

**City of Palmer
Action Memorandum No. 17-025**

Subject: Authorize the City Manager to Negotiate and Execute a Replacement Lease Agreement with Custom Aircraft, Inc. for the Lease on Tract B, Lease Lot 31, Palmer Municipal Airport for the Purpose of Refinance and Business Expansion

Agenda of: April 11, 2017

Council Action: **Approved** **Amended:** _____
 Denied

Originator Information:

Originator: Frank J. Kelly, Airport Superintendent

Department Review:

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
<u> X </u>	Finance	<u><i>E. Moore</i></u>	<u> 3/22/17 </u>
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

Approved for Presentation By:

	Signature:	Remarks:
City Manager	<u><i>[Signature]</i></u>	_____
City Attorney	<u><i>[Signature]</i></u>	_____
City Clerk	<u><i>[Signature]</i></u>	_____

Certification of Funds:

Total amount of funds listed in this legislation: \$ 1,000.00

This legislation (√):

<input checked="" type="checkbox"/>	Creates revenue in the amount of:	\$ <u> \$1,000.00 </u>
<input type="checkbox"/>	Creates expenditure in the amount of:	\$ _____
<input type="checkbox"/>	Creates a saving in the amount of:	\$ _____
<input type="checkbox"/>	Has no fiscal impact	

Funds are (√):

<input type="checkbox"/>	Budgeted	Line item(s): _____
<input checked="" type="checkbox"/>	Not budgeted	<u> 03-00-00-3431 Airport Land Leases </u>

Director of Finance Signature: *E. Moore*

Attachment(s):

- Draft Replacement Lease Agreement 17-001
- Exhibit A (Lot Diagram)
- Exhibit B (Draft Assignment of Lease for Security Purposes)

Summary Statement:

Richard Walker, 100% corporate owner of Custom Aircraft, Inc. has requested a new leasing arrangement with the City of Palmer to facilitate a commercial cash out refinance of his Palmer Municipal Airport Hangar. Mr. Walker purchased the hangar and equipment in April of 2012 from the previous owner (Robert Lutz of BJ Custom Aircraft Engines, Inc.) and was granted an assignment of the existing lease with the remaining term.

The commercial loans amortization schedule and the financial institutions guidelines for lending on lease hold interest have necessitated this request. The initial lease term will be extended out to 20 years again with an additional 20 year renewal period (functionally a reset from five (5) years ago). Funds will be used to extinguish the underlying indebtedness to Mr. Lutz, with the additional proceeds used to expand Mr. Walker's hangar facility by approximately 2,100 square feet.

The City will benefit from this transaction as the lease rate will increase to \$0.065 cents per square foot from the previous \$0.04 cents that has been in effect since 1992, as well as an upgraded insurance requirement and the probable increase in sales and property tax revenue.

Due to the ongoing, but much outdated leasing document from 1992 that was assumed, a modification to the existing document would not have allowed for the sweeping changes needed to the agreement, hence the replacement lease methodology was utilized.

Administration's Recommendation:

To approve Action Memorandum No. 17-025 for a Replacement Lease Agreement to Custom Aircraft, Inc.



City of Palmer
231 West Evergreen Avenue
Palmer, AK 99645
907-745-3271

**PALMER MUNICIPAL AIRPORT
REPLACEMENT LEASE AGREEMENT No. 17-001**

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DRAFT

Office Use Only:

Lease entered into on: _____

Lease ending date: _____

First rate adjustment date: _____

Second rate adjustment date: _____

Third rate adjustment date: _____

Fourth rate adjustment date: _____

Fifth rate adjustment date: _____

Sixth rate adjustment date: _____

Date lease was renewed: _____



City of Palmer

231 West Evergreen Avenue
Palmer, AK 99645
907-745-3271

**PALMER MUNICIPAL AIRPORT
REPLACEMENT LEASE AGREEMENT No. 17-001**

This Replacement Lease Agreement is made and entered into this _____ day of April 2017 by and between the City of Palmer, a municipal corporation organized and existing under its charter and the laws of the State of Alaska, hereinafter referred to as the "Lessor", and Custom Aircraft, Inc., hereinafter referred to as the "Lessee". The purpose of this agreement is to replace the existing Airport Lease Agreement # 92-2, for the economic benefit of the Lessee and Lessor.

This lease agreement is not effective unless it is accompanied by signed and attached Exhibit A providing specific information for the following sections: 1, 1A, 1.1B, 1.2A, 1.2B, 1.3A, 2.1, 2.2, 2.7 and 2.8.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

ARTICLE I - PREMISES, TERM AND RENTALS

Section 1.1 Premises and Purpose

- A. Lessor does hereby lease, demise and let unto Lessee, and Lessee does hereby lease from Lessor, real property more particularly described as Palmer Municipal Airport Tract B, Lot 31, located in the Palmer Recording District, Third Judicial District, State of Alaska and more particularly described as follows:

Commencing at the Section Corner common to Sections 3 and 4, Township 17 North, Range 2 East, Seward Meridian and Sections 33 and 34, Township 18 North, Range 2 East, Seward Meridian, Palmer Recording District, Third Judicial District, Palmer Alaska, monumented by a 2" standard brass cap, reset 1978, thence S 89°49'W for 665.00 feet; thence N 00°11'W for 889.00 feet to the True Point of Beginning; thence S89°49'W for 200.00 feet; then N 00°11'W for 200.00 feet; thence N 89°49'E for 200.00 feet; thence S 00°11'E for 200.00 feet to the True Point of the Beginning.

Containing 40,000 Square Feet or .918 acres, more or less, as shown on the drawing Exhibit A, attached hereto;

Parcel may be subject to additional easements and/or encumbrances not shown or depicted hereon.

- B. Lessee shall use the Premises for the following Aeronautical uses only, and for no other: Operation of Aircraft Repair, Maintenance and Parts facility.
- C. Any use of the Premises for Non-Aeronautical activity is strictly prohibited, unless an approved amendment to this lease is adopted and fair market value rates for Non-aeronautical areas are applied.

Section 1.2 Term and Renewal

- A. The term of the lease shall be for a period of 20 years, commencing on the 1st day of April 2017 (the "Commencement Date") and ending on the 31st day of March 2037, subject to the terms of provisions hereof.
- B. Provided Lessee fully and faithfully performs all of the covenants and conditions contained herein for the term of the Lease, Lessor may approve an additional period of 20 years at the expiration of this Lease so that the total number of years available to Lessee is 40 years. As with the initial term at the start of and continuing through the renewal period,
 - 1. The rental rate will continue to be subject to changes as provided in Section 1.4 "Rent Adjustment,";
 - 2. The renewal insurance provision as provided in Section 4.3 will apply along with any other changes made in accordance with Section 4.3;
 - 3. The Lease will be subject to such other and further changes as are deemed necessary by Lessor for the reasonable protection of Lessor;
 - 4. In addition, if this Lease is renewed, it shall be subject to all provisions of the Palmer Municipal Code and to the City's Regulations that pertain to the Airport in effect at the time of the renewal or amended thereafter. Including but not limited to the current airport regulations.
- C. To renew this Lease, Lessee must comply strictly with the following:
 - 1. Not more than 24 months nor less than 12 months before the end of the term of this Lease, the Lessee must indicate in a signed writing delivered to the City of Palmer, the Lessee's request to exercise the option to renew this Lease.
 - 2. If Lessee fails to notify Lessor within said time period, this Lease shall be deemed terminated at the scheduled expiration date.

Section 1.3 Rent

- A. Lessee shall pay to the Lessor as rent during the term the sums as follows below and continuing on the same day of each and every year thereafter during the term of the lease at the office of the Lessor set forth in Section 7.8 or at such other place as the Lessor may designate in writing.
 - 1. Lessee shall pay \$2,600.00 per year, payable annually in advance without demand, beginning July 1, 2017 and continuing on the same day of each year through July 1, 2022. (40,000 square feet X .065 cents per square foot)
 - 2. Failure to pay rent by July 14th of the year due, the thirteenth day after the due date, shall obligate the Lessee to pay a late charge of \$100.00, which sum is agreed to a reasonable estimate of the Lessor's damages for late rental payments and shall not be construed as a penalty or a limitation on Lessor's remedies.
 - 3. This late charge is in addition to a 12 percent daily interest rate to begin accruing 15 days after the due date, based upon the lease payment due at that time.
- B. All rent shall be payable in current legal tender of the United States. Payment may be tendered by check, but payment shall not be made in fact until such check has been honored by the drawee bank. The tender of payment by check within the time provided shall be deemed sufficient to meet any due date only if the check is subsequently honored by the drawee bank and the Lessor subsequently receives the legal tender required by this Lease. Any subsequent dishonor and non-receipt of rent payment shall constitute a default of this Lease.

- C. The extension of time for the payment of any installment of rent, or the acceptance by the Lessor of any money other than of the kind herein specified, shall not be a waiver of the right of the Lessor to insist on all other payments of rent to be made in the manner and at the time herein specified. The acceptance by the Lessor of a past due installment payment shall not waive the Lessor's right as to any other default or breach of the Lease.
- D. The rent herein specified shall be net to the Lessor and such payment shall not be subject to any abatement, deduction or off set except as otherwise provided in this Lease.
- E. All taxes, charges, costs, expenses, utilities and assessments which the Lessee is required to pay hereunder, and all damages, costs and expenses which the Lessor may incur by reason of any default of the Lessee or failure on the Lessee's part to comply with the terms of the Lease, shall be deemed to be additional rent and in the event of nonpayment by the Lessee, the Lessor shall have all the rights and remedies with respect thereto that the Lessor has for the nonpayment of the basic rent.

Section 1.4 Rent Adjustment

- A. It is the intent of the parties that the Palmer Municipal Airport be a self-sustaining facility and operate without any support from the general fund of the Lessor.
- B. The rent shall be subject to adjustment at five (5) year intervals to achieve fair market rent, the first adjustment date is five (5) years following the first annual payment. The rent shall be adjusted as follows:
 - 1. Six (6) months prior to the termination of the initial five (5) year period and any subsequent five (5) year period, Lessor shall propose the rent for the next five (5) year period of the lease term and the parties hereto may, by mutual agreement, set the rent for the five (5) year period. The basis of the initial proposed new rent for the next five (5) year term will be the accumulated increase or decrease in the Consumer Price Index for All Urban Consumers (CPI-U): Selected areas, semiannual averages, all items index for the Anchorage, AK. Local area, based upon 2015 as a base year.
 - a. If an agreement is not reached ninety (90) days prior to the end of the current five (5) year period, the fair market rental value of the premises shall be determined by an appraiser selected by the lessor who shall (a) be a member of The American Institute of Real Estate Appraisers, and (b) have experiencing in appraising properties similar to the premises. (The "Qualified Appraiser"). The cost of the initial appraisal shall be born equally between Lessor and Lessee. If either the Lessor or Lessee or both shall disapprove of the fair market rental of the premises as thus determined, the dissatisfied party(s) may then designate another Qualified Appraiser who shall conduct a second (or additional) independent appraisal(s) of the premises and the fair market rental of the premises shall be determined to be the average of the two appraisals. The cost of the additional appraisal shall be borne by the dissatisfied party. In the event that both the Lessor and the Lessee are both dissatisfied with the original appraisal than the cost of, the second appraisal shall be borne equally between the Lessor and Lessee.
 - 2. Lessor's failure to timely start this rent adjustment procedure does not affect the rent adjustment, other than that the rent shall not be adjusted for the period before Lessor starts the procedure for each five-year period.

