

**FLAGLER COUNTY
GROUND LEASE**

FLAGLER COUNTY, a political subdivision of the State of Florida, (the “County”), by its execution hereof, hereby authorizes **Flagler Partners Holdings, LLC, a Florida limited liability company** (the “Tenant”), to occupy space at the Flagler Executive Airport for the purpose or purposes and on the terms and conditions hereinafter stated. The County and the Tenant are hereinafter collectively referred to as the “Parties” and individually referred to as “Party”.

1. Tenant. The name, address and telephone number of the Tenant is as follows:

Name: **Flagler Partners Holdings, LLC**
Address: **1325 Highway 120 West, Bunnell, FL 32110**

Contact: **Joseph Wright**
Telephone: **(386) 931-2106** Fax: **N/A**
E-mail: **jwright@quantumcontractors.com**

Tenant Financial Billing Contact(s):

Name: **Flagler Partners Holdings, LLC**
Address: **1325 Highway 120 West, Bunnell, FL 32110**

Contact: **Joseph Wright**
Telephone: **(386) 931-2106** Fax: **N/A**
E-mail: **jwright@quantumcontractors.com**

Tenant – 24 Hour Emergency Contact:

Name: **Flagler Partners Holdings, LLC**
Address: **1325 Highway 120 West, Bunnell, FL 32110**

Contact: **Joseph Wright**

Telephone: (386) 931-2106

Fax: N/A

E-mail: jwright@quantumcontractors.com

2. Description of Leased Land. The County hereby leases to Tenant, that certain vacant real property more specifically depicted and described on Exhibit “A” attached hereto and incorporated herein (hereinafter the “Leased Land”). The initial Exhibit A contains a conceptual graphic depiction of the Leased Land, which shall be replaced in an addendum upon completion of the as-built survey of the Leased Lands as required by Section 9.E(10) hereof. Tenant warrants and represents to County that it has examined the title and boundaries of the Leased Land and acknowledges that this Ground Lease is subject to any and all conditions, restrictions, encumbrances and limitations now recorded against the Leased Land, including but not limited to, a Drainage Easement recorded at Official Records Book 836, Page 368, Public Records of Flagler County, and Tenant’s satisfactory performance of all terms and conditions of this Ground Lease.

3. Use of Leased Land.

A. The general purpose of this Ground Lease is for Tenant to construct and to operate a facility for operations associated with storage of aircraft. Said use is hereby deemed consistent with the Flagler Executive Airport Master Plan (the “Airport Master Plan”) and all local rules, regulations, and ordinances. To effectuate this use, the Tenant is required to construct those Improvements as further specified in Section 9 hereof on the Leased Land, which will have airside access. (Collectively, the Leased Land and the Improvements, as defined in Section 9.A. below, are hereinafter referred to as the “Premises”). Tenant is not permitted to operate a business open to the public from the Premises. Operations on the Premises shall comply with all Federal Aviation Administration (FAA), Florida Department of Transportation, Airport Master Plan, State and local rules, regulations and ordinances. In addition, Tenant agrees to endeavor to comply with the County’s Voluntary Noise Abatement Procedures as they may be amended from time to time. The Tenant may also use the Premises for any other legal and lawful aviation related purpose that is approved, in writing, by the County’s Administrator or designee and providing such uses are in compliance with all federal, state, and local regulations, including but not limited to permitting and parking.

B. The Parties agree that the manner in which the Premises are used, developed, operated and maintained is important to the County by reason of its interest in having a premier airport facility for use by County’s residents and visitors to the County. Notwithstanding anything else herein to the contrary, the Tenant understands and agrees that during times of emergency, the County’s Airport Director or designee is empowered to take action within his or her discretion that is necessary or desirable to protect the health, welfare, and safety of persons and property. During such an emergency, the County’s Airport Director may suspend normal rules, regulations, and protocols, or any part thereof, at his or her discretion and issue oral orders, rules, or protocols. Tenant’s use of the Premises shall be subject to, and in conformance with, such emergency directives, and such directives shall not be considered a breach of the County’s obligations under this

Agreement. The Tenant therefore agrees to develop, operate and maintain the Premises consistent with the standards agreed upon herein.

C. In no event shall the Premises be used for any purpose which would constitute a public or private nuisance or waste, including but not limited to, outside storage, salvage or junk, paint shop, automotive repair shop, fuel facilities, or any use not specifically permitted in this Ground Lease. The County shall have the right to terminate this Ground Lease in accordance with the procedures set forth in Paragraph 12(J), should Tenant utilize the Premises in any manner inconsistent with the approved uses set forth herein.

D. Notwithstanding anything herein to the contrary, all activities conducted upon the Premises shall be under the exclusive control, management and direction of the Tenant. County will have no involvement or role in Tenant's business or operations in any manner or way and shall only occupy the status of a landlord.

4. Rent.

A. **Rent Payments.** The Tenant agrees to pay the County monthly Rent, plus sales tax, at the then applicable rate. Rent payments shall be paid in advance of the first day of each calendar month following the issuance of a Certificate of Occupancy for the building constructed pursuant to Section 9. The amount of the Rent payment shall be determined at the time the survey of the Premises is completed and made part of Exhibit "A" and shall be calculated at the rate of \$1,089.00 per month/per acre or a portion thereof. (For example, the Rent payment for 1.43 acres shall be \$1,557.27 or \$1,089.00 x 1.43 acres).

B. **Late Payment.** Penalties for late payment shall begin to accrue after the tenth calendar day of each month at the rate of five percent (5%) for each month the Rent payment is late. If by the first day of the month following the delinquency, the Rent remains unpaid, a penalty of ten percent (10%) of the total amount which remains unpaid shall be assessed and continue thereafter for each month, assessed at the same ten percent (10%) rate on the accrued delinquent outstanding amount until the arrearage is completely paid.

C. **Annual Adjustment.** The Base Rent amounts payable herein shall be adjusted annually for the succeeding years of this Agreement, which adjustment shall be effective as of October 1st of each succeeding year, beginning with the second October after a certificate of occupancy is issued for the Premises. The adjustment applied for any increases shall be 3%. The County shall provide the Tenant with thirty (30) calendar days' notice of such adjustment, which shall become effective on the next Rental payment date following such thirty (30) calendar day notice.

5. Effective Date/Term.

A. The Ground Lease shall become effective on the date of signature of the last party to sign this Ground Lease (“Effective Date”).

B. The Term of this Ground Lease will commence on the Effective Date and shall remain in full force and effect for a period of **thirty (30) years** thereafter, unless sooner terminated in accordance with the terms and provisions hereof. The term as stated herein shall be extended by one (1) year for every \$100,000 over \$1,000,000 in value as determined by a certified general real property appraiser. (For example, if the total cost to construct is \$1,200,000, tenant shall be entitled to 2 additional years for a total lease term of 32 years.) All amounts paid will be rounded to the nearest one hundred thousand dollars. The parties acknowledge and agree that such costs contemplated by this Ground Lease are anticipated to have an aggregate projected value of approximately three million dollars (\$3,000,000.00). Subject to verification by an appraiser as provided for herein, the terms of this Ground Lease shall automatically be extended for an additional twenty (20) years for a total initial Term of fifty (50) years, unless sooner terminated in accordance with the terms and provisions elsewhere in this Ground Lease. To extend the term under this provision, the Tenant shall submit written notification to the County within sixty (60) days of the certificate of occupancy being issued along with supporting documentation demonstrating the appraised value expended on the Improvements. Thereafter, the parties shall execute and record an addendum to this Ground Lease identifying the extended term.

