

**CITY CLERK
ORIGINAL**

C-9949
04/28/2015

CITY OF GLENDALE, ARIZONA

LAND LEASE AGREEMENT

(Butler Aviation Investments, LLC)

(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)

WHEN RECORDED, RETURN TO:

City of Glendale
City Clerk
5850 West Glendale Avenue
Glendale, Arizona 85301

Agreement No. 9949

LAND LEASE AGREEMENT

This Lease Agreement ("this Lease") is executed to be effective the 28 day of APRIL, 2015, between the city of Glendale, an Arizona municipal corporation ("the city"), and Butler Aviation Investments, L.L.C. (collectively referred to as "Lessee").

WHEREAS, the City is the owner of the Glendale Municipal Airport located at 6801 North Glen Harbor Blvd. (the "Airport"); and

WHEREAS, Lessee desires to lease certain property at the Airport on which to construct a combination aircraft hangar and office building, such property containing approximately 4,615 square feet and being more particularly described in Exhibit A attached hereto. (Hereafter, said property will be referred to as the "Property"); and

WHEREAS, the City is willing to lease the Property to Lessee on the terms and conditions specified below.

THEREFORE, in consideration of the following mutual covenants and conditions, the parties hereby agree as follows:

1. **LEASE; PRIVILEGES; RESTRICTIONS.**

- A. The City hereby leases the Property to Lessee and grants to Lessee the following privileges, uses and rights:
1. The general use of all public facilities and improvements which are now or may hereafter be constructed at the Airport, including the runways, approach areas, taxiways and navigational aids.
 2. The right of ingress and egress from the Property over and across designated Airport property and the public roadways serving the Airport, and the public parking areas, to be utilized by the Lessee, its agents, employees and invitees.

3. In addition to said general privileges, uses and rights, the City grants to Lessee the right to construct a combination aircraft hangar and office building on the Property and use it for any acceptable airport use, provided that Lessee complies with all provisions of the Airport's Rules and Regulations and Minimum Operating Standards applicable to the use selected by Lessee.
- B. Lessee shall not use the Property for any purposes other than those specified above. All rights granted to Lessee under this Lease, are nonexclusive.

2. TERM.

- A. The construction term of this Lease shall be for a maximum period of 1 year or when the certificate of occupancy is issued, whichever comes first. The original term of this Lease shall be for a period of twenty (20) years commencing on the date a certificate of occupancy is issued and expiring on the same date twenty years later, unless sooner terminated pursuant to the provisions contained herein.
- B. The City grants to Lessee an option to renew this Lease for two successive ten (10) year periods, subject to the same terms and conditions as are contained in this Lease, provided that Lessee is not in default of any of its obligations under this Lease at the time of renewal. The Airport will send a courtesy written notice that a term is expiring at least one hundred and eighty (180) days prior to the expiration date. Lessee may exercise said option by delivering to the Airport Manager written notice of its intention to do so at least ninety (90) days prior to the expiration of the original term of this Lease or any renewal thereof.

3. RENT.

- A. From the effective date of this Lease to the date on which Lessee is issued a Certificate of Occupancy for the improvements to be constructed by the end of the first year of this Lease pursuant to Section 5(B) below, Lessee shall pay, without notice and free from all claims, deductions or set-offs against the City, annual rent in the amount of \$455.73 per year. On the date on which Lessee is issued a Certificate of Occupancy for said improvements, Lessee's annual rent shall be increased to \$911.46 per year, which rent shall be paid without notice and free from all claims, deductions or set-offs against the City.
- B. After the third year of this Lease, Lessee's rent shall be increased by the latest available Consumer Price Index ("CPI") for the Western Region (All Cities and All Urban Consumers), as prepared by the U.S. Department of Labor, Bureau of Labor Statistics. (If such CPI is discontinued, a comparable CPI shall be

substituted therefore.) Thereafter, at the end of each three-year period following a rent adjustment, Lessee's rent shall again be increased by the latest CPI for the previous three years. In the event that the CPI decreases for any three-year period, no rent adjustments shall be made to Lessee's rent for the next three-year period, and Lessee's rent shall again be increased by the CPI at the end of succeeding three-year periods at such time as the CPI again increases.

