



## CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Drew Nelson - City Administrator	December 6, 2022

### **ITEM**

Hangar Ground Lease Agreements for Harriet Alexander Field

### **BACKGROUND**

Harriet Alexander Field is owned and operated by a partnership between Chaffee County and the City of Salida. The airport is managed by a board made up of representatives of both the City and County, and the board makes operational recommendations to both the Board of County Commissioners and the City Council.

The Airport Advisory Board routinely recommends approval of ground leases to allow private parties to construct and occupy airplane hangars on the property of Harriet Alexander Field. Recently, two agreements for hangar sites were extended to Salida Airplane Hangar LLC (represented by Philip Sterling) and Mark Klingersmith, respectively. The attached ground leases would allow for establishment of the lease and hangar to Salida Airplane Hangar LLC and Mr. Klingersmith with the same term as other hangar owners. The term for the lease is for twenty (20) years, with an option for both to renew at the end of the term.

### **FISCAL NOTE**

The attached ground leases provide for an annual revenue for the airport of \$0.2111 per square foot of area rented (4,900 and 1,440 square feet respectively). This would equate to \$1,338.32 per year, with adjustments for inflation.

### **STAFF RECOMMENDATION**

Staff recommends that the City Council approve the Ground Lease with Salida Airplane Hangar LLC and Mark Klingersmith, as recommended by the Airport Advisory Board.

### **SUGGESTED MOTION**

A City Councilperson should state, "I move to combine and approve the Consent Agenda", followed by a second and a roll call vote.

Lessee (name): Salida Airplane Hangar LLC	Lessee's mailing address: 348 H St Salida CO 81201
Lessee's email: philip.sterling@gmail.com	Lessee's phone: 714 727 5494
Date of Agreement: 10/20/22	12/1/22 start date

## GROUND LEASE

This lease agreement is entered into by and between the City of Salida, Colorado, a municipal corporation, and Chaffee County Colorado/the Board of Commissioners of Chaffee County (collectively "Lessors"), and Lessee (identified above), as of the above date.

## RECITALS

- A. Lessors are the owners of that land comprising approximately 210 acres, more or less, known as the Salida/Chaffee County Airport, also known as Harriet Alexander Field (hereinafter "Airport"); and
- B. Lessee desires to lease from Lessors a portion of the Airport for the purpose of constructing and/or occupying an aircraft hangar or other aircraft-related facility as more particularly described below; and
- C. Lessors are willing to lease to Lessee the below described portion of Airport pursuant to the terms and conditions also set forth below.

## AGREEMENT

In consideration of the terms, conditions and promises as set forth herein, the parties agree and covenant as follows:

1. **Leased Premises.** Lessors hereby lease to Lessee that unsubdivided portion of the Airport property described on the attached Exhibit A (the "Leased Premises"). THE LEASED PREMISES CONSIST OF THE FOOTPRINT OF THE BUILDING ALREADY CONSTRUCTED OR TO BE CONSTRUCTED BY THE LESSEE PLUS A MAINTENANCE/ACCESS EASEMENT OF FIVE FEET AROUND SAID FOOTPRINT.
2. **Vacant Land.** Lessee acknowledges that the Leased Premises are comprised solely of vacant land [and certain improvements] and that Lessors have no obligation to provide Lessee any improvements, services, fixtures or utilities to the Leased Premises, except as expressly provided in this Ground Lease.
3. **Use of the Leased Premises.** Lessee shall use the Leased Premises solely for the parking, storage and maintenance of Lessee's personal private aircraft, and for associated accessory activities. "Maintenance" shall not include welding, open flame operations, or the use of Class I or Class II liquids as defined in the most recent edition of the Chaffee County Uniform Building Code. Lessee shall not operate or allow commercial business operations of any kind to be performed on the Leased Premises absent Lessors' express written consent and the execution of a Commercial Operator's Agreement. Lessee shall install and properly maintain not less than one fire extinguisher and shall comply with applicable fire code regulations with respect to any structure on the Leased Premises. Except to the extent contained in the fuel tanks of aircraft and automobiles or expressly permitted by this Ground Lease, Lessee may not store any fuel or gasoline or hazardous or dangerous substances on the Leased Premises. Lessee may store up to five gallons of aviation fuel or gasoline on the Leased Premises in an OSHA or UL approved container. Lessee may install antennae not exceeding six feet in height above the highest point on any hangar or structure constructed or placed on the premises by Lessee, so long as such antennae comply in all respects with Federal Aviation Administration ("FAA") regulations and do not create an obstruction or threat to air navigation. New buildings and structures must conform to all adopted FAA regulations, commercial building, fire, mechanical, electrical and plumbing codes as well as the airport architectural

standards. Violations not corrected within 90 days will constitute a violation resulting in cancellation of the lease.

**4. Maintenance of Leased Premises.** Lessee shall at all times maintain the Leased Premises and all improvements to the Leased Premises in good condition and state of repair and shall not allow fire hazards, ice and snow, weeds, trash, debris or other unsightly objects to accumulate or be stored on or around the Leased Premises or otherwise interfere with the Airport facilities. No outside storage is allowed,

**5. Signs.** Lessee shall not place any signs, logos or emblems on the Leased Premises or on any improvements to the Leased Premises, except for a sign not larger than four square feet in size that identifies Lessee as the occupant of the Leased Premises. All signs shall be installed in compliance with the building and/or sign regulations of Chaffee County and/or other governing jurisdiction.

**6. Term and Option to Renew.**

(a) Subject to earlier termination as provided for in this Ground Lease, the initial term of this lease shall begin on the date of this Ground Lease, as set forth above, and terminate twenty years later, unless earlier terminated as provided for in this Ground Lease.

(b) Provided Lessee is not in violation or breach of any terms or conditions of this Ground Lease and provided the lease complies with the then current airport master plan, Lessee may renew and extend this Ground Lease for up to an additional twenty years (the "Option Term") upon written notice to Lessor submitted at least 120 days prior to the expiration of the initial and term. The Option Term shall be subject to the same terms and conditions as set forth in this Ground Lease, except that the rent for the first year of the Option Term shall be adjusted to the prevailing rates, based upon the most recently executed ground lease, adjusted for the then current CPI-U (defined below). The rent for subsequent years of the Option Term shall be adjusted as provided below. In the event Lessee remains in possession of the Leased Premises for any period after the expiration of the 20-year initial lease term, without a written agreement between the parties for an Option Term, a new month-to-month tenancy shall be created subject to the same terms and conditions of this Lease at a monthly rental rate to be determined as provided below, unless otherwise agreed by the parties in writing. Such month-to-month tenancy shall be terminable on thirty (30) days' notice by either party or on longer notice if required by law.