C. In the event Tenant makes additional capital improvements to the Premises during the Term of this Ground Lease having an aggregate appraised value, as determined by a certified general real property appraiser, of Five Hundred Thousand Dollars (\$500,000.00) or greater, the Parties agree to negotiate in good faith a mutually acceptable extension of the Term of this Ground Lease. Nothing herein shall obligate either Party to agree to any specific extension term or amendment; however, the Parties expressly covenant to reasonably and in good faith consider such extension request upon written request by Tenant.

6. Amount of Insurance Required. The following insurance is required to be carried by the Tenant, at its own cost and expense, throughout the Term of this Ground Lease. The amounts of such required coverages are:

Commercial General Liability (CGL)	\$1,000,000 combined single limits, per occurrence based, including fire legal liability of \$1,000,000, and property casualty insurance
Pollution	\$1,000,000
Property Casualty Insurance	Replacement cost of the facility at time of loss

Prior to the Effective Date, the Tenant shall cause certificates of insurance to be furnished to the County, evidencing all such coverage and naming the County as an additional insured except with respect to Workers Compensation coverage. In addition, all such certificates shall provide that the policies shall not be cancelled, nor the limits thereunder reduced, without first providing at least thirty (30) calendar days' written notice thereof to the County. The above coverage amounts may be increased, if mandated by changes in state law.

7. Security Deposit. A security deposit in the amount of Five Thousand Dollars (\$5,000.00) is due upon execution of this Agreement. The security deposit payment shall be held by the County subject to the provisions of Paragraph 12(P).

8. Condition of Leased Land. The Tenant has inspected the Leased Land and represents it is suitable for Tenant's proposed use, and Tenant acknowledges that County has made no representations or warranties relating to the suitability of the Leased Land for any particular use.

9. Tenant's Obligation to Construct Improvements.

A. The Tenant shall design, permit and construct in compliance with all governmental regulations, at its sole cost and expense, the following improvements: a metal hangar facility containing five (5) 65 X 60 box units, associated apron, and site improvements (the "Improvements") on the Leased Land. The Improvements shall include, but not be limited to, the construction of any and all utilities required by the Tenant for the Tenant's use of the Premises and the construction or installation of any access, parking, stormwater drainage, retention and detention system improvements. The County represents and warrants that, as of the Effective Date, the existing Airport stormwater management system has sufficient capacity to accommodate the Improvements contemplated by this Ground Lease without requiring expansion of off-site stormwater infrastructure, provided that the Improvements are designed and constructed in accordance with applicable permitting requirements and the plans approved by the County. Tenant will connect the Improvements to central sewer.

B. The design for the Improvements is subject to the approval of the County Administrator or designee which shall not be unreasonably withheld provided the plans and specifications are consistent with this Ground Lease. Upon written approval of the design, the plans and specifications for the Improvements to be constructed are subject to site plan and permitting approval by the County. The Tenant agrees: (i) to submit initial engineering site plans for its planned Improvements to the County's Airport Director and Planning Director within six (6) months of the Effective Date; (ii) to commence construction within six (6) months of the date of approval of the site plans by County; and (iii) to complete construction and obtain a Certificate of Occupancy for all Improvements within twelve (12) months of the date of approval of the plans by the County, subject to

the County's compliance with its obligations pursuant to Paragraph 9(C). It is expressly agreed that should the design plans not be submitted, or the construction not be commenced and/or completed within the time periods identified herein, this Ground Lease may be immediately terminated by the County with written notice to the Tenant. The review and approval of the plans and specifications shall be subject to all applicable federal, state and local regulations, including but not limited to all zoning and airport development regulations. All Improvements shall be consistent with the County's Comprehensive Plan, Airport Master Plan, Building Codes, and Land Development Code. In the event of a conflict among such regulations, the more restrictive shall apply unless expressly waived by the County Administrator in writing based on discretion conferred by applicable legal requirements. Such plans, to include a FAA "Airspace Study Checklist" (On-Airport Construction), shall also be completed and submitted to the FAA for approval to the extent required by Federal and State law. All construction shall be performed in a workmanlike manner and shall meet all applicable federal, state and local laws, ordinances, codes and regulations.

C. Prior to the County's issuance of a building permit for the Improvements, the Tenant must provide to the County a form of security for the Tenant's obligation to complete construction of the Improvements. Acceptable forms of security include, but are not limited to, a performance bond, personal guarantees by principals of the Tenant, or a letter of credit in the amount of the estimated improvement costs. The form of security must include a guaranteed source of funds to be available to the Tenant to complete construction of any unfinished Improvements. The security must be satisfactory to the County, in its sole reasonable discretion

D. Utility and Service Charges. The Tenant, at its sole cost and expense, shall cause to be constructed all necessary utilities, communications and other services that are needed by the Tenant for Tenant's use of the Premises. The Tenant shall promptly pay all installation and monthly service charges for all utility, communication and other services furnished to, or consumed within, the Premises, including, but not limited to, electricity, cable, water, sewer, heat, telephone, janitorial, grounds maintenance, solid waste handling and removal, including garbage pickup and any use of commercial dumpsters, and all charges related to any of these services, including any required tap-in, connection and/or user fees.

E. During construction, the Tenant shall:

(1) Perform and complete the work (which includes the labor and materials required to complete construction of the Improvements on the Leased Land, in a good and workmanlike manner, in accordance with the plans and specifications and all applicable governmental regulations); and

(2) Select the means and methods of construction, using only adequate and safe procedures, methods and equipment; and

(3) Furnish, erect, maintain and remove any construction equipment and temporary structures that may be required to perform the work, be responsible for the

safety, efficiency and adequacy of the construction equipment and methods used, and be responsible for any damage which may result from any failure of the construction equipment or any failure in the method of construction; and

(4) Provide all architectural and engineering services, scaffolding, hoists, temporary structures, light, heat, power, temporary utility connections, equipment, tools, and materials and whatever else may be required for the proper performance of the work; and

(5) Order and have delivered all materials required for the work and be responsible for properly securing, protecting and insuring the materials and making certain they remain in good condition; and

(6) Maintain the Premises in a clean and orderly condition at all times commensurate with the nature of the Airport, and promptly remove all paper, cartons and other debris from the Premises; and

(7) Protect all work prior to its completion and acceptance; and

(8) Preserve all property adjacent to and leading to the Leased Land, and restore and repair any such property damaged as a result of the construction of the Improvements; and

(9) Implement and maintain in place at all times a comprehensive hurricane plan for the Premises and the work, and provide a copy of same to the County's Airport Director; and

(10) Upon completion, deliver to the County's Airport Director an "as built" survey and "as built" plans and specifications for the Improvements; and

(11) Upon completion, deliver to the County's Airport Director a copy of the final Certificate of Occupancy for the completed Improvements; and

(12) Carry on any construction, maintenance or repair activity with diligence and dispatch and use diligent effort to complete the work in the shortest commercially reasonable time under the circumstances; and

(13) At all times enforce discipline and good order among Tenant's employees and the general contractor at the Leased Land work site.

