

**SAMPLE LEASE AGREEMENT**

**GREENVILLE-SPARTANBURG AIRPORT DISTRICT**



**GSP** INTERNATIONAL  
**AIRPORT**  
ROGER MILLIKEN FIELD

**LEASE AGREEMENT**

\_\_\_\_\_

Greer, South Carolina

\_\_\_\_\_

Effective Date

\_\_\_\_\_

Lessee:

\_\_\_\_\_

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**GREENVILLE-SPARTANBURG AIRPORT DISTRICT  
LEASE AGREEMENT**

**THIS LEASE AGREEMENT** ("Lease") is made to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), among the **GREENVILLE-SPARTANBURG AIRPORT DISTRICT**, a body politic created and existing under the laws of the State of South Carolina, whose mailing address is 2000 GSP Drive, Suite 1, Greer, South Carolina, 29651 ("**District**"), and \_\_\_\_\_, a \_\_\_\_\_ Company, whose mailing address is \_\_\_\_\_, \_\_\_\_\_ ("**Lessee**").

**W I T N E S S E T H:**

In consideration of the mutual covenants and agreements herein set forth, District and Lessee agree and covenant as follows:

**ARTICLE I  
PREMISES AND PERMITTED USES**

1.1 Demise of Premises.

Subject to the terms and conditions set forth in this Lease, District hereby demises and leases to Lessee and Lessee hereby leases from District, that certain land, and any buildings, structures, fixtures, fences, utility installations, parking facilities, landscaping and irrigation systems currently existing or hereafter located thereon at the Greenville-Spartanburg International Airport, as more particularly described on **Exhibit "A"** hereto ("Premises"). If required by District, Lessee shall cause a survey of the Premises to be undertaken at Lessee's expense ("Survey"). Based upon the Survey a clarified legal description will be prepared by Lessor and attached as **Exhibit "A-1"** to this Lease and the size of the Premises and annual rent will be adjusted if necessary. Lessee hereby leases the Premises subject to, and Lessee hereby agrees to comply with: (i) all applicable building codes, zoning regulations, and municipal, county, state and federal laws, ordinances and regulations governing or regulating the Premises or its uses, (ii) all covenants, easements and restrictions of record, (iii) "Rules, Regulations, and Minimum Standards Covering Airports Owned or Controlled by the Greenville-Spartanburg Airport District", as the same may be amended from time to time ("Minimum Standards"), and (iv) the Greenville-Spartanburg Airport District Master Plan dated January 2003, as the same may be modified hereafter (the "Master Plan"). All Exhibits referred to anywhere herein are deemed incorporated herein in their entirety.

1.2 Option Parcel

From the Effective Date through the end of the Initial Term (as hereinafter defined), so long as no Event of Default, as defined below, has occurred, Lessee shall

have an option, on the same terms herein, except rent, to lease an additional parcel of land, which is more particularly described on **Exhibit "B"** hereto ("Additional Land"). Should Lessee exercise its option, the rent therefor must be agreed upon, in writing, by District and Lessee within thirty (30) days of exercise, or the exercise shall be ineffective and the option void.

### 1.3 Condition of Premises.

(a) Except as may be set forth in Paragraph 1.4 herein, and Article VIII herein, Lessee accepts the Premises "AS-IS". Lessee acknowledges that District has made no representations or warranties relating to the suitability of the Premises for any particular use, and unless otherwise expressly provided in this Lease, District shall have no obligation whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Premises. Lessee shall not permit any unlawful nuisance, waste or injury on or to the Premises. Lessee agrees to surrender the Premises upon the expiration of this Lease, or earlier termination hereof, in a condition substantially similar to the condition of the Premises on the Rent Commencement Date, ordinary wear and tear excepted.

(b) The Lessee shall have, at Lessee's expense, a Phase I environmental analysis conducted prior to Lessee undertaking any construction or site work on, in or to the Premises and within forty-five (45) days from the Effective Date to establish the baseline environmental condition of the Premises. Lessee shall provide a copy of the report to District. If the results of the analysis identify environmental contamination requiring remediation, both the District and Lessee have the option to terminate this Lease within seven (7) days of the receipt of the final environmental report. District has no obligation to Lessee to remediate the Premises, but if Lessee, directly or indirectly causes environmental contamination to the Premises, Lessee must immediately remediate the same and hold District harmless.

### 1.4 Construction of Improvements by District.

District, at its own cost, agrees to construct the District Improvements, as defined on **Exhibit "C"** hereto.

### 1.5 Construction of Improvements by Lessee.

Lessee shall have sole responsibility for construction of the Lessee Improvements, as defined in **Exhibit "D"** hereto, and is obligated to expend at least \$\_\_\_\_\_ on or before \_\_\_\_\_ on Lessee Improvements, and to provide evidence of such expenditures to District. Any construction by Lessee must be in accordance with all building codes and ordinances and shall also be governed by **Exhibit "E"** hereto. The installation of telecommunication systems including but not limited to voice, data, wired, and wireless systems all require the written approval of the District and are governed by **Exhibit "E"** hereto.

1.6 Quiet Enjoyment.

So long as Lessee fully performs all of the terms and conditions of this Lease, Lessee shall peaceably and quietly have, hold and enjoy the Premises in accordance with the terms and conditions of this Lease, without disturbance from anyone acting through District.

1.7 Permitted Uses.

The Premises may only be used for the purpose of \_\_\_\_\_ and reasonably related functions (the "Permitted Uses") and shall not be used by anyone for any other purpose.

1.8 Signage.

All signage on the Premises must comply with the Minimum Standards and must be approved in writing by the District before being installed.

**ARTICLE II**  
**TERM OF LEASEHOLD**

2.1 Construction Term.

The "Construction Term" of this Lease is defined as the period beginning on the Effective Date and ending immediately prior to the Rent Commencement Date.

2.2 Initial Term.

The "Initial Term" of this Lease is defined as the period beginning on the first day of the month following the earlier of (i) the date the Lessee opens for business on the Premises, or (ii) \_\_\_\_\_, but the rent shall commence to accrue and be due on the earlier of such dates ("Rent Commencement Date") and not on the first day of the month thereafter and shall run for a period of \_\_\_\_\_ years thereafter unless sooner terminated in accordance with the terms and provisions hereof.

2.3 Option to Extend Term.

So long as no Event of Default shall have occurred, Lessee shall have the option to extend the term of this Lease for the "Extension Term(s)" which is \_\_\_\_\_ consecutive additional period(s) of \_\_\_\_\_ year(s) each by notifying the District in writing at least one (1) year prior to the expiration of the Initial Term or the end of the then current Extension Term. The Construction Term, Initial Term, and Extension Term(s), if any, are collectively referred to as the "Term".

**ARTICLE III**  
**ANNUAL RENT**

### 3.1 Annual Rent.

Lessee shall pay to the District annual rent for the Premises for each twelve (12) month period or portion thereof during the Initial Term and any Extension Term of this Lease, beginning with the Rent Commencement Date, in the amounts detailed below. All rentals hereunder howsoever denominated, are due and payable on the Rent Commencement Date and thereafter or before the first day of each calendar month, without demand (or partial calendar month), in amounts equal to one-twelfth (1/12) of the Base Rentals and Adjustment Rentals, as defined hereafter, then due, plus any sales or rent taxes due on that installment, in advance, in lawful money of the United States, without deduction or set-off, at the office of the District. Base Rentals and Adjustment Rentals for any partial month due during the Term of this Lease shall be prorated based on the number of days in such month.

### 3.2 Calculation of Annual Rent.

Lessee shall pay rentals to District at the rate of \$\_\_\_\_\_ per Lease Year which shall hereafter be called the "Base Rentals". Commencing with the rentals due as the commencement of the second Lease Year of the Initial Term and thereafter, in addition to the Base Rentals, Lessee shall pay District additional rentals for each Lease Year which shall hereinafter be called the "Adjustment Rentals". The Adjustment Rentals shall be computed by utilizing the increase in the Consumer Price Index for All Urban Consumers, U.S. Average, All Items (1982-84 = 100) as compiled and published by the United States Department of Labor, Bureau of Labor Statistics, or any comparable successor index (the "Index"). The Index number for all items for the third month preceding the Rent Commencement Date shall be the "Base Index Number" and the corresponding Index Number for the same month of each year hereafter shall be called the "Current Index Number". The Current Index Number shall be divided by the Base Index Number and from the quotient thereof there shall be subtracted the number one (1) and the result to the third decimal shall be the percentage of increase which, when multiplied by the Base Rentals, shall constitute the Adjustment Rentals. As soon as practical after the publication of the Index, District shall notify Lessee of the Adjustment Rentals, which shall be applicable for the next Lease Year. Adjustment Rentals shall be recomputed annually. In no event shall the sum of the Base Rentals and the Adjustments Rentals ever be less than the Base Rentals.

The Base Rentals shall be due and payable in twelve (12) equal monthly installments of \$\_\_\_\_\_ each all due in advance on the first day of each calendar month of the Term. The Adjustments Rentals shall be due and payable in advance on the first day of each month from and after the first day of the second Lease Year of the Term. District's failure to deliver to Lessee a computation of the Adjustment Rentals, in no way waives, forgives or otherwise eliminates Lessee's obligation to pay the same once District has delivered the calculation to Lessee.

Notwithstanding the foregoing, if District should believe that sum of the Base Rentals and the Adjustment Rentals do not accurately reflect the fair market value of the Premises, then District may, no sooner than the fifth Lease Year of the Initial Term and each five (5) years thereafter have the Premises appraised by an appraiser designated with the MAI certification by the American Institute of Real Estate Appraisers, which appraiser must be disinterested, from the Greenville-Spartanburg area and actively engaged in the appraisal of real estate for a period of not less than five (5) years immediately preceding the appraisal. The appraisal may be based the value of comparable property at or near airports within the State of South Carolina and/or the Spartanburg County area and not merely at the Greenville-Spartanburg Airport. Once the appraisal is complete, the new Base Rentals shall be the greater of (a) ten percent (10%) of the newly appraised value of the Premises, or (b) the sum of original Base Rentals plus the Adjustment Rentals calculated through the end of the prior five (5) year period of the Term.

In no event, however, shall the Base Rentals of the second or later five (5) year period exceed one hundred thirty percent (130%) of the Base Rentals of the prior five (5) year period.

### 3.3 Delinquent Rent.

If any amounts due from Lessee are not received within five (5) business days after the date such payment is due, then Lessee shall pay District a late fee equal to the greater five percent (5%) of the overdue amount or \$250.

## **ARTICLE IV MAINTENANCE AND UTILITIES**

### 4.1 Maintenance.

During the entire Term of this Lease, Lessee shall, at its sole cost and expense, keep, repair, replace and maintain the Premises and Additional Premises, including, without limitation, the roof, exterior walls and foundation of any buildings, the electrical, HVAC, plumbing and security systems, fixtures, trade fixtures, machinery, furnishings, signage and all other portions of the Improvements, in good repair and working order (reasonable wear and tear excepted), and in a clean, neat, attractive, properly maintained and safe condition. All maintenance, repairs and replacements shall be of quality at least equal to the original in materials and workmanship. Lessee shall promptly repair and replace, at its expense and in a manner reasonably acceptable to District, any damage to District's property or to the property of others caused by Lessee or its officers, employees, agents, contractors, subcontractors, licensees or invitees. The District shall have the right to enter the Premises at any reasonable time to determine whether or not Lessee is complying with its maintenance obligations hereunder.