**7. Rent.**

(a) Lessee shall pay to Lessors total annual rent of \$1034.39 for a total of 4400 sq. ft. As of May 1, 2012, the lease rate was \$0.17 per square foot, which is adjusted annually as of May 1. Beginning April 30, 2013 and every year thereafter for the lease term, the rate adjusts in accordance with subparagraph (b), below. The CPI adjusted rate effective May 1, 2021 will be \$0.2111 per square foot. Lessee shall pay the rent annually, in advance, without notice or demand, with the first payment due on the first day of the lease term, except that for the first year of this Ground Lease, rent shall be pro-rated, if necessary, from the beginning date of this Ground Lease through the following April 30, 20 . For subsequent years, rent shall be due on May 1.

(b) Rent shall be adjusted annually in accordance with any increase in the United States Bureau of Labor Statistics Consumer Price Index for all items and urban consumers (the CPI-U) for the Denver-Boulder area, . The adjustment shall reflect any increase in the CPI-U for annual period beginning from the time rent was last set or adjusted. Should the United States Bureau of Labor Statistics cease publication of the CPI-U for the Denver-Boulder area, then future rent adjustments shall be based upon and correspond to the rate of "local growth" for the annual period as defined in Article X, § 20(2)(g) of the Colorado Constitution and determined by the Chaffee County Assessor pursuant to C.R.S. § 39-5-121(2)(b). In no event shall the rental rate be reduced absent the prior written consent of Lessors, regardless as to any decrease in the CPI-U or local growth rate from the time rent was last set or adjusted. Lessors shall use their best efforts to advise Lessee of the adjusted rent amount at least one month prior to the rent payment due date, but failure of Lessors to so notify Lessee shall not relieve Lessee of its obligation to pay the increased rent.

(c) Lessee shall make and/or direct all rent payments to the location and/or to the person or entity designated by the Airport Manager in writing. If no such designation is made, rent shall be paid to: Chaffee County Airport Fund, c/o Chaffee County, Attention Finance Department, P. O. Box 699, Salida Colorado 81201.

(d) Interest shall accrue on any past due rent payment at the rate of 1.5% per month or 18% per annum. Such interest shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessors from exercising any of the other rights and remedies under this Ground Lease.

**8. Common Airport Facilities/ CLOSURES.** Lessee is granted in common with other lessees, or persons similarly authorized, the non-exclusive use of all common Airport facilities including, but not limited to, the landing field, runways and taxiways (inclusive of any future enlargement or extensions thereof), roadways, aprons, fueling facilities, flood lights, landing lights, beacons, radio aids, and such other airport facilities as may exist and are available for use by the general aviation public. LESSEE ACKNOWLEDGES THAT REPAIRS OR IMPROVEMENTS TO RUNWAYS OR OTHER AIRPORT FACILITIES OR STATE OR FEDERAL MANDATES MAY REQUIRE THE CLOSURE OF THE AIRPORT OR THE TEMPORARY OR PERMANENT RESTRICTION OF ITS USE. SUCH ACTIVITIES SHALL NOT CAUSE ANY REDUCTION IN THE RENT DUE HEREUNDER. LESSEE FURTHER ACKNOWLEDGES THAT THIS LEASE IS SUBJECT TO THE LESSORS CONTINUING TO OPERATE THE AIRPORT FACILITIES IN THEIR CURRENT LOCATION AND LESSORS MAY TERMINATE THIS LEASE, WITHOUT RECOURSE TO LESSORS, IF LESSORS, FOR WHATEVER REASON NO LONGER OPERATE THE AIRPORT IN ITS CURRENT LOCATION.

**9. Right of Ingress and Egress.** Lessee shall at all times have a right of reasonable ingress to and egress from the Leased Premises over and across the Airport to public ways and roads, which right shall extend to Lessee's employees, agents, customers, guests and other invitees. Such right shall also extend to persons or businesses supplying materials or services to Lessee, and shall include access and egress for vehicles, machinery and equipment reasonably required by Lessee and those persons or entities specified in this paragraph. SUCH RIGHT SHALL NOT BE EXERCISED IN A WAY THAT INTERFERES WITH THE USE OF THE AIRPORT BY OTHERS OR THAT IS IN VIOLATION OF ANY DULY ADOPTED AIRPORT RULES OR POLICIES. LESSEE ACKNOWLEDGES SUCH RIGHT MAY NOT INCLUDE VEHICLE ACCESS TO HANGARS, AS DETERMINED BY THE AIRPORT MANAGER

#### **10. Hangar Construction and Improvements.**

(a) If there are no improvements on the Leased Premises, Lessee shall be required to install, improvements on the Leased Premises, such improvements to be limited to one aircraft storage hangar and any accessory hard surfaces (ramp/access taxiway), and/or such other structures as specifically authorized in writing in advance by Lessors. The design and materials to be used in the construction repair, other than routine maintenance, or restoration of any hangar, structure or hard surface shall be approved in advance in writing by Lessors. Within thirty days from the beginning of this Ground Lease, Lessee shall submit a detailed description, inclusive of engineered drawings/plans, to Lessors together with a cost estimate for all structures or other improvements Lessee desires to install, repair or rebuild on the Leased Premises. No installation or construction shall occur on the Leased Premises or upon common Airport property until the Airport Manager has specifically approved same in writing and all necessary third-party permits have been issued, including local building permits and such permits or approvals as may be necessary from the Federal Aviation Administration (e.g., FAA Form 7460, Notice of Proposed Construction). All improvements must be completed per the building department permit timeframe and the Airport Manager has approved the construction.

(b) The installation/construction of all structures and hard surfaces shall comply with the then-current Commercial Building Code, Airport Master Plan, the Minimum Standards for Hangar Construction and the Airport Storm Water Management Plan then in effect for the Airport. No structure shall be constructed within five feet of the perimeter boundary of the Leased Premises. Lessee shall maintain the Leased



Premises in a safe and orderly condition during any and all construction/installation activities, and shall not allow construction materials, activities or debris to invade or impinge upon common Airport facilities (e.g., ramps, taxiways or roadways) or other leased premises. The Airport Manager may, upon request by Lessee and/or in order to minimize the disruption of normal Airport operations, allow or direct the temporary use by Lessee of non-leased Airport property for construction staging and/or material storage during any period of construction/installation. Lessee's installation or extension of any utility lines or services (i.e., water, sewer, electricity or gas) as part of any construction or improvement must be approved in advance and in writing by Lessors.

(c) Lessee shall affirmatively notify all persons or entities undertaking any work on the Leased Premises, including persons engaged in planning, design, construction or repair, and/or persons supplying any labor, materials or equipment pursuant to such work, that as publicly-owned property, the Leased Premises are not subject to lien for a failure to pay for such work, labor or materials, and Lessee shall, in accordance with C.R.S. § 38-22-105(2), post and keep posted a written notice to the same effect in some conspicuous place upon the Leased Premises during any and all such work.