F. **Changes to the Improvements.** After the Improvements have been completed, the Tenant will not make any material alterations or additions ("Changes") to the Improvements without the written consent of the County's Airport Director, which will not be unreasonably withheld. Any permitted Changes will be made in a good and workmanlike manner, in accordance with approved plans, if required, and in accordance with all governmental regulations. The Tenant's obligations during construction for the

Improvements shall apply during construction of any Changes to the Improvements. Any such approved changes shall be deemed to be part of the Improvements contemplated by this Section.

G. **Construction Agreements.** Any construction agreements entered into between the Tenant and a general contractor or other contractor in privity with the Tenant must provide that the County will not be liable for any work performed or to be performed on the Leased Land for the Tenant, nor shall the County be liable for any of the financial consideration or other obligations under such agreements.

10. Ownership of Improvements. During the Term of this Ground Lease, all Improvements, furnishings, inventory, machinery, and equipment constructed or installed on the Leased Property by the Tenant shall be the property of the Tenant, and the Tenant shall have legal title thereto. Upon the expiration, or termination, of this Ground Lease, title to all permanent Improvements constructed on the Premises and any fixtures therein, except trade fixtures removed in accordance with Paragraphs 12(C) and 12(K)(3) of this Ground Lease, shall automatically revert to, and vest in, the County without necessity of any act by the Tenant. However, the Parties agree that, to confirm the automatic vesting of title as provided for herein, each will execute and deliver such further assurances and instruments of assignment and conveyance as may be reasonably required by the other for that purpose.

11. Interest of County Not Subject to Liens. Except as expressly provided for herein, it is mutually agreed that neither the fee simple title to the Leased Land, nor any interest of the County in the Premises, may be subject to liens of any nature arising by reason of any act or omission of the Tenant or any person claiming under, by or through the Tenant, including but not limited to, mechanics' and materialmen's liens. If, because of the Tenant's act or omission, any construction lien, claim of lien or professional lien is filed pursuant to Chapter 713, Florida Statutes, or any successor law against the County on any portion of the Premises, or in the event any other type of lien is filed against the County on any portion of the Premises, the Tenant shall, at its own expense and cost, cause said liens to be discharged, released or satisfied within ninety (90) days from the date of County's written notice.

12. General Terms and Conditions.

A. **Repairs and Maintenance Generally.** The Tenant, at its own cost and expense, shall keep the Premises, together with such equipment, fixtures, furnishings, mechanical systems, and other property installed thereon and therein, in good condition and repair, in a clean and attractive condition, and free of impairment from physical deterioration and functional obsolescence. The Tenant shall be responsible for maintenance and for making repairs to all portions of the Premises during the Term of this Ground Lease. The Tenant shall use all reasonable precautions to prevent waste, damage or injury to the Premises. Should the Tenant fail to keep and maintain the Premises in good condition and repair or shall fail to use all reasonable precautions to prevent waste, damage or injury to the Premises, the Tenant shall be deemed to be in default, pursuant to Paragraph 12(J).

B. Maintenance By Default. In the event the Tenant does not cure the breach of its duty to maintain the Premises, the County shall have the option in its sole discretion to perform the maintenance and to recover such costs from the Tenant. The Tenant shall promptly pay or reimburse the County for the cost of any and all maintenance, replacement and repair which may be required to restore the Premises and any of its improvements, fixtures, equipment and mechanical systems as a result of the neglect of, or loss or damage caused by, the Tenant or any of its officers, employees, agents, invitees or licensees, or which otherwise results from the Tenant's use or occupancy of the Premises, reasonable use and wear excepted. The County shall have the right, at any time and from time to time, to cause maintenance to be performed and repairs to be made in and to the Premises and the improvements, fixtures, equipment and mechanical systems located therein, and the Term of this Ground Lease shall not be extended nor shall there be any abatement of the sums payable to the County hereunder by reason thereof. The Tenant shall promptly pay or reimburse the County for the cost to the County of any and all maintenance, replacement and repair which may be required to restore the Premises and any of its improvements, fixtures, equipment and mechanical systems as a result of the neglect of, or loss or damage caused by, the Tenant or any of its officers, employees, agents, invitees or licensees, or which otherwise results from the Tenant's use or occupancy of the Premises. Any sums not paid by Tenant within thirty (30) days from the date of County's invoice(s) for its costs incurred under this subparagraph shall be treated as additional Rent owed to County by Tenant and shall be treated under the same provisions as are applicable to delinquent Rent payments. Further, the performance of maintenance and repair by the County shall in no event be construed as a waiver of the Tenant's duty to maintain and repair as herein provided.

C. Tenant's Property. Any and all property belonging to, or brought onto the Premises by, the Tenant or any of its officers, employees, agents, invitees or licensees shall be at the sole risk of the Tenant. The Tenant may place and install trade fixtures and other personal property on the Premises for use in connection with its operations hereunder. The Tenant shall, however, be responsible for the cost of repairing any damage to the Premises or any other improvements which are caused by the removal of any such trade fixtures and personal property.

D. County's Right to Enter. The County and its designated agents shall have the right to enter the Premises at any reasonable time upon reasonable notice for inspection, maintenance, repair, attending to emergencies or any other lawful purpose. In emergency situations, where loss or damage to the Premises is occurring or imminent, the County may enter any portion of the Premises for the purpose of controlling the emergency situation.

E. Access. The Tenant and its officers, employees, agents and invitees shall be subject to the Airport minimum standards as currently in effect or as may be amended along with all laws, rules and regulations of the County, State, or Federal Government, and have the right of ingress and egress to and from the Premises, as illustrated on Exhibit "B". County shall issue one, free gate access card to Tenant plus one free, gate access card for any condominium unit leased or sold. Additional gate access cards must be purchased from the County at the then-current rate.

F. Taxes and Assessments. The Tenant shall pay, on or before the due date established therefor, all taxes, assessments (including, without limitation, storm water utility charges) and impact fees which are levied against or in connection with the Premises, the Tenant's interest therein and the property and improvements of the Tenant for the Term hereof or attributable to the Tenant's activities at the Premises or at the Airport. If the Term of this Ground Lease expires or is earlier terminated prior to the close of the tax year for which any such tax is payable, or if the term of this Ground Lease commences on a date other than the first day of such tax year, the Tenant shall be responsible for paying a percentage of the tax calculated by dividing the number of days that this Ground Lease was in effect during such tax year by the total number of days of the applicable tax year. If this Ground Lease is in effect for a period less than any entire period for which an assessment other than a tax is imposed, the Tenant shall pay a percentage of the assessment calculated by dividing the number of days this Ground Lease was in effect during that assessment period by the total number of days in the assessment period. The Tenant's obligations under this Paragraph 12(F) shall survive the expiration or earlier termination of this Ground Lease. Nothing contained herein shall be construed as a release or waiver on the part of the County, as a political subdivision of the State of Florida, of the right to assess, levy or collect any license, personal, tangible, intangible, occupation or other tax, fee or assessment which it may lawfully impose on the business or property of the Tenant.

G. Rules and Regulations. The Tenant covenants and agrees to observe and comply with all Airport minimum standards along with all laws, rules, and regulations of the County which now exist or may hereafter be promulgated or amended from time to time, governing conduct on and operations at the Airport and the use of its facilities. The Tenant further covenants and agrees to observe and comply with any and all valid and applicable requirements of all duly constituted public authorities and with all federal, state and local statutes, ordinances and regulations applicable to the Tenant, the Premises, or the Airport. The Tenant agrees to pay or reimburse the County for any fines which may be assessed against the County as a result of the violation by the Tenant of any applicable regulation at the Airport, which payment shall be made by the Tenant within fifteen (15) calendar days from the date of the County's invoice for such amount and documentation showing that payment of such fine is the Tenant's responsibility hereunder. Any sums not timely paid shall be treated as additional Rent owed to County by Tenant and shall be treated under the same provisions as are applicable to delinquent Rent payments.