#### 4.2 Trash and Garbage.

During the entire Term of this Lease, Lessee shall be responsible for the storage, collection and removal from the Premises of all trash, garbage and other refuse resulting from Lessee's activities on the Premises. Lessee shall provide appropriate, covered, metal receptacles for trash, garbage and other refuse, will maintain the receptacles in an attractive, safe and sanitary manner, and will store receptacles in inconspicuous places on the Premises that are screened from public view in accordance with the Minimum Standards.

#### 4.3 Utilities.

During the entire Term of this Lease, Lessee shall be responsible, at Lessee's sole cost and expense, for any necessary installation of and costs related to utility services within and to the Premises except the construction of the District Improvements detailed in **Exhibit "C"** hereto. Lessee agrees that District shall have no liability to Lessee arising out of any interruption of utility service to the Premises, unless such interruption was caused by the willful act or gross negligence of the District.

### **ARTICLE V** **TAXES**

#### 5.1 Property Taxes and Assessments.

Lessee shall pay when due all taxes, assessments (including, without limitation, stormwater utility charges or payments in lieu of taxes) and impact fees levied against or in connection with the Premises, its leasehold interest therein, and any Improvements thereto, and shall pay when due all taxes and assessments levied against Lessee's personal property located on the Premises or otherwise arising out of its operations on the Premises. In the event Lessee fails to pay such taxes and assessments when due, Lessee shall be obligated to pay all resulting interest and penalties on such delinquent taxes and assessments. If the Term of this Lease expires or is earlier terminated prior to the close of the tax year for which any such tax is payable, or if the Term of this Lease commences on a date other than the first day of such tax year, Lessee shall be responsible for paying the tax for the entire year, unless District is able to relet the Premises during the same year to a non-tax exempt tenant, in which event Lessee shall only be responsible for paying the percentage of the tax calculated by dividing the number of days of that tax year prior to the new tenant's rent commencement date by 365 and multiplying the tax assessed by such quotient.

## 5.2 Taxes.

Lessee may exercise any rights provided by law to contest or pay under protest any taxes and shall not thereby be deemed in default under this Lease, provided that such contest or payment under protest does not result in the imposition of a lien for delinquent taxes on the Premises or any Improvements and Lessee promptly pays all taxes and assessments (and any interest and penalties with respect thereto) ultimately determined to be due. No provision of this Lease shall be construed as a release or waiver on the part of District of the right to assess, levy or collect any license, personal property, intangible, occupation or other tax which they, or either of them, may lawfully assess, levy or collect on the business or property of Lessee. Lessee's obligations under this Article shall survive the expiration or earlier termination of the term of this Lease.

## 5.3 Payment of Sales Tax.

Lessee shall be liable, at its sole cost and expense, for any sales, use or similar taxes with respect to all rentals, however denominated, in accordance with the provisions of this Lease. Lessee shall indemnify, defend and hold District completely harmless from and against any liability, including any interest and penalties, which might arise in connection with Lessee's failure to timely remit any such taxes.

# **ARTICLE VI** **INSURANCE**

## 6.1 Hazard Insurance.

Lessee shall, at its sole expense, obtain and maintain throughout the Term of this Lease, property insurance on and for all Improvements, equipment, furnishings and other personal property now or hereafter erected, installed or used at the Premises, on a replacement cost basis (without deduction for depreciation), for the benefit of District and Lessee as their interests may appear, with such coverages, in such form, and with such company or companies as District shall approve in writing, including coverage for damage by fire, the elements or other casualty with standard extended endorsements. Lessee, on behalf of itself and its insurance carriers, hereby waives any and all rights of recovery which it may have against District or any other party who it is required to indemnify in accordance with the provisions of Article 8 below, for any loss of or damage to property it may suffer as a result of any fire or other peril insured under an insurance policy which it is required to obtain hereunder.

## 6.2 Liability Insurance.

Lessee shall, at its sole expense, obtain and maintain throughout the Term of this Lease, automobile liability insurance on all automobiles used in connection with its operations at the Premises of \$\_\_\_\_\_ and commercial general liability insurance protecting the District and Lessee (including, without limitation, all members of the governing board of District), officers, agents and employees of each, from and

against any and all liabilities arising out of or relating to Lessee's Permitted Uses, or the conduct of its operations on the Premises, in the amount of not less than \$\_\_\_\_\_ (or such greater amount as may be maintained by Lessee from time to time) per occurrence, with no self-insured retention or deductible amount in excess of Fifty Thousand Dollars (\$50,000), in such form, and with such company or companies as District shall approve in writing. Such insurance shall include contractual liability coverage for Lessee's covenants to indemnify the District and the other parties as required under this Lease and shall provide that it is primary insurance as respects any other valid and collectible insurance the District or any of the other additional insureds may possess, including any self-insured retention or deductible any of them may have, and that any other insurance carried by any of them shall be considered excess insurance only.

### 6.3 Workers' Compensation.

Lessee shall keep in force, at its sole expense, workers' compensation or similar insurance affording the required statutory coverage and requisite statutory limits. Such workers' compensation insurance or self insured program shall contain a waiver of any right of subrogation against District.

### 6.4 Employer's Liability.

Lessee shall also maintain throughout the term of this Lease employer's liability insurance with limits of liability of not less than \$500,000 for each of the "each accident," "disease policy limit," and "disease each employee coverage," or a self insured program with comparable coverage. Such employer's liability insurance or self insured program shall contain a waiver of any right of subrogation against District.

### 6.5 Certificates of Insurance.

Within thirty (30) days after the Effective Date of this Lease, and within thirty (30) days after the expiration of any policy or policies provided by Lessee hereunder, Lessee shall furnish an original certificate of insurance to District evidencing such coverage, naming the District as an additional insured under the property insurance required under Section 6.1, and naming the District as an additional insured under the liability policies required under Section 6.2, and confirming that the policy or policies will not be canceled or modified nor the limits thereunder decreased without thirty (30) days' prior written notice thereof to District. Lessee shall also provide District with copies of endorsements and other evidence of the coverage set forth in the certificate of insurance as District reasonably may request. If Lessee fails to comply with the terms of this Section, District, shall have the right, but not the obligation, to cause insurance as referenced herein to be issued, and in such event Lessee shall pay the premium for such insurance upon District's demand. District shall have the right, exercisable on ninety (90) days' prior written notice to Lessee, to require Lessee, from

time to time, to reasonably increase the monetary limits or coverages provided by such policy or policies.

**ARTICLE VII**  
**CONTRACT BOND, LETTER OF CREDIT OR CASH DEPOSIT**

7.1 Contract Bond, Letter of Credit or Cash Deposit.

Lessee shall provide to District on the execution of this Agreement, a Cash Deposit, a Contract Bond or, at the option of Lessee (and subject to certain additional requirements as described below), an irrevocable standby Letter of Credit ("Letter of Credit") in the form attached hereto as **Exhibits "G" and "H"**. Such Cash Deposit, Contract Bond or Letter of Credit shall be effective as of the Effective Date hereof and shall be maintained by Lessee throughout the term of this Agreement in an amount equal to fifty (50%) of the Base Rentals (the amount of the Cash Deposit, Contract Bond or Letter of Credit shall be rounded to the nearest One Thousand Dollars (\$1,000), as the Base Rentals may increase, from time to time (Lessee to increase the amount of the Letter of Credit, Cash Deposit or Contract Bond in the amount of the increase in Base Rentals). If in the sole discretion of the District it is determined that the financial statements submitted by Lessee are insufficient for the District to determine Lessee's financial capability then Lessee will be required to submit a Cash Deposit, Contract Bond or Letter of Credit in an amount equal to one hundred percent (100%) of the Base Rentals. Such Cash Deposit, Contract Bond or Letter of Credit shall guarantee the faithful performance by Lessee of all its obligations under this Agreement, including, without limitation, the payment by Lessee of all Annual Rent and Fees due hereunder. Any Contract Bond shall be on a form to be provided by District and shall be written by a Company licensed to do business in the State of South Carolina, which is acceptable to the President/CEO. Any Letter of Credit provided hereunder shall be on a form provided by the District and shall be issued by a bank, acceptable to the President/CEO, which is located within Spartanburg County, South Carolina (unless the President/CEO waives such requirement in writing). In the event that any Contract Bond or Letter of Credit provided under this Section 7.1 shall be for a period of less than the full term of this Agreement, or in the event the amount of the Contract Bond or Letter of Credit is to be increased or decreased, Lessee shall provide a renewal or replacement Contract Bond or Letter of Credit which complies with the requirements of this Section 7.1 at least one hundred eighty (180) days prior to the date on which the previous Contract Bond or Letter of Credit expires. The Letter of Credit must contain a condition that it shall be deemed automatically extended without amendment for one (1) year from the expiration date herein, or any future expiration date, unless thirty (30) days prior to any expiration date the Bank on which the Letter of Credit is drawn, shall notify the District in the manner required herein that such Bank elects not to consider the Letter of Credit renewed for any such additional period. Lessee's failure to timely provide a replacement Contract Bond or Letter of Credit hereunder shall constitute a default under this Agreement and the District shall be entitled to any remedies provided hereunder, and may, without limitation, proceed to recover under Lessee's existing Contract Bond or draw on the full amount of its existing Letter of Credit. If Lessee provides District with a Letter

of Credit, Lessee shall maintain such Letter of Credit in effect for at least one (1) year after the expiration or earlier termination of the term hereof in the amount required for the last Agreement Period. However, the District shall release any existing Letter of Credit provided by the Lessee upon the District's receipt of a replacement Letter of Credit that complies with the requirements of this Section 7.1.

## **ARTICLE VIII ENVIRONMENTAL**

### 8.1 Lessee's Environmental Obligations.

Lessee shall comply with all "Environmental Laws", which are defined as all applicable federal, state and local statutes, laws, ordinances, regulations, administrative rulings, orders and requirements pertaining to the protection of the environment, including but not limited to, the District's rules and regulations regulating the use, storage, handling and disposal of any contaminant, toxic or hazardous waste, or any other substance the removal of which is required or the use of which is restricted, prohibited or penalized under any federal, state or local statute, law, ordinance, regulation, rule or judicial or administrative order with respect to environmental conditions, health, or safety, including, without limitation, asbestos or petroleum products ("Hazardous Substances"). Further, during the Term of this Lease, neither Lessee nor any agent or party acting at the direction or with the consent of Lessee shall use, store, handle or dispose of by any means any Hazardous Substances at the Premises, except that Lessee shall be entitled to use Hazardous Substances of the type and in the quantities typically used by companies performing similar aviation services in accordance with all applicable Environmental Laws. Notwithstanding any other provision hereof, Lessee does not undertake any obligation to remediate, or to take any other action with respect to any environmental condition not attributable to actions at the Premises (or elsewhere at the Airport) by Lessee, its officers, employees, agents, contractors, subcontractors, licensees or invitees.

Upon reasonable notice to Lessee, the District may conduct or cause to be conducted through a third party that it selects, an environmental audit or other investigation of Lessee's operations to determine whether Lessee has breached its obligations under subparagraph (a) above. Lessee shall pay all reasonable costs associated with said investigation if such investigation shall disclose any such breach by Lessee.