(d) Except as otherwise provided for in this Ground Lease, all hangars, buildings, fixtures, structures or other improvements bought, installed, erected, constructed or placed on the Leased Premises by Lessee shall be deemed to be personal property for purposes of this lease and shall remain the property of Lessee; and Lessee shall, unless otherwise authorized in writing in advance by Lessors, remove such property upon the expiration or termination of the lease, subject to Lessee's obligation to repair all damage, if any, resulting to the Leased Premises or Lessors' property by such removal. Lessee shall be allowed up to sixty days after the expiration or termination of the lease to remove any and all such property, during which time Lessee shall be obliged to continue to pay rent on a prorated basis until such removal is completed. In the discretion of the Lessors, any and all property, inclusive of hangars, buildings and fixtures, not removed by Lessee within the time allotted for same may become part of the Leased Premises and title to such property shall automatically vest in Lessors, individually or jointly, to the extent that Lessors individually or jointly own the land underlying such property. If Lessee abandons any improvement or property on the Leased Premises or fails to remove such improvement or property as required, above, Lessors may, in its sole discretion, take title to or remove same, at any time Lessors may determine, at Lessee's cost.

(e) Any aircraft hangar constructed by Lessee may be used for the temporary storage of motor vehicles while Lessee's aircraft is in use. Lessee may also allow other aircraft owners to temporarily occupy Lessee's hangar while performing maintenance or repairs on their personal aircraft. Collection of rental or sublease fees shall constitute a commercial operation and require a commercial operators agreement.

**11. Utilities.** Lessee shall timely and fully pay for all utility services installed and used on the Leased Premises. In no event shall a septic system be installed or used on the Leased Premises absent Lessors' written consent and the issuance of all necessary permits. Lessors may require Lessee, at Lessee's cost, to connect any water-using facility on the Leased Premises to a sanitary sewer system if a sanitary sewer main line becomes available within 400 feet of the Leased Premises and to remove any leach fields

**12. Taxes and Assessments.** Lessee shall timely pay all real and personal property taxes and assessments, including without limitation possessory interest assessments, levied or imposed against the Leased Premises as the result of Lessee's occupancy and/or use of same, and upon any improvements installed and owned by Lessee thereon.

**13. Subletting, Assignment and Sales.**

(a) Lessee may not assign any of the rights, benefits or obligations, in whole or in part, inhering to it under this Ground Lease, nor may Lessee sell or sublet any area, space or structure to any third party, whether by merge, operation of law or otherwise, absent the prior written consent of Lessors, which consent may be granted or withheld solely within the reasonable discretion of Lessors. Any sublease shall constitute a commercial operation and require a commercial operators agreement.

For the purpose of this section any change of control of Lessee shall be deemed to constitute an assignment.

- (b) If Lessee assigns or sublets under this Ground Lease, Lessee shall continue to remain primarily responsible for its full and timely performance under this lease unless Lessors otherwise specifically consent in writing. If Lessee sells any area, space or structure, the third party shall execute a separate Ground Lease.
- (c) Lessors or either of them may freely and at their convenience assign any or all of its rights, benefits and obligations under this agreement at any time.

#### **14. Compliance with Governmental Regulations.**

(a) Lessee shall faithfully and timely abide by and conform to all laws and governmental orders, rules and regulations, including future amendments thereto, controlling or in any manner affecting the use, operations or maintenance of the Airport or the Leased Premises, particularly FAA orders and regulations, and inclusive of local ordinances and airport regulations adopted by Lessors and/or Chaffee County, or any airport commission authorized to oversee operations at the Airport. LESSEE HEREBY ACKNOWLEDGES THE AUTHORITY OF THE AIRPORT MANAGER TO ENFORCE SUCH RULES IN ADDITION TO OTHER DULY APPOINTED PERSONNEL.

(b) Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises and/or improvements to the Leased Premises, (2) that in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Leased Premises and improvements on the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

#### **15. Insurance.**

(a) Lessee shall at its sole cost and expense procure and maintain in force a policy of general liability insurance insuring the Leased Premises and Lessee against loss or injury to any person or property arising from Lessee's use and/or occupancy of the Leased Premises and any improvements thereon. Such insurance policy shall be issued by a company authorized to do business in Colorado and shall be in an amount not less than those limits of liability established from time to time for governmental entities under the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-114. Currently, such limits are \$387,000.00 per person and \$1,093,000.00 per occurrence. The City of Salida and Chaffee County, at Lessee's sole expense, shall be named co-insureds or additional insureds on all insurance policies required under this lease, and such insurance shall act as primary insurance with respect to all claims, injuries or casualties occurring on or to, or arising from, the Lessee's occupancy and/or use of the Leased Premises. Lessee shall promptly increase its coverage, if necessary, due to changes in the above-described statute or other law and Lessors' failure to inform Lessee of any increased coverage requirements shall not affect Lessee's obligation.

(b) Lessee shall annually furnish the Airport Manager with copies or company-issued certificates of insurance policies obtained by Lessee in compliance with this paragraph 15. The certificates and coverages required by this paragraph 15 shall contain a provision requiring that the companies issuing such policies automatically and directly notify Lessors in writing and at least 30 days in advance of any amendment or cancellation of such policy or policies.

**16. Release and Indemnification.** Lessee forever releases, waives and discharges Lessors and all persons acting on Lessors' behalf from all claims, suits and causes of action relating to any injury or loss Lessee may sustain in any way connected with the Leased Property, including personal injuries, death or property damage, or injury or loss in connection with Lessee's presence on the Leased Premises, common Airport facilities or other Airport facilities or property, Lessee shall indemnify and hold harmless Lessors and all persons acting on Lessors' behalf against all claims and losses (including interest and attorneys' fees and expenses) resulting from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises; Lessee agrees that if the Lessors, without any fault on their part, shall be made a party to any litigation commenced by or against the Lessee arising from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises, then Lessee shall pay and/or advance all costs in connection with such litigation, including reasonable attorney fees and litigation costs paid by either Lessor.

**17. Damage to Improvements.** If any improvements owned by Lessee on the Leased Premises are damaged or destroyed, in whole or in part, Lessee shall, within sixty days of the damage or destruction, perform one of the following:

- repair, restore or rebuild same to their condition and operational status as existed prior to such damage or destruction; OR
- furnish a performance and payment bond, in an amount at least equal to the cost of removing all damaged or destroyed improvements and any other debris and restoring the Leased Premises to the conditions existing at the time Lessee first entered onto the Leased Premises, as security for the faithful performance and payment of Lessee's obligations under this Ground Lease.

Rent shall not be reduced or abated during any period in which improvements, or parts of same, are not available for use by Lessee.