- a. If, for example, Lessor starts the rent-adjustment procedure for the first time on the first day of the seventh year of the lease term, then the rent shall remain unchanged for the previous six years.
 - b. Any adjustment in Section 1.4 would start as of the first day of the seventh year and remain in effect through year ten when Lessor could again start the rent-adjustment procedure.
- C. During the pendency of any determination of fair market rent, Lessee shall pay the rent last in effect for the Premises until such determination has been made. Any deficiency between the rent so paid and the adjusted rent retroactive to the beginning of the period for which it is due shall be paid within thirty (30) days of being billed to Lessee with interest from the original due date of such rent at the highest rate allowed by law for debts under \$25,000 or twelve percent (12%) per annum, whichever rate is lower.

Section 1.5 Determination of Fair Market Rent

- A. Fair market rent shall not include any return on improvements placed on the Premises by the Lessee or its predecessors in interest, but shall include a return for improvements placed on the Premises by the Lessor or otherwise belonging to Lessor.
- B. The parties acknowledge that certain property at Palmer Municipal Airport may not currently and may not in the future be leased for a fair market rent.
- C. The returns received by Lessor from other aviation Leases at Palmer Municipal Airport, therefore, shall not be used exclusively by the appraiser to determine a fair market rent.
- D. Any appraisal of the Premises shall consider any limitation or restriction on use imposed under this Lease or pursuant to any patent, deed, lease or grant from or agreement with the United States to the Lessor, including but not limited to aviation restricted use.
- E. Lessor shall send written notice to Lessee of the amount determined to be the fair market rent together with a copy of the appraisal.

ARTICLE II - IMPROVEMENTS

Section 2.1 Improvements

- A. Promptly after the execution and delivery of this Lease, and as hereinafter more particularly provided, the Lessee at its own cost and expense shall cause plans and specifications to be prepared for the construction of the following **additional building, structures and improvements** to be placed on the leased Premises, hereinafter referred to as "Improvements".
 - 1. Improvements currently consist of: Pre-engineered 3,672 square foot Steel Frame Aircraft Hanger on a concrete foundation with an additional small wood framed office.
 - 2. Gravel and paved pad for aircraft movement and operations area.
 - 3. Utilities from Aircraft Road of: Water, Sewer, Natural Gas, Electric, Telecommunications.
 - 4. **Proposed improvements consisting of a 30' X 72' addition to the south.**
- B. Failure to timely complete the improvements shall constitute a condition of default.
- C. The improvements shall fully comply with all applicable federal, state, and municipal laws and regulations, including but not limited to federal, state, and municipal building, fire, construction and safety codes and zoning regulations and requirements.

Section 2.2 Plans and Specifications

- A. The Lessee at its own cost and expense shall have prepared conceptual plans for improvements and shall prepare and submit them to the Department of Community Development and the Airport Superintendent on or before **120 days** from the execution of the lease. The conceptual plans shall have a site plan, building floor plan, all four building elevations and the improvements to be constructed.
- B. The Lessee shall submit the conceptual plans required (as outlined by this section) within the time specified, or the Lessor shall have the right and privilege to terminate this Lease on ten (10) days written notice and if such notice is given this Lease shall terminate and shall be of no further force and effect at the expiration of such ten-day period.

Section 2.3 Conceptual Plans

- A. The Department of Community Development shall examine the conceptual plans and within thirty (30) days after submission, the Airport Superintendent shall inform the Lessee in writing of any objections to the conceptual plans.
 - 1. In event of objections, the Lessee shall have thirty (30) days to propose any corrective amendments which the Airport Superintendent shall accept or reject within the next twenty (20) days.
 - 2. Failure of the Airport Superintendent to inform the Lessee in writing of his or her objections within twenty (20) days shall constitute the Airport Superintendent's and the Department of Community Development's approval.
- B. The Airport Superintendent's and Department of Community Development's approval of the conceptual plans submitted by Lessee shall not constitute the assumption of any liability of Lessor for their compliance or conformity with applicable building codes, zoning regulations, and/or city, borough, state and federal laws, ordinances and/or regulations, or for their accuracy.
 - 1. Lessee shall be solely responsible for such plans.
 - 2. The Airport Superintendent's and Department of Community Development approval of such plans shall not constitute a waiver of Lessor's right to thereafter require Lessee to amend the same to provide for any corrections or omissions needed to comply with applicable building codes, zoning regulations, city, borough, state or federal laws, ordinances or regulations.
 - 3. The review and approval required by this section is in addition to any other review and approval needed for any required building permits or similar authorization.

Section 2.4 Final Plans

After the Airport Superintendent has notified the Lessee of his or her approval of the conceptual plans and specifications, the Lessee shall promptly apply to the Department of Community Development for a building permit for any construction or building required to be erected by Lessee pursuant to this Article.

- A. The Lessee shall submit to the Airport Superintendent any plans and detailed drawings including copies which may be required for the permit before submitting the plans and drawings for a permit.
- B. Thereafter the Lessee at the Lessee's own expense shall proceed promptly with preparation of complete and final plans and complete detailed specifications (such plans and specification hereafter termed "final plans") for the Improvements and shall submit to the Airport Superintendent for the Airport Superintendent's approval the final plans as soon as practicable.

- C. The failure of the Lessee to proceed promptly with the preparation of final plans or to submit final plans as required by this section shall constitute a default and breach of this Lease and shall enable the Lessor to terminate this Lease on ten days written notice.

Section 2.5 Airport Superintendent's Approval

The Airport Superintendent shall not unreasonably withhold his or her approval to any conceptual plans, specifications, any plans and detailed drawings, or any final plans or complete detailed specifications.

Section 2.6 Compliance with part 77 FAR

Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations and any similar requirement prior to the construction of the Improvements and prior to the construction of any further structure or building upon the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

Section 2.7 Commencement of Construction

If the Lessee has not commenced construction of the site preparation work by, on or before **September 15, 2017**, the Lessor shall have the right at Lessor's option to terminate this Lease on thirty (30) days written notice.

Section 2.8 Completion of Construction

- A. The Lessee shall have completed construction of the Improvements by, on or before September 15, 2018.
- B. The construction shall be completed when the Improvements have been substantially completed and are capable of the use for which they were intended.
- C. If the Lessee has not completed the construction by the scheduled completion date the Lessor shall have the right, at Lessor's option, to terminate the Lease on ten days written notice.

Section 2.9 Liens

- A. Lessee hereby warrants to Lessor that the Premises and all such other Improvements, shall be free and clear of all liens, claims and encumbrances and agrees to indemnify, defend and hold Lessor harmless from and against any and all losses, damages and costs, including reasonable attorney's fees and appellate attorneys' fees, with respect thereto.
- B. If any lien or notice of lien on account of the alleged debt of Lessee or lien or notice of lien by any party engaged by Lessee or Lessee's contractor to work on the Premises shall be filed against the Premises or Improvements, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of court or competent jurisdiction or otherwise.

Section 2.11 Performance Guarantee

- A. The work, if funded by Lessee in excess of \$100,000, as described in this lease document shall not begin until the Lessee or Lessee's contractor has provided to the Lessor a performance guarantee in the form of a performance bond, escrow, an irrevocable letter of credit, or deed of trust in an amount equal to 110% of the estimated cost of the Improvements greater than \$100,000 to be accomplished, which guarantees the completion of the work by Lessee or Lessee's contractor in accordance with the plans and specifications approved by Lessor and guarantees the payment by Lessee or Lessee's

- contractor of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work, in a form approved by the City.
- B. The work, if funded by an Alaskan Financial Institution on behalf of the Lessee in excess of \$100,000, as described in this lease document shall not begin until the Lessee's Financial Institution has provided to the Lessor a "Letter of Guarantee" in an amount equal to 100% of the cost of improvements in a "Construction Escrow Account" and guarantees the payment by Lessee, Lessee's Contactor or Lessee's Financial Institution of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work, in a form approved by the City.
 - C. Bonds shall be a performance bond from a company qualified by law to act as a surety in the State of Alaska. The bond shall be in a form approved by the City. The bond shall name the City as the sole obligee and the Lessee as the principal. The surety must be rated by A.M. Best as an A or B surety.
 - D. The Lessee may deposit cash in an escrow with a bank qualified by law to do business in the State of Alaska. The disbursement of the escrowed funds shall be governed by an escrow agreement in a form approved by the City.
 - E. The Lessee may provide to the City, an irrevocable letter of credit or loan commitment by a bank qualified by law to do business in the State of Alaska naming the City as beneficiary. The letter of credit or loan commitment agreement shall be in a form approved by the City.
 - F. The Lessee may grant the City a first deed of trust on real property located in the Matanuska-Susitna Borough to secure the estimated cost of all improvements. The City will accept the first deed of trust if:
 - 1. The Matanuska- Susitna Borough's assessed value for the tax purposes equals or exceeds the amount to be secured by the deed of trust; and
 - 2. The City obtains at the Lessee's expense, a policy of title insurance from a recognized Title Company doing business in the Matanuska Susitna Borough naming the City as the insured beneficiary of the first deed of trust in the amount of the estimated cost of all improvements.

Section 2.12 Inspection

During construction, the Lessor shall have the right, from time to time, to inspect the Improvements and in the event that during the construction or at any time prior to the issuance of a final certificate of occupancy, the Lessor determines that the Improvements are not being constructed in accordance with the plans and specifications specified in this lease, Lessor may give notice in writing to the Lessee specifying in detail the particular deficiency, omission or other respect in which the Lessor claims construction does not meet the plans and specifications. Upon receipt of any such notice the Lessee shall take steps necessary to correct any deficiencies, omissions or otherwise.