Within thirty (30) days prior to the expiration or termination of this Lease, Lessee shall commence a Phase I Environmental Assessment ("Phase I EA") in accordance with ASTM Standard ASTM E-1527, or such other commonly recognized standard as may be in effect at that time. If the Phase I EA reveals any areas of environmental concern that, in the District's reasonable discretion, warrant further investigation, Lessee shall commence an appropriate Phase II Environmental Assessment ("Phase II EA") including sampling and analysis of soil and groundwater necessary to determine whether or not

contamination has occurred. Copies of the EAs shall be provided to the District upon completion and shall be certified to be for the benefit of the District by the environmental consultant performing the EA. Lessee shall promptly undertake and pursue diligently to completion any remedial measures indicated by the above-described environmental assessments. All costs of the foregoing assessments shall be borne solely by Lessee.

The provisions of this Section 8.1 shall survive the expiration or earlier termination of the term of this Agreement.

## **ARTICLE IX INDEMNIFICATION**

### 9.1 Lessee Indemnification.

Lessee shall indemnify, defend and hold completely harmless District, from and against any and all liabilities (including, but not limited to, liability with respect to any Hazardous Substances and liability under the Comprehensive Environmental Response, Compensation and Liability Act, as it may be amended from time to time ("CERCLA"), and any other Environmental Law), losses, suits, claims, demands, judgments, fines, damages, penalties, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to court costs, reasonable expert fees and reasonable attorneys' fees and costs, including fees and charges for the services of paralegals or other personnel working under the supervision of such attorneys ["Attorneys' Fees"]) which may be incurred by, charged to or recovered from any of the foregoing: (i) by reason or on account of damage to or destruction of any property of District, or any property of, injury to or death to any person resulting from or arising out of the use, occupancy or maintenance of the Premises or any Improvements, or the Lessee's operations thereon, or the acts or omissions of Lessee's officers, employees, agents, contractors, subcontractors, licensees or invitees, regardless of where the damage, destruction, injury or death occurred, except to the extent that such liability, loss, suit, claim, demand, judgment, fine, damage, penalty, cost or expense was proximately caused by the person to be indemnified hereunder, (ii) arising out of the failure of Lessee to keep, observe or perform any of the covenants or agreements in this Lease to be kept, observed or performed by Lessee, or (iii) imposed on or assessed against the District by reason of or arising out of any act or omission on the part of Lessee, any subtenant or any other person acting by, through or for Lessee or any subtenant of Lessee. District agrees to give Lessee reasonable notice of any suit or claim for which indemnification will be sought by it hereunder, to allow Lessee or its insurer to compromise and defend the same to the extent of its interest and to reasonably cooperate with the defense of any such suit or claim. In carrying out its obligations under this Section 9.1, Lessee shall use counsel reasonably acceptable to the District. The provisions of this Section 9.1 shall survive the expiration or earlier termination of this Lease with respect to any acts or omissions occurring during the term of this Lease.

**ARTICLE X**  
**DESTRUCTION OF IMPROVEMENTS**

10.1 Obligations of Lessee.

In the event the Improvements are damaged or destroyed in whole or in part by fire or other casualty, Lessee shall give prompt written notice thereof to District, and Lessee, at its own expense, shall promptly repair, replace and rebuild the same, at least to the same extent as to the value and as nearly as practical to the character of the Improvements existing immediately prior to such time. Damage to the Improvements shall not cause an abatement of Lessee's obligation to pay any rentals due hereunder, howsoever denominated.

10.2 Insurance Proceeds.

Upon receipt by Lessee and the District of the proceeds of any property or builder's risk insurance policy or policies, Lessee and the District shall deposit same in an interest-bearing escrow account requiring the signatures of both parties for withdrawal to pay for the cost of such repair, replacement and rebuilding. Lessee shall receive and hold such proceeds (and any interest earned thereon) in trust for such work, and Lessee shall distribute such proceeds (and any interest earned thereon during construction) solely to pay the cost of such work. If the amount of such insurance proceeds (together with the interest earned thereon) is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged Improvements, Lessee shall pay any additional sums required, and if the amount of such insurance proceeds (together with the interest earned thereon) is in excess of the costs thereof, the amount of such excess shall be retained by Lessee. Notwithstanding the language of this Paragraph 10.2, in the event of total or partial destruction of the Premises, the parties will mutually evaluate a course of action that makes commercial sense regarding (i) insurance proceeds and (ii) whether or not this Lease should be terminated.

**ARTICLE XI**  
**CONDEMNATION**

11.1 Notice of Condemnation.

The party receiving any notice in connection with any proceedings or negotiations with respect to an actual or potential condemnation proceeding (a "Taking") shall promptly give the other party notice of the receipt, contents and date of the notice received.

11.2 Rights of District and Lessee.

District and Lessee shall each have the right to represent its respective interests in each proceeding or negotiation with respect to a Taking. District and Lessee each

agrees to execute and deliver to the other any instrument that may be required or which would facilitate the provisions of this Lease relating to the condemnation.

### 11.3 Taking of Leasehold.

Upon a Taking of the entire Premises, Lessee's interest in this Lease shall continue until the Taking is completed by deed, contract or final order of condemnation; unless otherwise specified by court order. If the Taking is of substantially all of the Premises, Lessee may, by notice to District within ninety (90) days after Lessee receives notice of the Taking, elect to treat the taking in accordance with the preceding sentence. All awards for a taking paid for loss of leasehold shall belong solely to District. If Lessee does not so notify District, this Lease shall remain in full force and effect covering the balance of the Premises not so taken, except that the Rent payable hereunder by Lessee shall be equitably adjusted (a "Partial Taking").

### 11.4 Obligations of Lessee under Partial Taking.

It is understood and agreed that all condemnation proceeds for any Partial Taking of the Premises shall be paid to Lessee to be held by it in trust and used for the repair and reconstruction of the Premises and replacement of the equipment, with any portion of such proceeds not needed for such repair, reconstruction and replacement to be distributed in accordance with the terms of Section 11.6.

### 11.5 Taking of Temporary Use of Premises and Improvements.

Upon any Taking of the temporary use of all or any part of the Premises or Improvements, or both, neither the Term nor the Rent shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the Taking is to necessitate expenditures for reconstruction of the Improvements to make them reasonably suitable for Lessee's continued use in connection with its operations under this Lease, after the termination of such Taking, Lessee shall perform such work in accordance with the provisions of the Lease. Upon the completion of the work and the discharge of the Premises and Improvements from all liens or claims arising therefrom, Lessee shall be entitled to any surplus and shall be liable for any deficiency.



#### 11.6 Taking by District.

Upon any Taking by District, District and Lessee will either agree to the amount to be paid by District for such Taking, or in the absence of such agreement, the matter will be determined in accordance with the laws of the State of South Carolina.

#### 11.7 Deposit of Sums Payable on Taking.

If District and Lessee are unable to agree on how all sums payable by a third party on the Taking are to be distributed and disbursed as between District and Lessee, then District and Lessee agree to take such action as shall reasonably be required to withdraw such sums from the registry of the Court and jointly deposit such sums in an interest bearing escrow account, and once agreement is reached between District and Lessee as to how such sums are to be distributed and disbursed (or the matter has been determined in accordance with the laws of the State of South Carolina), the interest earned on such sums shall be distributed between District and Lessee in the same proportion as the distribution of the principal amount of such sums.

### **ARTICLE XII** **DEFAULT**

#### 12.1 Events of Default by Lessee.

The occurrence of any of the following shall constitute an event of default (an "Event of Default") by Lessee under this Lease: (i) the failure of Lessee to make any payment of Base Rentals, Adjustment Rentals, or any other payment required to be made by Lessee hereunder, as all payments due from Lessee are rentals hereunder, regardless of how denominated, when due which failure is not remedied within five (5) business days following receipt of written notice from District; (ii) the failure of Lessee to keep, observe or perform any other material covenants or agreements herein, and the continued failure to observe or perform any such covenant or agreement after a period of thirty (30) days after written demand; (iii) commencement by or against the Lessee of an insolvency or bankruptcy proceeding, including, without limitation, a proceeding for liquidation, reorganization or for the readjustment of its indebtedness, or the insolvency of the Lessee, or an assignment or arrangement for the benefit of its creditors or the appointment of a receiver, trustee or custodian, provided, however, that any of the foregoing set forth in this subsection (iv) which is commenced by a person other than Lessee shall not constitute an Event of Default if it is discharged within sixty (60) days following receipt of written notice from District; or (v) the placement of any lien upon the Premises or any Improvements (excluding liens for taxes which are not delinquent and any Mortgages, as defined below, permitted hereunder) which is not discharged of record by payment or bond within thirty (30) days following receipt of written notice from District, or any levy under any such lien.

#### 12.2 Remedies for Default.

Upon the occurrence of an Event of Default, the District may in its sole discretion pursue any one or more of the following remedies, or such other remedies as may be available to the District at law or in equity:

(a) District may terminate the Lease and re-enter and repossess the Premises; or

(b) District may, without terminating this Lease, terminate Lessee's right to possession of the Premises, retake possession of the Premises, and recover immediately from the Lessee damages calculated as follows:

(i) all unpaid rentals that had been earned at the time of termination of Lessee's right to possession, together with,

(ii) the amount by which the unpaid rentals earned after the date of termination of Lessee's right to possession of the Premises until the time of award exceeds the amount of the loss of rentals and other payments due from Lessee that Lessee proves has been or could have reasonably been avoided, together with

(iii) the worth, at the time of the award, of the amount by which the unpaid rentals for the balance of the Term after the time of award exceeds the amount of the loss of rentals Lessee proves could reasonably be avoided. (For purposes of this subparagraph (iii), the worth, at the time of award, of such amount shall be determined by discounting such amount in accordance with accepted financial practice to its present worth at a rate of interest of four percent (4%) per year.)

For purposes of the calculation of damages described above, and in subsection (c) below, payments other than then current Base Rentals due from Lessee after the termination of Lessee's right to possession of the Premises shall be based upon the average of such payments payable during the thirty-six (36) month period prior to the termination of possession (or, if shorter, the prior period of the Term of the Lease).

Upon entry of judgment for such damages, as described above, this Lease shall be deemed to be terminated; or

(c) District may, without terminating this Lease, terminate Lessee's right to possession of the Premises, retake possession of the Premises and re-let the Premises, or any part or parts thereof, for the account of Lessee, for a term which may, at District's option, be less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease. In such event, Lessee shall pay to District any deficiency between the rentals herein reserved and the net amount of the rents and other charges collected on account of any other lease of the Premises for each month of the period which would otherwise have constituted the balance of the Term of this Lease. District may recover such deficiency from Lessee at the time each payment becomes due under the Lease, or, at District's option, upon the expiration of the Term of this Lease.

Irrespective of the exercise of either of the above-referenced options, District shall have the right to recover all unpaid rentals earned by District prior to the date of termination of possession or of the Lease, and all of District's costs, charges and expenses, including reasonable Attorneys' Fees, incurred in connection with the recovery of sums due under this Lease, or due to the breach of any covenant or agreement of Lessee contained in this Lease, including any costs and expenses of reletting the Premises, such as all necessary repairs and renovations, all brokerage fees and Attorneys' Fees. District will have the right at any time following an Event of Default to elect to terminate the Lease. No action taken by District pursuant to this Section 12.2 shall be deemed to terminate this Lease unless written notice of termination is given by District to Lessee.