**18. Right to Mortgage.** Lessee may mortgage or otherwise encumber all or any portion of its owned improvements and its leasehold interests under this Ground Lease. Lessors, upon request, may subordinate their interests herein to any lending or financing agency for the term of the lease, provided such subordination cannot and shall not have the effect of permitting a mortgagee or trustee to own or claim an ownership interest in the Leased Premises, and that such mortgagee or trustee is approved in writing in advance by Lessors, which approval shall not be unreasonably withheld. IF, DUE TO FORECLOSURE OR OTHER DEFAULT UNDER THE TERMS OF SUCH MORTGAGE, ANY MORTGAGEE BECOMES THE OWNER OF THE IMPROVEMENTS CONSTRUCTED HEREUNDER, SUCH MORTGAGEE SHALL BE SUBJECT TO THE TERMS AND OBLIGATIONS OF THE LESSEE HEREUNDER.

**19. Lessee's Default.** If Lessee violates any of the terms or conditions of this Ground Lease, and continues in such violation(s) for a period of 30 days after written notice thereof by certified mail from the Airport Manager to Lessee, then Lessors shall have the election to declare this lease forfeited, and Lessee shall immediately surrender possession of the Leased Premises and any improvements owned and not removed by Lessee to Lessors. The Lessors' written notice shall specify the provision of the lease violated, the information available to Lessors upon which they rely in concluding that a violation exists, and the action required of Lessee to cure the violation.

**20. Lessors' Reserved Rights.** Lessors, on behalf of themselves and the Federal Aviation Administration, reserve the right and privilege during the term of this agreement to place on the Airport, inclusive of the Leased Premises, whatever instruments and/or equipment they or the FAA may determine are necessary or convenient to the safe and efficient operation of the Airport, so long as said instruments or equipment do not substantially interfere with Lessee's use of the Leased Premises or

reduce the structural integrity of Lessee's hangar or such other building as Lessee may have constructed on the Leased Premises. Lessors additionally reserve the right to further develop and otherwise change or improve the Airport, inclusive of all landing areas, taxiways, or access ways, as it deems necessary, and to take such other actions with respect to the Airport as Lessors see fit without hindrance or interference from Lessee, provided all of such developments or improvements are required by law, federal regulation, and/or are approved by the FAA. Lessors further reserve the right to from time to time temporarily or permanently close the Airport, or parts thereof, for any reason, including without limitation maintenance, construction or public safety purposes, immediately prior to which Lessors will make reasonable efforts to notify Lessee in advance thereof.

**21. Subordination.** This Ground Lease shall be subordinate to the provisions of any existing or future agreement between Lessors and the United States and/or the State of Colorado for the funding, operation or maintenance of the Airport.

**22. Inspection.** Lessors or their duly authorized representative shall have the right to inspect the Leased Premises and any improvements at all reasonable times upon reasonable prior notification to Lessee. Lessors shall also be entitled to enter the Leased Premises and any improvements, without prior notice, to make emergency repairs or to take emergency action necessary to protect or preserve human life or the property of the Airport.

**23. Notices.** In every case where notice is required or permitted in this lease, notice shall be deemed sufficient if (1) personally delivered or (2) mailed by certified mail, postage prepaid, properly addressed to the address contained herein, or such other address as shall be given in writing by one party to the other according to the provisions hereof.

If to Lessors: Chaffee County Commissioners  
P.O. Box 699  
Salida, CO 81201

With copy to:

Chaffee County Attorney  
P.O. Box 699  
Salida, CO 81201

If to Lessee, to the person and address listed at the beginning of this Ground Lease.

Notices shall be deemed to be given on the date of receipt, except that if delivery is refused, such notice shall be deemed given on the fifth day after it is sent.

**24. Liens.** Notwithstanding paragraph 18, above, Lessee shall not allow liens of any kind or duration to be asserted or maintained on the Leased Premises.

**25. Attorney Fees.** If either party brings an action to enforce the terms of this Ground Lease or declare rights under this Ground Lease, the prevailing party in such action shall be entitled to its reasonable attorney fees and costs against the non-prevailing party.

**26. Binding Effect.** This Ground Lease shall bind and benefit the parties hereto and their representatives, successors, and permitted assigns.

**27. Venue and Severability.** This Ground Lease shall be construed under the laws of the State of Colorado. Venue for any legal action between the parties brought to interpret or enforce the provisions of this agreement shall be the Colorado District Court in and for Chaffee County. Any covenant, condition, or provision herein which is held to be invalid by any court of competent jurisdiction shall be considered deleted from the lease, but such deletion shall in no way affect any other covenant, condition, or provision



herein so long as such deletion does not materially prejudice Lessors or Lessee in their respective rights and obligations contained in the valid covenants, conditions, or provisions of the lease,

28. **Waivers.** One or more waivers by Lessors of any term or condition of this agreement, or of Lessee's breach or violation thereof, shall not be construed or have the effect as a forgiveness or waiver of any other term or condition, or of any future or different breach or violation of the agreement by Lessee.

29. **Entire Agreement and Amendments.** This Ground Lease reflects and contains the entire agreement of the parties and supersedes all previous agreements entered into or contemplated by the parties with regard to the Airport. No negotiations, understandings, agreement or promises, verbal or otherwise, exist or are enforceable between the parties except as expressly set forth in this agreement, the provisions of which may only be amended, modified, or superseded by written agreement signed by both parties.

30. **Counterpart Signature Pages.** This Agreement may be signed using counterpart signature pages with the same force and effect as if both parties signed on the same signature page.

31. **Personal Guarantee.** The undersigned Guarantor acknowledges and understands that by affixing their signature below they assume personal responsibility to Lessor for any and all damages suffered by Lessor in the event of default or noncompliance by Lessee or any assignee of Lessee's with respect to the obligations hereunder. Guarantor's liability is joint and several and Lessor may pursue Guarantor for recovery whether or not Lessor has made any claim against Lessee. Guarantor shall be responsible for any and all of Lessee's obligations under this Lease. Lessee, Lessor and Guarantor acknowledge that this Guarantee is made in order to induce Lessor to enter into this Lease and this Guarantee shall remain in full force and effect unless it is expressly modified in a writing signed by Lessor, Lessee and Guarantor.

The parties acknowledge and agree to the foregoing provisions.

**LESSEE**

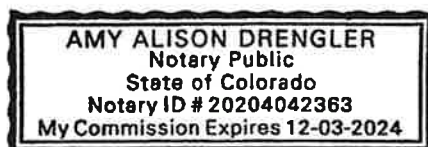
By: [Signature]  
Name: Philip Sterling  
Title: Manager

STATE OF Colorado )  
COUNTY OF Chaffee )ss.