H. Indemnification. The Tenant agrees to indemnify, defend and hold harmless the County, and the members of the County's Board of County Commissioners, officers, employees and agents of each, from and against liability (including, without limitation, liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601, et seq., or any other federal, state or local environmental statute, ordinance regulation or rule), losses, suits, claims, demands, judgments, damages, fines, penalties, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, expert fees and reasonable attorneys' fees prior to institution of legal proceedings and at both trial and appellate levels), which may be incurred by, charged to or recovered from any of the foregoing: (i) by reason or on account of damage to or destruction of any property of the County, or any property of, injury to or death of any person resulting from or arising out

of the acts or omissions of the Tenant's officers, agents, employees, contractors, subcontractors, invitees or licensees, regardless of where the damage, destruction, injury or death occurred, unless such liability, loss, suit, claim, demand, judgment, damage, fine, penalty, cost or expense was proximately caused primarily by the County's negligence or by the joint negligence of the County and any person other than the Tenant or its officers, agents, employees, contractors, subcontractors, invitees or licensees, or (ii) arising out of the failure of the Tenant to keep, observe or perform any of the covenants or agreements in this Ground Lease to be kept, observed or performed by the Tenant. The provisions of this subparagraph shall survive the expiration or earlier termination of the Term of this Ground Lease with respect to any acts or omissions occurring during the Term of this Ground Lease.

I. Assignment, Subletting, Condominium, and Mortgage. This Ground Lease is personal to the Tenant. Accordingly, the Tenant may not assign this Ground Lease or sublet any portion of the Improvements constructed on the Leased Land by Tenant without the express prior written consent of the County, which shall not be unreasonably withheld. The County's consent may be withheld only for reasonable grounds, including if the proposed assignee or subtenant: (i) proposes a use that is not permitted under this Ground Lease, applicable law, or applicable Airport rules and regulations; (ii) is then in default under any material obligation owed to the County; (iii) would cause the County to be in violation of any applicable law, grant assurance, bond covenant, regulatory requirement, or restriction applicable to the Leased Land or Airport; or (iv) fails to agree in writing to assume and be bound by the applicable obligations under this Ground Lease. Tenant's written request for consent shall include reasonable information regarding the proposed assignee or subtenant and the proposed assignment or sublease. If the County does not deny Tenant's written request for consent within sixty (60) days after receipt thereof, the County's consent shall be deemed granted. Any denial of consent shall be in writing and shall state the reasonable basis for such denial. Any purported assignment or sublet without the express written consent of the County, or deemed consent as provided herein, and any failure to provide the County with a copy of any approved sublease (including amendments thereto) or assignment shall be considered void from its inception and shall be grounds for immediate termination of this Ground Lease.

(1) In the event Tenant, after obtaining approval from the County, assigns its interest in this Ground Lease within the first five (5) years after a certificate of occupancy is issued for the Improvements, the Tenant shall pay the County a sum equal to five percent (5%) of the sale price of Tenant's leasehold interest in the Premises. Any assignment of this Ground Lease by Tenant which occurs after five (5) years from the date a certificate of occupancy is issued for the Improvements shall not require any fee to be paid to the County. To effectuate an assignment, the Tenant, the assignee, and the County shall execute and record an instrument of assignment which shall make the assignee responsible for the obligations hereunder and release the Tenant of obligations hereunder.

(2) Sublease. In the event the County consents to a sublease of the Premises or any portion thereof, the Tenant shall provide the County with copies of the sublease(s) and any amendments thereto within fifteen (15) days of their execution. No fee shall be paid to the County for any sublease. Subletting shall not relieve the Tenant of

its obligations under this Agreement, including without limitation, the obligation to pay rent provided for in this Agreement, and accordingly, a default by a subtenant shall not relieve the Tenant from its obligations hereunder, and Tenant shall indemnify the County for any breaches of the terms or conditions of this Ground Lease by Tenant's subtenants.

(3) Condominium. The Tenant may convert the Premises, or portion thereof, to a condominium regime and thereafter sell or lease condominium units. The Declaration of Condominium and any subletting or purchase agreement for condominium units must be in compliance with, and shall incorporate therein, the terms and conditions of this Ground Lease. If Tenant exercises its right to subject the Premises to a condominium regime, the declaration of condominium will be in compliance with this Ground Lease. In addition, should Tenant decide to subject the Premises to a condominium regime, each condominium unit shall be separately metered for utilities, and the Tenant shall confirm in the Declaration of Condominium and any subleases or sale agreements for the condominium units that the condominium will expire at the expiration or termination of this Ground Lease.

In the event Tenant converts the Premises into a condominium regime, Tenant shall, contemporaneously with the Declaration of Condominium, assign its rights and obligations hereunder to a condominium association; provided however, notwithstanding the foregoing, Tenant shall retain leasehold ownership of all units not conveyed or leased to a subtenant. The condominium association shall be responsible for maintenance of exterior and of the Improvements, grounds, and common elements of the Premises.

a. Tenant shall pay to the County, upon the sale of any condominium unit within the first five (5) years of the Term an amount equal to five percent (5%) of the sale price. This fee shall only apply to the initial sale of any condominium unit by Tenant within the first five (5) years of the Term, but not to any subsequent resale by purchasers or their successors or assigns, nor to any sale occurring after the expiration of such five (5) year period. Any purchaser of a condominium unit shall assume the obligations and shall have the rights of tenancy as to the respective condominium unit hereunder. At the closing of a sale of any condominium unit, the purchaser shall execute a lease of the unit from the County, which lease terms shall be substantially similar to this Ground Lease and which shall be recorded immediately after the purchase and sale agreement.

b. Tenant may sublease any condominium unit, and no fee shall be due to County for the sublease. Subletting of condominium units shall not relieve the Tenant of its obligations under this Agreement with regard to the subleased space, including without limitation, the obligation to pay rent provided for in this Agreement. Likewise, a default by a subtenant shall not relieve the Tenant from its obligations hereunder, and Tenant shall indemnify the County for any breaches of the terms or conditions of this Ground Lease by Tenant's subtenants.

(4) Mortgaging. Tenant may grant a first mortgage lien in its leasehold interest to an institutional mortgagee subject to County's approval of such mortgagee, which shall not be unreasonably withheld. If Tenant enters into a leasehold mortgage with such an institutional mortgagee (an "Approved Mortgagee"), an assignment to such

Approved Mortgagee (or its wholly owned subsidiary) occurring by reason of a deed-in-lieu of foreclosure or a foreclosure shall be permitted, provided that further assignment by the Approved Mortgagee (or by its subsidiary or any transfer of such subsidiary) shall require the approval of the County, which shall not be unreasonably withheld. Neither the County's interest in this Ground Lease nor its fee title to the lands demised hereunder shall be subordinate to any mortgage secured by Tenant's interest in this Ground Lease, and all rights acquired under such mortgage shall be subject to all the covenants, conditions and restrictions set forth in this Ground Lease and to all rights and interests of County herein.

