



## MEMORANDUM TO VENICE CITY COUNCIL

**THROUGH CHARTER OFFICER:** Edward Lavalley, City Manager

**E-SIGN:**

**FROM:** Mark Cervasio, Airport Director

**DEPARTMENT:** Airport Director

**DATE:** 6/27/24

**MEETING DATE:** July 9, 2024

**SUBJECT / TOPIC:** Seeking authorization from City Council for the City of Venice, Florida to lease a parcel of land at the airport to Blue Skies Unlimited LLC for the construction of an aircraft hangar.

**BACKGROUND INFORMATION:** Staff have been working with Blue Skys Unlimited LLC to negotiate a long-term 30-year lease for property at Venice Municipal Airport. Blue Sky intends to construct a hangar for the storage of their aircraft and a fuel storage tank to service only their aircraft. The subject property is 51,714 square feet located on the east side of the airport immediately south of Taxiway Alpha.

The initial annual rent to be paid by the lessee shall be based on a rate of ten cents per square foot for a total of \$5,171.40 for the first year. From the one-year anniversary of the Effective Date the annual rate will increase to 36 cents per square foot for a total of \$18,617.04 for the second year of the lease. Starting on the two-year anniversary of the Effective Date and on every anniversary of the Effective Date from then on, the rent shall be adjusted based on the Consumer Price Index calculation. In light of the fact that we are about to begin a Master Plan Update Study that will include an evaluation of our lease rates and make recommendations for those moving forward, prior to the end of year three of the lease term the monthly rent shall be renegotiated based upon an appraisal of the property.

In addition to the rent to be paid for the use of the property, the lessee shall pay a fuel flowage fee equal to five cents per gallon. The fuel flowage fee rate shall be renegotiated prior to the end of year three and prior to the end of year 20 based upon a market rate analysis prepared by a qualified appraiser.

**SUPPORTS STRATEGIC PLAN:** Goal Three: Ensure a Fiscally Sound City

**COUNCIL ACTION REQUESTED:** For Council Adoption by Motion

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Yes    N/A

- Document(s) Reviewed for ADA compliance (required if for agenda posting)
  - City Attorney Reviewed/Approval
  - Risk Management Review
  - Finance Department Review/Approval
- Funds Availability (account number): N/A

**CC:**

## LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between the CITY OF VENICE, a Municipal Corporation under the laws of the State of Florida, hereinafter referred to as (“Lessor”), and BLUE SKIES UNLIMITED, LLC, a foreign limited liability company, collectively hereinafter referred to as (“Lessee”).

### WITNESSETH

WHEREAS, Lessor is the owner and operator of that certain real property commonly known as Venice Municipal Airport (“Airport”), situated in Sarasota County, Florida, and operates said Airport under certain covenants with agencies of the United States of America; and

WHEREAS, Lessor is desirous of leasing to Lessee and Lessee is desirous of leasing from the Lessor, upon the terms and conditions herein contained, certain real property at the Airport upon which the Lessee will construct certain improvements as generally set forth in the Plan attached hereto as Exhibit “B;” and

WHEREAS, the Lessee and Lessor are mutually desirous of having such improvements constructed on the leased premises.

NOW THEREFORE, in consideration of the mutual covenants and premises contained herein, the parties enter into this Lease and agree as follows:

### 1. RECITALS

The above recitals are true and correct and by this reference are incorporated herein.

### 2. DESCRIPTION OF PREMISES

Lessor leases to Lessee and Lessee rents from Lessor, the real property located in Venice, Florida, at the Airport, as described in Exhibit “A” attached hereto. As used in this Lease, the term “Premises” refers to the real property described above and to any improvements located on the property from time to time during the term of this Lease.

### 3. USE OF PREMISES

The Premises shall be used by the Lessee solely for the construction, installation, and maintenance of a hangar, as shown on the Plan attached hereto as Exhibit “B,” to be used solely for the storage, repair, and maintenance of the registered aircraft described in Exhibit “C” attached hereto, and related parts and equipment. Lessee further agrees any activity, including, but not limited to, repair and maintenance of aircraft in the storage area which violates any laws, rules or regulations, including any applicable Fire Codes, which may cause structural or other damage to any Airport property, including on, above and below surfaces, or detracts from a clean and orderly appearance of the Airport or the Lessee’s hangar is prohibited. Further, Lessee is strictly prohibited from the sale of fuel or providing fuel to any aircraft other than the registered aircraft described in Exhibit “C” at the Airport. All repairs and maintenance performed within any hangar on the

Premises shall fully comply with all applicable Federal Aviation Administration (FAA) rules and regulations, including limitations on the type and scope of work as may be authorized by the FAA.