The foregoing instrument was acknowledged before me by Philip Sterling as Manager  
this 20<sup>th</sup> day of October, 2022 of Salida Airplane Hanger LLC

Witness my hand and official seal.

My commission expires: 12-03-2024



[Signature]  
Notary Public

LESSORS

CHAFFEE COUNTY COLORADO/BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Greg Felt, Chairman

STATE OF COLORADO   )  
                                  )ss.  
COUNTY OF CHAFFEE   )

The foregoing instrument was acknowledged before me by Greg Felt, this 14<sup>th</sup> day of November, 2022

Witness my hand and official seal.

My commission expires: 10/2/2026

  
CITY OF SALIDA, COLORADO

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

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

STATE OF COLORADO   )  
                                  )ss.  
COUNTY OF CHAFFEE   )

The foregoing instrument was acknowledged before me by \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witness my hand and official seal.

My commission expires:

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

Lessee (name): Mark W. Klingensmith	Lessee's mailing address: 1940 Wynkoop Dr. Colo. Spgs. CO 80909
Lessee's email: mklingensmith@earthlink.net	Lessee's phone: (719) 761-3797
Date of Agreement: 11-10-22	Location: Hanger E

## GROUND LEASE

This lease agreement is entered into by and between the City of Salida, Colorado, a municipal corporation, and Chaffee County Colorado/the Board of Commissioners of Chaffee County (collectively "Lessors"), and Lessee (identified above), as of the above date.

## RECITALS

- A. Lessors are the owners of that land comprising approximately 210 acres, more or less, known as the Salida/Chaffee County Airport, also known as Harriet Alexander Field (hereinafter "Airport"); and
- B. Lessee desires to lease from Lessors a portion of the Airport for the purpose of constructing and/or occupying an aircraft hangar or other aircraft-related facility as more particularly described below; and
- C. Lessors are willing to lease to Lessee the below described portion of Airport pursuant to the terms and conditions also set forth below.

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1. **Leased Premises.** Lessors hereby lease to Lessee that unsubdivided portion of the Airport property described on the attached Exhibit A (the "Leased Premises"). THE LEASED PREMISES CONSIST OF THE FOOTPRINT OF THE BUILDING ALREADY CONSTRUCTED OR TO BE CONSTRUCTED BY THE LESSEE PLUS A MAINTENANCE/ACCESS EASEMENT OF FIVE FEET AROUND SAID FOOTPRINT.
2. **Vacant Land.** Lessee acknowledges that the Leased Premises are comprised solely of vacant land [and certain improvements] and that Lessors have no obligation to provide Lessee any improvements, services, fixtures or utilities to the Leased Premises, except as expressly provided in this Ground Lease.
3. **Use of the Leased Premises.** Lessee shall use the Leased Premises solely for the parking, storage and maintenance of Lessee's personal private aircraft, and for associated accessory activities. "Maintenance" shall not include welding, open flame operations, or the use of Class I or Class II liquids as defined in the most recent edition of the Chaffee County Uniform Building Code. Lessee shall not operate or allow commercial business operations of any kind to be performed on the Leased Premises absent Lessors' express written consent and the execution of a Commercial Operator's Agreement. Lessee shall install and properly maintain not less than one fire extinguisher and shall comply with applicable fire code regulations with respect to any structure on the Leased Premises. Except to the extent contained in the fuel tanks of aircraft and automobiles or expressly permitted by this Ground Lease, Lessee may not store any fuel or gasoline or hazardous or dangerous substances on the Leased Premises. Lessee may store up to five gallons of aviation fuel or gasoline on the Leased Premises in an OSHA or UL approved container. Lessee may install antennae not exceeding six feet in height above the highest point on any hangar or structure constructed or placed on the premises by Lessee, so long as such antennae comply in all respects with Federal Aviation Administration ("FAA") regulations and do not create an obstruction or threat to air navigation. New buildings and structures must conform to all adopted FAA regulations, commercial building, fire, mechanical, electrical and plumbing codes as well as the airport architectural

standards. Violations not corrected within 90 days will constitute a violation resulting in cancellation of the lease.

**4. Maintenance of Leased Premises.** Lessee shall at all times maintain the Leased Premises and all improvements to the Leased Premises in good condition and state of repair and shall not allow fire hazards, ice and snow, weeds, trash, debris or other unsightly objects to accumulate or be stored on or around the Leased Premises or otherwise interfere with the Airport facilities. No outside storage is allowed,

**5. Signs.** Lessee shall not place any signs, logos or emblems on the Leased Premises or on any improvements to the Leased Premises, except for a sign not larger than four square feet in size that identifies Lessee as the occupant of the Leased Premises. All signs shall be installed in compliance with the building and/or sign regulations of Chaffee County and/or other governing jurisdiction.

**6. Term and Option to Renew.**

(a) Subject to earlier termination as provided for in this Ground Lease, the initial term of this lease shall begin on the date of this Ground Lease, as set forth above, and terminate twenty years later, unless earlier terminated as provided for in this Ground Lease.

(b) Provided Lessee is not in violation or breach of any terms or conditions of this Ground Lease and provided the lease complies with the then current airport master plan, Lessee may renew and extend this Ground Lease for up to an additional twenty years (the "Option Term") upon written notice to Lessor submitted at least 120 days prior to the expiration of the initial and term. The Option Term shall be subject to the same terms and conditions as set forth in this Ground Lease, except that the rent for the first year of the Option Term shall be adjusted to the prevailing rates, based upon the most recently executed ground lease, adjusted for the then current CPI-U (defined below). The rent for subsequent years of the Option Term shall be adjusted as provided below. In the event Lessee remains in possession of the Leased Premises for any period after the expiration of the 20-year initial lease term, without a written agreement between the parties for an Option Term, a new month-to-month tenancy shall be created subject to the same terms and conditions of this Lease at a monthly rental rate to be determined as provided below, unless otherwise agreed by the parties in writing. Such month-to-month tenancy shall be terminable on thirty (30) days' notice by either party or on longer notice if required by law.

**7. Rent.**

(a) Lessee shall pay to Lessors total annual rent of ~~\$303.98~~ for a total of ~~1440~~ sq. ft. As of May 1, 2012, the lease rate was \$0.17 per square foot, which is adjusted annually as of May 1. Beginning April 30, 2013 and every year thereafter for the lease term, the rate adjusts in accordance with subparagraph (b), below. The CPI adjusted rate effective May 1, 2021 will be \$0.2111 per square foot. Lessee shall pay the rent annually, in advance, without notice or demand, with the first payment due on the first day of the lease term, except that for the first year of this Ground Lease, rent shall be pro-rated, if necessary, from the beginning date of this Ground Lease through the following April 30, 20~~23~~<sup>22</sup>. For subsequent years, rent shall be due on May 1.