In determining whether to consent to a proposed Approved Mortgagee or any assignment from such Approved Mortgagee, County will consider the following factors: i.) the financial capacity and credit-worthiness of the proposed mortgagee or assignee; ii.) in the case of an assignee, the experience of such assignee or its principals relates to the ability to perform the Tenant's obligations hereunder; and iii.) if the proposed use of the assignee is to be different, the compatibility with airport operations and applicable regulations.

County agrees that the name of the Approved Mortgagee may be added to the Loss Payable Endorsement of any insurance policies required to be carried by Tenant hereunder, on condition that the insurance proceeds are first to be applied toward the repair or restoration of the damaged Premises and/or any default hereunder and then to any default under the leasehold mortgage.

a. Notice to Mortgagee. If tenant shall mortgage this leasehold, or any part/s thereof, and if the holder of such mortgage shall, within thirty (30) days of its execution, send to County a true copy thereof, together with written notice specifying the name and address of the Approved Mortgagee and the pertinent recording information with respect to such mortgage, County agrees that so long as any such leasehold mortgage remains unsatisfied of record or until written notice of satisfaction is given by holder to County, (i) there shall be no cancellation or modification of this Agreement by the joint action of the County and Tenant without prior notice to the Approved Mortgagee; and (ii) County shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the holder of the leasehold mortgage. The Approved Mortgagee shall thereupon have the same period, after service of such notice upon it by both email and certified mail, to remedy or cause to be remedied the defaults complained of to the satisfaction of the County, and the County shall accept such performance by or at the direction of such Approved Mortgagee as if the same had been done by Tenant.

b. Mortgagee Cure of Default. While a leasehold mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to County, if any default shall occur which, pursuant to any provision of this Agreement, entitles County to terminate this Agreement, if before the expiration of ten (10) days from the date of service of notice of termination upon the Approved Mortgagee, such Approved Mortgagee shall have paid County all rent payments provided for herein and then in default and shall have complied or shall commence the work of complying with all of the other requirements of this Agreement and shall prosecute the same to completion with reasonable diligence in the determination of the County, then in such event, County shall not be

entitled to terminate this Agreement and any notice of termination theretofore given shall be void. County agrees that the Approved Mortgagee will not be obligated to cure defaults that are personal to Tenant, such as those in paragraph 12J(1)(d) through (g).

c. Rights of Mortgagee Upon Termination. County agrees that in the event of termination of this Agreement by reason of any default by Tenant, that County shall enter into a new lease of the demised premises with the Approved Mortgagee or its nominee for the remainder of the term, effective as of the date of such termination, upon the same terms and conditions, covenants and agreements as herein contained, and subject only to the rights, if any, of any parties then in possession of any part of the demised premises, provided:

i.) The Approved Mortgagee or its nominee shall make written request upon County for such new lease within thirty (30) days after the date of notice to Approved Mortgagee of such termination, or within thirty (30) days after receipt of notice of termination by the Approved Mortgagee, whichever is earlier.

ii.) The Approved Mortgagee shall pay to County at the time of execution and delivery of said new lease, any and all sums which would at the time of the execution and delivery thereof, be due pursuant to this Agreement but for such termination, and in addition thereto, any expenses, including attorney's fees and all other litigation fees and costs, which County incurred by reason of such default. County will provide an accounting and summary of such sums prior to the scheduled execution and delivery of the new lease.

iii.) The Approved Mortgagee shall perform and observe all covenants herein contained on Tenant's part to be performed, and shall further remedy any other conditions which Tenant, under the terminated Agreement was obligated to perform (excluding those obligations personal to the former Tenant as provided in paragraph 12(I)(3)(b) above; and upon execution and delivery of such new lease, any subleases which may have theretofore been assigned and transferred by Tenant to County, as security under this Agreement, shall thereupon be deemed to be held by County as security for the performance of all the obligations of Approved Mortgagee under the new lease.

The Approved Mortgagee under such new lease shall have the same right, title, and interest in and to the Improvements on the demised Premises as Tenant had under the terminated Agreement.

d. Notice to County. Tenant shall deliver to County any notice of default from the Approved Mortgagee with respect to any mortgage affecting the demised Premises. Tenant shall deliver said notice to County within five (5) days after receipt of said notice by Tenant.

(5) In order to permit financing of tangible personal property and to avoid any liens on aircraft on the Leased Land, Landlord waives any statutory landlord's lien it may have on personal property brought onto the Leased Land.

J. Defaults and Remedies.

(1) Defaults by Tenant. The occurrence of any of the following events and the expiration of the applicable cure period set forth below without such event being cured or remedied will constitute a "Default by Tenant" to the greatest extent allowed by law:

a. Tenant's failure to pay Rent due under this Agreement, and the failure to pay is not cured within ten (10) calendar days after written notice has been given by the County to Tenant.

b. Abandonment of the Premises, or discontinuation of the Tenant's operations.

c. Tenant's material misrepresentation of any matter related to this Ground Lease.

d. Filing of insolvency, reorganization plan, or arrangement of bankruptcy.

e. Adjudication as bankrupt.

f. Making a general assignment for the benefit of creditors.

g. If Tenant suffers this Ground Lease to be taken under any writ of execution and/or other process of law or equity.

h. Tenant's failure to utilize the Premises as required in this Ground Lease.

i. Any lien is filed against the Leased Land, or County's interest therein or any part thereof in violation of this Ground Lease, or otherwise, and the same remains unreleased for a period of ninety (90) days from the date of filing unless within such period Tenant is contesting in good faith the validity of such lien and such lien is appropriately bonded.

j. Failure of Tenant to perform or comply with any material covenant or condition made under this Ground Lease, which failure is not cured within thirty (30) calendar days from the date of the County's written notice stating the noncompliance shall constitute a default (other than those covenants for which a different cure period is provided or when no cure period is provided for), whereby the County may, at its option, terminate this Ground Lease by giving Tenant thirty (30) days' written notice. However, the occurrence of any of the events set forth above shall constitute a material breach and default by Tenant, and this Ground Lease may be immediately terminated by County except to the extent then prohibited by law.

k. Failure to continuously abide by all the insurance provisions required in Section 6.

1. An attempt is made by the Tenant to mortgage the leasehold estate in contrast to the requirements herein for mortgages, or to assign or sublet this Ground Lease in violation of Paragraph 12(I).

(2) Remedies of County.

a. In the event of the occurrence of any of the foregoing defaults, the Tenant shall become immediately a tenant-at-sufferance in accordance with Florida law, and County, in addition to any other rights and remedies it may have, shall have the immediate right to re-enter and remove all individuals, entities and/or property from the Premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, the Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or being liable for any loss or damage which may be occasioned thereby. If the Tenant does not cure the defaults in the time frames as set forth above, and the County has removed and stored property, the County shall not be required to store such property for more than thirty (30) days. After such time, such property shall be deemed abandoned and the County shall dispose of such property in any manner it so chooses and shall not be liable to the Tenant for said disposal.

b. The County may sue for direct, actual damages arising out of such default by the Tenant or apply for injunctive relief as may appear necessary or desirable to enforce the performance and observance of any obligation, agreement or covenant of the Tenant under this Ground Lease or otherwise. For this purpose, Tenant agrees that County need not post a surety bond with the court, and the right to any bond is hereby waived. The County shall be entitled to reasonable attorneys' fees and costs incurred arising out of the Tenant's default under this Ground Lease.