Lessee shall only store airworthy aircraft (those that have a current annual inspection certificate or deemed airworthy by the FAA, or aircraft undergoing repair or construction, as determined so by the FAA) and parts and equipment directly related to the aircraft, as described in Exhibit "C", within the hangar located on the Premises.

Lessee shall not use or permit the Premises, or any part thereof, to be used for any purpose other than the purposes for which the Premises are leased as provided for herein. Any use of the Premises, or any part thereof, other than the purposes for which the Premises are leased as provided herein may be deemed as a default of this Lease by Lessee.

#### 4. TERM

The term of this Lease shall be for a period of thirty (30) years, commencing on the Effective Date (the "Lease Term"), unless sooner terminated as provided for herein.

#### 5. HOLDOVER

Should the Lessee hold over beyond the Lease Term, then the Lessee shall become a month-to-month tenant in accordance with the law at a rate of twice the monthly rent as required to be paid by Lessee for the period immediately prior to the expiration of the Lease Term and otherwise be on the terms and conditions specified in this Lease, so far as applicable.

#### 6. RENT

The first Monthly Rent shall be prorated and each subsequent Monthly Rent payment shall be due on the first day of each month thereafter throughout the Lease Term. The Monthly Rent shall be paid by Lessee to Lessor without notice or demand and without abatement, deduction, or setoff. A late charge equal to ten percent (10%) of the Monthly Rent shall be assessed for each rent payment paid fifteen (15) or more days after its due date.

- a. From the Effective Date to the one-year anniversary of the Effective Date, the annual rent to be paid by Lessee to Lessor shall be based on a rate of ten cents (\$0.10) per square foot for a total of Five Thousand, One Hundred Seventy-One and 40/100 dollars (\$5,171.40), which is a Monthly Rent to be paid by Lessee to Lessor of Four Hundred Thirty and 95/100 dollars (\$430.95).
- b. From the one-year anniversary of the Effective Date the annual rent to be paid by Lessee to Lessor shall be based on a rate of thirty-six cents (\$0.36) per square foot for a total of Eighteen Thousand, Six Hundred Seventeen and 04/100 dollars (\$18,617.04), which is a Monthly Rent of One Thousand, Five Hundred Fifty-One and 42/100 dollars (1,551.42).
- c. This Lease shall be deemed a "Net Lease."
- d. The Monthly Rent shall be adjusted as set forth in Section 7 herein.

## 7. RENT ADJUSTMENT

Starting on the two-year anniversary of the Effective Date, the Monthly Rent during the Lease Term and any holdover Lease Term shall be adjusted every year on the anniversary month of the Effective Date using the Consumer Price Index for All Urban Consumers (CPI-U); U.S. City Average; All Items, not seasonally adjusted, annual average, 1982-1984=100 base reference, as published by the U.S. Department of Labor, Bureau of Labor Statistics, hereinafter referred to as the "CPI". For the purposes of calculating rent adjustments during the Lease Term, the year after the Effective Date shall be referred to as the "Base Year."

The adjusted Monthly Rent for each annual period shall be calculated by multiplying the then current Monthly Rent by a fraction, the numerator of which is the annual average CPI-U (as defined above) for the calendar year immediately preceding the adjustment and the denominator of which is the CPI for the base year. Stated as a mathematical formula, the adjusted rent shall be as follows:

$$\text{Adjusted Monthly Rent} = \text{Current Monthly Rent} \times \frac{\text{Previous Calendar Year CPI}}{\text{Base Year CPI}}$$

Prior to the end of Year 3 of the Lease Term, the Monthly Rent shall be renegotiated based upon an appraisal of the Premises, excluding any and all improvements that may currently exist or any future improvements that may be developed by Lessee, obtained by the Lessor and prepared by a qualified MAI-designated ("MAI") appraiser, or equal, not more than one hundred eighty (180) days prior to the end of the then-current Lease Term. The renegotiated Monthly Rent shall be calculated at a rate of eight percent (8%) of the fair market value of the Premises, excluding any and all improvements. Lessee may obtain, at its sole expense, a separate appraisal by a qualified MAI appraiser. Should the two appraisals differ by more than ten percent (10%), a third qualified MAI appraiser shall be selected by both Lessor and Lessee. The cost of the third appraiser will be shared equally by Lessor and Lessee. The third appraisal will be utilized to determine fair market value of the Premises based on a review of both Lessor and Lessee's appraisals.