(b) Rent shall be adjusted annually in accordance with any increase in the United States Bureau of Labor Statistics Consumer Price Index for all items and urban consumers (the CPI-U) for the Denver-Boulder area, . The adjustment shall reflect any increase in the CPI-U for annual period beginning from the time rent was last set or adjusted. Should the United States Bureau of Labor Statistics cease publication of the CPI-U for the Denver-Boulder area, then future rent adjustments shall be based upon and correspond to the rate of "local growth" for the annual period as defined in Article X, § 20(2)(g) of the Colorado Constitution and determined by the Chaffee County Assessor pursuant to C.R.S. § 39-5-121(2)(b). In no event shall the rental rate be reduced absent the prior written consent of Lessors, regardless as to any decrease in the CPI-U or local growth rate from the time rent was last set or adjusted. Lessors shall use their best efforts to advise Lessee of the adjusted rent amount at least one month prior to the rent payment due date, but failure of Lessors to so notify Lessee shall not relieve Lessee of its obligation to pay the increased rent.



(c) Lessee shall make and/or direct all rent payments to the location and/or to the person or entity designated by the Airport Manager in writing. If no such designation is made, rent shall be paid to: Chaffee County Airport Fund, c/o Chaffee County, Attention Finance Department, P. O. Box 699, Salida Colorado 81201.

(d) Interest shall accrue on any past due rent payment at the rate of 1.5% per month or 18% per annum. Such interest shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessors from exercising any of the other rights and remedies under this Ground Lease.

**8. Common Airport Facilities/ CLOSURES.** Lessee is granted in common with other lessees, or persons similarly authorized, the non-exclusive use of all common Airport facilities including, but not limited to, the landing field, runways and taxiways (inclusive of any future enlargement or extensions thereof), roadways, aprons, fueling facilities, flood lights, landing lights, beacons, radio aids, and such other airport facilities as may exist and are available for use by the general aviation public. LESSEE ACKNOWLEDGES THAT REPAIRS OR IMPROVEMENTS TO RUNWAYS OR OTHER AIRPORT FACILITIES OR STATE OR FEDERAL MANDATES MAY REQUIRE THE CLOSURE OF THE AIRPORT OR THE TEMPORARY OR PERMANENT RESTRICTION OF ITS USE. SUCH ACTIVITIES SHALL NOT CAUSE ANY REDUCTION IN THE RENT DUE HEREUNDER. LESSEE FURTHER ACKNOWLEDGES THAT THIS LEASE IS SUBJECT TO THE LESSORS CONTINUING TO OPERATE THE AIRPORT FACILITIES IN THEIR CURRENT LOCATION AND LESSORS MAY TERMINATE THIS LEASE, WITHOUT RECOURSE TO LESSORS, IF LESSORS, FOR WHATEVER REASON NO LONGER OPERATE THE AIRPORT IN ITS CURRENT LOCATION.

**9. Right of Ingress and Egress.** Lessee shall at all times have a right of reasonable ingress to and egress from the Leased Premises over and across the Airport to public ways and roads, which right shall extend to Lessee's employees, agents, customers, guests and other invitees. Such right shall also extend to persons or businesses supplying materials or services to Lessee, and shall include access and egress for vehicles, machinery and equipment reasonably required by Lessee and those persons or entities specified in this paragraph. SUCH RIGHT SHALL NOT BE EXERCISED IN A WAY THAT INTERFERES WITH THE USE OF THE AIRPORT BY OTHERS OR THAT IS IN VIOLATION OF ANY DULY ADOPTED AIRPORT RULES OR POLICIES. LESSEE ACKNOWLEDGES SUCH RIGHT MAY NOT INCLUDE VEHICLE ACCESS TO HANGARS, AS DETERMINED BY THE AIRPORT MANAGER

**10. Hangar Construction and Improvements.**

(a) If there are no improvements on the Leased Premises, Lessee shall be required to install, improvements on the Leased Premises, such improvements to be limited to one aircraft storage hangar and any accessory hard surfaces (ramp/access taxiway), and/or such other structures as specifically authorized in writing in advance by Lessors. The design and materials to be used in the construction repair, other than routine maintenance, or restoration of any hangar, structure or hard surface shall be approved in advance in writing by Lessors. Within thirty days from the beginning of this Ground Lease, Lessee shall submit a detailed description, inclusive of engineered drawings/plans, to Lessors together with a cost estimate for all structures or other improvements Lessee desires to install, repair or rebuild on the Leased Premises. No installation or construction shall occur on the Leased Premises or upon common Airport property until the Airport Manager has specifically approved same in writing and all necessary third-party permits have been issued, including local building permits and such permits or approvals as may be necessary from the Federal Aviation Administration (e.g., FAA Form 7460, Notice of Proposed Construction). All improvements must be completed per the building department permit timeframe and the Airport Manager has approved the construction.

(b) The installation/construction of all structures and hard surfaces shall comply with the then-current Commercial Building Code, Airport Master Plan, the Minimum Standards for Hangar Construction and the Airport Storm Water Management Plan then in effect for the Airport. No structure shall be constructed within five feet of the perimeter boundary of the Leased Premises. Lessee shall maintain the Leased

Premises in a safe and orderly condition during any and all construction/installation activities, and shall not allow construction materials, activities or debris to invade or impinge upon common Airport facilities (e.g., ramps, taxiways or roadways) or other leased premises. The Airport Manager may, upon request by Lessee and/or in order to minimize the disruption of normal Airport operations, allow or direct the temporary use by Lessee of non-leased Airport property for construction staging and/or material storage during any period of construction/installation. Lessee's installation or extension of any utility lines or services (i.e., water, sewer, electricity or gas) as part of any construction or improvement must be approved in advance and in writing by Lessors.

(c) Lessee shall affirmatively notify all persons or entities undertaking any work on the Leased Premises, including persons engaged in planning, design, construction or repair, and/or persons supplying any labor, materials or equipment pursuant to such work, that as publicly-owned property, the Leased Premises are not subject to lien for a failure to pay for such work, labor or materials, and Lessee shall, in accordance with C.R.S. § 38-22-105(2), post and keep posted a written notice to the same effect in some conspicuous place upon the Leased Premises during any and all such work.

(d) Except as otherwise provided for in this Ground Lease, all hangars, buildings, fixtures, structures or other improvements bought, installed, erected, constructed or placed on the Leased Premises by Lessee shall be deemed to be personal property for purposes of this lease and shall remain the property of Lessee; and Lessee shall, unless otherwise authorized in writing in advance by Lessors, remove such property upon the expiration or termination of the lease, subject to Lessee's obligation to repair all damage, if any, resulting to the Leased Premises or Lessors' property by such removal. Lessee shall be allowed up to sixty days after the expiration or termination of the lease to remove any and all such property, during which time Lessee shall be obliged to continue to pay rent on a prorated basis until such removal is completed. In the discretion of the Lessors, any and all property, inclusive of hangars, buildings and fixtures, not removed by Lessee within the time allotted for same may become part of the Leased Premises and title to such property shall automatically vest in Lessors, individually or jointly, to the extent that Lessors individually or jointly own the land underlying such property. If Lessee abandons any improvement or property on the Leased Premises or fails to remove such improvement or property as required, above, Lessors may, in its sole discretion, take title to or remove same, at any time Lessors may determine, at Lessee's cost.