- C. Lessee shall pay one-twelfth of the annual rent due for the then current lease year, in advance, on the first day of each month. At such time as Lessee's rent increases under Section 3(A) due to the issuance of a Certificate of Occupancy, Lessee shall pay the additional rent due for such Lease year on a pro-rata basis.
- D. If Lessee fails to pay any rent in full on or before the due date, Lessee shall be responsible for interest on the unpaid principal balance at the rate of 18% per annum from the due date until payment in full is made.

4. UTILITIES.

Lessee shall pay for all utilities used in its operations at the Airport.

5. IMPROVEMENTS.

- A. Lessee shall make no improvements or modifications to the Property without the prior written consent of the City. Before commencing any improvements or modifications, Lessee shall submit detailed construction plans and specifications to the City, and upon completion of any improvements or modifications, Lessee shall furnish to the City two complete sets of detailed plans and specifications of the work as completed. Prior to the start of any construction of improvements or modifications to the Property, Lessee shall secure all applicable building permits and approvals from the City. In addition, Lessee shall furnish any additional information concerning any proposed improvements or modifications, which the City may deem necessary with regard to the safety of the Property and/or compatibility with the general use of the Airport.
- B. The City may require modifications to the Property necessary for the safety of air navigation. If any improvements or modifications to the Property made by Lessee should interfere with any F.A.A. navigational aid, Lessee shall be responsible for removing the interference at its sole cost. All improvements and modifications made by Lessee shall be constructed in a good, workmanlike manner.
- C. Prior to the commencement of any construction on the Property, Lessee or Lessee's Contractor shall provide the City with payment and performance bonds in amounts equal to the full amount of the written construction contract pursuant

to which such construction is to be done. The payment bond shall be solely for the protection of claimants supplying labor or materials for the required construction work, and the performance bond shall be solely for the protection of the City, conditioned upon the faithful performance of the required construction work. Each bond shall include a provision allowing the prevailing party in a suit on such bond to recover as part of its judgment such reasonable attorney's fees as may be fixed by the court. Each bond shall be executed by a surety company duly authorized to do business in Arizona and acceptable to the City. Each bond shall be filed with the City Clerk immediately upon execution thereof with a copy to the Airport Manager. In lieu of the bonds provided above, the City will not unreasonably withhold its consent to other forms of financial security.

- D. Lessee shall keep the Property and all improvements thereon free of any mechanic's or material men's liens or liens of any kind or nature for any work done, labor performed or material furnished on or to the Property. If any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Property within thirty days of notice thereof.

- E. Lessee shall begin construction of any improvements and modifications to the Property within a reasonable period of time following the approval of the City and the issuance of a building permit, if necessary, for the construction. Lessee shall diligently pursue construction of the improvements or modifications and shall complete construction in accordance with the schedule for completion to be agreed upon by the City. All improvements and modifications made by Lessee which become fixtures to the Property shall become the property of the City, at no cost to the City, upon the expiration or termination of this Lease, free of any security interest or claims of any kind from or through Lessee; provided that if Lessee is not in default of any of its obligations under this Lease and can remove any of its trade fixtures at its own expense without materially damaging the Property, Lessee may remove such fixtures at the termination or expiration of this Lease.