The renegotiated Monthly Rent shall be effective at the commencement of Year 4 of the Lease Term and shall be subject to rent adjustment as provided for herein and the calendar year immediately preceding that of the rent renegotiation date shall be the new Base Year for purposes of calculating the adjusted Monthly Rent.

In no event shall the Monthly Rent ever be decreased.

## 8. RENT AS A SEPARATE COVENANT

Lessee shall not for any reason withhold or reduce Lessee's required payments of rent, it being expressly understood and agreed by the parties that the payment of rent is a covenant by Lessee that is independent of other covenants of the parties hereunder.

## 9. FUEL FLOWAGE FEES

As a term and condition of this Lease for dispensing fuel on the Premises, Lessee shall pay a fuel flowage fee ("Fee") as provided herein for all types of aviation fuel received by or through Lessee or on Lessee's leased Premises. Lessee agrees to provide Lessor with a copy of each fuel delivery receipt from the petroleum vendor indicating amount of product received.

The Fee to be paid to Lessor through the end of Year 3 of the Lease Term shall be five cents (\$0.05) per gallon. Thereafter, the Fee shall be adjusted as provided for in Section 10. The Fee shall be paid monthly by Lessee to Lessor within ten (10) days of the end of each calendar month. Lessee agrees to pay a late charge equal to five (5%) percent of the Fee if payment has not been rendered to Lessor within the required time frame.

## 10. FUEL FLOWAGE FEE ADJUSTMENT

The Fee shall be renegotiated prior to the end of Year 3 of the Lease Term and again prior to the end of Year 20 of the Lease Term, at the sole discretion of Lessor, based upon a market rate analysis prepared by a qualified MAI appraiser, or equal, not more than one hundred eighty days (180) prior to the end of Year 3 of the Lease Term and the end of Year 20 of the Lease Term, respectively.

Lessee may obtain, at its sole expense, a market rate analysis by a qualified MAI appraiser. Should the two analyses differ by more than ten percent (10%), a third qualified MAI appraiser shall be selected by both Lessor and Lessee. The cost of the third appraiser will be shared equally by Lessor and Lessee. The third market rate analysis will be utilized to determine the Fee based on a review of both Lessor and Lessee's analyses.

The renegotiated Fee shall be effective at the start of Year 4 of the Lease Term and at the start of Year 21 of the Lease Term, respectively.

## 11. PAYMENT

Lessee shall pay all rents, fees, charges, and billings required to be paid to Lessor under this Lease to the following address: City of Venice, 401 W. Venice Avenue, Venice, FL 34285. The address to which payment shall be submitted may be changed by Lessor by providing not less than thirty (30) days written notice to Lessee.

## 12. SECURITY OF PAYMENT

To provide security for the rents, taxes, fees, assessments, charges, obligations and performance required hereunder, as of the Effective Date and throughout the remainder of the Lease Term, Lessee is required to secure the same by maintaining with Lessor a security deposit ("Security Deposit"). Lessee shall comply with one of the following three (3) options and maintain such Security Deposit in effect during the Lease Term and any Renewal Term:

- a. Lessee shall post with Lessor a separate surety bond to be maintained throughout the Lease Term in an amount equal to six (6) times the current Monthly Rent as required hereunder. Such bond will be issued by a surety company acceptable to Lessor and authorized to do business in the state of Florida, and will be in a form and content satisfactory to Lessor; or
- b. Lessee will deliver to Lessor a separate irrevocable letter of credit drawn in favor of Lessor

upon a bank which is satisfactory to Lessor and which is authorized to do business in the state of Florida. Said irrevocable letter of credit will be in an amount equal to six (6) times the current Monthly Rent as required hereunder; or

- c. Lessee shall deposit an amount equal to six (6) times the current Monthly Rent in a non-interest bearing escrow account to Lessor.