The rights and remedies given to District by this Lease shall not be exclusive, and in addition thereto, District shall have such other rights and may pursue such other remedies as are provided by law or in equity. All such rights and remedies shall be deemed to be cumulative, and the exercise of one such right or remedy by District shall not impair its standing to exercise any other right or remedy.

Lessee hereby expressly waives any notices of default not specifically provided for herein, and all rights of redemption, if any, granted under present or future law in the event Lessee shall be evicted or dispossessed for any cause, or in the event District shall obtain possession of the Premises by virtue of the provisions of this Agreement or otherwise.

### 12.3 Advances By District.

If District has paid any sums of money or incurred any obligation or expense for which Lessee is obligated to pay or reimburse District, or if District is required or elects to do so because of the failure of Lessee to perform any of the terms or conditions of this Lease, then the same shall be deemed rentals and shall be paid to District in accordance with Article III herein.

### 12.4 Non-Waiver By District.

No waiver of any covenant or condition or of the breach of any covenant or condition of this Lease shall constitute a waiver of any subsequent breach of such covenant or condition or justify or authorize the non-observance on any other occasion of the same or of any other covenant or condition hereof. The acceptance of Annual Rent, Rent or other payments from Lessee by District at any time when Lessee is in default under this Lease shall not be construed as a waiver of such default or of District's right to exercise any remedy arising out of such default, nor shall any waiver or indulgence granted by District to Lessee be taken as an estoppel against District, it being expressly understood that District may at any time thereafter, if such default continues, exercise any such remedy in the manner hereinbefore provided or as otherwise provided by law or in equity.

**ARTICLE XIII**  
**MISCELLANEOUS**

13.1 Additional Provisions.

The Parties hereby agree that this Lease shall be subject to the provisions of **Exhibit "F"** hereto.

13.2 Other Fees.

District will not assess landing fees on aircraft flying non-revenue flights; however, District may assess fuel flowage fees. A flowage fee may be implemented at any time and in District's sole discretion.

13.3 Recording.

This Lease shall not be recorded. Simultaneously herewith, the parties will, if requested by the other, execute a Memorandum of Lease in the form attached hereto as **Exhibit "K"**, which may be recorded by either party at the recording party's expense in the Public Records of Spartanburg County, South Carolina.

13.4 Additional Reserved Rights of District.

District reserves the right to further develop, improve, repair and alter the Airport and all roadways, parking areas, facilities, landing areas and taxiways as it may reasonably see fit so long as District does not interfere with Lessee's quiet enjoyment of the Premises. District shall be free from any and all liability to Lessee for loss of business or damages of any nature whatsoever to Lessee occasioned by the making of such improvements, repairs, alterations and additions that do not interfere with Lessee's quiet enjoyment of the Premises. District reserves the right to establish such fees and charges for the use of the Airport by Lessee (excluding any additional charge for the use of the Premises) and all others similarly situated from time to time as District may deem advisable.

13.5 Leasehold Encumbrances.

(a) Mortgage Authorized

Lessee may encumber only its leasehold estate (and not the District's interest or any other interest in the land) by the execution and delivery of a deed of trust or mortgage to an institutional lender (a "Mortgage"). District will not subordinate its interest in the Premises or in this Lease to any Mortgage. The Mortgagee of any such Mortgage may deliver to District a written notice specifying (i) the amount of the obligation secured by the Mortgage and the date(s) of the maturity thereof; and (ii) the name and address of the Mortgagee.

After receipt of such notice, District shall serve such Mortgagee in a manner required hereby, at the latest address furnished by such Mortgagee, a copy of every notice of default or demand served by District upon Lessee under the terms and provisions of this Lease so long as such Mortgage is in effect. In the event of any assignment of a Mortgage or in the event of a change of address of the Mortgagee or of an assignee of such Mortgage, notice of the new name and address shall be provided to District.

(b) Mortgagee's Rights. Upon receipt of a notice or demand in accordance with Section 13.5(a) above, Mortgagee shall have thirty (30) days after receipt of such notice within which, at Mortgagee's election, either:

to cure the default if it can be cured by the payment or expenditure of money; or

to perform such other action as may be necessary to cure the default, but

if the default is not a default in the payment or expenditure of money and is curable and cannot reasonably be cured within thirty (30) days, to commence performance within such thirty (30) day period and thereafter diligently prosecute the same to completion, in which event the default will be deemed to have been cured.

In the event it is necessary for Mortgagee to obtain possession of the Premises in order to cure a default, Mortgagee shall be deemed to have complied with the provisions of Section 13.5(b)(iii) above if it institutes foreclosure proceedings within such thirty (30) day period and completes such foreclosure proceedings or otherwise acquires Lessee's interest under this Lease with diligence and continuity and thereafter commences and diligently proceeds to cure such default; provided, however, that Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving a default notice shall be cured, and provided further, that nothing in this Section 13.5(b) shall preclude District from exercising any rights or remedies under this Lease with respect to any other default by the Lessee during any period of such forbearance.

(c) Additional Rights of Mortgagee.

In the event of foreclosure by any Mortgagee, and subject to compliance with the requirements of Section 13.6, the purchaser at the foreclosure sale or the Person acquiring Lessee's interest in lieu of foreclosure shall succeed to and be bound by all of Lessee's rights, interests, duties and obligations under this Lease.

In the event that a Mortgagee shall become the owner or holder of the Lessee's interest by foreclosure of its Mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Lessee", as used in this Lease, means only

the owner or holder of the Lessee's interest for the time being so that, in the event of a sale, assignment or other disposition of the Lessee's interest in this Lease by the Mortgagee, the Mortgagee shall be entirely freed and relieved of all covenants and obligations of the Lessee under this Lease arising after the date of such sale, assignment or other disposition, and it shall be deemed and construed, without further agreement between District and Mortgagee or between District, Mortgagee and the Mortgagee's purchaser or assignee at any such sale or upon assignment of Lessee's interest, that the purchaser or assignee of Lessee's interest has assumed and agreed to carry out any and all covenants and obligations of Lessee.

So long as the Lessee's interest in this Lease shall be mortgaged to a Mortgagee, the parties agree for the benefit of such Mortgagee that District shall not sell, grant or convey to the Lessee all or any portion of the fee simple title to the Premises without the prior written consent of such Mortgagee. In the event of any such sale, grant or conveyance by District to the Lessee, District and the Lessee agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subsection 13.5(c)(iii) shall not be construed to prevent a sale, grant or conveyance of the fee simple title to any Person, firm or corporation other than the Lessee, its successor, legal representatives and assigns.

In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section 13.5(c) prior to its stated expiration date, or in the event of the termination of Lessee's right to possession of the Premises as a result of an event of default by Lessee hereunder, District will enter into a new lease of the Premises with Mortgagee or, at the request of such Mortgagee, with a corporation which is wholly owned by such Mortgagee, for the remainder of the term effective on the date of such termination of this Lease (or termination of Lessee's right to possession of the Premises) at the rentals and upon the covenants, agreements, terms, provisions and limitations contained in this Lease, provided that such Mortgagee makes written request and executes, acknowledges and delivers to District such new lease within thirty (30) days from the date of such termination of this Lease (or termination of Lessee's right to possession of the Premises) and such written request and such new lease are accompanied by payment to District of all amounts then due to District, including Attorneys' Fees incurred by District in connection with any such default and termination as well as in connection with the execution and delivery of such new lease. In addition, immediately upon execution of such new lease, District shall execute, acknowledge and deliver to Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to District and all subleases under which subtenants shall be required to attorn to District pursuant to the terms and conditions of such subleases or this Lease. Such assignment by District shall be deemed to be without recourse as against District.

(d) Reference in this Lease to a Mortgagee shall be deemed to refer, where circumstances require, to any assignee of a Mortgagee; provided that such assignee shall forward to the District a duplicate original of the assignment of the

Mortgage and the note it secured, together with a written notice setting forth the name and address of the assignee.

(e) Should any Mortgagee request modifications to the foregoing provisions with regard to the rights of the Mortgagee and/or its successors, then prior to District considering the request, the sum of Five Hundred Dollars (\$500) shall be paid to District to defray its expenses in the review of such request.

### 13.6 Assignment and Subletting.

(a) Lessee shall not at any time sublet or assign this Lease, in whole or in part, or assign any of its rights or obligations hereunder, without the prior approval of District, which approval may be granted or withheld by District in its sole discretion; except that Lessee may assign this Lease without prior approval (but upon prior written notice to District) to a corporate parent, affiliate, sister company, or subsidiary (collectively, an "Affiliate"), upon submitting proof of such affiliation satisfactory to District. No sublease or assignment shall release Lessee from any of its obligations under this Lease unless the District agrees to such release in writing in its sole discretion. Approvals required under this Paragraph shall be in writing and shall apply to any change in ownership of or power to vote a majority of the outstanding voting stock of Lessee from the owners of such stock or those controlling the power to vote such stock on the date of this Lease (except in the event Lessee is a corporation whose stock is publicly traded), or if Lessee is a limited or a general partnership or other entity, any transfer of an interest in the partnership or other entity which results in a change in the control of such partnership or other entity. Any assignment or sublease, which is not in strict compliance with the terms and conditions of this Paragraph, shall be void ab initio and shall be of no force or effect whatsoever.

(b) Lessee agrees to reimburse the District for its reasonable Attorneys' Fees and costs actually incurred in determining whether to give its consent to any proposed sublease or assignment, whether or not such consent is given, and the negotiation and preparation of any documents with respect to such sublease or assignment.

### 13.7 Notice.

Any notice permitted or required to be given under the terms of this Lease shall be in writing, addressed to the party to whom it is directed, and sent either by (1) hand delivery, (2) United States certified or registered mail, postage prepaid, return receipt requested or (3) prepaid overnight delivery by a nationally recognized company, to the address shown below or to such other address as either party may from time to time designate by written notice in accordance with this Section:

To District:                      President/CEO

Greenville-Spartanburg Airport District  
2000 GSP Drive, Suite 1  
Greer, South Carolina 29651

To Lessee: \_\_\_\_\_

with copy in any event to:

GSP Legal Counsel

Any such notice shall be deemed effective upon the first to occur of (a) receipt by the addressee, (b) the day following the notice having been provided to the nationally recognized overnight delivery company for overnight delivery, or (c) the third day following the deposit of the same in U.S. certified or registered mail.

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**IN WITNESS WHEREOF**, the parties hereto by their duly authorized officers have caused this Lease to be executed in their names and their seals to be affixed hereto as of the day and year first above written.