Section 2.13 Non-Responsibility

The Lessor may at the time enter upon the Premises for the purpose of posting notices of non-responsibility for any work, labor or materials supplied or furnished to these Premises and the Lessee shall notify, in writing, and in advance of any construction, the Lessor of any construction in order that the Lessor may post such notices of non-responsibility. It is the understanding of the parties hereto that any such work, labor, or materials are supplied only to further the purposes of the Lessee and that work, labor and materials have been contracted for solely by the Lessee for Lessee's own benefit and not as agent of Lessor.

Section 2.14 As Built Plans

Within sixty (60) days after the project's completion date, the Lessee shall deliver to the Lessor a surveyed plot plan of the leased Premises showing the completed Improvements as built in relation to the property lines of the leased Premises.

Section 2.15 Improvements Subject to Reversion or Removal

All alterations, buildings, structures or other Improvements placed on the Premises by Lessee shall be subject to Section 7.6 of this Lease.

Section 2.16 Alterations and Other Improvements

The Lessee shall have the right, from time to time, to make such alterations and improvements and decoration to the Premises. Any alterations, improvements and decorations shall be reasonably necessary or appropriate in the Lessor's judgment for the conduct Lessee's business. Lessee shall obtain Lessor's written approval before any such alterations are made. Approval shall not be reasonably withheld as long as Lessee complies with provisions of this article.

Section 2.17 Pavement/Utility Services

Any pavement or utility services to be constructed by the Lessee shall be constructed in accordance with design and specifications approved by the Lessor and the construction shall be subject to inspection by the Lessor. Such improvements shall not be constructed without the prior consent of the Lessor in writing.

ARTICLE III - USE OF THE LEASED PREMISES

Section 3.1 Airport Purposes

- A. Lessee shall have the right to conduct on the premises those activities stated in Section 1.1 B only, and Lessee shall not use the Premises for any other purpose or activity without first obtaining the written consent of the Airport Superintendent to do so.
- B. In addition, Lessees' activities are to be aeronautical related activities as defined in the Federal Aviation Administration's (FAA's) Airport Compliance Handbook, FAA order 5190.6B and the FAA Revenue Diversion Policy and all planned development shall be consistent with the Palmer Municipal Airport Layout Plan and Master Plan.
- C. It is the purpose of this Lease to foster and abet air commerce at Palmer Municipal Airport and it is not the intent of this Lease to provide premises for uses which do not promote the development and use of Palmer Municipal Airport.
- D. All uses normally incidental to an airport such as car rental agencies, limousine service, restaurants, insurance sales, and other such incidental services not directly related to the maintenance and operation of aircraft are prohibited except when the Airport and the FAA have established that a specific facility is not currently needed for aeronautical purposes.
- E. Any non-aeronautical use must be limited and incidental.
- F. Any non-aeronautical use must be approved by the Airport Superintendent and the FAA in writing prior to its commencement.
- G. Any approved non-aeronautical use will be allowed only on an interim basis and will be phased out if aeronautical demand increases.
- H. If a non-aeronautical use is approved, the rent provided in section 1.3 shall be increased to reflect the fair market value of the portion of the Premises used for non-aeronautical uses.
- I. Requests for non-aeronautical uses will be made first to the Airport Superintendent and if approved by the Airport Superintendent and FAA, the non-aeronautical use and the conditions associated therewith will be detailed in an addendum to this Lease.

- J. Lessee shall not use or permit any part of the Premises to be used for any unlawful purpose of or for any purpose or use that may constitute a nuisance or hazard to health, safety, or property.
- K. Lessee shall not use or allow the Premises or any part thereof to be used or occupied for any purpose in violation of any law, lawful order, or rule or regulation concerning the operation or use of Palmer Municipal Airport.

Section 3.2 Compliance with Laws

Lessee shall comply with all laws now or hereinafter in effect affecting the Premises or Lessee's use or occupancy thereof, including but not limited to Palmer Municipal Airport Regulations; PMC 12.08; and PMC 17 all as may be amended from time to time.

Section 3.3 Hazardous Materials

- A. Neither Lessee nor Lessee's agents shall cause or permit any Hazardous Materials or Substances to be brought upon, generated, stored, disposed of, or used in or about the Premises by Lessee, its agents, employees, contractors, or invitees without the prior written consent of Lessor.
- B. Lessee shall demonstrate to Lessor's reasonable satisfaction that such Hazardous Materials or Substances are necessary to Lessee's business and will be used, generated, disposed of, and stored in a manner that complies with all laws regulating any such Hazardous Materials or Substance so brought upon, generated, stored, disposed of or used in or about the Premises.
- C. Lessor may, at its option require Lessee to provide annual reports, submitted with the annual rent payment.
- D. The Lessee will report the kinds and quantities of Hazardous Materials or Substance on the Premises and how the Lessee complies with applicable laws regarding disposal.
- E. If Hazardous Material or Substances have been used, generated, disposed of or stored in or about the Premises during the term of this Lease, Lessor may, at its election, have any environmental assessment performed of the Premises, at the Lessee's expense, at the termination of this Lease or termination of Lessee's right to possession under this Lease.
- F. If any of the following occur;
 - 1. Lessee breaches the obligations in this section;
 - 2. The presence of Hazardous Material or Substance on the Premises caused or permitted by Lessee results in contamination of the Premises or contamination of any other property at the Palmer Municipal Airport; or
 - 3. Contamination of the Premises or any other property at Palmer Municipal Airport by Hazardous Material or Substance otherwise occurs for which Lessee is legally liable to Lessor for damage resulting therefrom;
 - a. Then Lessee shall indemnify, defend, and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space, sums paid in settlement of claims, attorneys' fees, appellate attorney's fees, consultant fees, expert fees, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material or substance present in the soil or groundwater on or under the

Premises which arise during or after the Lease term as a result of such contamination.

- G. Without Limiting the foregoing, if the presence of any Hazardous Material or Substance on the Premises caused or permitted by Lessee results in any contamination of the Premises or any other property at the Palmer Municipal Airport, Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises and/or other property to the condition existing prior to the introduction of any such Hazardous Material or Substance; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or other property.
- H. As used herein, the term "Hazardous Material or Substance" shall be interpreted broadly to include, but not limited to, substances designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Section 6901 et seq., the Federal Water Pollution Control Act, 33 USC Section 1257 et seq. the Clean Air Act, 42 USC Section 2001 et seq the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601 et seq., Title 46 of the Alaska Statutes, or by any applicable federal, state, or local stature, regulation or ordinance now or hereafter in effect and as they may be amended or interpreted from time to time.
- I. The provisions of this Section 3.3 shall survive any termination of Lessee's right to possession of the Premises and/or termination of this Lease.

Section 3.4 Americans with Disabilities Act

Lessor and Lessee agree that as allowed by 28 C. F. R. S. 36.201(b), Lessee shall be responsible for all compliance responsibility under the Americans with Disabilities Act (42 U.S.C. S 12101 et. Seq.) related to Lessee's use and occupancy of the Premises. Lessee agrees to defend, indemnify and hold Lessee harmless from any claim, demand, or action, either by a private person or a governmental entity, under said Act due to failure to comply with the terms of said Act. The provisions of this Section 3.4 shall survive termination of Lessee's right to possession of the Premises and/or termination of this Lease.

Section 3.5 Reservations and Exceptions

This Lease is made by the Lessor and accepted by the Lessee conditioned upon and subject to any conditions, reservations, limitations, provisions or terms imposed upon the Premises of Palmer Municipal Airport, as contained in any grant (including any monetary grant or loan), lease, permit, patent, deed, or any other conveyance to the Lessor of the Premises, or of Palmer Municipal Airport, from the United States, or the State of Alaska, including their agencies. In the event that any such condition, reservation, limitation, provision or term shall prevent, without fault of the Lessor, this Lease from continuing in full force and effect, the Lessor shall have the option to terminate this Lease immediately (and at any time) without liability to the Lessee therefor.

Section 3.6 Subordination of Lease to Requirements of the Federal Aviation Administration

- A. This Lease shall be subordinated to the provisions of any existing or future agreements between the Lessor and the United States, relative to the operation or maintenance of Palmer Municipal Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of Palmer Municipal Airport.

- B. In connection therewith, the Lessor has undertaken and may in the future undertake certain obligations respecting its operation of Palmer Municipal Airport and activities of its contractors, Lessees and permittees thereon. The performance by Lessee of the covenants, promises and obligations contained in this Lease is therefore a special consideration and inducement to this Lease. Lessee further covenants and agrees that if the administrator of the Federal Aviation Administration, or any other governmental official or body having jurisdiction over the enforcement and the obligations of the City in connection with the Federal or State aid, shall make any orders, recommendations or suggestions respecting the performances by Lessee of its obligations under this Lease, Lessee shall promptly comply therewith, at the time or times when and to the extent that the Lessor may direct.

Section 3.7 Aircraft on Premises

If requested, the Lessee shall provide the Airport Superintendent a list showing all aircraft on the Premises for any purpose, together with the aircraft type, model and number, the name and address of the owner, the purpose of the aircraft being on the Premises, and such other information concerning its identification thereof as the Airport Superintendent shall deem necessary.

Section 3.8 Discriminatory Acts Prohibited

- A. The Lessee shall furnish any service to be rendered by the Lessee in connection with or upon the Premises on a fair, equal and not unjustly discriminatory basis to all users thereof. In performing such services Lessee shall charge fair, reasonable and not unjustly discriminatory prices or rates for each unit of service furnished, provided the Lessee may take reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume users or purchasers.
- B. The Lessee, in its use and occupancy of the Premises, shall not discriminate against any person or class of persons by reason of race, color, creed or national origin, or by reason of any other basis that is illegal or becomes illegal during the term of this Lease, any extension, or any holdover period.
- C. The Lessor upon ten (10) days' notice to the Lessee of any violation of this section shall request that the Lessee either correct or justify any practice or charge alleged as a violation.
- D. In any proceeding whatsoever the burden of justification shall be on the Lessee to show that the practice or charge does comply with the requirements of this section. The Lessee, within ten (10) days after receipt of the notice, shall comply with the request or submit to the Lessor its justification in writing. The Lessor shall submit its findings and decision as to any alleged violation within fifteen (15) days after the receipt of the Lessee's justification, and such findings and decision of the Lessor shall be final. The Lessee shall waive any defense that the alleged violation is justified, unless the Lessee, in writing, notifies the Lessor within ten (10) days of its objections to any request for compliance or to any adverse findings and decision.
- D. The Lessor, at its option, may forthwith terminate this Lease without any liability to Lessee thereunder for failure by Lessee without justification to comply with Lessor's request for compliance within the time set forth in the request or the findings and decision to correct the alleged violation.