In the event Lessee fails to perform the payment terms and conditions of this Lease, Lessor, in addition to any other rights and remedies available to Lessor, may at any time apply the Security Deposit or any part thereof toward the payment of Lessee's obligations under this Lease. In such event, not later than seven (7) days after receipt of written notice, Lessee will restore the Security Deposit to its original amount.

Any release of liability of the Security Deposit required pursuant to this Section will be conditioned on the satisfactory performance of all terms, conditions, and covenants contained herein throughout the entire Lease Term. Notwithstanding the above, the Security Deposit shall at all times be current. Upon the expiration of this Lease, Lessor will return the remaining balance of the Security Deposit to Lessee within thirty (30) days, subject to payment of any outstanding rent, taxes and assessments, charges, fees and/or other payments due hereunder.

### 13. DELIVERY OF POSSESSION

If, for any reason whatsoever, Lessor cannot deliver possession of a portion of the Premises to Lessee at the commencement of the Lease Term as specified above, this Lease shall not be void or voidable, Lessor shall not be liable to Lessee for any loss or damage resulting from the inability to deliver possession, and Lessee shall not have the option to terminate this Lease unless Lessor fails to deliver a sufficient portion of the Premises to satisfy the purpose for which Lessor has entered into this Lease. In the event only a portion of the Premises is delivered to Lessor, there shall be a proportionate reduction of rent covering the undelivered portion of the Premises for the period between the Effective Date and the time when Lessor can deliver full possession of the Premises. However, Lessee shall have the right to terminate the Lease upon either of the following occurrences: (i) Lessor cannot deliver more than 99% of the Premises to Lessee at the commencement of the Lease Term; or, (ii) Lessor cannot deliver the full Premises within 10 days from the commencement of the Lease Term,

### 14. "AS IS" CONDITION

Lessee taking possession of the Premises shall be conclusive evidence that the Premises and all structures and buildings as well as all component parts and fixtures, if any, were in satisfactory condition and accepted as of the date of possession. No promises of the Lessor to alter the Premises and no representations respecting the condition of the Premises have been made by Lessor to Lessee other than as specifically set forth in this Lease.

### 15. WARRANTIES OF TITLE AND POSSESSION

Lessor covenants that it has lawful title to the Premises being leased free and clear of all liens, mortgages, bonded indebtedness and encumbrances except as otherwise herein noted and subject to the limitations and restrictions in the deeds by which Lessor acquired its title, and has full authority to make this Lease upon the terms herein set forth. Provided Lessee shall pay all rents as herein agreed and keep and fully perform all of the terms, covenants and conditions hereof,

Lessee shall quietly enjoy the Premises subject to the terms and conditions hereof. In the event of a national emergency during the term hereof so as to affect or destroy the possessory right of Lessor in the Premises, then Lessee may be, at its option, relieved of the terms hereof.

## 16. COMPLIANCE WITH LAWS, REGULATIONS, ORDINANCES AND RULES

Lessee shall at all times comply with all applicable federal, state and local laws, regulations, ordinances or rules affecting the Premises, whether existing or as may be updated from time to time, including but not limited to permitted and restricted activities, security, parking, ingress and egress, environmental and storm water regulations and any other matters related to the operation of the Airport. Lessee shall not use the Premises hereunder, or permit the same to be used, for any unlawful or immoral purpose, or do in upon or about said Premises, or permit the doing therein or thereon or thereabout, of anything which tends to create a nuisance; and the Lessee further covenants that it will at all times obey and promptly comply with the lawful rules and regulations, as promulgated, from time to time, by Lessor or the Federal Aviation Administration (FAA) and its successors, which regulate and apply to the use of the Premises. Lessee agrees to cooperate with any investigation, audit or inquiry by the Lessor or any governmental agency regarding possible violation of any law or regulation.

Lessee shall be allowed to use, store, maintain and transport to and from or handle within the Premises hazardous material and other substances customarily used in Lessee's operations on the Premises, provided: (i) such substances shall be used, stored, maintained, transported, handled and disposed of only in accordance with Environmental Laws (as defined in Section 23, herein), (ii) such substances shall not be released in or upon the leasehold in violation of Environmental Laws and the National Fire Protection Association ("NFPA")\_code and local fire codes as they may be amended from time to time, (iii) for purposes of removal and disposal of any such substances, Lessee shall be named as the owner and generator, obtain a waste generator identification number, and execute all permit applications, manifests, waste characterization documents and any other forms required by the appropriate state or federal environmental authority and hold Lessor harmless, and (iv) such substances shall be used solely for the registered aircraft listed in Exhibit "C".