(e) Any aircraft hangar constructed by Lessee may be used for the temporary storage of motor vehicles while Lessee's aircraft is in use. Lessee may also allow other aircraft owners to temporarily occupy Lessee's hangar while performing maintenance or repairs on their personal aircraft. Collection of rental or sublease fees shall constitute a commercial operation and require a commercial operators agreement.

**11. Utilities.** Lessee shall timely and fully pay for all utility services installed and used on the Leased Premises. In no event shall a septic system be installed or used on the Leased Premises absent Lessors' written consent and the issuance of all necessary permits. Lessors may require Lessee, at Lessee's cost, to connect any water-using facility on the Leased Premises to a sanitary sewer system if a sanitary sewer main line becomes available within 400 feet of the Leased Premises and to remove any leach fields

**12. Taxes and Assessments.** Lessee shall timely pay all real and personal property taxes and assessments, including without limitation possessory interest assessments, levied or imposed against the Leased Premises as the result of Lessee's occupancy and/or use of same, and upon any improvements installed and owned by Lessee thereon.

**13. Subletting, Assignment and Sales.**

(a) Lessee may not assign any of the rights, benefits or obligations, in whole or in part, inhering to it under this Ground Lease, nor may Lessee sell or sublet any area, space or structure to any third party, whether by merge, operation of law or otherwise, absent the prior written consent of Lessors, which consent may be granted or withheld solely within the reasonable discretion of Lessors. Any sublease shall constitute a commercial operation and require a commercial operators agreement.

For the purpose of this section any change of control of Lessee shall be deemed to constitute an assignment.

- (b) If Lessee assigns or sublets under this Ground Lease, Lessee shall continue to remain primarily responsible for its full and timely performance under this lease unless Lessors otherwise specifically consent in writing. If Lessee sells any area, space or structure, the third party shall execute a separate Ground Lease.
- (c) Lessors or either of them may freely and at their convenience assign any or all of its rights, benefits and obligations under this agreement at any time.

#### **14. Compliance with Governmental Regulations.**

(a) Lessee shall faithfully and timely abide by and conform to all laws and governmental orders, rules and regulations, including future amendments thereto, controlling or in any manner affecting the use, operations or maintenance of the Airport or the Leased Premises, particularly FAA orders and regulations, and inclusive of local ordinances and airport regulations adopted by Lessors and/or Chaffee County, or any airport commission authorized to oversee operations at the Airport. LESSEE HEREBY ACKNOWLEDGES THE AUTHORITY OF THE AIRPORT MANAGER TO ENFORCE SUCH RULES IN ADDITION TO OTHER DULY APPOINTED PERSONNEL.

(b) Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises and/or improvements to the Leased Premises, (2) that in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Leased Premises and improvements on the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

#### **15. Insurance.**

(a) Lessee shall at its sole cost and expense procure and maintain in force a policy of general liability insurance insuring the Leased Premises and Lessee against loss or injury to any person or property arising from Lessee's use and/or occupancy of the Leased Premises and any improvements thereon. Such insurance policy shall be issued by a company authorized to do business in Colorado and shall be in an amount not less than those limits of liability established from time to time for governmental entities under the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-114. Currently, such limits are \$387,000.00 per person and \$1,093,000.00 per occurrence. The City of Salida and Chaffee County, at Lessee's sole expense, shall be named co-insureds or additional insureds on all insurance policies required under this lease, and such insurance shall act as primary insurance with respect to all claims, injuries or casualties occurring on or to, or arising from, the Lessee's occupancy and/or use of the Leased Premises. Lessee shall promptly increase its coverage, if necessary, due to changes in the above-described statute or other law and Lessors' failure to inform Lessee of any increased coverage requirements shall not affect Lessee's obligation.

(b) Lessee shall annually furnish the Airport Manager with copies or company-issued certificates of insurance policies obtained by Lessee in compliance with this paragraph 15. The certificates and coverages required by this paragraph 15 shall contain a provision requiring that the companies issuing such policies automatically and directly notify Lessors in writing and at least 30 days in advance of any amendment or cancellation of such policy or policies.

**16. Release and Indemnification.** Lessee forever releases, waives and discharges Lessors and all persons acting on Lessors' behalf from all claims, suits and causes of action relating to any injury or loss Lessee may sustain in any way connected with the Leased Property, including personal injuries, death or property damage, or injury or loss in connection with Lessee's presence on the Leased Premises, common Airport facilities or other Airport facilities or property, Lessee shall indemnify and hold harmless Lessors and all persons acting on Lessors' behalf against all claims and losses (including interest and attorneys' fees and expenses) resulting from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises; Lessee agrees that if the Lessors, without any fault on their part, shall be made a party to any litigation commenced by or against the Lessee arising from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises, then Lessee shall pay and/or advance all costs in connection with such litigation, including reasonable attorney fees and litigation costs paid by either Lessor.

**17. Damage to Improvements.** If any improvements owned by Lessee on the Leased Premises are damaged or destroyed, in whole or in part, Lessee shall, within sixty days of the damage or destruction, perform one of the following:

- repair, restore or rebuild same to their condition and operational status as existed prior to such damage or destruction; OR
- furnish a performance and payment bond, in an amount at least equal to the cost of removing all damaged or destroyed improvements and any other debris and restoring the Leased Premises to the conditions existing at the time Lessee first entered onto the Leased Premises, as security for the faithful performance and payment of Lessee's obligations under this Ground Lease.

Rent shall not be reduced or abated during any period in which improvements, or parts of same, are not available for use by Lessee.

**18. Right to Mortgage.** Lessee may mortgage or otherwise encumber all or any portion of its owned improvements and its leasehold interests under this Ground Lease. Lessors, upon request, may subordinate their interests herein to any lending or financing agency for the term of the lease, provided such subordination cannot and shall not have the effect of permitting a mortgagee or trustee to own or claim an ownership interest in the Leased Premises, and that such mortgagee or trustee is approved in writing in advance by Lessors, which approval shall not be unreasonably withheld. IF, DUE TO FORECLOSURE OR OTHER DEFAULT UNDER THE TERMS OF SUCH MORTGAGE, ANY MORTGAGEE BECOMES THE OWNER OF THE IMPROVEMENTS CONSTRUCTED HEREUNDER, SUCH MORTGAGEE SHALL BE SUBJECT TO THE TERMS AND OBLIGATIONS OF THE LESSEE HEREUNDER.