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**LESSEE:**

\_\_\_\_\_, a  
\_\_\_\_\_ company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**DISTRICT:**

**GREENVILLE-SPARTANBURG AIRPORT  
DISTRICT**

By: \_\_\_\_\_  
Name: David N. Edwards, Jr., A.A.E.  
As Its: President/CEO

**EXHIBIT "A" and "A-1"  
PREMISES**

**EXHIBIT "B"**  
**ADDITIONAL PREMISES**

**EXHIBIT "C"**  
**DISTRICT IMPROVEMENTS**

**EXHIBIT "D"**  
**LESSEE IMPROVEMENTS**

**EXHIBIT "E"**  
**CONSTRUCTION OF IMPROVEMENTS**

1. Prior to commencement of construction of any Improvements, and prior to commencing to renovate, enlarge, demolish or modify any Improvements now or hereafter existing on the Premises, Lessee must obtain the approval of the President/CEO, which he may grant or withhold in his sole discretion. Lessee shall submit the plans and specifications (prepared in accordance with the Minimum Standards and under the seal of a duly licensed architect or engineer) to District for its approval (the "Plans"), in accordance with the approval process prescribed by District. No construction of any type shall commence prior to Lessee's receipt of: (i) District's written approval of the Plans, and (ii) a notice to proceed from the District.
2. District's approval of any Plans submitted by Lessee shall not constitute the assumption of any liability by District for the compliance or conformity of the Plans with applicable building codes, zoning regulations and municipal, county, state and federal laws, ordinances and regulations, or for their accuracy or suitability for Lessee's intended purpose, and Lessee shall be solely responsible for the Plans. District's approval of the Plans shall not constitute a waiver of District's right thereafter to require Lessee, at its expense, to amend the same so that they comply with building codes, zoning regulations, municipal, county, state and federal laws, ordinances and regulations either applicable at the time the Improvements were constructed or by laws otherwise made applicable to Lessee's Improvements, and to make such construction changes as are necessary so that the completed work is in conformity with the approved Plans.
3. In the event District does not approve the Plans, it shall notify Lessee of the changes required to be made (including reference to those portions of this Lease, the Minimum Standards and the Master Plan forming the basis for disapproval, if applicable), and Lessee shall promptly revise the Plans to incorporate the required changes, and shall resubmit revised Plans to the District for approval.
4. Lessee shall obtain, at its expense, all necessary licenses and permits to accomplish its Improvements, and shall pay all applicable impact fees relating thereto.
5. Once Lessee has commenced construction of any Improvements, such construction shall be pursued diligently to completion, subject to Force Majeure. All Improvements shall be constructed in accordance with the approved Plans, the Minimum Standards, and all applicable building codes, zoning regulations and municipal, county, state and federal laws, ordinances and regulations. Within ninety (90) days after completion of construction of the Improvements, Lessee shall, at its expense, provide District with record drawings showing the "as built" condition of any Improvements constructed by Lessee, in such format (including, without limitation a CAD format) as the President/CEO shall request.
6. Lessee hereby warrants and covenants to District that all Improvements now or hereafter erected on the Premises shall be at all times free and clear of all liens, claims and encumbrances and hereby agrees to indemnify and hold District harmless from and against any and all losses, damages and costs, including reasonable Attorneys' Fees relating to or arising out of any such lien, claim or encumbrance. If any such lien or notice of lien on account of the alleged debt of Lessee shall be filed against the Premises, Lessee's leasehold interest therein or any Improvements, the Lessee shall, within thirty (30) days after notice of filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Prior to construction of any Improvements at the Premises, Lessee shall record and post a Notice of Commencement and all applicable payment bonds in accordance with applicable laws. No work hereunder shall be commenced until Lessee or its Contractor provides to District from a company reasonably acceptable to the President/CEO: (i) a surety payment bond for the benefit of District in the form attached hereto as Attachment \_\_\_\_\_ in an amount equal to the total estimated cost of the work, which bond shall guarantee the payment of all contractors' and subcontractors' charges and charges of all other persons and firms supplying services, labor, materials or

supplies in connection with the work, (ii) a surety performance bond for the benefit of District, in the form attached hereto as Attachment \_\_\_\_\_, in an amount equal to the total estimated cost of the work, which shall guarantee the prompt completion of the work by Lessee in accordance with the Plans, and (iii) a policy of builder's risk insurance. Subject to the approval of the President/CEO, Lessee may provide the District with a Construction Payment and Performance Agreement in place of a surety payment bond and surety performance bond. Such Construction Payment and Performance Agreement shall establish a Project Escrow Fund to ensure the payment and completion of Lessee's improvements and shall not be less than 110% of the Lessee's expected construction costs for each Phase of Lessee's improvements.

7. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of District, express or implied, to any contractor, subcontractor, laborer, materialman, architect, surveyor or engineer for the performance of any labor or the furnishing of any materials or services for or in connection with the Premises or any part thereof. Notice is hereby given that the District shall not be liable for any labor or materials or services furnished or to be furnished to Lessee upon credit, and that no construction or other lien for labor, materials or services shall attach to or affect the fee or reversionary or other estate or interest of the District in the Premises or in this Lease. All persons dealing with the Premises and with Lessee are hereby put on notice that Lessee does not have the power to deal with the Premises in such a manner as to authorize the creation of construction liens, by implication or otherwise; and all persons making improvements to the Premises, either by doing work or labor or services or by supplying materials thereto, at the request of Lessee or persons dealing by, through or under Lessee, are hereby put on notice that they must look solely to the Lessee and not to the Premises or any part thereof or to this Lease for the payment of all services, labor or materials performed upon or delivered to the Premises.

8. Title to all Improvements now or hereafter constructed by Lessee on the Premises shall vest in District upon the completion of the Improvements. Lessee hereby covenants to execute and deliver to District any and all instruments or documents that District reasonably requests to effectively transfer, assign and convey such Improvements in fee to District. Lessee shall ensure that at the expiration of the Initial Term such Improvements are free of any liens or encumbrances. Notwithstanding anything to the contrary herein, it is further understood that the District shall at no time during the Term of this Lease Agreement or any extensions thereof be entitled to charge Lessee additional rent with respect to improvements paid for by the Lessee.

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## **EXHIBIT "F"**

### **REQUIRED PROVISIONS**

1. District's Reserved Rights. District reserves the right for itself and others to utilize and maintain any utility and drainage easements located on the Premises, and to run water, sewer, electrical, telephone, gas, drainage and other lines under or through the Premises and to grant necessary utility easements therefore, provided that in the exercise of such rights, Lessee's use of the Premises and any Improvements shall not be unreasonably impaired and any damage to the Premises or any Improvements caused by District as a result thereof shall be repaired without cost to Lessee.

2. Discrimination Not Permitted.

a) Lessee, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the Premises, any Improvements or the Airport under the provisions of this Lease; (ii) that in the construction of any Improvements on, over or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination; and (iii) that Lessee shall use the Premises and the Improvements in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted Programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Acts of 1964, as the same may be amended. Likewise, Lessee shall comply with the laws of the State of South Carolina prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should the Lessee authorize another person, with District's prior written consent, to provide services or benefits upon the Premises or the Improvements, Lessee shall obtain from such person a written agreement pursuant to which such person shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this subsection. Lessee shall furnish the original or a true copy of such agreement to District.

b) Lessee will provide all information and reports required by said regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by District or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said regulations and directives. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish this information, Lessee shall so certify to District or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

c) In the event of a breach of any of the above non-discrimination covenants, District shall have the right to terminate this Lease and to re-enter and repossess said Premises and the Improvements, and hold the same as if this Lease had never been made or issued. The rights granted to District by the foregoing sentence shall not be effective until all applicable procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights, and the completion of any judicial review.

d) Further, Lessee assures District that no person shall be excluded on the grounds of race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Non-Discrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended. Lessee also assures District that it will require its covered suborganizations to provide written assurances to the same effect and provide copies thereof to District.



e) Lessee further assures District that it will comply with pertinent statutes, Executive Orders, and such other rules as are promulgated to assure that no person shall on the grounds of race, creed, national origin, sex, age, handicap or marital status be excluded from participating in any activity conducted at or in connection with its operations at the Premises. Lessee also assures District that it will require its contractors and subtenants to provide assurances to the same effect and ensure that such assurances are included in contracts and subleases at all tiers which are entered into in connection with Lessee's operations at the Premises.

f) District may from time to time be required by the United States Government, or one or more of its agencies, to adopt additional or amended provisions, including nondiscrimination provisions concerning the use and operation of the Airport, and Lessee agrees that it will adopt such requirements as part of this Lease.

### 3. Federal Aviation Administration Requirements.

a) District reserves unto itself, and unto its successors and assigns for the use and benefit of the public, a right of flight for the passage of aircraft through the airspace above the surface of the Premises, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft now known or hereafter used, and for navigation of or flight in the airspace, and use of the airspace for landing on, taking off or operating on the Airport.

b) Lessee expressly agrees, on behalf of itself and its successors and assigns:

to restrict the height of structures, vegetation and other Improvements on the Premises in compliance with the requirements of Federal Aviation Administration Regulations, 14 CFR Part 77, as they may be amended from time to time; and

to prevent any use of the Premises and any Improvements which would unreasonably interfere with or adversely affect the operation and maintenance of the Airport, or which would otherwise constitute a hazard at the Airport.

4. Right to Operate Aircraft at Airport. Nothing contained in this Lease shall give Lessee the right to operate a scheduled airline at the Airport. The right to operate aircraft at the Airport may be obtained by a qualified lessee from District by executing an Operating Agreement in the form prescribed by the District.

5. Member Protection. No recourse under or upon any obligation, covenant or agreement contained in this Lease, or any other agreement or document pertaining to the operations of Lessee hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against District, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Lease, shall be had against any member (including, without limitation, members of District's Board and members of District's citizens advisory committees), officer, employee or agent, as such, past, present and future, of District, either directly or through District or otherwise, for any claim arising out of this Lease or the operations conducted pursuant to it, or for any sum that may be due and unpaid by District. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any District member, officer, employee or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Lease or the operations conducted pursuant to it, or for the payment for or to District, or any receiver therefor or otherwise of any sum that may remain due and unpaid by District, is hereby expressly waived and released as a condition of and as consideration for the execution of this Lease.

6. District Rules and Regulations. Lessee shall observe and comply with all reasonable rules and regulations of District which now exist or may hereinafter be promulgated from time to time governing all matters relating to the Airport, including, without limitation, access, use, safety and conduct of operations at the Airport and the safe use of Airport facilities. District shall, at Lessee's written request, furnish a copy of all such rules and regulations, and any amendments thereto, to Lessee.

7. District Access to Premises. Lessee grants District and its authorized agents full and free access to the Premises and all Improvements located thereon at all reasonable times (upon reasonable prior notice, except in the event of an emergency) for the purposes of examining the same and seeing that all of the obligations of Lessee hereunder are being met and performed, and for exercising the District's rights under Paragraph 4.1 of the Lease, and shall permit them to enter any building or structure on the Premises at any time in the event of an emergency. District and its employees, licensees, invitees, agents, patrons and suppliers, and its tenants and their employees, licensees, invitees, agents, patrons and suppliers, shall have the right of vehicular and pedestrian access, ingress and egress over all non-restricted access streets at the Airport.

8. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by District or Lessee or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between District and Lessee, it being expressly understood and agreed that neither the computation of Annual Rent, Rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between District and Lessee other than the relationship of landlord and tenant.

9. Exclusive Rights. The rights granted to Lessee under this Lease are not exclusive, except that Lessee shall have the exclusive use of the Premises for the Term of this Lease in accordance with the provisions of this Lease. However, for the purposes of egress and ingress both aircraft and vehicles may traverse the Premises if necessary. The District expressly reserves the right to grant to third parties rights and privileges on other portions of the Airport that are identical, in whole or in part, to those granted to Lessee hereunder.

