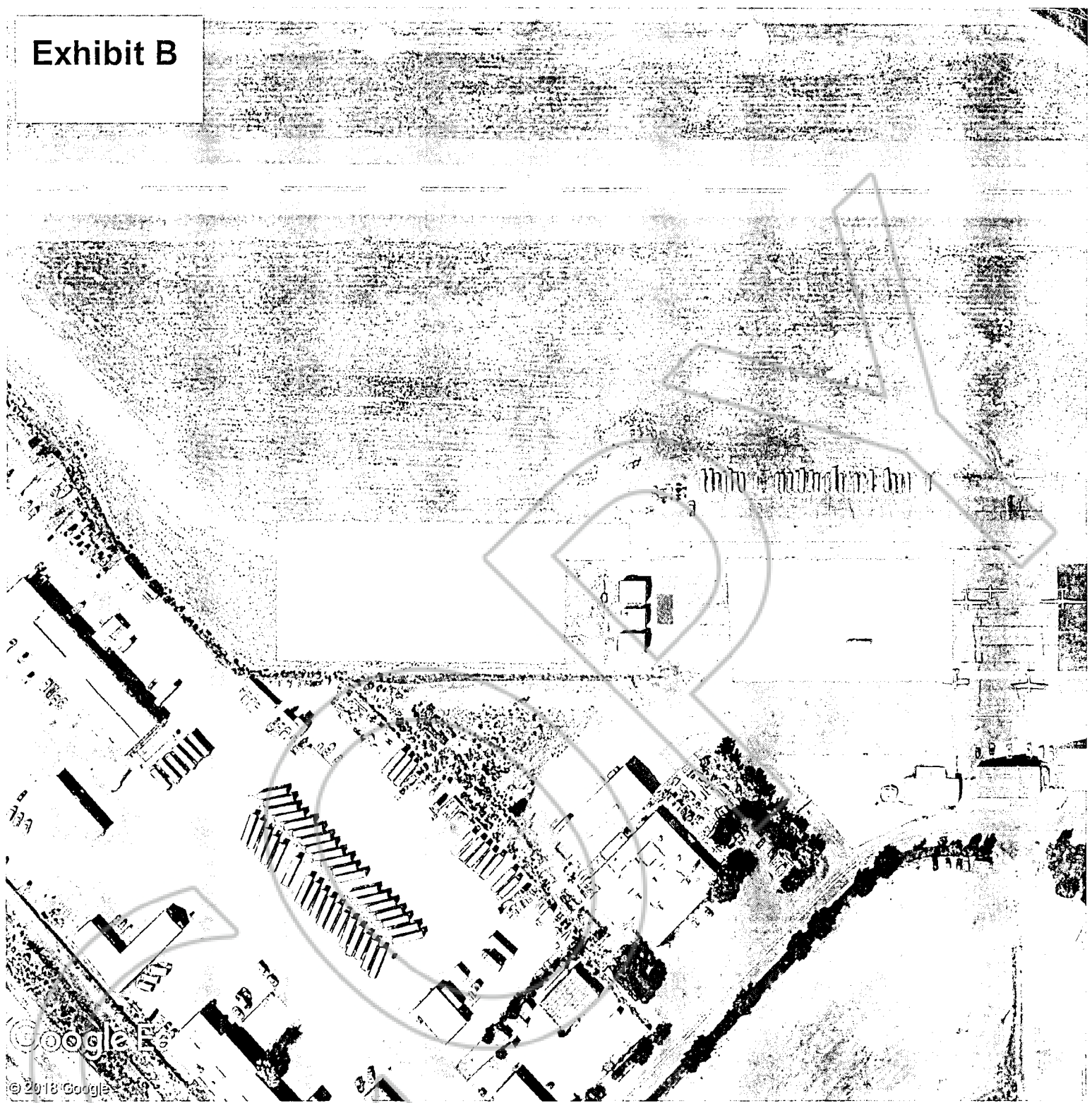
not limited to: raw materials; materials such as fuels, solvents, detergents and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances as defined under Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical subject to reporting under Section 313 of Title III of the federal Superfund Amendment Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, slag, sludge and the like, which might be released with storm water discharges, as provided in 40 C.F.R. Part 122.26(b)(12).

- A.29. **“Sublessee” defined.** “Sublessee” means any subtenant, sublessee, subcontractor, partner, joint venturer or any other person possessing or using any part of the Premises under authority of this Lease or any contract, oral or written, express or implied, between Lessee and any such third person, regardless whether County consented to such contract or contracted with such third person consistent with the Lease.
- A.30. **“Tenant Improvement Permit” defined.** “Tenant Improvement Permit” means a written permit, issued on a form provided by County and as that form might be revised, authorizing Lessee to commence an improvement or installation to, on or at the Premises in compliance with all terms thereof.
- A.31. **“Term” defined.** “Term” means the Initial Term plus the Option Term, if the Option Term was properly exercised. If the Option Term was not properly exercised, then “Term” means only the Initial Term.
- A.32. **“Trade Fixture” defined.** “Trade Fixture” means any machine, device, equipment or the like, owned or rented by Lessee, placed on the Premises but not affixed to thereto, for the conduct and support of Lessee’s operations.
- A.33. **“Transportation Security Administration” or “TSA” defined.** “Transportation Security Administration” or “TSA” means the United States of America, Department of Homeland Security, Transportation Security Administration, created on November 19, 2001, or any successor agency.
- A.34. **“Tree” defined.** “Tree” means any vegetative material with the potential for upward growth.