Lessee shall be allowed to construct and store liquids in tanks that meet the requirements of National Fire Protection Association (NFPA) Standard 30 – Flammable and Combustible Liquids Code, current edition.

Lessee, when engaging in fueling operations, must have a written fueling operations plan that addresses proper fueling procedures, training, and safety. The fueling operations plan must also contain a Spill Prevention/countermeasures and Control Plan that address how the operator will clean up different size fuel spills. The fueling operations plan must be approved by the City Fire Marshall and be on file with the Airport Director. All fueling facilities and mobile fueling vehicles shall be maintained to the highest safety standards in compliance with all codes and safety standards. These facilities and vehicles shall be subject to routine inspections by the City Fire Marshall. Properly trained personnel of Lessee, using equipment and facilities owned by the Lessee must complete all fueling operations. The Airport does not recognize a CO-OP (an organization formed by several aircraft owners for the purpose of self fueling) as an individual aircraft owner for self-fueling purposes.



## 17. PERMITS AND LICENSES

Lessee shall be strictly liable, responsible and bear all costs of obtaining, maintaining current, and fully complying with, any and all permits, licenses, and other governmental authorizations in connection with the proposed or any future construction activities on the Premises, however designated, as may be required at any time throughout the Lease Term by any federal, state, or local governmental entity including, but not limited to, the City of Venice, or any court of law having jurisdiction over Lessee or Lessee's operations. Nothing herein shall be construed as approval by the City of Venice of the proposed improvements on the Premises. Lessee shall furnish to Lessor, within seven (7) days, upon request in writing, copies of any such permits, certificates and licenses. In the event that Lessee is denied any necessary permits and licenses or is unable to obtain all such permits and licenses required for construction of the improvements contemplated under Exhibit "B" hereof, and can provide documentation to Lessor that Lessee has made all reasonable efforts to obtain all such permits and licenses, then Lessee shall have the right to terminate this Lease.

## 18. CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

Lessee shall, at no cost or expense to Lessor, build, construct and complete an aircraft storage hangar on the Premises as generally set forth in the Plan attached hereto as Exhibit "B." Prior to commencement of permitting and construction of said improvements, Lessee shall submit plans and specifications for the improvements to be approved in concept by Lessor, by and through Airport Management, which approval shall not be unreasonably withheld.

Lessee shall commence construction of such improvements after receiving all applicable permits and governmental approvals within twelve (12) months and diligently and continuously pursue construction until the improvements are completed. Unless otherwise agreed in writing by the parties, if Lessee has not made application for all applicable permits and governmental approvals for the structure as shown on Exhibit "B," including submittal of all data required for review prior to issuance of permits, by the one-year anniversary of the Effective Date, then Lessor may terminate this Lease, Lessee shall not be entitled to any refunds of any payments made to Lessor hereunder, and all further obligations of the parties shall cease.

- a. No alterations or improvements on the Premises shall be done by Lessee without receiving the written consent of the Lessor, by and through Airport Management, approving of the alterations of improvements in concept. Said consent shall not be unreasonably withheld by Lessor. Once approved by Lessor, any such alteration or improvement shall be at the sole risk of Lessee and shall be in accordance with all applicable federal, state and local codes, laws and processes, and subject to inspection by the Lessor. Any work associated with such alteration or improvement shall not unreasonably interfere with the operation of the Airport, or otherwise unreasonably interfere with the permitted activities of other tenants at the Airport. Lessee shall diligently and continuously pursue construction of any approved alteration/improvement until completion unless stated otherwise in Lessor's written consent.
- b. Prior to the commencement of any alteration or improvement that will exceed one hundred thousand dollars (\$100,000) in cost, including, but not limited to, those improvements shown on Exhibit "B," Lessee shall obtain payment and performance bonds or other security that meets the requirements of Section 255.05, Florida Statutes, in a sum equal to the full amount of the construction contract for the alterations or improvements. Said security shall name Lessor as an obligee thereunder and shall be drawn in a form and from such company acceptable to Lessor and licensed to do business in the State of Florida; shall

guarantee the faithful performance of necessary construction and completion of improvements and payment to all persons supplying contractor labor, materials and supplies, used directly or indirectly in the prosecution of the construction work provided; in accordance with approved final plans and detailed specifications; and shall protect Lessor against any losses and liability, damages, expenses, claims, and judgments caused by or resulting from any failure to perform completely the work described.