10. Miscellaneous Provisions.

a) The section headings contained in this Lease are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Lease.

b) Except as otherwise provided herein, the provisions of this Lease shall bind and inure to the benefit of the successors and assigns of the parties hereto.

c) Time is expressed to be of the essence of this Lease.

d) In the event that any proceeding at law or in equity arises hereunder or in connection herewith (including any appellate proceeding or bankruptcy proceeding) the prevailing party shall be awarded costs, reasonable expert fees and reasonable Attorney's Fees incurred in connection therewith.

e) This Lease was made in, and shall be governed by and construed in accordance with the laws of, the State of South Carolina. If any covenant, condition or provision contained in this Lease is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, condition or provision herein contained.

f) This Lease, together with the exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements heretofore made with respect to such subject matter, whether oral or

written, and any contemporaneous oral agreements, representations or statements are merged herein. This Lease may be altered or amended only by written instrument executed by both parties hereto.

g) Words of gender used in this Lease shall be held and construed to include any other gender; and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

h) District and Lessee represent and warrant to each other that they have dealt with no broker in connection with this Lease and the transactions contemplated hereby, and each agrees to indemnify and hold the other harmless in the event its representation and warranty contained herein is not true.

i) At the request of either party, the other shall with reasonable promptness deliver to the requesting party a written and acknowledged statement that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), that to the best of the responding party's knowledge, the requesting party is not in default under this Lease (or if the responding party has knowledge that the requesting party is in default, identifying the default), and providing such other information with respect to the Lease and the relationship between District and Lessee as may reasonably be requested.

**j) COMMUNICATIONS CONCERNING DISPUTED DEBTS. ALL (A) COMMUNICATIONS CONCERNING DISPUTES ABOUT DEBTS THAT ARE OWED OR MAY BE OWED PURSUANT TO THIS AGREEMENT, AND (B) INSTRUMENTS IN LESS THAN THE FULL AMOUNT CLAIMED BY THE DISTRICT AND TENDERED AS FULL SATISFACTION OF A DISPUTED DEBT OR OTHER AMOUNT OWED, SHALL BE SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE FOLLOWING:**

**PRESIDENT/CEO  
GREENVILLE-SPARTANBURG AIRPORT DISTRICT  
61 Terminal Drove, Suite 1  
Greer, South Carolina 29651**

k) In accordance with South Carolina law, Lessee is hereby advised as follows:

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in South Carolina. Additional information regarding radon and radon testing may be obtained from your county public health unit.

11. Fire Protection System. Lessee shall, at its own cost and expense, maintain in good working order in each building on the Premises where the same is required by applicable fire and safety standards a fire protection system satisfying applicable requirements of NFPA, the local building code enforcement agency and any other applicable legal requirements, which Lessee shall cause to be certified as meeting all applicable fire and safety standards upon installation, and recertified at least annually thereafter, by a qualified fire protection system inspector with a copy of each such certification provided to District.

12. Airport Security. Lessee shall comply with all applicable regulations of the Federal Aviation Administration relating to airport security (including, at the District's request and without limitation, all such regulations applicable to the District with respect to the operation of the Premises) and shall control the Premises so as to prevent or deter unauthorized persons from obtaining access to that portion of the Airport consisting of cargo areas, airside buildings, aircraft aprons, ramps, taxiways and runways (the "Air Operations Area"). Any fines or other penalties incurred by the District as a result of Lessee's breach of

this Paragraph shall be included in the indemnification provided to District pursuant to Paragraph 8.1 of the Lease.

### 13. Compliance with Stormwater Regulations.

a) Lessee acknowledges that the Airport is subject to federal stormwater regulations, 40 C.F.R. Part 122 (the "Regulations"), which are applicable to, among other activities, (i) certain industrial activity, including, without limitation, the operation of a vehicle maintenance shop (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations and deicing operations and (ii) certain construction activity at the Airport. Lessee also acknowledges that it is familiar with the Regulations and agrees to comply with the Regulations as they may be amended from time to time. Lessee further acknowledges that it has been advised that the District has complied with the Regulations by obtaining coverage under the Environmental Protection Agency's Stormwater Multi-Sector General Permit for Industrial Activities (the "Multi-Sector Permit"). Lessee may be able to become a permittee under such Multi-Sector Permit by filing separately in accordance with the provisions of the Regulations and the Multi-Sector Permit. Lessee shall provide to the District's Development Manager copies of any such filings and such other information as the President/CEO may reasonably request with respect to Lessee's compliance with the Regulations. Lessee agrees to comply with such Multi-Sector Permit or any other permit obtained by District or Lessee in connection with the Regulations as they pertain to the Premises, and any modifications to or renewals thereof. Such permit will not cover construction activities as defined by the Regulations and will not eliminate the need to obtain permits from state or local agencies as applicable laws, ordinances or regulations may require.

b) If Lessee, or its authorized agents or representatives, engages in construction activity at the Airport, including, without limitation, clearing, grading, or excavation, Lessee shall determine whether the Regulations require a permit, and if so, Lessee shall obtain the permit, send a copy of the permit to the attention of the District's President/CEO, and comply with the permit conditions.

14. Americans with Disabilities Act. As used herein, "ADA" shall mean the Americans with Disabilities Act, P.L. 101-336, 104 Stat. 327 (1990), as amended from time to time, and the regulations promulgated thereunder. Lessee shall be responsible for any actions required to comply with ADA (including, without limitation, any actions required by the District to enable the District to meet its ADA obligations with respect to Lessee's operations) as a result of (i) any Improvements or modifications which it makes to the Premises, (ii) its particular use of the Premises and (iii) any changes to the ADA after the Effective Date. Any modification to the Premises, which Lessee is required to make under this Paragraph, shall be performed to the satisfaction of the District. In the event the Lessee shall fail to construct or modify any Improvements to the Premises as required under this Paragraph, the District shall have the right to enter the Premises and perform such modifications on the Lessee's behalf, without liability for any disruption to the Lessee's activities therein during the completion of or as a result of such modifications, and the cost of such modifications shall be invoiced to the Lessee and shall be promptly paid by the Lessee to the District as additional Rent hereunder.

15. Force Majeure. If either party hereto shall fail to timely perform any of its obligations under this Lease as a result of strikes, lockouts or labor disputes, inability to obtain labor or materials, government restrictions, fire or other casualty, adverse weather conditions not reasonably foreseeable at the location and time of year in question, by reason of war or other national emergency, acts of God or other causes beyond the reasonable control of the party obligated to perform, then such failure shall be excused and not constitute a default under this Lease by the party in question, but only to the extent and for the time occasioned by such event. In the event the rights and privileges hereunder are suspended, Annual Rent and Rent under this Lease shall not abate, and Lessee shall have the right to make any claim against any third party permitted by law and to receive any award paid with respect to such claim. In no event shall this provision excuse any failure by Lessee to pay Annual Rent or Rent or any other payment obligation hereunder. Nor shall this provision apply to any inability by Lessee to procure funds or obtain financing

necessary to comply with Lessee's obligations under this Lease. In the event that the airport is closed for a period greater than ninety (90) consecutive days by reason of war or other national emergency, the District will assist Lessee, as allowable by applicable law, in obtaining compensation for the unamortized portion of any Improvements constructed by Lessee on the Premises from the authority taking such action. However, in no case shall the District be liable for any damages arising out of such an event.

16. Subordination.

a) This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, state, county and city laws and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing agreements between the District and third parties, including, but not limited to, those between the District and the United States of America, the State of South Carolina, or the County of Spartanburg, or their agencies, and to any future agreements between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of federal, state, county or city funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

b) In the event the Federal Aviation Administration or its successors require modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for the improvement of the Airport, Lessee hereby consents to any and all such modifications and changes as may be reasonably required.

c) Notwithstanding the foregoing provisions of this Paragraph, in the event any such restrictions, agreements or modifications to this Lease increase the Annual Rent payable hereunder or materially and adversely affect the ability of Lessee to use the Premises for the purposes permitted under this Lease, Lessee shall have the right to terminate this Lease by written notice to the District.

17. Public Entity Crimes Law. The Lessee acknowledges the following notice:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of \$25,000 for a period of 36 months from the date of being placed on the convicted vendor list.

18. Tax Exempt Status of District Revenue Bonds. Lessee agrees to comply promptly with any applicable provisions of any federal tax statute, and all regulations or other binding authority promulgated or decided thereunder, as required to permit the District's capital expansion projects to be planned and constructed by District with revenue bonds the interest on which is generally exempted from federal income taxation, other than any applicable individual or corporate alternative minimum taxes (and other than during any period while such revenue bonds are held by a "substantial user" of the projects financed by those revenue bonds or a "related person" to a "substantial user"), including, without limitation, the execution by Lessee and delivery to District of an election not to claim depreciation or any investment credit with respect to any portion of such capital expansion projects or any other portion of the Airport System in the form attached hereto as Exhibit "F" simultaneously with the execution of this Lease. Such

exhibit shall be deemed to be part of this Lease and shall be binding upon Lessee, its successors and assigns.

19. Visual Arts. Lessee shall not permit a work of visual art, as defined in 17 USC § 101, to be installed in the Premises without providing District with a written waiver, in form acceptable to the District, of the artist's rights under the Visual Artists Rights Act of 1990, Pub. L. 101-650, and without obtaining the District's prior written approval.

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**EXHIBIT "G"**  
**CONTRACT BOND FORM**

**KNOW ALL MEN BY THESE PRESENTS:** That \_\_\_\_\_, a corporation organized under the laws of \_\_\_\_\_ (hereinafter called the "Principal"), and \_\_\_\_\_ a corporation of the State of \_\_\_\_\_ which is licensed to do business in the State of South Carolina (hereinafter referred to as the "Surety"), are held and firmly bound unto the Greenville-Spartanburg Airport District (hereinafter called the "District") in the full and just sum of \_\_\_\_\_ (the "Sum") covering the period \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_, inclusive, to the payment of which Sum and truly to be made, the said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, under the terms of that Lease Agreement (hereinafter referred to as the "Agreement"), by and between the Principal and the District, the Principal shall lease certain real property at Greenville-Spartanburg International Airport pursuant to the Agreement, and such Agreement is hereby incorporated herein by reference and made a part hereof;

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH** that if the Principal shall well and truly keep, do and perform, each and every, all and singular, the matters and things in said Agreement set forth and specified to be by the Principal kept, done and performed at the time and in the manner specified in said Agreement, and the Principal shall pay over, make good, and reimburse to the District, all sums required by it to be paid, and all loss and damage (including reasonable attorneys' fees) which the District may sustain by reason of any failure or default on the part of the Principal, then this obligation shall be void; otherwise it shall remain in full force and effect.

In the event that the Principal shall default in any of the terms, covenants and conditions of the Agreement during the period in which this Contract Bond is in effect, the Surety shall remain liable to the District beyond the date of the expiration hereof for all sums provided for in the Agreement remaining unpaid as of the date of expiration of this Contract Bond and for all loss or damage (including reasonable attorney's fees) resulting from such default up to the amount of the Sum.

In the event that Principal becomes a debtor under any chapter of the Federal bankruptcy laws, or becomes subject to any other statute providing for the recovery of transfers of payments or property, the obligations of the Surety hereunder shall include the obligation to reimburse the District for any transfers or payments under the Agreement made by Principal to the District prior to the commencement of such proceedings to the extent that such transfers or payments are voided and recovered from the District by Principal, or by a creditor of Principal, or by a trustee, receiver, custodian or similar official appointed for Principal or for substantially all of Principal's assets. Provided, however, that the obligations set forth in the preceding sentence shall be reduced pro tanto upon: (1) the entry of a final, non-appealable order of a court of competent jurisdiction permitting the District to retain all or any portion of such transfers or payments; (2) the execution of an agreement and approval thereof (if in the reasonable exercise of the District's judgment such approval is necessary) by a final non-appealable order of a court of competent jurisdiction permitting the District to retain all or any portion of such transfers or payments; or (3) the expiration of the applicable statute of limitations with respect to the avoidance and recovery of such transfers or payments without any claim therefore having been made against the District.