K. Surrender at End of Term/Termination.

(1) At the end of the Term or upon the earlier termination of this Ground Lease, the Tenant agrees to surrender and yield possession of the Premises, improvements constructed thereon and fixtures to the County, peacefully and without notice, free and clear of all debts, mortgages, encumbrances and liens. It shall be lawful for the County to re-enter and to repossess the Improvements without further process of law.

(2) The improvements and fixtures shall be in good condition and repair in all respects, reasonable use and wear excepted, and the Tenant agrees to reimburse the County for the cost of any alterations, replacement, repairs or cleaning required to restore the same to such condition.

(3) If otherwise in compliance with this Agreement, the Tenant may remove furnishings, inventory, personal property, trade fixtures and any improvements not a part of any structure upon the expiration or termination of this Ground Lease if the removal can be done in a manner that does not injure or damage the Premises. If the Tenant fails to remove such personal property and improvements within ten (10) days after the effective date of the expiration or termination, or within ten (10) days from the date of written notice by the County, whichever is later, the County may remove and dispose of

any improvements and personal property not removed by the Tenant. In that case, the Tenant is deemed by this Ground Lease to have sold, assigned and transferred to the County all of the Tenant's right, title and interest in the improvements and personal property not removed by the Tenant. For purposes of this section, the phrase "trade fixtures" is defined as any article of personal property annexed or affixed to the Premises by the Tenant as a necessary part of the Tenant's trade or business, and other lawfully present personal property on the Premises.

(4) If the Ground Lease is terminated after the Effective Date, but prior to the completion of new or pending construction, the Tenant agrees that, to the extent assignable, the County is entitled to use the plans, specifications, designs, governmental approvals, permits and other work product produced by or for the Tenant or others for use in the development, construction and operation of the Improvements. The County is entitled to use these documents without payment or further permission from either the Tenant or the professionals that created or prepared them.

(5) The Parties agree that, to confirm the automatic vesting of title as provided for herein, each will execute and deliver such further assurances and instruments of assignment and conveyance as may be reasonably required by the other for that purpose.

L. Holding Over. It is agreed that if the Tenant, or any assignee or subtenant thereof, shall continue to occupy the Premises after any termination of this Ground Lease without the prior written consent of the County, then such tenancy shall be a tenancy-at-sufferance, the County shall be entitled to double the monthly Rent specified in Section 4 hereof, and acceptance by the County of any sums after any such termination shall not constitute a renewal of this Ground Lease or a consent to such occupancy, nor shall it waive the County's right of re-entry or any other right available to it under the laws of Florida or the provisions of this Ground Lease.

M. Costs and Attorneys' Fees. In the event that either party uses the services of an attorney to collect any sums due hereunder from the other party, or to pursue any remedies or resolution related to a default hereunder, or in the event a party is the prevailing party in any action to enforce any provision of this Ground Lease or in any other legal proceeding at law or in equity arising hereunder or in connection herewith, including any bankruptcy or bankruptcy appeals, the non-prevailing party shall reimburse the prevailing party for all reasonable costs, attorneys' fees and all other actual expenses incurred by the prevailing party, whether the prevailing party uses in-house or contracted counsel, in the defense and/or prosecution of such legal proceeding and in any appeals, including, but not limited to, fees and expenses for paralegals, investigators, legal support personnel and expert witnesses.

N. Notice. Any notice given by one party to the other in connection with this Ground Lease shall be in writing and shall be sent by certified mail, return receipt requested. Any notice shall be deemed received when signed for or five business days after being transmitted, whichever is sooner.

If to Tenant, addressed to: *[see address in Paragraph 1 above]*

If to County, addressed to:

**Airport Director, Flagler County Airport
201 Airport Road
Palm Coast, FL 32164**

With a second copy to:

**County Administrator
1769 E. Moody Boulevard
Building 2
Bunnell, FL 32110**

O. Sums Paid by County. If the County has paid any sum or sums or has incurred any obligation or expense which the Tenant has agreed to pay or reimburse the County for, or if the County is required or elects to pay any sum or sums or incurs any obligation or expense because of the failure, neglect or refusal of the Tenant to perform or fulfill any of the terms or conditions of this Ground Lease, then the same shall be deemed additional Rent due hereunder and the Tenant shall reimburse the County therefor promptly upon demand. Any unpaid sums shall be treated under the same provisions as are applicable to delinquent Rent.

P. Security Deposit. The Tenant shall pay the security deposit as required under Section 7, and such sums shall be retained by the County as security for the faithful performance of the Tenant's obligations hereunder. The County shall have the right, but not the obligation, to apply said security deposit to the payment of any sum due to the County which has not been paid, including, but not limited to, reimbursement of any expenses incurred by the County in curing any default of the Tenant, or to the cost of restoring the Premises or its improvements, furnishings, fixtures or equipment to good condition and repair, reasonable use and wear excepted. In the event that all or any portion of the security deposit is so applied, the Tenant shall promptly upon demand by the County remit to the County the amount of cash required to restore the security deposit to its original sum, and the Tenant's failure to do so within ten (10) calendar days from the date of County's written notice of such demand shall constitute a default under this Ground Lease. If said deposit shall not have been applied for any of the foregoing purposes, it shall be returned to the Tenant, without interest, within sixty (60) calendar days after the end of the Term of this Ground Lease. The County will not pay interest on any security deposit.

Should the design plans not be submitted, or the construction not be commenced and/or completed within the time periods identified Paragraph 9(B), the security deposit shall be forfeited to the County.

Q. Brokerage Commissions. Unless expressly provided otherwise herein, the Lessee warrants that no real estate commission is payable by the Lessor to any person or entity in connection with this Ground Lease and Lessee hereby indemnifies the Lessor against any claims for such commissions.

R. County's Reserved Rights.

(1) Subject to the approval of the Tenant, which shall not be unreasonably withheld, the County reserves the right for itself and others to utilize and maintain existing utility easements over, under, across and through the Premises, and to run water, electrical, telephone, gas, drainage and other lines over, under, across and through the Premises and to grant necessary utility easements therefor.

(2) The County reserves the right (a) to further develop, improve, repair and alter the Airport and all roadways, parking areas, terminal facilities, landing areas and taxiways as it may reasonably see fit, free from any and all liability to the Tenant for loss of business or damages of any nature whatsoever to the Tenant occasioned during the making of such improvements, repairs, alterations and additions, including but not limited to any damages resulting from negligence of the County or its employees, agents or contractors, and (b) to establish such fees and charges for the use of the Airport by the Tenant and all others as the County may promulgate for the Airport. In the event that improvements, repairs and/or alterations are made as contemplated herein, the County will endeavor to minimize disruptions to the Tenant that may occur during any associated construction activities.

(3) The Tenant covenants and agrees that this Ground Lease shall be subject and subordinate to the provisions of any existing or future agreement between the County and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds for the development or operation of Airport. In the event that the FAA or its successors shall require any modifications to this Ground Lease as a condition precedent to the granting of such federal funds, the Tenant shall promptly consent in writing to such modifications.

S. Discrimination Not Permitted.

(1) The Tenant, for itself, its successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (a) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the Premises or the Airport under the provisions of this Ground Lease; (b) that in the construction of any improvements on, over or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and (c) that the Tenant shall use the Premises in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

Likewise, the Tenant shall comply with laws of the State of Florida prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should the Tenant authorize another person, with the County's prior written consent, to provide services or benefits from the Premises or at the Airport, the Tenant shall obtain from such person a written agreement pursuant to which such person shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this Paragraph. The Tenant shall furnish the original or a true copy of such agreement to the County. The County may from time to time be required by the United States Government, or one or more of its agencies, to adopt additional or amended provisions, including non-discrimination provisions, concerning the use and operation of the Airport, and the Tenant agrees that it will adopt any such requirement as a part of this Ground Lease.