Exhibit B: Depiction of Premises – Tentative/Draft Depiction



Exhibit B

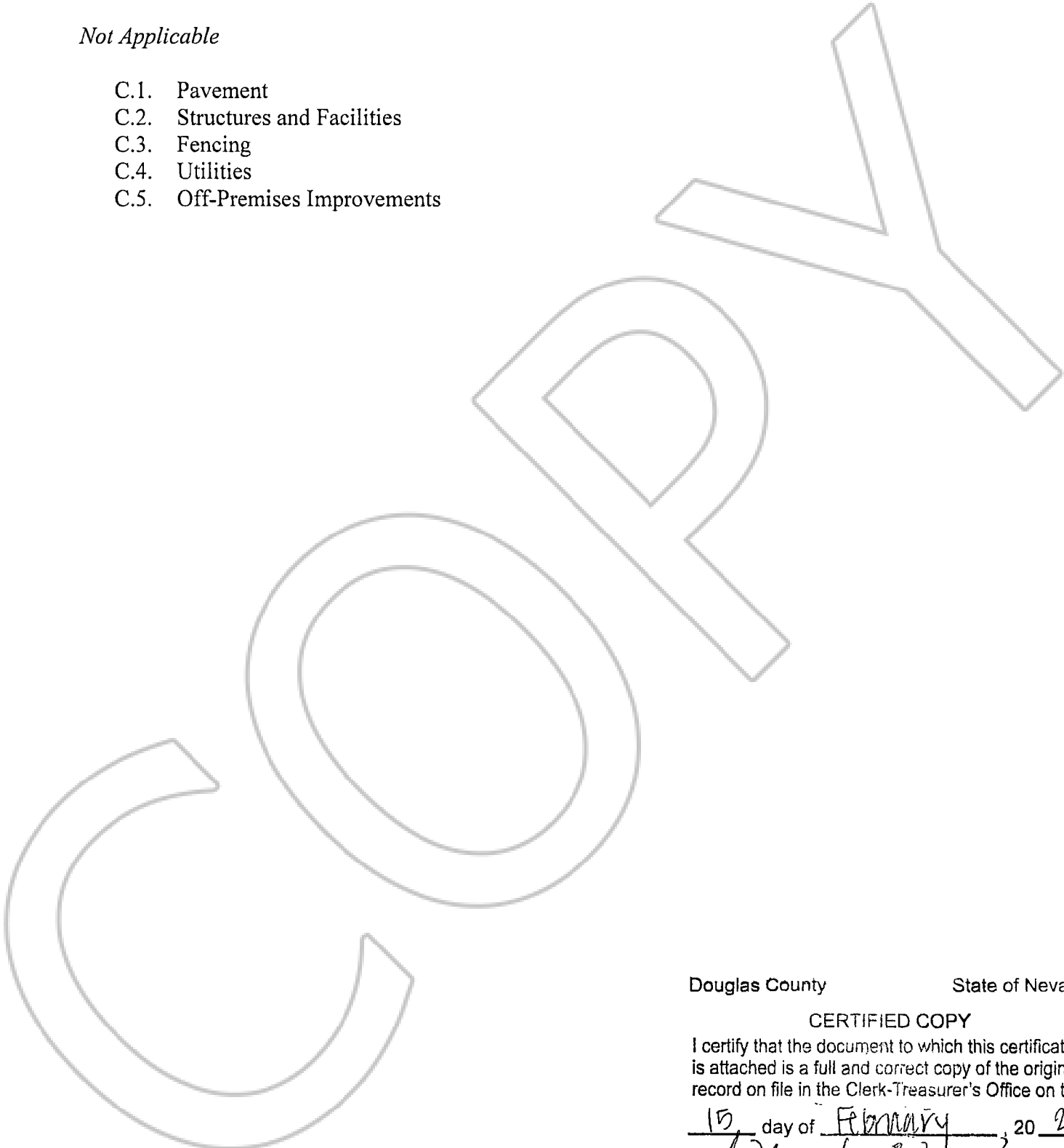


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Exhibit C: Required Improvements

Not Applicable

- C.1. Pavement
- C.2. Structures and Facilities
- C.3. Fencing
- C.4. Utilities
- C.5. Off-Premises Improvements



Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

15 day of February, 20 22

By [Signature] Deputy