6. ACCEPTANCE; MAINTENANCE; REPAIRS.

- A. Lessee warrants that it has inspected the Property and accepts possession of the Property and the improvements thereon "as is" in its present condition, and subject to all limitations imposed upon the use thereof by the rules and regulations of the F.A.A. and by ordinances of the City, and Lessee acknowledges the suitability and sufficiency of the Property for the uses permitted hereunder. Except as may otherwise be specifically provided for herein, the City shall not be required to maintain or to make any improvements, repairs or restorations upon or to the Property or to any of the improvements presently located thereon. Under no circumstances shall the City have any obligation to repair, maintain or restore any improvements placed upon the Property by Lessee.
- B. Lessee shall be solely responsible, at its cost, for all repairs and maintenance whatsoever on the Property and shall maintain all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, Lessee, without limiting the generality hereof, shall:
1. Keep at all times, in a clean and orderly condition and appearance, the Property, all improvements thereon and all of Lessee's fixtures, equipment and personal property which are located on any part of the Property. Lessee shall be responsible for all janitorial services on the Property;
 2. Be responsible for the maintenance and repair of all utility services lines placed on the Property and used by Lessee exclusively; and
 3. Repair any damage caused by Lessee, or its agents, employees or invitees, to the Airport caused by any hazardous materials, including oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.
- C. If Lessee fails to maintain, clean, repair, replace, rebuild or repaint within a period of thirty (30) days after written notice from the City to do any maintenance or repair work required to be done by Lessee, the City may terminate this Lease or, at its option, enter the Property, without such entering causing or constituting a termination of this Lease or any interference with the possession of the Property, and repair, replace, rebuild or paint any part of the Property or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and all costs thereof shall be payable to the City by Lessee on demand; provided that if in the opinion of the City, Lessee's failure to perform any such maintenance endangers the safety of the public, the employees or property of the City or other tenants at the Airport, and the City so states in its notice to Lessee, the City may, in its sole discretion, elect to perform such maintenance at any time after the giving of such notice, and Lessee shall pay to the City all costs of such work on

demand. If the City, its officers, employees or agents undertake any work hereunder, Lessee hereby waives any claim for damages, consequential or otherwise, resulting there from except for claims for damages arising from the City's sole negligence. The foregoing shall in no way affect or alter the primary obligations of the Lessee as set forth in this Lease and shall not impose upon the City any obligations to be stated otherwise herein.

7. ADDITIONAL OBLIGATIONS OF LESSEE.

- A. Lessee shall at all times employ and designate a manager to supervise and manage its operations hereunder. Lessee shall employ a sufficient number of trained personnel on duty to provide for the efficient and proper compliance with its obligations under this Lease. Upon request of the Airport Manager, Lessee shall provide, and its employees shall wear or carry, badges or other suitable means of identification.
- B. Lessee shall conduct its operations hereunder in an orderly and proper manner, considering the nature of such operation, so as not to unreasonably annoy, disturb, endanger or be offensive to others.
- C. Lessee shall take all reasonable measures:
 - 1. Not to produce on the Airport any disturbance that interferes with the operation by the City or the F.A.A. of air navigational, communication or flight equipment on the Airport; and
 - 2. To reduce to a minimum vibrations tending to damage any equipment, structure or building.
- D. Lessee shall control the conduct and demeanor of its officers, agents, employees, and invitees and, upon objection from the City concerning the conduct or demeanor of any such person, Lessee shall immediately take all lawful steps necessary to remove the cause of the objection.
- E. Lessee shall comply with all written instructions of the City in disposing of its trash and refuse and shall use a system of refuse disposal approved by the City.
- F. Lessee shall not commit nor permit to be done anything which may result in the commission of a nuisance, waste or injury on the Property.
- G. Lessee shall not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire

protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Property.

- H. Lessee shall take measures to ensure security in accordance with generally accepted security procedures.
- I. Lessee shall not do, nor permit to be done, any act or thing upon the Property:
 - 1. Which may constitute a hazardous condition so as to increase the risks attendant upon the operations permitted by this Lease; or
 - 2. Which will invalidate or conflict with any fire insurance policies or regulations, Uniform Fire Code, N.F.P.A. Standard No. 409 for operation of aircraft, and other provisions as applicable to the Property or other contiguous premises at the Airport.
- J. Lessee shall provide prompt written notice to the City of any person or entity performing aircraft maintenance work, flight instruction, air taxi, aircraft charter or aircraft leasing of any sort on the Airport for commercial purposes without a valid permit from the City.
- K. Lessee shall not overload any floor, structure or structural member on the Property, or any paved area on the Airport, and shall repair at Lessee's expense any floor, structure, structural member or any paved area damaged by overloading.
- L. Lessee shall conduct its operations in such a manner as to keep the noise produced by aircraft engines and component parts thereof or any other noise to a minimum by the use of such methods or devices as are practicable, considering the extent and type of the operations of Lessee. In addition, all possible care, caution and precaution shall be used to minimize prop or jet blast interference to aircraft operations or to buildings, structures and roadways now located on, or which in the future may be located on, areas adjacent to the Airport.