(2) If the Tenant shall furnish any services to the public at the Airport, it shall furnish said services on a fair, equal and not unjustly discriminatory basis to all users thereof and shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service, provided that the Tenant shall be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions.

(3) In the event of breach of any of the above nondiscrimination covenants, the Tenant shall have the right to terminate this Ground Lease and to re-enter and repossess the Premises, and hold the same as if this Ground Lease had never been made or issued. The right granted to the County by the foregoing sentence shall not be effective until applicable procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

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

(5) The Tenant assures the County that the Tenant will comply with pertinent statutes, Executive Orders, and such rules as are promulgated and that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted in connection with its operations under this Ground Lease. The Tenant also assures the County that it will require any contractors and assignees (to the extent that such assignees are allowed under other provisions of this Ground Lease) to provide assurances to the same effect and ensure that such assurances are included in subcontracts at all tiers which are entered into in connection with the Tenant's operations under this Ground Lease.

T. Federal Aviation Administration (FAA) Requirements.

(1) The Tenant shall comply with all applicable regulations of the FAA relating to Airport security and shall control the Premises so as to prevent or deter unauthorized persons from obtaining access to the air operations area of the Airport.

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

(3) The Tenant expressly agrees, on behalf of itself and its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises in compliance with the requirements of Federal Aviation Regulations, 14 CFR Part 77.

(4) The Tenant agrees to require any lights in the Premises to be constructed, focused or arranged in a manner that will prevent them from casting their beams in an upward direction so as to interfere with the vision of pilots in aircraft landing at or taking off from the Airport.

(5) The Tenant expressly agrees, on behalf of itself and its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or which would otherwise constitute a hazard or nuisance at the Airport.

(6) The Tenant agrees that it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any service (including, but not limited to maintenance and repair) on its own aircraft with its own employees that it may choose to perform.

(7) All vehicles shall remain outside of the Airport Operating Area (AOA). All portions of aircraft parked on the concrete aircraft parking apron shall remain clear of the Taxiway Object Free Area (TOFA) at all times.

U. Hazardous Materials.

(1) **Definitions.** As used herein, the following terms shall have the meanings hereinafter set forth:

i. “**Environmental Laws**” shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted.

ii. “**Hazardous Materials**” shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health

or safety or to the environment. **“Hazardous Material”** includes, without limitation, any material or substance defined as a “hazardous substance,” or “pollutant” or “contaminant” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, also commonly known as the “Superfund” law, as amended (42 U.S.C. Sections 9601 et seq.) (“CERCLA”), or pursuant to Chapters 376 and 403, Florida Statutes; any “hazardous waste” listed pursuant to Section 403.72, Florida Statutes, or any waste which conforms to the criteria for hazardous material adopted by the County; any asbestos and asbestos containing materials; lead based paint; petroleum, including crude oil or any fraction thereof; natural gas or natural gas liquids; and any materials listed as a hazardous substance in the County’s rules and regulations.

iii. **“Release”** when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or on any property except as otherwise provided herein.

(2) **Tenant’s Agreement.** The Tenant agrees that if its officers, agents, employees, contractors, subcontractors, assignees, licensees or invitees shall cause any Hazardous Materials to be brought upon, kept, used, stored, generated or disposed of in, on or about the Airport, or transported to or from the Airport; the County will require the Tenant to do so in a manner in strict compliance with all applicable laws. and regulations.

(3) **Environmental Indemnity.** The Tenant shall indemnify, defend and hold harmless the County from and against any and all loss, damage, cost or expense (including attorneys’ fees) arising during or after the Term of this Ground Lease as a result of or arising from (i) a breach by the Tenant of its obligations contained in Subparagraph (U)(2) above, or any Release of Hazardous Materials from, in, or about the Airport caused by the act or omission of the Tenant, its officers, agents, employees, contractors, subcontractors, assignees, licensees or invitees.

(4) **Environmental Audit.** Upon reasonable notice to the Tenant, the County may conduct or cause to be conducted through a third party that it selects, an environmental audit or other investigation of the Tenant’s operations to determine whether the Tenant has breached its obligations under Subparagraph (U)(2) above. The Tenant shall pay all costs associated with said investigation if such investigation shall disclose any such breach by the Tenant.

V. Miscellaneous.

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

(2) Notwithstanding anything herein contained that may appear to be to the contrary, it is expressly understood and agreed that, except for the Tenant’s right to possession of the Premises, the rights granted under this Ground Lease are non-exclusive.

(3) Except as expressly prohibited herein, the provisions of this Ground Lease shall bind and inure to the benefit of the successors and assigns of the Parties hereto.

(4) Time is of the essence to this Ground Lease.

(5) This Ground Lease shall be governed by and construed in accordance with the laws of the State of Florida, except for its conflict of laws provisions. It is agreed that if any covenant, condition or provision contained herein is held to be invalid by any State of Florida court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, condition or provision herein contained.

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

(7) The Tenant represents and warrants to the County that no member, officer, employee or agent of the County has any material interest, either directly or indirectly, in the business of the Tenant to be conducted hereunder.

(8) This Ground Lease constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof, and any representation or statements heretofore made with respect to such subject matter, whether oral or written, are merged herein. This Ground Lease may be altered or amended only by written instrument specifically referring to this Ground Lease and executed by both parties hereto with the same formalities as the execution of this Ground Lease.

(9) As required by Florida law, the County hereby includes the following notifications as part of this Ground Lease:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are

exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

PUBLIC ENTITY CRIMES: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of \$15,000 for a period of 36 months from the date of being placed on the convicted vendor list.

(10) The exclusive jurisdiction and venue for any action to interpret and/or enforce the terms of this Ground Lease shall be in the Seventh Judicial Circuit Court in and for Flagler County, Florida. In the event of a dispute arising out of this Agreement is litigated, the parties expressly agree to a bench trial and waive the right to trial by jury.

(11) Nothing in this Ground Lease shall abrogate or waive the County's Sovereign Immunity or the provisions of § 768.28, *Florida Statutes*.

(12) Continued performance by either Party hereto pursuant to any provision of this Ground Lease after a default of any provision herein shall not be deemed a waiver of any right to cancel this Ground Lease for any subsequent default, and no waiver of any such default shall be construed or act as a waiver of any subsequent default.

(13) **Recordation.** This Ground Lease shall be recorded by the County in the Official Records of Flagler County, Florida, within fourteen (14) days after the Effective Date. This Ground Lease shall be rerecorded after the survey required by Section 9.E(10) is completed and made a part of Exhibit A.

(14) **Relationship of the Parties.** Nothing in this Ground Lease shall be construed by the Parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the Parties herein, shall be deemed to create any relationship between the Parties hereto other than the relationship of County and Tenant.

(15) **Possession.** The Tenant shall be granted possession of the Premises immediately upon the Effective Date of this Ground Lease and shall be entitled to full use of said Premises subject to the terms hereof.