Section 3.9 Affirmative Action

- A. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR 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 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered in this subpart. The Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessor that any similarity will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- B. The Lessor upon ten (10) days' notice to the Lessee of any violation of subsection A shall request that the Lessee either correct or justify any practice or charge alleged as a violation. In any proceeding whatsoever, the burden of justification requirement of subsection A, the Lessee within ten (10) days after receipt of the notice, shall comply with the request or submit to the Lessor its justification in writing. The Lessor shall submit its findings and decision as to any alleged violation within fifteen (15) days after the receipt of the Lessee's justification, and such findings and decision of the Lessor shall be final. The Lessee shall waive any defense that the alleged violation is justified, unless the Lessee, in writing, notifies the Lessor within ten (10) days of its objections to any request for compliance or to any adverse findings and decision.
- C. The Lessor, at its option, may forthwith terminate this Lease without any liability to Lessee thereunder for any failure by Lessee without justification to comply with Lessor's request for compliance within the time set forth in the request of the findings and decision to correct the alleged violation.

Section 3.10 Maintenance of Premises

- A. Lessee shall repair and maintain the Improvements in good order and repair and keep the Premises in a neat, safe, clean and orderly condition. Such obligation shall include, but not be limited to, the prevention of the accumulation of any refuse or waste materials which might be or constitute a fire hazard or a public or private nuisance.
- B. In the event that Lessee does not properly repair and/or maintain the Improvements or Premises, the Airport Superintendent shall notify the Lessee in writing of those areas that are not being properly repaired and/or maintained.
- C. If, however, after 60 days, Lessee fails to make such repair and/or maintenance, Lessor may cause to have such repair and maintenance made and invoice the Lessee for the repair and maintenance completed.
- D. If said costs are not paid promptly by Lessee, the lease shall be deemed to be in default, and Lessor shall be entitled to all legal remedies provided hereunder.
- E. Lessee shall neither cause nor allow any waste of the Premises or Improvements. In addition, Lessee shall be strictly liable for any waste of the Premises or Improvements and for any damage to reversion.

Section 3.11 Signs

- A. Lessee shall not, without Lessor's written consent, place or erect any sign of any nature on any part of the Premises, but such consent shall not be unreasonably withheld to one flat sign of reasonable size bearing the Lessee's trade name, providing such sign meets all city zoning and sign requirements.
- B. At the termination of this Lease, any such sign shall be removed by Lessee at Lessee's own expense.

- C. Lessee shall apply for a sign permit from the Department of Community Development and shall comply with Palmer Municipal Code.

Section 3.12 Improvements and Alterations

After the initial improvements set forth in Article II have been completed, and if the Lessee desires to construct further improvements:

- A. Prior to commencing construction, renovation, enlargement, demolition, or modification of leasehold improvements now or hereafter existing on the Premises, Lessee shall submit to the Airport Superintendent plans and specifications for such work (including plans for landscaping and irrigation, if any) and timeline for various phases of work.
- B. The Airport Superintendent shall approve or disapprove such plans and specifications and accompanying timeline at his or her sole discretion.
- C. Upon Lessee's receipt of the Airport Superintendent's written approval of such plans and specifications, Lessee agrees to construct the proposed leasehold improvements in strict accordance with such plans and specifications and timeline.
- D. The Airport Superintendent's approval of submitted plans and specifications shall not constitute the assumption of any liability by Lessor for their compliance or conformity with applicable building codes, zoning regulations, and city borough, state and federal laws, ordinances and regulations, or for their accuracy, and Lessee shall be solely responsible for such plans and specifications.
- E. The Airport Superintendent's approval of plans and specifications shall not constitute a waiver of Lessor's right to therefore require Lessee to amend the same to provide for any corrections or omissions needed to comply with applicable building codes, zoning regulations, city, borough, state or federal laws, ordinances or regulations.
- F. The review and approval required by Section 3.12 is in addition to any other review and approval needed for any required building permits or similar authorizations.
- G. Lessee shall obtain all necessary licenses and permits to accomplish any of the work described in Section 3.12. Nothing in this Lease is intended to limit or restrict the City of Palmer in the exercise of its police power, authority to enforce building, fire and other safety codes, laws, ordinances, or regulations.
- H. Lessee agrees to comply with the notification and review requirements covered in part 77 of the Federal Aviation Regulations prior to the construction of the Improvements and prior to the construction of any future building or structure situated on the Premises.
- I. Any contract or agreement for labor, services, materials or supplies furnished in connection with construction or alteration of any improvement to the Premises shall provide that no lien, claim or other encumbrance shall thereby be created, or arise, or be filed by anyone thereunder upon or against the Premises or the improvements.
- J. Before the commencement of any such work, Lessee shall deliver to Lessor either an executed duplicate original of such contract or a written waiver by the architect, engineer, contractor, material man, mechanic, person or corporation named in such contract of all right of lien which he or it might otherwise have upon or against the Premises, or the improvements to be constructed or altered, or the interest of Lessor therein.
- K. Lessee hereby warrants to Lessor that the Premises and all such other improvements thereto, shall be free and clear of all liens, claims and encumbrances and agrees to indemnify, defend and hold Lessor harmless from and against any and all losses, damages and costs, including reasonable attorneys' fees and appellate attorneys' fees, with respect thereto.
- L. If any lien or notice of lien on account of the alleged debt of Lessee or lien or notice of lien by any party engaged by Lessee or Lessee's contractor to work on the Premises shall be filed

against the Premises or improvements, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of court or competent jurisdiction or otherwise.

- M. The work, if funded by Lessee in excess of \$100,000, as described in this lease document shall not begin until the Lessee or Lessee's contractor has provided to the Lessor a performance guarantee in the form of a performance bond, escrow, an irrevocable letter of credit, or deed of trust in an amount equal to 110% of the estimated cost of the Improvements greater than \$100,000 to be accomplished, which guarantees the completion of the work by Lessee or Lessee's contractor in accordance with the plans and specifications approved by Lessor and guarantees the payment by Lessee or Lessee's contractor of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work, in a form approved by the City.
- N. The work, if funded by an Alaskan Financial Institution on behalf of the Lessee in excess of \$100,000, as described in this lease document shall not begin until the Lessee's Financial Institution has provided to the Lessor a "Letter of Guarantee" in an amount equal to 100% of the cost of improvements in a "Construction Escrow Account" and guarantees the payment by Lessee, Lessee's Contactor or Lessee's Financial Institution of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work, in a form approved by the City.
- O. All alterations, buildings, structures or other improvements placed on the Premises by Lessee shall be subject to section 7.6 of this Lease.

Section 3.13 Quiet Possession

The Lessee, upon paying rent and observing the conditions and terms of this Lease, shall and may have at all times during the term of this Lease peaceful and quiet enjoyment and possession of the Premises, except as otherwise set forth in this Lease.

Section 3.14 Lessee's option to Terminate

- A. Should any government body, agency, or official, other than Lessor, prohibit or otherwise prevent the use of Palmer Municipal Airport in its present condition as a public airport for one year or more, or should the continued use of Palmer Municipal Airport as an airport become impossible or unlawful without the fault of the Lessee, the Lessee shall have the option to terminate this Lease on thirty (30) days written notice to the Lessor.
- B. Upon such termination, this Lease shall be at an end, and neither party shall have any liability for such termination.
- C. The Lessor shall notify the Lessee in writing, of the prohibition, or intended prohibition, and the failure of the Lessee to exercise the option to terminate within thirty (30) days shall extinguish the Lessee's option to terminate.

Section 3.15 Lessor's Option to Terminate

- A. Lessee hereby grants to Lessor should it require the Premises in connection with the future expansion and/or operation of the Airport prior to the expiration or termination of the Lease, Lessor may, upon ninety (90) days written notice, cancel this Lease.
- B. In the event that this Lease is canceled under the provisions of this Section, Lessor shall pay to Lessee the fair market value of Lessee's remaining leasehold interest and the fair market value of Lessee owned buildings, structures, alterations and/or improvements placed by Lessee upon the Premises during the term of this Lease.
- C. The fair market value shall be determined by following the appraisal procedure set forth determination of the fair market rental of the Premises in Section 1.4 of this Lease.

- D. After payment therefore as provided herein, all buildings, structures, alterations and/or improvements shall be subject to the provisions of section 7.6 of this Lease.

Section 3.16 Right of Entry and Access

- A. Lessee hereby grants to Lessor, its contractors, employees, agents and assigns, the irrevocable right, permission and authority to enter into and upon all or part of the Premises for the purpose of:
 - 1. Inspecting the Premises;
 - 2. Cleaning, repairing, maintaining, altering or improving the Premises as Lessor may deem necessary;
 - 3. Abating any nuisance or hazardous condition on the Premises, and/or
 - 4. Preserving and/or protecting the Premises.
- B. It is understood and agreed that the entry and access may affect the use of the Premises from time to time. Lessor shall use reasonable efforts to coordinate any anticipated access or utility or other interruptions with Lessee in an attempt to reasonably reduce the effect of any disruption of Lessee's enjoyment and use of the Premises.
- C. The right of access and entry reserved herein does not impose, nor does Lessor assume by reason thereof, any responsibility for the care, maintenance or supervision of the Premises. Lessee shall not be entitled to any abatement or reduction in rent by reason of Lessors access and/or entry nor shall such access or entry be deemed an actual or constructive eviction.

Section 3.17 Lessor's Improvements

- A. Lessor shall have a permanent right of access over, under, around and across the Premises for the purposes of maintaining, servicing, upgrading, replacing or removing any Lessor-installed improvements including, but not limited to, light poles, utilities, and fencing.
- B. This section does not require Lessor to provide any improvements.
- C. Lessor's maintenance shall not include paving, aircraft tie downs, snow removal or sanding.
- D. All improvements constructed by the Lessor shall at all times remain the property of Lessor and may be maintained, upgraded, serviced or removed at Lessor's convenience and discretion.
- E. Lessor agrees to use reasonable efforts to notify of any upgrading, replacing or repair work with Lessee and to reasonably reduce disrupting Lessee's use of the Premises when practicable.
- F. In the event of abandonment or default, any Lessee improvement will become the property of the Lessor.

Section 3.18 Aviation Easement

Lessee's right to use the Premises for the purposes as set forth in this Lease shall be secondary to and subordinate to the operation of the airport. Lessor specifically reserves for itself, other Palmer Municipal Airport leaseholders, and for the public, an easement for the passage of aircraft in the air space above the surface of the described property together with the right to cause in said air space or on adjacent property such noise as may be inherent in the present or future operation of aircraft. Without in any way limiting Lessor's rights under Section 3.12, Lessee shall not construct any building or facility to a height which in Lessor's discretion will interfere with the operations of the airport.