8. INGRESS AND EGRESS.

The City may, at any time, temporarily or permanently, close or consent to or request the closing of, any roadway or taxiway at the Airport and any other way at, in or near the Property presently or hereafter used as such, so long as a reasonable means of ingress and egress remains available to Lessee. Lessee hereby releases and discharges the City, its officers, employees and agents, and all other governmental authorities from all claims, demands, or causes of action which Lessee may at any time have against any of the foregoing, arising out of the closing of any roadway or other area, provided that a reasonable means of access to the Property remains available to Lessee. Lessee shall not do or permit anything to be done which will interfere with the free

access and passage of others to space adjacent to the Property or to any roadways near the Property.

9. ASSIGNMENT AND SUBLETTING.

- A. Lessee shall not assign or sublease any of its interest under this Lease, nor permit any other person to occupy the Property without the prior written consent of the City, such consent not to be unreasonably withheld. The City may, as a condition of approval, require that any potential transferee submit biographical and financial information to the City at least thirty days prior to any transfer of Lessee's interest.
- B. Lessee may mortgage, encumber or assign any portion of its right, title and interest in the leasehold estate created by this Lease to lenders for purposes of financing the initial construction of the capital improvements required by this Lease. Any such mortgage, encumbrance or assignment shall be subject to all of Lessee's obligations under this Lease. No person or entity shall have the right to place any mortgages, deeds of trusts, liens or encumbrances of any nature on the Property, nor shall any permitted assignment result in a subordination, in whole or in part, of the City's rights under this Lease.

10. ADVERTISING SIGNS.

Lessee may install on the Property, subject to the City's sign ordinance, signs identifying its business. The number, general type, size, and location of signs must be approved in writing by the Airport Manager prior to installation.

11. DEFAULT; TERMINATION BY CITY.

- A. The City may terminate this Lease by giving Lessee thirty (30) days written notice after the happening of any of the following events:
 - 1. The failure of Lessee to perform any of its obligations under this Lease, provided that Lessee fails to cure its default within said 30-day notice period;
 - 2. The taking of possession for a period of ten (10) days or more of substantially all of the personal property used on the Property belonging to Lessee by or pursuant to lawful authority of any legislative act, resolution, rule, order or decree or any act, resolution, rule, order or decree of any court or governmental board, agency, officer, receiver, trustee or liquidator;

3. The filing of any lien against the Property because of any act or omission of Lessee which is not discharged within thirty (30) days of receipt of actual notice by Lessee.
- B. The City may place Lessee in default of this Lease by giving Lessee 30 days written notice of Lessee's failure to timely pay the rent provided for in this Lease or any other charges required to be paid by Lessee pursuant to this Lease. During said 30-day notice period, Lessee shall cure said default; otherwise, the City may elect to terminate this Lease or do any of the following:
1. Institute action(s) to enforce this Lease;
 2. Take possession of the Property, together with improvements, fixtures, and equipment therein contained without terminating this Lease, and on behalf of Lessee relet the same or any part thereof for a term, shorter, longer, or equal to the then unexpired remainder of the Lease term. The City may at any time after taking possession terminate this Lease by giving notice to Lessee and sue for damages;
 3. Terminate this Lease, without further notice to Lessee, re-enter the Property and recover damages, including but not limited to, all costs of repossession and reletting and brokerage commissions for services performed by or for the City;
 4. Exercise the "Remedies of Landlord" as set forth in Arizona Revised Statutes, Title 33;
 5. Exercise any other remedy allowed by law or equity.
- C. If Lessee at any time fails to maintain all insurance coverage required by this Lease, the City shall have the right, upon written notice to Lessee, to immediately terminate this Lease or to secure the required insurance at Lessee's expense.
- D. Upon the termination of this Lease for any reason, all rights of Lessee shall terminate, including all rights of Lessee's creditors, trustees, and assigns, and all others similarly situated as to the Property.
- E. Failure by the City to take any authorized action upon default by Lessee of any of its obligations hereunder shall not constitute a waiver of said default nor of any subsequent default by Lessee. Acceptance of rent and other fees by the City under the terms hereof for any period after a default by Lessee of any of its obligations shall not be deemed a waiver or estoppel of the City's right to terminate this Lease for any subsequent failure by Lessee to comply with its obligations.