In the event the Surety fails to fulfill its obligations under this Contract Bond, then the Surety shall also indemnify and save the District harmless from any and all loss, damage, cost, and expense (including reasonable attorneys' fees) arising from or in connection with the enforcing of the Surety's obligations hereunder. This paragraph shall survive the expiration of this Contract Bond.

The Surety's obligations hereunder shall remain in full force and effect notwithstanding (i) amendments or modifications to the Agreement entered into by the District and Principal without the Surety's knowledge or consent, (ii) waivers of compliance with, or of any default under, the Agreement granted by the District to the Principal without the Surety's knowledge or consent, or (iii) the rejection of the Agreement and the discharge of Principal from its obligations under the Agreement as a result of any proceeding initiated under the Federal bankruptcy laws, and as the same may hereafter be amended, or under any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceeding, or the assumption by Principal of the Concession as a result of any such proceeding, notwithstanding the finding by a court of competent jurisdiction that Principal has provided the District with adequate assurance of future performance under the Agreement.

This Bond has been negotiated and executed in and shall be governed by and construed in accordance with the laws of the State of South Carolina. The execution of this Contract Bond by Surety shall constitute Surety's consent in the event of any litigation arising under this Contract Bond to the personal jurisdiction of, venue in and, convenience of the forum of the Circuit Court for Spartanburg County, South Carolina and the U.S. District Court for the Western District of South Carolina for such purposes.

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**IN WITNESS WHEREOF**, the Principal and Surety have executed this instrument under their several seals on the \_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

\_\_\_\_\_

(Seal)

\_\_\_\_\_

\_\_\_\_\_

(Seal)

\_\_\_\_\_  
(Countersigned by South Carolina Registered Agent)

Note: If Principal and Surety are corporations, the respective corporate seals shall be affixed and attached.

Surety shall execute and attach a certified copy of Power of Attorney Appointing Individual Attorney-In-Fact for execution of Contract Bond on behalf of Surety.

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\_\_\_\_\_  
Principal  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
Surety  
By: \_\_\_\_\_  
(Official Title)

**EXHIBIT "H"**  
**IRREVOCABLE STAND-BY LETTER OF CREDIT FORM**

\_\_\_\_\_ [Date]

IRREVOCABLE STAND-BY LETTER OF CREDIT NO.: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

AGGREGATE AMOUNT: \_\_\_\_\_ and \_\_\_\_\_/100 Dollars

BENEFICIARY: Greenville-Spartanburg Airport District  
2000 GSP Drive, Suite 1  
Greer, NC 29651

Dear Sir or Madam:

On behalf of \_\_\_\_\_ [Company name] (the "Company"), we hereby issue this irrevocable stand-by letter of credit in your favor up to the aggregate amount stated above, available by one or more sight drafts drawn by you on us.

Each sight draft hereunder must state "Drawn on \_\_\_\_\_, [Bank Name] Irrevocable Stand-By Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_" and must be accompanied by a Statement of Certification in the form attached hereto as Exhibit A (which is incorporated in this irrevocable stand-by letter of credit by this reference). Such Statement of Certification must be signed by the Chief Financial Officer of the Greenville-Spartanburg Airport District (the "District") or by his/her designee, and must provide the certification required in A and either B or C, or both:

1. Certification that Company has failed to faithfully perform one or more of its obligations to the District under that certain \_\_\_\_\_ Agreement and Lease for the management and operation of a \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_, as may be amended from time to time (the "Agreement"), by and between Company and the District; and
2. Certification of (i) the amount of damages and expenses which, in his/her determination, the District has suffered or incurred as a result of such failure by Company, and/or (ii) the amount of any fees, charges and other sums past due and remaining unpaid from Company to the District under such Agreement, together with the amounts of any interest thereon to the extent required or allowed under such Agreement; and/or
3. Certification (1) that Company has failed to provide to the District an irrevocable stand-by letter of credit to replace this irrevocable stand-by letter of credit on or before the date such replacement was due under such Agreement or has failed to so provide a replacement irrevocable stand-by letter of credit in the form required by or in accordance with the requirements of the Agreement, and (2) of the amount of the required replacement irrevocable stand-by letter of credit. Each sight draft drawn hereunder shall be in an amount which is the lesser of the total amount of damages and expenses plus fees, charges and other sums past due and remaining unpaid, together with any interest thereon, or the amount of the required

replacement irrevocable stand-by letter of credit, as certified in the Statement of Certification submitted with such draft.

Additionally, each sight draft drawn hereunder shall be paid from the funds of \_\_\_\_\_ **[Bank Name]**. If a drawing is made hereunder at or prior to 11 a.m., local time, at our branch where such drawing is made, on a business day, payment shall be made to the District or to its designee of the amount specified, at such branch, in immediately available funds, not later than 3 p.m., such local time, on the same business day or such later time and business day as you may specify. If a drawing is made hereunder after 11 a.m., such local time, on a business day, payment shall be made to the District or to its designee of the amount specified, in immediately available funds, not later than 3 p.m., such local time, on the next business day thereafter, or such later time and business day as you may specify.

This irrevocable stand-by letter of credit is deemed to be automatically extended without amendment for one (1) year from the expiration date of the Agreement, or any future expiration date, unless the District is notified by the Bank ninety (90) days prior to any expiration date of the Agreement by \_\_\_\_\_ **[Bank Name]**, by Registered Mail, that \_\_\_\_\_ **[Bank Name]** elects not to renew the irrevocable stand-by letter of credit for any such additional period.

This irrevocable stand-by letter of credit is subject to the Uniform Customs and Practices for Documentary Credits (1993 Rev.), International Chamber of Commerce Publication No. 500, except that, notwithstanding the provisions of Article 17 thereof to the contrary, if this irrevocable stand-by letter of credit would have otherwise expired by its terms during a period when our business has been interrupted by Acts of God or other causes beyond our control, our obligations hereunder shall continue for ninety (90) days following the date of our resumption of normal business operations.

We hereby engage with you that all sight drafts drawn hereunder in compliance with the terms of this credit will be duly honored upon presentation to us as provided herein.

\_\_\_\_\_ **[Bank Name]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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**EXHIBIT "A" TO EXHIBIT "H"**  
**STATEMENT OF CERTIFICATION FORM**

TO: \_\_\_\_\_ [Bank Name]

DATE: \_\_\_\_\_

RE: \_\_\_\_\_ [Bank Name]  
Irrevocable Letter of Credit Number \_\_\_\_\_

The undersigned, who is either the Chief Financial Officer or the President/CEO of the Greenville-Spartanburg Airport District ("District"), or is his or her duly authorized designee, hereby certifies to \_\_\_\_\_ [Bank Name] that [A and either B or C, or both, are required]:

A. \_\_\_\_\_ [Company Name] ("Company") has failed to faithfully perform one or more of its obligations to the District under that certain \_\_\_\_\_ Agreement and Lease, dated \_\_\_\_\_, 20\_\_\_\_, by and between Company and the District, as amended from time to time ("Agreement"); and that

B. In the determination of the undersigned, the amount of damages or expenses which the District has suffered or incurred as a result of such failure by Company, and/or the amount of any fees, charges or other sums past due and remaining unpaid from Company to the District under such Agreement, together with the amount of any interest thereon to the extent required or allowed under such Agreement, total \$ \_\_\_\_\_; and/or

C. Company has failed to provide to the District a replacement contract bond or stand-by letter of credit he date required in the Agreement, or has failed to provide the same in the form required or otherwise in accordance with the requirements of the Agreement, and that the amount of the required replacement bond or letter of credit is \$ \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**GREENVILLE-SPARTANBURG AIRPORT DISTRICT**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "I"**  
**PAYMENT BOND FORM**

**KNOW ALL MEN BY THESE PRESENT** that \_\_\_\_\_, hereinafter referred to as Principal, and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of South Carolina, hereinafter referred to as Surety, are held and firmly bound unto the Greenville-Spartanburg Airport District (the "District"), as Obligee, hereinafter referred to as the District, in the Penal Sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), for the payment of which sum well and truly made, Principal and Surety bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, Principal executed Lease Agreement on \_\_\_\_\_, 20\_\_ for property at Greenville-Spartanburg International Airport, which is incorporated herein by reference, made a part hereof, and is hereinafter referred to as the Agreement, and

**WHEREAS**, Principal has by written agreement dated \_\_\_\_\_, entered into a contract, hereinafter referred to as the Contract, with \_\_\_\_\_, hereinafter referred to as Contractor, for the construction at the Airport as described in the Agreement; and

**WHEREAS**, under the terms of the Agreement, Principal is required to indemnify and hold harmless District from and against any and all claims of claimants, as defined in the General Statutes of South Carolina, for installations and improvements at the District as described in the Agreement, and is also required to provide a bond protecting the rights of such claimants to payment for services, labor, materials or supplies used directly or indirectly in the prosecution of the installations and improvements at the District as described in the Agreement; and

**WHEREAS**, Surety is authorized to do business in the State of South Carolina;

**NOW, THEREFORE**, the condition of this obligation is such that if Principal shall promptly make payments to all claimants as defined in the General Statutes of South Carolina, supplying Principal and/or Contractor with services, labor, materials, or supplies, used directly or indirectly by Principal and/or Contractor in the prosecution of the improvements and installations at the District as provided for in the Agreement and the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

1. This bond is furnished for the purpose of complying with the requirements of the General Statutes of South Carolina, to the extent applicable; and for the purpose of exempting any legal or equitable interest in real property owned by District or the Principal from liens, and complying with the requirements of the General Statutes of South Carolina, to the extent applicable.

2. It is a specific condition of this bond that a claimant's right of action on the bond is limited to the provisions of the General Statutes of South Carolina, including, but not limited to, the one-year (1) time limitation within which suits may be brought.

Therefore, a claimant, except a laborer, who is not in privity with the Principal and who has not received payment for his services, labor, materials or supplies shall, within forty-five (45) days after beginning to furnish services, labor, materials or supplies for the prosecution of the work, furnish the Principal with a notice that he intends to look to the bond for protection. Any claimant who has not received payment for his services, labor, materials or supplies shall, within ninety (90) days after performance of the services or labor or completion of delivery of the materials or supplies, deliver to the Principal and to the Surety written notice of the performance of the services or labor or delivery of the materials or supplies and of the nonpayment. No action for the services, labor, materials or supplies may

be instituted against the Principal or the Surety unless both notices have been given. No action shall be instituted against the Principal or the Surety on the bond after one (1) year from the performance of the services or labor or completion of the delivery of the materials or supplies.

3. The Surety's obligations hereunder shall remain in full force and effect notwithstanding (i) amendments or modifications to the Agreement or Contract entered into by District, Principal and/or Contractor without the Surety's knowledge or consent, (ii) waivers of compliance with or any default under the Lease or Contract granted by District to Principal or by Principal to Contractor without the Surety's knowledge or consent, (iii) the discharge of Principal from its obligations under the Agreement or Contract as a result of any proceeding initiated under The Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceeding, or (iv) any other action taken by the District, Principal or Contractor that would, in the absence of this clause, result in the release or discharge by operation of law of the Surety from its obligations hereunder.