Section 3.19 Right-of-Way and Easement

Lessor shall have the right to designate or grant rights-of-way or utility easements across the Premises without compensation to Lessee, provided that Lessee shall be entitled to compensation for the taking or destruction of any of Lessee's improvements and provided further that Lessee may terminate the Lease or demand a rental adjustment to reflect any reduction in value of the Premises.

ARTICLE IV - TAXES, INDEMNIFICATION, AND INSURANCE

Section 4.1 Taxes, Assessments, and Utilities

- A. Lessee, in addition to the rentals provided for herein, shall pay when due (and before delinquency) all taxes, utility fees, assessments, and charges upon the Premises, the leasehold interest, and upon buildings, improvements and property thereon, which are assessed or charged at any time during the term.
- B. The Lessee shall furnish to the Lessor for Lessor's inspection within thirty (30) days after the date any amount payable by the Lessee as required by this section, official receipts from the appropriate taxing authorities or other proof satisfactory to the Lessor evidencing payment.
- C. The Lessee shall have the right at all times to protest any assessment of taxes or other assessments or charges, but the Lessor may require the Lessee to deposit with the Lessor any sums in dispute to insure payment in the event that any contest is unsuccessful.
- D. Lessee shall pay and be responsible for all charges for gas, electricity, water, light, heat, power, garbage, solid waste, and other utility service used in or about or supplied to the Premises.
- E. Lessee shall timely pay all sales tax on the rent on the lease, utilities, sales, service, rents, etc., and shall comply with City and Borough sales tax laws.

Section 4.2 Indemnification

Lessee shall indemnify, defend and hold Lessor harmless from all liability or loss (including, but not limited to reasonable attorneys' fees and appellate attorneys' fees) arising from any injury to any person or persons (including without limitation Lessee, its agents or employees) or property of any kind whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease, or any use or occupancy hereunder, however occurring, including any acts, negligent or otherwise, and any omissions (negligent or otherwise), by Lessee, its agents, independent contractors, or employees, unless caused by or resulting from the sole negligence of the Lessor or any of Lessor's agents or employees.

Section 4.3 Insurance

- A. Prior to the Commencement of Construction and no later than June 1, 2017, the Lessee, at its own expense, shall secure and maintain in full force at all times during the term of this Lease:
 - 1. Commercial general liability. Commercial general liability insurance with a single occurrence liability limit of \$1,000,000 and an aggregate of \$2,000,000 insuring against liability of Lessee, its officers, contractors, licensees, agents, employees, guests, invites and authorized representatives, arising out of and/or in connection with Lessee's use or occupancy of the Premises; or

2. Airport premises liability. Airport premises liability insurance on an occurrence basis with a single combined liability limit of not less than \$1,000,000 occurrence and \$2,000,000 aggregate limit for bodily injury and property damage.
 3. If applicable, third-party aircraft liability insurance with a single combined liability limit of not less than \$1,000,000 per occurrence;
 4. Commercial property insurance in the amount of replacement costs.
 5. The Lessor reserves the right to require Lessee to provide pollution insurance as warranted by the proposed use of the Premises.
- B. This insurance required under this Section shall:
1. Name the Lessor as an "additional insured"
 2. Contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor thirty (30) days prior written notice;
 3. Be with an insurance company qualified to do business in the State of Alaska with a financial rating of at least "A" as rated in current Best's Insurance Reports;
 4. Include a waiver of subrogation clause by which the insurer waives all rights of subrogation against the Lessor for payments made under the policy; and
 5. Not contain a damage deductible for each and every loss that exceeds \$10,000.
- C. Lessee shall provide Lessor with proof of insurance coverage in the form of a certificate of insurance, and if requested by the Lessor, Lessee shall provide Lessor with a copy of the policy (ies). Failure to maintain such insurance in effect shall constitute grounds for immediate termination of this lease. Lessor may at its option purchase said insurance and charge the expense thereof to Lessee, which expense Lessee shall assume and pay.
- D. To reasonably protect itself, Lessor may adjust these minimum insurance requirements and add types of insurance or both by giving Lessee written notice of such adjustment ninety (90) days prior to the expiration of each five (5) year interval of the term of this Lease. Lessor may also adjust these minimum insurance requirements at any time if Lessee's use of the Premises changes, and in such event, Lessor shall give Lessee thirty (30) days written notice of such adjustment.
- E. The requirements of insurance coverage do not relieve Lessee from any other obligation under this Lease.

ARTICLE V - ASSIGNMENT AND SECURITY INTERESTS

Section 5.1 Assignment and Subletting

- A. Lessee shall not voluntarily assign or encumber its interest in this Lease or in the Premises or sublease all or any part of the Premises, or allow any other person or entity to occupy or use all or any part of the Premises without first obtaining Lessor's prior written consent. Lessor will not unreasonably withhold its consent; provided, however, if Lessor does unreasonably withhold its consent, Lessor shall not be liable for any damages, costs or attorney's fees arising therefrom.
1. Lessor may condition its consent upon such terms as are in its best interest, including but not limited to matters regarding laws, insurance, risks, Lessee's defaults or past practices, risks attributable to assignee, etc., but Lessor may not condition its consent upon raising the rent other than as already allowed under this Lease.
 2. Any assignment, encumbrance or sublease without Lessor's consent shall be voidable and, at Lessor's election, shall constitute a default.

3. No consent to any assignment, encumbrance or sublease shall constitute a further waiver of the provisions of this section.
- B. If Lessee is a partnership or limited liability company, a withdrawal or change, voluntary, involuntary or by operation of law, of any partner or partners, member or members owning twenty-five percent (25%) or more of the partnership or LLC in one or more transactions, or the dissolution of the partnership or LLC, shall be deemed a voluntary assignment.
- C. If Lessee is a corporation any dissolution, merger, consolidation or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital stock of Lessee in one or more transactions, or the sale of twenty-five percent (25%) of the value of the assets of Lessee in one or more transactions without immediate replacement with assets of equal or greater worth, shall be deemed a voluntary assignment.
- D. Lessee hereby irrevocably assigns to Lessor, as security for Lessee's obligations under this Lease, all rent from any subletting of all or a part of the Premises, and Lessor, as assignee and attorney-in-fact for Lease, may collect such rent and apply it toward Lessee's obligations under this Lease, except that, until the occurrence of an act of default by Lessee, Lessee shall have the right to collect such rent as it becomes due, one payment period at a time, which payment period may never exceed one year.
- E. Lessee may not charge a sub-lessee a rent rate that changes from year to year, other than changes that result directly from changes made by Lessor, and Lessee shall never have the right to collect or receive rent in advance of when it is due. If the sub-lessee pays Lessee in advance and Lessor collects rent hereunder, then the sub-lessee must pay the advanced rent to Lessor and sub lessee may retrieve the advanced rent from Lessee. Neither this section nor collection of any such rent by Lessor shall be deemed to be Lessor's approval of any such sublease.
- F. If, as a result of an assignment or sublease, the Premises will be used for purposes other than as set forth in section 3.1 herein. The consent of the Palmer City Council and the FAA, if applicable, must be obtained. It is the policy of the City of Palmer to discourage non-aviation related uses. Additionally, if incremental revenues over and above the Lessee's Lease payments will be realized from the sublease or assignment pertaining to non-aeronautical uses, Lessor may raise Lessee's existing rent to fair market value at the time of the approval of the sublease.
- G. All assignment instruments shall include language whereby Assignee expressly assumes and agrees to pay the obligations of Lessee under this Lease.
 1. No assignment shall release or diminish the obligations of any Lessee or any Guarantor for performance of Lessee's obligations hereunder and Lessee shall remain liable as if no assignment were made.
 2. Lessee and Assignee will be jointly and severally liable for such obligations.
 3. Neither this section nor any payment of rent by such Assignee shall be deemed to be Lessor's approval of any such assignment.
- H. All sublease instruments shall provide that the sublease is subject to all of the terms, covenants and conditions of this Lease.
- I. Lessee agrees to pay to Lessor \$500 for any request by Lessee for Lessor to consent to any assignment or subletting by Lessee.

Section 5.2 Mortgage and Encumbrances

- A. Lessee shall not mortgage or otherwise encumber this Lease (including Lessee's leasehold estate in the improvements thereon) without the prior written consent of Lessor.

- B. The Lessor's consent to the mortgage or encumbrance shall not be unreasonably withheld, provided the mortgage or beneficiary shall agree to the attached form of Assignment of Lease for Security Purposes and Consent to Assignment of Lease attached hereto as Exhibit B or in such form as agreed to by Lessor.
- C. Lessee shall furnish the Lessor with a copy of any security transaction, mortgage or encumbrance of the Premises for the Lessor's approval prior to any mortgage or encumbrance of the Premises, and shall further furnish a copy to the Lessor of any such executed security transactions.

ARTICLE VI - DEFAULT AND ENFORCEMENT

Section 6.1 Default Defined

The occurrence of one or more of the following shall be deemed a default by the Lessee and a breach of this Lease:

- A. Failure to pay the rent provided herein, or any part thereof, or other charge due hereunder, for a period of ten (10) days after written notice of such failure is given by Lessor to Lessee;
- B. Failure to perform the obligations set forth in Sections 3.8, 3.9, and 3.10 hereof, after any notice required by those sections;
- C. Failure to provide and maintain in effect **insurance** in compliance with Section 4.3 hereof **(for which failure there is no notice time requirement)**;
- D. Failure to do, observe, keep and perform any other terms, covenants, conditions, agreements and provisions contained in this Lease for a period of thirty (30) days after written notice of such failure is given by Lessor to Lessee, or, in the case of a default not reasonably susceptible of being cured within thirty (30) days (which does not include any default which may be cured by the payment of money), failure to commence promptly and proceed diligently and in good faith to cure such default within the initial thirty (30) days and complete such cure within a total of sixty (60) days after the sending of the notice;
- E. The abandonment of the premises by the Lessee, the making by the Lessee of a general assignment for the benefit of creditors, or the appointment of a permanent or temporary receiver for the Lessee's property, which is not vacated or set aside within thirty (30) days of sending of written notice of such event by Lessor; or
- F. The issuance of three (3) written notices for defaults or breaches within any consecutive twelve-month period, regardless of whether or not the default or breach was cured within the applicable time period.