(16) Force Majeure. Neither the County nor Tenant shall be responsible for any failure to fulfill their obligations under this Ground Lease due to causes beyond their reasonable control and without the fault of the party seeking to excuse performance, including without limitation acts or omissions of government or military authority, acts of God, shortages of materials, transportation delays, fires, floods, diseases, labor disturbances, riots, or wars provided that the party seeking to excuse its performance gives prompt notice to the other of its invocation of this provision and make diligent efforts to resume its performance despite such force majeure.

In addition, if the Leased Premises or Improvements are destroyed or damaged, without the fault of the Parties, such that the repairs necessary to restore the Premises or Improvements to their condition before the damage exceeds fifty percent of the value of the Improvements as determined by the Chief Building Official of the County, then the County shall provide Tenant notice of same, and this Ground Lease shall immediately terminate and become null and void. In this situation, Tenant will have the option to construct new Improvements on the Premises, at Tenant's sole cost and expense, in accordance with the then-current Florida Building Code and all other applicable laws, rules, regulations, and ordinances, in order to finish out the term of the Lease or in accordance with a new Lease negotiated by the County and Cowboys in good faith with the intent to extend the term so that Tenant may amortize its investment in the Premises.

(16) Force majeure. Neither Party shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations, or any of them singularly, is delayed or prevented by a bona fide force majeure. For purposes of this Agreement, a bona fide force majeure is defined in accordance with the common law of the state of Florida as being an event or circumstance beyond the control and authority and without the fault or negligence of the Party seeking relief under this subsection. The maximum relief granted to either Party under this subsection shall be the tolling of time for the duration of the force majeure. A force majeure may be deemed to excuse performance pursuant to this Agreement only to the extent such performance is actually prevented or precluded by such force majeure.

In addition, if the damage from a force majeure event is such that the repairs necessary to restore the Premises to its condition before the damage exceeds fifty percent of the value of the Improvements as determined by the Chief Building Official of the County, then the Tenant must, within thirty (30) days, provide written notice to County of Tenant's intent to: (i) rebuild substantially similar improvements in accordance with then-current Florida Building Code and all other laws and ordinances then in effect in order to finish out the term of this Ground Lease, in which case the rebuilt structure must be substantially similar to the Improvements; or (ii) demolish the vertical Improvements (leaving in place the slab, parking pavement, and apron) and terminate this Ground Lease.

[Signature pages to follow.]

IN WITNESS WHEREOF, the County and Tenant have executed this Ground Lease by their duly authorized representatives on the dates indicated below.

APPROVED by Flagler County this day of 2026.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
Leann Pennington, Chair

Date Signed: _____

1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

ATTEST:

APPROVED AS TO FORM:

Tom Bexley, Clerk of the
Circuit Court and Comptroller

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2026.06.26 13:28:34 -04'00'

Sean S. Moylan,
Deputy County Attorney

[SIGNATURE PAGE TO FOLLOW]

FLAGLER PARTNERS HOLDINGS,
LLC

Witness 1:

Signature

Print Name

Address:

By:

Signature

Print Name, Title

Date:

Witness 2:

Signature

Print Name

Address:

STATE OF FLORIDA)
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me by means of ☒ physical presence
or ☐ online notarization this 02 day of June, 2026, by who swore or
affirmed that he/she is authorized to enter into this Ground Lease and to bind Flagler
Partners Holdings LLC. Such person(s) (Notary Public must check applicable box):

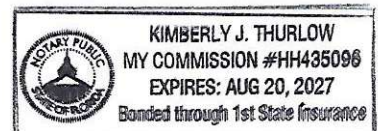
☒
☐

is/are personally known to me.

produced valid government identification.

(SEAL)

Notary Public



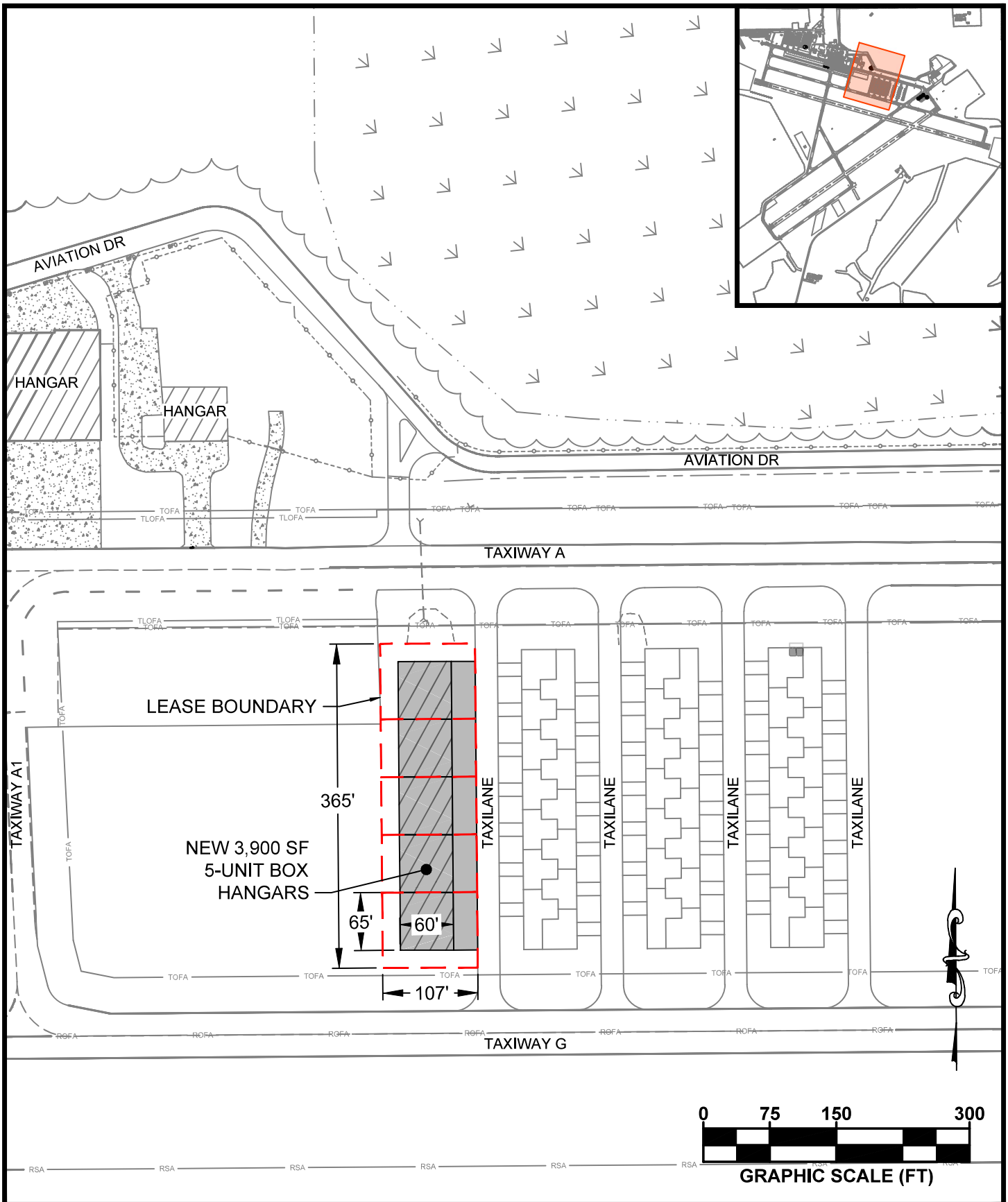


EXHIBIT A