4. Any changes in or under the Agreement or Contract and compliance or noncompliance with any formalities connected with the Agreement or Contract or the changes therein shall not affect Surety's obligations under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or decrease in accordance with approved changes or other modifications to the Agreement and/or the Contract.

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**IN WITNESS WHEREOF**, the Principal and Surety have executed this instrument under their several seals on the \_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
Principal  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
Surety  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Countersigned by South Carolina Registered Agent)

Note: If Principal and Surety are corporations, the respective corporate seals shall be affixed and attached.

Surety shall execute and attach a certified copy of Power of Attorney Appointing Individual Attorney-In-Fact for execution of Payment Bond on behalf of Surety.

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**EXHIBIT "J"**  
**PERFORMANCE BOND FORM**

**KNOW ALL MEN BY THESE PRESENTS** that \_\_\_\_\_  
\_\_\_\_\_, hereinafter referred to as Principal, and \_\_\_\_\_ a corporation  
organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of  
South Carolina, hereinafter referred to as Surety, are held and firmly bound unto the Greenville-  
Spartanburg Airport District as Oblige, hereinafter referred to as Company, in the Penal Sum of  
\_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), for the payment of which sum well and  
truly made, Principle and Surety bind ourselves, our heirs, personal representatives, successors and  
assigns, jointly and severally, firmly by these presents.

**WHEREAS**, Principal has been awarded real property at \_\_\_\_\_, in  
accordance with the Agreement dated \_\_\_\_\_, which is incorporated herein by reference,  
made a part hereof, and is hereinafter referred to as the Lease; and

**WHEREAS**, Principal has by written agreement dated \_\_\_\_\_, entered into a contract,  
hereinafter referred to as the Contract, with \_\_\_\_\_, hereinafter referred to as  
Contractor, for the construction of improvements to the above-described real property in accordance with  
the plans and specifications prepared by \_\_\_\_\_, dated \_\_\_\_\_, which  
were approved by District, and which are incorporated herein by reference and made a part hereof, and  
which are hereinafter referred to as the Plans and Specifications; and

**WHEREAS**, under the terms of the Lease, Principal is permitted or required to complete the  
improvements to the above-described property in accordance with the Plans and Specifications and the  
requirements of the Lease, and is also required to provide a bond guaranteeing the faithful performance  
of such improvements by the Principal and the Contractor or such replacement contractors as Principal  
may employ; and

**WHEREAS**, Surety is authorized to do business in the State of South Carolina;

**NOW, THEREFORE**, the condition of this obligation is such that if Principal, by and through  
Contractor or such replacement contractors as Principal may employ:

1. Promptly and faithfully completes and performs such improvements in accordance with  
the Plans and Specifications, the Contract, and the obligations imposed upon Principal by the Lease in  
connection therewith, in the time and manner prescribed in the Lease and Contract,

2. Pays District all losses, damages (liquidated or actual), including, but not limited to,  
damages caused by delays in performance of the Principal or the Contractor, expenses, costs and  
attorney's fees, including appellate proceedings, that District sustains resulting directly or indirectly from  
failure of the Principal or the Contractor to complete the improvements in accordance with the Plans and  
Specifications or the terms of the Contract, or from any breach or default by Principal or the Contractor  
under the Lease in connection therewith, and

3. Pays District all losses, damages, expenses, costs, attorneys' fees and other legal costs  
(including, but not limited to, those for investigative and legal support services), including those incurred  
in appellate proceedings, that the District sustains resulting directly or indirectly from conduct of the  
Principal or the Contractor, including, but not limited to, want of care or skill, negligence, patent  
infringement, or intentionally wrongful conduct on the part of the Principal or the Contractor, their  
officers, agents, employees or any other person or entity for whom the Principal or the Contractor are  
responsible, then this bond is void; otherwise it shall remain in full force and effect.



In the event that the Principal, individually or by and through the Contractor or such replacement contractors as Principal may employ, shall fail to complete the improvements in accordance with the Plans and Specifications or the terms of the Contract, or to perform any of the terms, covenants and conditions of the Lease related to construction of such improvements during the period in which this Performance Bond is in effect, the Surety shall remain liable to the District for all such loss or damage, including reasonable attorneys' fees and other legal costs resulting from any failure to perform up to the amount of the Penal Sum.

In the event that the Surety fails to fulfill its obligations under this Performance Bond, then the Surety shall also indemnify and save the District harmless from any and all loss, damage, cost and expense, including reasonable attorneys' fees and other legal costs for all trial and appellate proceedings, resulting directly or indirectly from the Surety's failure to fulfill its obligations hereunder. This paragraph shall survive the termination or cancellation of this Performance Bond. The obligations set forth in this paragraph shall not be limited by the Penal Sum of this Bond.

The Surety's obligations hereunder shall be direct and immediate and not conditional or contingent upon District's pursuit of its remedies against Principal, and shall remain in full force and effect notwithstanding (i) amendments or modifications to the Lease or the Contract entered into by District, Principal and/or Contractor without the Surety's knowledge or consent, (ii) waivers of compliance with or any default under the Lease or the Contract granted by District to Principal or by Principal to Contractor without the Surety's knowledge or consent, (iii) the discharge of Principal from its obligations under the Lease or the Contract as a result of any proceeding initiated under The Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceedings, or (iv) any other action taken by District or Principal or Contractor that would, in the absence of this clause, result in the release or discharge by operation of law of the Surety from its obligations hereunder.

The institution of suit upon this Bond is subject to a statute of limitations of four (4) years for claims arising out of the actual construction of improvements and five (5) years for all other claims arising out of this written contract, as set forth the General Statutes of South Carolina.

Any changes in or under the Lease or the Contract and compliance or noncompliance with any formalities connected with the Lease or the Contract or the changes therein shall not affect Surety's obligations under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or decrease in accordance with approved changes or other modifications to the Lease and/or the Contract.

[THIS SPACE LEFT INTENTIONALLY BLANK]

**IN WITNESS WHEREOF**, the Principal and Surety have executed this instrument under their seals on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant, authority of its governing body.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
Principal  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
Surety  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Countersigned by South Carolina Registered Agent)

Note: If Principal and Surety are corporations, the respective corporate seals shall be affixed and attached.

Surety shall execute and attach a certified copy of Power of Attorney Appointing Individual Attorney-In-Fact for execution of Performance Bond on behalf of Surety.

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**EXHIBIT "K"**

**MEMORANDUM OF LEASE**

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Prepared by:  
Box to:

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LESSOR: Greenville-Spartanburg Airport District

LESSEE:

DATE OF LEASE:

TERM:

OPTION TO RENEW: Yes, \_\_\_\_\_ periods of \_\_\_\_\_ years each.

OPTION TO PURCHASE: No.

RIGHT OF FIRST REFUSAL: No.

DESCRIPTION OF PROPERTY:

In Witness Whereof, Lessor and Lessee have signed below, by the signature of its duly authorized representative, as the act of such entity, all as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Greenville-Spartanburg Airport District

By: \_\_\_\_\_

By: \_\_\_\_\_

State of South Carolina - County of \_\_\_\_\_

Before me, a Notary Public of the State and County, duly appeared \_\_\_\_\_ as the \_\_\_\_\_ of Greenville-Spartanburg Airport District on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ who acknowledged the due execution of the foregoing document on behalf of said District, as its act and deed having been duly authorized to do so.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_ - County of \_\_\_\_\_

I a Notary Public of said County and State, certify that \_\_\_\_\_, personally appeared before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally acknowledged his/her due execution of the foregoing instrument as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, as the act and deed of said \_\_\_\_\_, by authority duly vested.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

The \_\_\_\_\_ foregoing \_\_\_\_\_ Certificate \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_ is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

OTTO REGISTER OF DEEDS FOR SPARTANBURG COUNTY

By \_\_\_\_\_ Deputy/Assistant-Register of Deeds

## ELECTION FORM

The undersigned, a duly authorized official of the Contracting Party, hereby elects (pursuant to Section 142(b)(1)(B)(i) of the Code) not to claim depreciation or an investment credit with respect to the Property described above. This Election is being made in connection with the execution of the lease, service contract, management contract or other contract (the "Contract") pertaining to the Property.

Contracting Party understands that this Election is irrevocable, and that this Election is binding on all successors in interest under the Contract regardless of whether the obligations issued to provide the Property remain outstanding. Furthermore, the Contract and any publicly recorded document recorded in lieu of such Contract states that neither the Contracting Party nor any successor in interest under the Contract may claim depreciation or an investment credit with respect to the Property.

In addition, Contracting Party agrees that it shall not use any portion of the Property for office space or, alternatively (and subject to the terms of its Contract with the Greenville-Spartanburg Airport District), shall limit its use of any portion of the Property for office space so that no more than a de minimis amount [not more than five percent (5%)], if any, of the functions to be performed in such office space will not be directly related to the day-to-day operations either at the Property or more generally at Greenville-Spartanburg International Airport. Contracting Party agrees that this provision shall be binding upon any assignees, sublessees or other successors in interest.

The Issuing District is being provided with a copy of this Election concurrent with its execution. In addition, the Issuing District and the Contracting Party will retain copies of this Election in their respective records for the entire term of the Contract.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**GUARANTY**

The undersigned, ("Guarantor"), in consideration of Greenville-Spartanburg Airport District, as governing body of the Greenville-Spartanburg International Airport, as "Lessor", entering into the foregoing Lease with \_\_\_\_\_,

\_\_\_\_\_ as "Lessee", dated \_\_\_\_\_, 20\_\_ ("the Lease"), which Lease confers unto Guarantor direct benefits, the sufficiency of which are hereby acknowledged, hereby unconditionally guarantees to the Lessor the prompt payment of rent and of all other obligations and liabilities of the Lessee under the Lease, together with all costs, reasonable attorneys' fees and other expenses incurred by the Lessor in enforcing such obligations and liabilities, or in defending or prosecuting any actions or proceedings arising out of, or relating to, any of the obligations or liabilities covered by this Guaranty.

This Guaranty is and shall be construed as an absolute and unconditional guarantee of payment and performance, without regard to the validity, regularity or enforceability of any obligation or liability guaranteed hereunder. The Lessor may pursue any and all of its remedies at any time or from time to time. Lessor may proceed by suit or otherwise directly against Guarantor without first proceeding against Lessee, or may proceed against Guarantor simultaneously or subsequently to proceeding against Lessee.

The validity, performance, construction and effect of this Guaranty shall be governed by the laws of the State of South Carolina and the Lessor may assign all of its rights and privileges under this Guaranty to any third party and such third party shall be entitled to enforce the liability and obligation of the Guarantor.

The undersigned hereby waives notice of acceptance of this Guaranty, waives all rights existing under N.C.G.S. 26-7 and further waives protest, presentment, demand for payment, notice of default or nonpayment, notice of dishonor, or any other notice, and all defenses on the ground of any extension of time or on the ground of any other amendment or modification of the Lease which may be agreed to by the Lessor and the Lessee.

This Guaranty shall be binding upon the Guarantor, and the Guarantor's heirs, personal representatives and assigns, and shall inure to the benefit of the Lessor, its successors and assigns.

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

\_\_\_\_\_  
State of \_\_\_\_\_ - County of \_\_\_\_\_

I, a Notary Public of said County and State, certify that \_\_\_\_\_, personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and acknowledged the due execution of the foregoing instrument.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public