Section 6.2 Lessor Remedies on Default

Upon the occurrence of any default of Lessee as described in Section 6.1 hereof or elsewhere in this Lease, Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- A. Lessor may, at its election, terminate this Lease or terminate Lessee's right to possession only, without terminating this Lease.
- B. Upon termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Lessee's right to possession without termination of this Lease, Lessee shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Lessor, and Lessee hereby grants to Lessor full and free license to enter into and upon the Premises in such event with or without process of law and to repossess Lessor of the

Premises and to expel or remove Lessee and any others who may occupy or be within the Premises and to remove and all property therefrom, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without incurring any liability for any damage resulting therefrom, Lessee hereby waiving any right to claim damage for such re-entry and expulsion and without relinquishing Lessors right to rent or any other right given to Lessor hereunder or by operation of law.

- C. Upon any termination of this Lease, whether by lapse of time or otherwise, Lessor shall be entitled to recover:
1. The worth at the time of the award of the unpaid rent (including any amounts treated as additional rent) that had been earned at the time of termination;
 2. The worth at the time of the award of the amount by which the unpaid rent (including any amounts treated as additional rent) that would have been earned after the date of termination until the time of award exceeds the amount of the loss of rent for the same period that Lessee proves could have been reasonably avoided;
 3. The worth at the time of the award of the amount by which the unpaid rent (including a reasonable estimate of additional rent) for the balance of the term exceeds the amount of the loss of rent for the same period that Lessee proves could have been reasonably avoided; and
 4. Any other amount, full reasonable attorney's fees and court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's default.
- D. "The worth at the time of the award," used in this section, is to be computed by allowing interest as determined by the current bond rating from State of Alaska Municipal Bond Bank plus 5%. The "time of the award" is the date the Lessee is notified of the termination of the lease by the Lessor. Such notification shall be done by certified mail.
- E. Upon any termination of Lessee's right to possession only without termination of this Lease, Lessor may, at the Lessor's option enter into the Premises, remove Lessee's signs and other evidences of tenancy, and take and hold possession thereof as provided in this section, without such entry and possession terminating this Lease or releasing Lessee, in whole or in part, from any obligation, including Lessee's obligation to pay the rent, including any amounts treated as additional rent hereunder, for the full term.
- F. Upon termination of Lessee's right to possession, Lessor may, but need not, relet the Premises or any part thereof for such rent and upon such terms as Lessor in its sole discretion shall determine (including, but not limited to, the right to relet the Premises for a greater or lesser term than that remaining under this Lease, the right to relet the Premises as a part of a larger area, and the right to change the character or use made of the Premises) and Lessor shall not be required to accept any tenant offered by Lessee or to observe any instructions given by Lessee about such reletting.
- a. In any such case, Lessor may make repairs, alterations and additions in or to the, Premises, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of reletting.
 - b. If the consideration collected by Lessor upon any such reletting plus any sums previously collected from Lessee are not sufficient to pay the full amount of all rent, including any amounts treated as additional rent here under and other sums reserved in this Lease for the remaining term hereof, together with the costs of repairs, alterations, additions, and Lessor's expenses of reletting and the collection of the rent accruing therefrom (including attorneys' fees), Lessee shall pay to Lessor the amount of such deficiency upon demand and Lessee agrees that Lessor may file suit to recover any sums falling due under this subpart from time to time.

- E. Lessor may, at Lessor's option, enter into and upon the Premises, with or without process of law, if Lessor determines in its sole discretion that Lessee is not acting within a commercially reasonable time to maintain repair or replace anything for which Lessee is responsible hereunder and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage resulting therefrom and Lessee agrees to reimburse Lessor, on demand, as additional rent, for any expenses which Lessor may incur in thus effecting compliance with Lessee's obligations under this Lease.
- F. Any and all property which may be removed from the Premises by Lessor pursuant to the authority of this Lease or of law or in equity, to which Lessee is or may be entitled, may be handled, removed and stored, as the case may be, by or in the direction of Lessor at the risk, cost and expense of Lessee, and Lessor shall in no event be responsible for the value, preservation or safekeeping thereof.
 - 1. Lessee shall pay to Lessor, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Lessor's possession or under Lessors control.
 - 2. Any such property of Lessee not retaken by Lessee from storage within thirty (30) days after removal from the Premises shall conclusively be presumed to have been conveyed by Lessee to Lessor under this Lease as a bill of sale without further payment or credit by Lessor to Lessee; provided, however, Lessor may disclaim as to any item or items and the effect of such disclaimer will be that the item or items never became the property of Lessor.
- G. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or equity (all such remedies being cumulative), nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent, additional rent or other sum due to Lessor, hereunder or of any damages accruing to Lessor by reason of the terms, provisions and covenants herein contained.
- H. No act or thing done by Lessor or its agents during the term hereby granted shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or an acceptance of the surrender of the Premises shall be valid unless in writing signed by Lessor.
- I. No judicial action shall be necessary to terminate this Lease.
- J. No waiver by Lessor of any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained.
- K. Lessors acceptance of the payment of rental, including any amount treated as additional rental, or other sums hereunder after the occurrence of an event of default shall not be construed as a waiver of such default, unless Lessor so notifies Lessee in writing.
- L. Forbearance by Lessor to be deemed or construed to constitute a waiver of such default or of Lessor's right to enforce any such remedies with respect to such default or any subsequent default.
- M. If, on account of any breach or default by Lessee in Lessee's obligations under the terms and conditions of this lease, it shall become necessary or appropriate for Lessor to employ or consult with an attorney concerning this Lease or enforce or defend any of Lessor's rights or remedies hereunder, Lessee agrees to pay any attorneys' fees and appellate attorneys' fees so incurred.
- N. Lessor shall not be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due upon such reletting.

Section 6.3 Lessor's Failure to Enforce and Nonwaiver

- A. Failure by the Lessor to insist the strict performance of any term, condition or covenant of this Lease or to exercise any right or remedy available on a breach thereof, and acceptance of full or partial rentals during the continuance of any such breach shall not constitute a waiver of any such breach or any such term, condition or covenant.
- B. Terms, conditions or covenants of this Lease required to be performed by the Lessee, and breach thereof, shall not be waived, altered or modified, except by written instrument executed by the Lessor.
- C. Waiver of any breach shall not affect or alter any term, condition or covenant of this Lease, and each such term, condition or covenant shall continue in full force and effect with respect to any other then existing or subsequent default or breach thereof, and any other or subsequent default or breach may be enforced by the Lessor as provided in this Lease.

ARTICLE VII - GENERAL COVENANTS

Section 7.1 Condition and Status of Premises

- A. Lessee acknowledges that Lessee has examined the Premises and accepts same in its present condition without any representation or warranty, express or implied in fact or by law, by the Lessor as to the title, nature, condition or usability of the Premises for the purposes set forth in this Lease, all of said warranties being hereby expressly property **as-is** in its present condition, together with all faults.
- B. Lessee agrees to provide written notice to Lessor immediately upon Lessee becoming aware or having a reasonable belief:
 - 1. That the Premises or any adjacent property is being, may be, or has been contaminated with any Hazardous Materials, or
 - 2. Of the existence of any Hazardous Materials in, within, on or near the Premises or adjacent property.

Section 7.2 Risk of Loss

Destruction or damage to any building or improvement on the Premises by fire, rain, ice, snow, windstorm, earthquake, aircraft accident, or any other casualty or action of the elements shall not entitle the Lessee to surrender possession of the Premises, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent when due or thereafter becoming due under the terms hereof.

Section 7.3 Repair or Rebuilding

- A. Upon the destruction or damage to any building or structure by fire or other casualty covered by insurance or that is supposed to be covered by Lessee's insurance, Lessee may, with Lessor's consent rebuild the building or structure.
- B. Upon the destruction or damage to any building or structure by casualty that is not covered by insurance and is not supposed to be covered by insurance, Lessee shall have the right to repair, restore or rebuild the building or structure within one (1) year after the date of such occurrence or as per written agreement with the Airport Superintendent.

Section 7.4 Condemnation

- A. If all the Premises, or any part thereof required for the reasonable use of the Premises, is taken by eminent domain, this Lease shall expire on the date when the Lessee is required to vacate the Premises, and the rent shall be apportioned as of that date.
- B. If there is a taking of a part of the Premises not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the rent shall be equitably reduced, based on the proportion by which the Premises is reduce, such rent reduction to be effective as of the date possession of such portion is delivered to the condemning authority.
- C. Except for improvements constructed and paid for by Lessee, Lessor reserves all rights to damages to the Premises for any taking by eminent domain and Lessee hereby assigns to Lessor any right Lessee may have to such damages or award.
- D. Lessee shall make no claim against Lessor for damages for termination of the leasehold interest or interference with Lessee's business. Lessee shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Lessee may be put for Lessee's moving expenses and for the interruption of or damages to Lessee's business, provided that such damages may be claimed only if they are awarded separately in the eminent domain proceeding and not as part of the damages recoverable by Lessor.

Section 7.5 Surrender of Premises

At the expiration of any Lease term, upon termination of this Lease, upon reentry by Lessor or otherwise, the Lessee shall peacefully and quietly surrender the Premises in as good a condition as it was at the beginning of the initial term, reasonable use and wear and damages by the elements excepted.

Section 7.6 Reversion or Removal of Buildings and Improvements

- A. Any and all buildings, structures, alterations or improvements placed by the Lessee upon the Premises shall, at the option of the Lessor, revert to and become the property of the Lessor at and upon the expiration or termination of this Lease and/or the termination of Lessee's right to possession of the Premises.
- B. Lessor, in its sole discretion, may require Lessee to remove part or all of said buildings, structures, alterations and/or improvements including, but not limited to, fuel tanks and lines, and partially or completely restore the Premises to the condition of the Premises at the inception of this Lease by sending written notice requesting such removal and restoration within sixty (60) days after such expiration or termination.
- C. Lessee shall then at its own expense complete such removal and restoration within ninety (90) days of the sending of such notice.
- D. At the conclusion of the current lease and extension period(s) the existing Lessee shall be given preference in executing a new lease on the same premises, provided that the proposed land use is compatible with the current Airport Layout Plan and the Lessee is otherwise in good standing with the City of Palmer and in substantial compliance with the existing lease.
- E. Section(s) 7.5 and 7.6 do not necessarily preclude a lessee from recovering value from Lessee's leasehold improvements by selling to a third party at any time during the lease term, provided that all other conditions of the active lease have been met. At such time, the buying third party would request a new lease or an assignment of the existing lease, and such request would not be reasonably withheld.