12. TERMINATION BY LESSEE.

Lessee may terminate this Lease at any time that it is not in default in its obligations by giving the City thirty (30) days written notice after the happening of any of the following events:

- A. Issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining Lessee's use of any substantial portion of the Property and the remaining in force of such injunction for a period of thirty (30) consecutive days.
- B. The inability of Lessee to use any substantial portion of the Property for a period of thirty (30) consecutive days, due to the enactment or enforcement of any law or regulation or because of fire, earthquake or similar casualty, or Acts of God or the public enemy.
- C. The lawful assumption by the United States Government of the operation, control, or use of the Airport or any substantial part of it for military purposes in time of war or national emergency.

13. INDEMNIFICATION.

Lessee shall defend, indemnify and hold harmless the City and its elected or appointed officials, agents, boards, commissions and employees (hereinafter referred to collectively as the "City" in this Section) from all loss, damages or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigation, which arise out of any act or omission of Lessee or its agents, employees and invitees (hereinafter referred to collectively as "Lessee" in this Section) in connection with Lessee's operations at the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property, or arising out of the failure of Lessee to comply with any provisions of this Lease. The City shall in all instances, except for loss, damages or claims resulting from the sole negligence of the City, be indemnified by Lessee against all such loss, damages or claims, regardless of whether the loss, damages or claims are caused in part by the negligence, gross negligence or fault of the City. The City shall give Lessee prompt notice of any claim made or suit instituted which may subject Lessee to liability under this Section, and Lessee shall have the right to compromise and defend the same to the extent of its own interest. The City shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of the City's selection without relieving Lessee of any obligations hereunder. Lessee's obligations hereunder shall survive any termination of this Lease or Lessee's activities at the Airport.

14. INSURANCE.

Lessee shall procure and at all times maintain the following types and amounts of insurance for its operations from the Property:

- A. Comprehensive general public liability and property damage insurance in the amount of \$500,000 per person and \$1,000,000 combined single limit per occurrence if Lessee operates the hangars as non-commercial hangars, or in the amount of \$500,000 per person and \$3,000,000 combined single limit per occurrence if Lessee operates the hangars as commercial hangars. Coverage must include broad form contractual, broad form property damage and personal injury, premises operations, independent contractors and subcontractors and fire coverage.
- B. Comprehensive automobile liability insurance for all owned, non-owned and leased vehicles in the amount of \$500,000 per person and \$1,000,000 combined single limit for bodily injury and property damage per occurrence, if Lessee operates the hangars as commercial hangars.
- C. Fire and extended casualty coverage for all improvements and fixtures on the Property, in an amount not less than the full replacement value thereof, to the extent such coverage is available to Lessee.
- D. Hangarkeepers liability insurance in the amount of \$3,000,000 per occurrence if Lessee operates the hangars as commercial hangars.
- E. Worker's compensation and employer's liability coverage in the amounts required by law.
- F. Such other insurance as the City's Risk Manager determines to be necessary for Lessee's operations.

Such insurance shall be in a form satisfactory to and from a company acceptable to the City's Risk Manager, shall name the City as an additional insured and shall require 30 days written notice to the City before modification or termination. The insurance must also include contractual liability coverage for the obligation of indemnity assumed in this Lease.