**19. Lessee's Default.** If Lessee violates any of the terms or conditions of this Ground Lease, and continues in such violation(s) for a period of 30 days after written notice thereof by certified mail from the Airport Manager to Lessee, then Lessors shall have the election to declare this lease forfeited, and Lessee shall immediately surrender possession of the Leased Premises and any improvements owned and not removed by Lessee to Lessors. The Lessors' written notice shall specify the provision of the lease violated, the information available to Lessors upon which they rely in concluding that a violation exists, and the action required of Lessee to cure the violation.

**20. Lessors' Reserved Rights.** Lessors, on behalf of themselves and the Federal Aviation Administration, reserve the right and privilege during the term of this agreement to place on the Airport, inclusive of the Leased Premises, whatever instruments and/or equipment they or the FAA may determine are necessary or convenient to the safe and efficient operation of the Airport, so long as said instruments or equipment do not substantially interfere with Lessee's use of the Leased Premises or



reduce the structural integrity of Lessee's hangar or such other building as Lessee may have constructed on the Leased Premises. Lessors additionally reserve the right to further develop and otherwise change or improve the Airport, inclusive of all landing areas, taxiways, or access ways, as it deems necessary, and to take such other actions with respect to the Airport as Lessors see fit without hindrance or interference from Lessee, provided all of such developments or improvements are required by law, federal regulation, and/or are approved by the FAA. Lessors further reserve the right to from time to time temporarily or permanently close the Airport, or parts thereof, for any reason, including without limitation maintenance, construction or public safety purposes, immediately prior to which Lessors will make reasonable efforts to notify Lessee in advance thereof.

**21. Subordination.** This Ground Lease shall be subordinate to the provisions of any existing or future agreement between Lessors and the United States and/or the State of Colorado for the funding, operation or maintenance of the Airport.

**22. Inspection.** Lessors or their duly authorized representative shall have the right to inspect the Leased Premises and any improvements at all reasonable times upon reasonable prior notification to Lessee. Lessors shall also be entitled to enter the Leased Premises and any improvements, without prior notice, to make emergency repairs or to take emergency action necessary to protect or preserve human life or the property of the Airport.

**23. Notices.** In every case where notice is required or permitted in this lease, notice shall be deemed sufficient if (1) personally delivered or (2) mailed by certified mail, postage prepaid, properly addressed to the address contained herein, or such other address as shall be given in writing by one party to the other according to the provisions hereof.

If to Lessors: Chaffee County Commissioners  
P.O. Box 699  
Salida, CO 81201

With copy to:

Chaffee County Attorney  
P.O. Box 699  
Salida, CO 81201

If to Lessee, to the person and address listed at the beginning of this Ground Lease.

Notices shall be deemed to be given on the date of receipt, except that if delivery is refused, such notice shall be deemed given on the fifth day after it is sent.

**24. Liens.** Notwithstanding paragraph 18, above, Lessee shall not allow liens of any kind or duration to be asserted or maintained on the Leased Premises.

**25. Attorney Fees.** If either party brings an action to enforce the terms of this Ground Lease or declare rights under this Ground Lease, the prevailing party in such action shall be entitled to its reasonable attorney fees and costs against the non-prevailing party.

**26. Binding Effect.** This Ground Lease shall bind and benefit the parties hereto and their representatives, successors, and permitted assigns.

**27. Venue and Severability.** This Ground Lease shall be construed under the laws of the State of Colorado. Venue for any legal action between the parties brought to interpret or enforce the provisions of this agreement shall be the Colorado District Court in and for Chaffee County. Any covenant, condition, or provision herein which is held to be invalid by any court of competent jurisdiction shall be considered deleted from the lease, but such deletion shall in no way affect any other covenant, condition, or provision

herein so long as such deletion does not materially prejudice Lessors or Lessee in their respective rights and obligations contained in the valid covenants, conditions, or provisions of the lease,

28. **Waivers.** One or more waivers by Lessors of any term or condition of this agreement, or of Lessee's breach or violation thereof, shall not be construed or have the effect as a forgiveness or waiver of any other term or condition, or of any future or different breach or violation of the agreement by Lessee.

29. **Entire Agreement and Amendments.** This Ground Lease reflects and contains the entire agreement of the parties and supersedes all previous agreements entered into or contemplated by the parties with regard to the Airport. No negotiations, understandings, agreement or promises, verbal or otherwise, exist or are enforceable between the parties except as expressly set forth in this agreement, the provisions of which may only be amended, modified, or superseded by written agreement signed by both parties.

30. **Counterpart Signature Pages.** This Agreement may be signed using counterpart signature pages with the same force and effect as if both parties signed on the same signature page.

31. **Personal Guarantee.** The undersigned Guarantor acknowledges and understands that by affixing their signature below they assume personal responsibility to Lessor for any and all damages suffered by Lessor in the event of default or noncompliance by Lessee or any assignee of Lessee's with respect to the obligations hereunder. Guarantor's liability is joint and several and Lessor may pursue Guarantor for recovery whether or not Lessor has made any claim against Lessee. Guarantor shall be responsible for any and all of Lessee's obligations under this Lease. Lessee, Lessor and Guarantor acknowledge that this Guarantee is made in order to induce Lessor to enter into this Lease and this Guarantee shall remain in full force and effect unless it is expressly modified in a writing signed by Lessor, Lessee and Guarantor.

The parties acknowledge and agree to the foregoing provisions.

**LESSEE**

By: Mark W. Klingensmith  
Name: Mark W. Klingensmith  
Title: Land

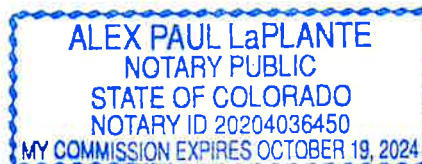
STATE OF Colorado )  
COUNTY OF El Paso ) ss.

The foregoing instrument was acknowledged before me by Mark W. Klingensmith  
this 10<sup>th</sup> day of November, 2022

Witness my hand and official seal.

My commission expires: Oct 19, 2024

Alex LaPlante  
Notary Public



**LESSORS**

**CHAFFEE COUNTY COLORADO/BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Greg Felt, Chairman

STATE OF COLORADO    )  
                                  )ss.  
COUNTY OF CHAFFEE    )

The foregoing instrument was acknowledged before me by Greg Felt, this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

Witness my hand and official seal.

My commission expires:

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

**CITY OF SALIDA, COLORADO**

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

STATE OF COLORADO    )  
                                  )ss.  
COUNTY OF CHAFFEE    )

The foregoing instrument was acknowledged before me by \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witness my hand and official seal.

My commission expires:

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