Section 7.7 Holdover

- A. In the event the Lessee shall hold over after the expiration or termination of this Lease for any cause whatsoever, Lessee shall pay Lessor monthly rent at double the annual rental rate divided by twelve for the entire time Lessee remains in possession, and in addition thereto, Lessee shall hold Lessor harmless from all damages resulting from Lessee's failure to surrender the Premises, including, without limitation, claims made by a succeeding tenant resulting from Lessee's failure to surrender the Premises.
- B. If Lessee remains in possession of the Premises after expiration of the term of the Lease, or after the date in any notice given by Lessor to Lease termination this Lease, such possession by Lessee shall be deemed to be a month-to-moth tenancy terminable on thirty (30) days' notice given at any time by either party.
- C. The provisions of this section do not exclude Lessor's rights of re-entry or any other right under this Lease.

Section 7.8 Notices

Any notices required to be sent in accordance with the terms of this Lease, including legal process, shall be sent in writing by registered or certified mail, to the parties at the following addresses unless otherwise notified in writing and deemed to be received when so sent:

Lessor's address: City Manager
City of Palmer
231 W. Evergreen Ave.
Palmer, AK. 99645

Lessee's address: Custom Aircraft, Inc.
821 East Aircraft Rd.
Palmer, AK. 99645

Section 7.9 Rights or Remedies

No right or remedy herein conferred upon or reserved to Lessor is intended to be exclusive or any other right or remedy, but is intended to be in addition to any right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

Section 7.10 Successors in Interest

This Lease shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

Section 7.11 Applicable Law and Forum

This Lease and the respective rights and obligations of the parties shall be construed and interpreted in accordance with the laws of the State of Alaska. Any civil action concerning this Lease shall be brought in Alaska District or Superior Court in Palmer, Alaska, only.

Section 7.12 Recordation of Lease

The parties prefer to record a memorandum of this Lease rather than the Lease itself and contemporaneously with the execution hereof they have executed a memorandum of Lease in the form of Attachment A which is attached hereto and may be recorded by either party. In the event it should be so require by any title company insuring title for Lessee, or by any lending institution from which Lessee proposed to make a loan, then Lessee may cause this Lease to be placed of record.

Section 7.13 Severability

The invalidity or unenforceability of any particular provision of this Lease shall not affect any remaining provisions hereof, and, in any such event this Lease shall be construed and interpreted in all respects as if such invalid or unenforceable provision were omitted.

Section 7.14 Construction

Lessee and Guarantor have been advised to have this Lease and the Guaranty reviewed by their own attorney. The parties agree that this Lease and Guaranty shall not be construed more strictly against one party than the other nor shall this lease be construed against the lessor.

7.15 Gender and Plurality

Unless the context of this Lease clearly requires a different interpretation of construction, all references to masculine, feminine or neuter genders shall be construed to refer to all such genders; and all references to the singular shall also include the plural, and vice versa.

Section 7.16 Joint and Several Liability

The obligations of each Lessee are joint and several.

Section 7.17 Entire Agreement

This written Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior or contemporaneous agreements, oral or written, between the parties not included herein. No modifications, amendments, deletions, additions or alterations of this Lease shall be effective unless in writing and signed by all of the parties hereto or such representatives of the parties as have been duly authorized to make such change.

LESSOR: CITY OF PALMER

By: _____
Nathan E. Wallace, City Manager

Date: _____

NOTARY

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 20____, before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared, Nathan E. Wallace, known to me to be the identical individual described in and who executed the within and foregoing LEASE AGREEMENT as City Manager of the City of

Palmer, freely and voluntarily on behalf of the City of Palmer for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

LESSEE: Custom Aircraft, Inc.

By: _____
Richard Walker, President

By: _____
Robin Walker, Secretary

Date: _____

Date: _____

NOTARY

STATE OF ALASKA)

)ss.

THIRD JUDICIAL DISTRICT)

This is to certify that on the _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, Richard Walker, President of the Corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the Corporation to execute the foregoing instruments as the free act and deed of the said Corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

Notary public in and for Alaska
My commission expires: _____

NOTARY

STATE OF ALASKA)

)ss.

THIRD JUDICIAL DISTRICT)

This is to certify that on the _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, Robin Walker, Secretary of the Corporation named in the forgoing instruments, acknowledged to me that he/she

had, in his/her official capacity is authorized by the Corporation to execute the foregoing instruments as the free act and deed of the said Corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

Notary public in and for Alaska
My commission expires: _____

GUARANTY

In consideration of Lessor leasing the Premises to Lessee, the undersigned, jointly and severally, hereby guarantee the punctual payment of rent, additional rent, and all other charges imposed by the Lease, and the timely performance by Lessee of all duties imposed on Lessee by the Lease.

Guarantor(s):

Richard Walker, individually

Date

NOTARY

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

This is to certify that on the ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, Richard Walker, known to me to be the person named in the foregoing instruments, acknowledged to me that he/she had executed the same for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

Notary public in and for Alaska
My commission expires: _____

"EXHIBIT A"

PALMER MUNICIPAL AIRPORT: TRACT B, LEASE LOT 31

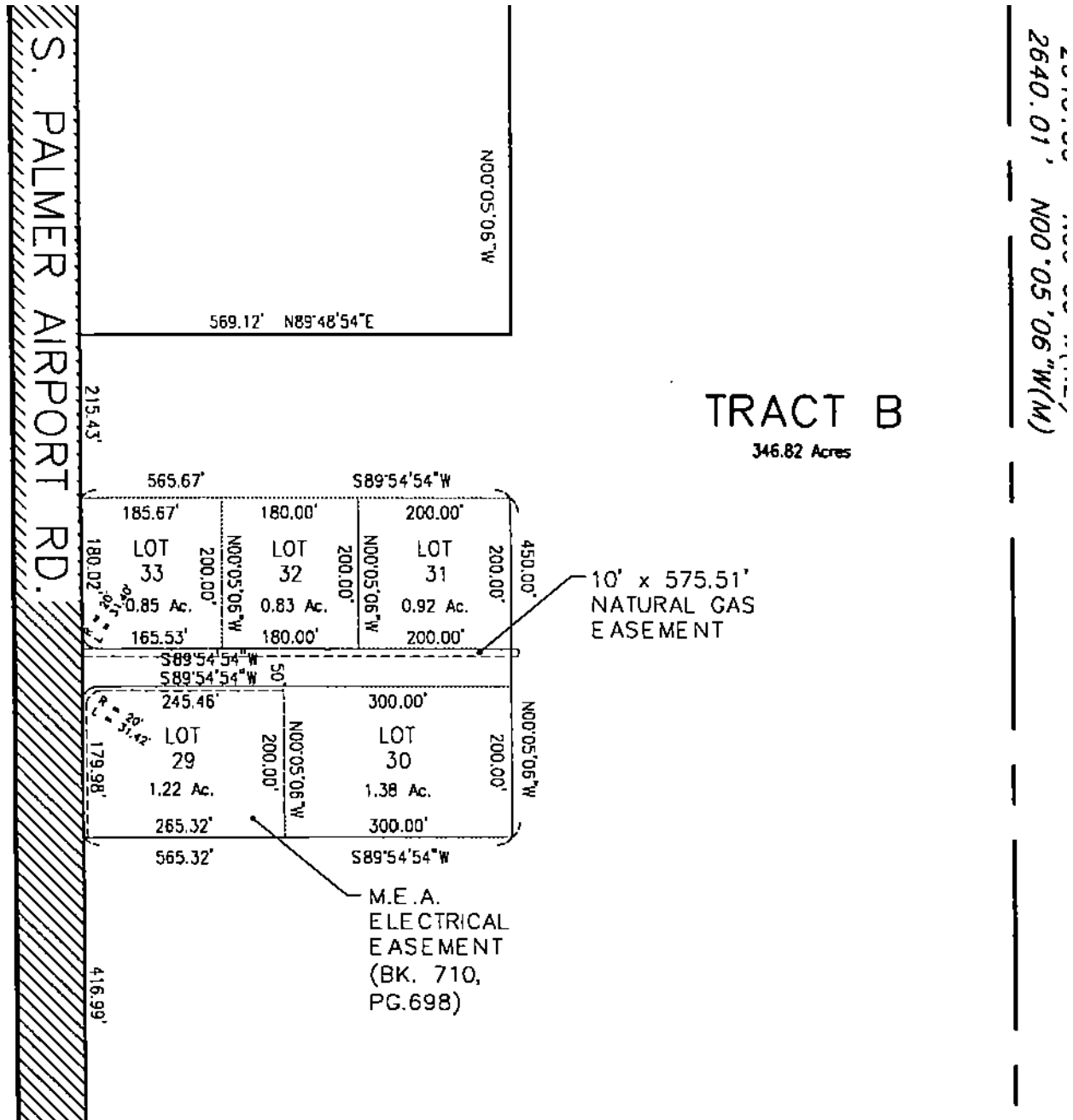


EXHIBIT B

CITY OF PALMER, PALMER MUNICIPAL AIRPORT

AGREEMENT AND CONSENT TO ASSIGNMENT
OF LEASE FOR SECURITY PURPOSES
AIRPORT REPLACEMENT LEASE NO. 17-001

This Agreement and Consent to Assignment of Lease for Security Purposes (this "Consent") is effective the _____ day of _____, 2017, between **THE CITY OF PALMER**, hereinafter called "Lessor," and **Alaska USA Federal Credit Union**, hereinafter called "Lender."

WITNESSETH

WHEREAS, on _____, Lessor entered into a Lease with **Custom Aircraft, Inc.**, hereinafter called "Lessee," which was recorded on _____, Serial No. _____, records of the Palmer Recording District (the "Lease"), with respect to the following-described real property:

Palmer Municipal Airport Tract B, Lot 31, located in the Palmer Recording District, Third Judicial District, State of Alaska and more particularly described as follows:

Commencing at the Section Corner common to Sections 3 and 4, Township 17 North, Range 2 East, Seward Meridian and Sections 33 and 34, Township 18 North, Range 2 East, Seward Meridian, Palmer Recording District, Third Judicial District, Palmer Alaska, monumented by a 2" standard brass cap, reset 1978, thence S 89°49'W for 665.00 feet; thence N 00°11'W for 889.00 feet to the True Point of Beginning; thence S89°49'W for 200.00 feet; then N 00°11'W for 200.00 feet; thence N 89°49'E for 200.00 feet; thence S 00°11'E for 200.00 feet to the True Point of the Beginning.