15. QUIET ENJOYMENT.

So long as Lessee shall timely pay the rent required under this Lease and perform all of its other obligations under this Lease, Lessee shall peaceably have and enjoy the exclusive use of the Property and all the privileges granted herein for use of the Airport.

16. SURRENDER OF POSSESSION.

Upon the expiration or termination of this Lease, Lessee's right to occupy the Property and exercise the privileges and rights herein granted shall cease, and it shall surrender the same and leave the Property in good condition, normal wear and tear excepted. Unless otherwise provided

herein, all trade fixtures, equipment, and other personal property installed or placed by Lessee on the Property shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, and for an additional period of ten (10) days after its expiration, to remove the same from the Property; provided that Lessee is not in default of any of its obligations hereunder and that Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within said 10-day period shall become a part of the Property, and ownership thereto shall vest in the City.

17. NOTICE.

All notices required or permitted to be given under this Lease may be personally delivered or mailed by certified mail, return receipt requested, postage prepaid, to the following addresses:

TO THE CITY: City of Glendale
 Attention: Airport Manager, (623) 930-2188
 6801 N. Glen Harbor Blvd., #201
 Glendale, Arizona 85307

TO LESSEE: Mr. Adam Butler
 A Shade Above
 P.O. Box 6770
 Phoenix, AZ 85005

Any notice given by certified mail shall be deemed to be received on the next business day after the date of mailing. Either party may designate in writing a different address for notice purposes pursuant to this Section.

18. SEVERABILITY.

Should any provision of this Lease be declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective, provided that elimination of the invalid provision does not materially prejudice either party with regard to its respective rights and obligations.

19. TAXES AND LICENSES.

A. Lessee shall pay any leasehold tax, possessory interest tax, sales tax, personal property tax, transaction privilege tax or other exaction assessed or assessable as a result of its occupancy of the Property or conduct of business at the Airport under authority of this Lease, including any such tax assessable on the City. In the event that laws or judicial decisions result in the imposition of a real property tax on the interest of the City, such tax shall also be paid by Lessee for the period this Lease is in effect.

- B. Lessee acknowledges that it may be a “prime lessee”, as defined in A.R.S. Section 42-1901, and that it may be subject to excise tax liability under this Lease pursuant to A.R.S., Title 42, Chapter 13 as a prime lessee of a government property improvement. Lessee further acknowledges that any failure by Lessee to pay taxes due under A.R.S., Title 42, Chapter 13 after notice and an opportunity to cure shall constitute a default that could result in divesting Lessee of any interest in or right to occupancy of the Property.
- C. Lessee shall, at its own cost, obtain and maintain in full force and effect during the term of this Lease all licenses and permits required for a business engaged in flight simulation training.

20. LITIGATION

This Lease shall be governed by the laws of the State of Arizona. In the event of any litigation or arbitration between the City and Lessee arising under this Lease, the successful party shall be entitled to recover its attorney’s fees, expert witness fees and other costs incurred in connection with such litigation or arbitration. Both parties hereby waive any right to a jury trial which they may otherwise have in the event of litigation arising under this Lease and consent to a trial to the court.

21. RULES AND REGULATIONS.

Lessee shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations, the Property (including the Americans with Disabilities Act), or the operation, management, maintenance or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the effective date of this Lease. Lessee shall display to the City, upon request, any permits, licenses, or other evidence of compliance with such laws. All rules and regulations and minimum operating standards for the Airport, as currently existing or as may be amended or adopted, are hereby incorporated in this Lease.

22. RIGHT OF ENTRY RESERVED.

- A. The City shall have the right at all reasonable times to enter upon the Property for any lawful purpose, provided such action does not unreasonably interfere with Lessee’s use, occupancy or security of the Property.
- B. Without limiting the generality of the foregoing, the City and any furnisher of utilities and other services shall have the right, at its own cost, whether for its own benefit or for the benefit of others at the Airport, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Property at all reasonable times to make such repairs, replacements or alterations thereto

which may, in the opinion of the City, be deemed necessary or advisable and from time to time to construct or install over, in or under the Property such systems or parts thereof and, in connection with such maintenance, use the Property for access to other parts of the Airport otherwise not conveniently accessible; provided that in the exercise of such right of access, repair, alteration or new construction, the City shall not unreasonably interfere with the actual use and occupancy of the Property by Lessee.

- C. If any personal property of Lessee shall obstruct the access of the City or any utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system, Lessee shall move such property, as directed by the City or utility company, in order that access may be had to the system for inspection, maintenance or repair. If Lessee fails to move such property after direction from the City or utility company to do so, the City or the utility company may move it, and Lessee shall pay the cost of such moving upon demand, and Lessee hereby waives any claim for damages as a result therefrom, except for claims for damages arising from the City's sole negligence.
- D. Exercise of any or all of the foregoing rights by the City or others pursuant to the City's rights shall not constitute an eviction of Lessee, nor be made the grounds for any abatement of rent or any claim for damages.

23. F.A.A. REQUIRED PROVISIONS.

- A. Lessee shall, in the event facilities are constructed, maintained or otherwise operated on the Property for a purpose for which a D.O.T. program or activity is extended or for another purpose involving the provision of similar services or benefits, maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations ("C.F.R."), D.O.T., Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and any amendments thereto.
- B. Lessee agrees that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Property; (2) in the construction of any improvements on, over or under the Property and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination; and (3) Lessee shall use the Property in compliance with all other requirements imposed by or pursuant to Title 49, C.F.R., D.O.T., Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted

Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and any amendments thereto.

- C. In the event of breach of any of the above nondiscrimination covenants, the City shall have the right to terminate this Lease and to reenter and repossess the Property and hold the same as if this Lease had never been made or issued. This provision does not become effective until the procedures of 49 C.F.R. Part 21 are followed and completed including expiration of appeal rights.
- D. Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or device; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.
- E. Non-compliance with Subsection D shall constitute a material breach thereof, and in the event of such non-compliance, the City shall have the right to terminate this Lease without liability therefore, or, at the election of the City or the United States, either shall have the right to judicially enforce Subsection D.
- F. Lessee shall insert the above five provisions in any lease by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Property.
- G. Lessee shall undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E. Lessee agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subsection. Lessee shall require its covered sub-organizations to provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 C.F.R. 152, Subpart E, to the same effect.
- H. The City reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance.
- I. The City reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.

- J. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States relative to the development, operation or maintenance of the Airport.
- K. There is hereby reserved to the City, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Property. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from or operation on the Airport.
- L. Lessee shall comply with the notification and review requirements covered in Federal Aviation Regulations ("F.A.R.") Part 77 in the event future construction of a building is planned for the Property, or in the event of any planned modification or alteration of any present or future building or structure situated on the Property.
- M. Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Property that exceeds the mean sea level elevations contained in F.A.R. Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. If these covenants are breached, the City reserves the right to enter upon the Property and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.
- N. Lessee shall not make use of the Property in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. If this covenant is breached, the City reserves the right to enter upon the Property and cause the abatement of such interference at the expense of Lessee.
- O. Nothing in this Lease shall be construed to grant or authorize the granting of any exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1985 (49 U.S.C. 1349a).

24. SURVIVAL OF LESSEE'S OBLIGATIONS.

If this Lease is terminated by the City in accordance with the provisions herein or if the City reenters or resumes possession of the Property as provided herein, all of Lessee's obligations under this Lease shall survive such termination, re-entry or resumption of possession and shall remain in full force and effect for the full term of this Lease, and the amounts of damages or deficiencies shall become due and payable to the City to the same extent, at the same times, and in the same manner as if no termination, re-entry or resumption of possession had taken place. The City may, at its option and at any time, sue to recover the full deficiency for the entire

unexpired term of this Lease. The amount of damages for the period of time subsequent to termination (or re-entry or resumption of possession) shall include all expenses incurred by the City in connection with regaining possession, restoring the Property, acquiring a new lease for the Property, putting the Property in order, maintenance and brokerage fees.