Containing 40,000 Square Feet or .918 acres, more or less, as shown on the drawing Exhibit A, attached hereto;

WHEREAS, Lessee has agreed to assign Lessee's interest under such Lease to Lender as security for a loan, evidenced by a promissory note, in the principal sum of **Two Hundred Thirty Thousand (\$230,000.00)**, or to secure the loan by a commercial deed of trust, subject to Lessor's consent; and

WHEREAS, the parties hereto desire to enter into an agreement respecting their interests with respect to such assignment and deed of trust,

IT IS AGREED:

1. Representations: Lessee has the right to assign the Lease and Rents hereby assigned and no other person or entity has any right, title or interest therein, subject to the provisions of the Use Provision (below), Federal Aviation Administration regulations and airport grant assurances.

EXHIBIT B

2. Use: Use of Subject Property. The parties agree that the Subject Property will be used only for aeronautical purposes, and that further assignment or subletting shall be subject to the prior written consent of Lessor, which shall not be unreasonably denied.

3. Lessor's Consent. Lessor does hereby consent to said assignment as collateral security for purposes specified herein and to Lessee's execution, delivery and recording of the deed of trust encumbering the Leasehold interest of Lessee and all improvements installed by lessee on the premises. By virtue of said assignment, Lender shall incur no obligations of Lessee under said Lease and Lessee shall remain liable for the rent and all other obligations to Lessor under said Lease, except as expressly provided herein.

4. Notice of Default; Termination of Lease. Lessor will provide Lender and Lessee copies of any notice of default required to be given by Lessor to Lessee under the terms of the Lease. Lessor may deliver copies of written notices to Lender via e-mail but the written notice required by this Agreement and Consent also shall be delivered as set forth in Section 8, below. Lender shall have the right, at its option, to cure any default by Lessee within the time periods set forth in the Lease. Any such curative action by Lender shall be the equivalent of curative action by Lessee. Such curative action shall not alone, however, constitute Lender being deemed to be in possession of the premises. If, after Lessor gives notice of default as provided herein and neither Lender nor Lender has cured such default or taken reasonable steps to commence the remedy of such default in accordance with the provisions of the Lease, then Lessor may terminate the Lease or pursue any other right or remedy against Lessee available to it under the Lease.

5. Notice to Lessor. Concurrent with any notice provided to Lessee, Lender agrees to provide notice to Lessor of any default by Lessee under any promissory note, deed of trust or other instrument related to this Consent, and shall provide notice to Lessor of any extension, renewal, rearrangement, acceleration, or release relative to the same.

6. Responsibility of Lender. In accepting the security interest in the Lease, Lender assumes no responsibility or liability for the performance by Lessee of its duties and obligations, except as to such period of time, if any, during which Lender is in actual physical possession of the premises. Lender shall be deemed in "actual physical possession" of the premises if it changes the locks on the premises or otherwise takes steps to preclude Lessee and others from gaining access to the premises without its prior consent. In the event Lender takes actual physical possession of the property, it shall subject to and be governed by the provisions of the Lease in the same manner as though Lender were the original lessee and shall perform the obligations of Lessee under the Lease which accrue during the period ninety (90) days prior to the delivery of the notice of default by Lessor to Lender and which accrue while Lender remains in actual physical possession of the premises. In addition, Lender shall provide any proof of insurance and arrange for performance of any maintenance obligations as required under the Lease. Lender shall also secure the premises and comply with all terms of the Lease. Notwithstanding the foregoing, Lender shall not assume or be responsible for any indemnity obligation of Lessee that has accrued prior to the date Lender takes physical possession. Lender shall have no obligation for pollution or hazardous waste contamination which existed prior to Lender taking actual physical possession of the premises even if such pollution contamination is discovered after Lender takes such possession. Lender shall only be responsible for any pollution or hazardous waste contamination that results from Lender's activities while in actual physical possession of the premise.

7. Foreclosure and Sale. In the event of a default by Lessee under the terms and conditions of the promissory note, deed of trust, and other related security documents or the Lease, Lender may foreclose its security interest in the Leasehold with or without taking physical

EXHIBIT B

possession of the premises. In the event Lender becomes the owner of Lessee's interest in the Lease by foreclosure, deed in lieu of foreclosure, or otherwise, it shall be entitled to sell or transfer Lessee's interest in the Lease to a third party under such terms and conditions as Lender may elect; provided that, a sale or transfer of Lessee's interest to a third party by Lender shall be subject to the consent of the Lessor. The consent of the Lessor shall not be unreasonably withheld, conditioned or delayed so long as the third party agrees to cure all defaults, if any, under the Lease, demonstrates it has the financial ability to perform all obligations under the Lease, and assumes and agrees to be bound by all the terms and conditions of the Lease. In the event the Lender transfers Lessee's interest in the Lease to a third party in accordance with the foregoing, Lender shall have no further duty or obligation under the Lease. In the event Lender elects to relinquish possession of the premises to Lessor for any reason, it shall give not less than thirty (30) days prior notice to Lessor. In such event, effective upon the date possession is relinquished to Lessor, Lender shall have no further obligation under the Lease, or this Consent, except for its responsibility for rent and pollution or hazardous waste contamination that results from Lender's activities as described in Section 4, above. In such event, Lender shall relinquish its lien on Lessee's interest in Lease. In the event Lender does not transfer Lessee's interest in the Lease to a third party, but instead elects to occupy the premises for Lender's purposes, Lender will provide a detailed explanation of its proposed use, and request Lessor approve Lender's assumption of Lessee's remaining obligations under the Lease. Lessor will not unreasonably withhold, condition or delay such consent. During the time Lender owns Lessee's interest in the Lease, and so long as the rental payments, insurance, utility and maintenance requirements of the Lease are being properly performed, Lender may keep such interest and diligently and in a commercially reasonable manner attempt to assign or sell Lessee's interest or Lender may elect to relinquish possession of the property to Lessor as provided above, all within such time period as Lender deems commercially reasonable; provided that, Lender shall at all times perform all obligations under the Lease.

8. Possession of Security. Notwithstanding any provision in the Lease to the contrary, no improvement constructed and no personal property of Lessee shall become the property of Lessor until such time as Lender is paid in full or Lender has relinquished its lien on Lessee's interest in the premises or the personal property, or the Lease has terminated as in accordance with the terms of the Lease and this Consent. Lessor agrees to subordinate (i) any landlord's lien or any other possessory lien and (ii) any right of possession or sale which Lessor may have against any asset in which Lender has a security interest and which is located on or permanently affixed to the property subject to the Lease. In the event the Lender elects not to take physical possession of the premises under the Lease, it shall be authorized to go upon the property for purposes of removing its remaining collateral. Such action shall not, however, constitute Lender being deemed to be in actual physical possession of the property. Lender shall be liable for all damages to the premises caused by removing the collateral. Subject to provision of insurance and payment of rent due under the Lease which accrue during the period needed to conduct a sale, Lender shall also have access to the premises for the purpose of an onsite liquidation sale of its collateral.

9. Insurance and Condemnation Proceeds. Insurance and condemnation proceeds payable by any entity as a result of loss, damage or a taking of any interest of Lessee related to the premises shall, irrespective of the named insured or loss payee and notwithstanding any claims or offsets to which Lessor is otherwise entitled, be made by check payable jointly to Lender. Lender shall have the option of applying all such proceeds to the remaining balance due on the Note. Any remaining proceeds shall be paid to Lessor for payment to Lessor and Lessee in accordance with the provisions of the Lease.

EXHIBIT B

10. Notices. All notices, requests and demands to or upon the respective parties hereto shall be in writing and shall be deemed to have been duly given or made: if delivered in person, immediately upon delivery; if by facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by registered or certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this section):

Lessor's address: City Manager
City of Palmer
231 W. Evergreen Ave.
Palmer, AK. 99645

Lessee's address: Custom Aircraft, Inc.
821 East Aircraft Rd.
Palmer, AK. 99645

11. Miscellaneous. This Consent shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Consent. This Consent shall be governed by and construed in accordance with the laws of the State of Alaska. Each person executing this Consent on behalf of Lessor and Lender represents and warrants to the other party that he or she has full power and authority to execute this Consent on Lessor's or Lender's behalf. Neither party shall be deemed to have waived any rights under this Consent unless such waiver is in writing and signed by the party. No delay or omission on the part of Lender or Lessor in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender or Lessor of a provision of this Consent shall not constitute a waiver of or prejudice Lender's or Lessor's right otherwise to demand strict compliance with that provision or any other provision. Whenever consent by Lender or Lessor is required in this Consent, the granting of such consent by Lender or Lessor in any one instance shall not constitute continuing consent to subsequent instances where such consent is required. This Consent may only be modified in a writing signed by both parties. If either party shall employ counsel in connection with enforcement of its rights under this Consent, the prevailing party shall be entitled to recover reasonable attorney's fees and costs from the other party. This Consent shall continue in effect for so long as either party owes any duty or obligation to the other. This Consent shall not be construed against the party that prepared it. Notwithstanding any of the foregoing limitations, nothing contained herein is intended to or shall preclude Lessor from declaring a default under the Lease and resorting to any available remedy, if any of Lessee's duties and obligations are not fully performed in accordance with the terms of the Lease. The provisions of this Consent do not alter the rights of Lessor as against the Lessee under the Lease.

12. Jurisdiction. The parties hereto hereby consent to the exclusive jurisdiction of the courts of the State of Alaska, Third Judicial District, located in Palmer, Alaska, in any action or proceeding under, arising out of or related to this Consent. In any action, suit or other proceeding, each of the parties hereto irrevocably and unconditionally waives and agrees not to assert by way of motion, as a defense or otherwise any claims that it is not subject to the jurisdiction of the above court, that such action or suit is brought in an inconvenient forum or that the venue of such action, suit or other proceeding is improper.

EXHIBIT B

13. Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER, ARISING OUT OF OR RELATED TO THIS AGREEMENT AND CONSENT.

14. Counterparts. This Consent may be executed in counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument.

LESSOR: CITY OF PALMER

Dated: _____

By: Nathan E. Wallace
Title: City Manager

LENDER: Alaska USA Federal Credit Union

Dated: _____

By: Matt Williams
Title: Senior Business Lending Officer

PUBLIC OFFICER ACKNOWLEDGEMENT

State of Alaska)
) ss.
Third Judicial District)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Nathen E. Wallace, the City Manager of the City of Palmer.

Notary Public, State of Alaska
My Commission Expires: _____

FEDERAL CREDIT UNION ACKNOWLEDGEMENT

State of Alaska)
) ss.
Third Judicial District)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Matt Williams, Senior Business Lending Officer of Alaska USA Federal Credit Union, a Loan Officer, on behalf of the Federal Credit Union.

Notary Public, State of Alaska
My Commission Expires: _____