25. REMEDIES TO BE NONEXCLUSIVE.

All remedies provided in this Lease shall be deemed cumulative and additional, not in lieu of or exclusive of, each other, or of any other remedy available to the City or Lessee at law or in equity, and the exercise of any remedy, or the existence herein of other remedies, shall not prevent the exercise of any other remedy.

26. TIME IS OF THE ESSENCE.

Time is of the essence with regard to the performance of all of the parties' obligations under this Lease.

27. MISCELLANEOUS.

This Lease constitutes the entire agreement between the parties concerning the matters contained herein and supersedes all prior negotiations, understandings and agreements between the parties concerning such matters. This Lease shall be interpreted, applied and enforced according to the fair meaning of its terms and shall not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. No provision of this Lease may be waived or modified except by a writing signed by the party against whom such waiver or modification is sought to be enforced. The terms of this Lease shall be binding upon and inure to the benefit of the parties' successors and assigns.

EXECUTED to be effective on the date specified above.

CITY OF GLENDALE

By: [Signature]

Its: _____
Acting City Manager

ATTEST:
[Signature]
City Clerk

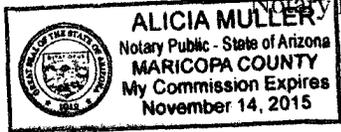
APPROVED AS TO FORM:
[Signature]
City Attorney

STATE OF ARIZONA)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 5 day of May, 2015 by Richard A. Bowers, in his or her capacity as Acting City Manager of the City of Glendale, an Arizona municipal corporation.

[Signature]

My Commission Expires:
Nov. 14, 2015



LESSEE

By: AK

Its: President

STATE OF ARIZONA)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 2nd day of April,
2015, by Adam Butler, in his or her capacity as President of
Butler Aviation Investments LLC, an Arizona corporation.



Roxanne C. Alexander
Notary Public

My Commission Expires:

January 15, 2019

EXHIBIT 'A'
LEGAL DESCRIPTION

THAT PORTION OF SECTION 7, TOWNSHIP 2 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 7;

THENCE SOUTH 01 DEGREES 30 MINUTES 16 SECONDS WEST, ALONG THE EAST LINE OF SAID SECTION 7, A DISTANCE OF 33.00 FEET, TO A POINT ON THE SOUTH LINE OF THE NORTH 33.00 FEET OF SAID SECTION 7;

THENCE NORTH 89 DEGREES 16 MINUTES 04 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTH 33.00 FEET OF SAID SECTION 7, A DISTANCE OF 1488.26 FEET;

THENCE SOUTH 00 DEGREES 43 MINUTES 56 SECONDS WEST, A DISTANCE OF 341.36 FEET;

THENCE SOUTH 26 DEGREES 13 MINUTES 56 SECONDS WEST, A DISTANCE OF 4700.84 FEET;

THENCE SOUTH 63 DEGREES 46 MINUTES 04 SECONDS EAST, A DISTANCE OF 166.52 FEET, TO THE SOUTHWESTERLY CORNER OF THE PROPERTY DESCRIBED AS BEING "LEASE SECTIONS ONE" IN EXHIBIT "A" OF DOCUMENT NO. 02-0852771, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE CONTINUING SOUTH 63 DEGREES 46 MINUTES 04 SECONDS EAST, A DISTANCE OF 310.34 FEET;

THENCE NORTH 26 DEGREES 13 MINUTES 56 SECONDS EAST, A DISTANCE OF 38.95 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE CONTINUING NORTH 26 DEGREES 13 MINUTES 56 SECONDS EAST, A DISTANCE OF 65.00 FEET;

THENCE SOUTH 63 DEGREES 46 MINUTES 04 SECONDS EAST, A DISTANCE OF 71.00 FEET;

THENCE SOUTH 26 DEGREES 13 MINUTES 56 SECONDS WEST, A DISTANCE OF 65.00 FEET;

THENCE NORTH 63 DEGREES 46 MINUTES 04 SECONDS WEST, A DISTANCE OF 71.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,615 SQ.FT.