- c. Prior to the commencement of any alterations or improvements by Lessee on the Premises, Lessee, at Lessee's expense, shall procure and provide Lessor with a copy of a Federal Aviation Regulation, Part 77 airspace study, approved by the FAA, if applicable.
- d. Prior to the commencement of the construction of the improvements shown on Exhibit "B" or any other alterations or improvements by Lessee on the Premises, Lessee shall provide documentation to Lessor demonstrating that Lessee's contractors performing said work have agreed to indemnify Lessor for any injury or damages related to the contractor's conduct regarding said work on the Premises, and providing evidence of insurance satisfactory to the Lessor (in at least the same amounts and form required for Lessee).
- e. Lessee shall construct and maintain an aircraft parking apron directly adjacent to the hangar within the leasehold. The square footage of the apron shall equal the square footage of the hangar and be constructed simultaneously with the hangar. It shall be the Lessee's responsibility to construct and maintain one dedicated taxiway connector from the Airport's existing Taxiway/Taxiway A. Upon completion of approved construction of said taxiway connector and approval by the Lessor, the taxiway connector shall become the property of the Lessor. Apron and taxiway connector pavement shall be comprised of asphalt/concrete and shall be designed in accordance with Federal Aviation Administration design guidance and requirements. Lessee shall be solely responsible for any and all costs, expenses, and permitting requirements associated with constructing and maintaining the asphalt/concrete apron.

The intended apron and connector design shall be submitted to the City of Venice in addition to the proposed hangar specifications for review and approval. The apron shall automatically become property of the Lessor upon termination of this Lease.

- f. Upon completion of approved construction and within one hundred twenty (120) days of Lessee's receipt of a certificate of occupancy, Lessee shall submit to Lessor a complete set of as-built drawings in a media type and format acceptable for the permanent record of Lessor.

## 19. INSPECTION OF IMPROVEMENTS

Within one (1) year of the expiration of the Lease Term, Lessor shall have the right, but not the obligation, at its expense, to obtain an inspection of the Premises, including any and all improvements, so as to determine the physical condition. The inspection shall be conducted by an independent inspector acceptable to both Lessor and Lessee. The inspection shall specify all repairs that must be made by Lessee in order that the Premises are received by Lessor upon termination of this Lease in good order and condition, reasonable wear and tear excepted. The inspection shall examine, but not be limited to, the structural integrity of the improvements, as well as the condition of all electrical, plumbing and HVAC systems. The cost of all necessary repairs identified by the inspection shall be borne by Lessee. All necessary repairs shall be

completed, insofar as is possible, prior to the expiration of the Lease Term. If all necessary repairs are not completed prior to the expiration of the Lease Term, in addition to any other damages, Lessee shall be responsible for payment of lost rent or lost use to Lessor.

## 20. MAINTENANCE AND REPAIRS

a. Responsibility for Maintenance and Repairs. Throughout the Lease Term, Lessee shall assume the entire responsibility, and shall relieve Lessor from all responsibility, for all repair and maintenance whatsoever on the Premises (which includes, without limitation, all buildings and improvements thereon), whether the repair or maintenance is ordinary or extraordinary, structural or otherwise. Lessee shall ensure maintenance and repairs are completed in a manner and class to preserve the Premises in good order and condition, and that any repair leaves the items or structures being repaired in a condition comparable to the original work.

b. Lessee's Obligation to Maintain Buildings and Improvements. Lessee shall keep all buildings and other improvements in good, tenantable, useable condition and without visible signs of deterioration throughout the Lease Term, and which repair and maintenance shall include, but not be limited to, all doors, windows, pavements, fencing, equipment, lighting, HVAC, furnishings, fixtures, roof, exterior walls, paved areas, utilities, landscaping and all structural support systems. Without limiting the generality thereof, Lessee shall:

- (1) Repair and paint or seal the exterior and interior of the improvements to a condition satisfactory to Lessor.
- (2) Keep the Premises at all times in a clean and orderly condition and appearance, including without limitation, upkeep and maintenance of all landscaping and upkeep and maintenance of all of Lessee's fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public.
- (3) Provide and maintain all obstruction lights and similar devices, fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution or regulation of any applicable governmental authority.
- (4) Repair any damage to the paving or other surface of the Premises caused by operations of Lessee, its agents, employees, or invitees and any others entering upon or using the Premises, including without limitation any oil, gasoline, grease, lubricants or other liquids and substances having a corrosive or detrimental effect thereon and report the incident of such spill to Lessor in accordance with Section 23.
- (5) Take anti-erosion measures, including but not limited to, the planting and replanting of grasses with respect to all portions of the Premises not paved or built upon.
- (6) Be responsible for the maintenance and repair of all utilities, including but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers that are now, or that may later be, located upon the Premises and that are used exclusively by Lessee.
- (7) Stabilize any land areas not grassed or paved on the Premises and utilize such areas

so that use of the same will not cause dust, debris or waste to be blown about or raised so as to interfere with or disturb the use or enjoyment of others.

c. Except for emergency and public safety items that must be immediately addressed, within thirty (30) days of written notice by Lessor, Lessee must perform reasonable maintenance or repairs as directed by Lessor. If the maintenance or repairs cannot reasonably be completed within thirty (30) days, Lessee shall commence the repairs within such period of thirty (30) days and provide a reasonable schedule to Lessor for the anticipated completion of said maintenance or repairs.

d. If Lessee fails in any material respect to: (i) timely commence to maintain, clean, repair, replace, rebuild or paint within the period of time required under this Lease, or as may be requested by the Lessor and after written notice from the Lessor to do so; or (ii) fails in any material respect to diligently continue to complete the maintenance, repair, replacement, rebuilding or painting of the Premises as required under the provisions of this Lease, then the Lessor may, at its option, and in addition to all other remedies that may be available, have the right, but shall not be obligated to, enter on to the Premises and refurbish, maintain, repair, replace, rebuild or paint all or any part of the Premises and Lessee shall pay the cost thereof, plus an additional fifteen percent (15%) administrative charge, upon demand.

e. The damage, destruction, or partial destruction of any building or other improvement that is part of the Premises shall not release Lessee from any obligation under this Lease, except as expressly provided below in Section 30. In case of damage to or destruction of any such buildings or improvement, Lessee shall at its own expense promptly repair and restore the building or improvement to a condition as good as or better than that which existed prior to the damage or destruction. Without limiting such obligations of Lessee, it is agreed that the proceeds of any insurance covering the damage or destruction shall be timely used by Lessee for repair or replacement of the damaged or destructed improvements.

## 21. PREMISES IMPROVEMENTS UPON END OF LEASE

Subject to Lessor's approval, Lessee may, at its own expense, make alterations and improvements to the Premises as necessary. Lessee specifically agrees that any and all improvements, except personal property, furnishings and installed trade fixtures located upon the Premises shall become the property of the Lessor upon termination of this Lease. Title to all personal property, furnishings and trade fixtures shall be and remain with Lessee and may be removed from the Premises at any time, provided Lessee is not then in default hereunder. If Lessee shall fail or refuse to remove any such property from the Premises upon expiration or termination of this Lease, Lessee shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Lessor without any cost either by set-off, credit, allowance or otherwise, and shall be disposed of by Lessor in accordance with the law without incurring liability to Lessee or any other person or entity.

## 22. UTILITIES

Lessee shall fully and promptly pay for all water, sewer, gas, electricity, telephone service, internet and other public utilities of every kind furnished to the Premises throughout the Lease Term, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation, and maintenance of the Premises and all activities conducted on the Premises. Lessor shall have no responsibility of any kind for any of such costs and expenses.

## 23. ENVIRONMENTAL REGULATIONS

Lessee agrees to comply with all applicable federal, state and local laws, regulations and ordinances protecting the environmental and natural resources and all rules and regulations promulgated or as amended from time to time (“Environmental Laws”) and accepts full responsibility and liability for such compliance. Lessee shall at all times maintain an accurate inventory list, including quantities, of all such hazardous, and other contaminated or polluted materials, whether stored, disposed of or recycled, available at all times for inspection at any time on the Premises by Lessor. Lessee agrees that it will neither handle nor store any toxic waste materials on the Premises.

If Lessee receives a notice of violation or similar enforcement action or notice of noncompliance, Lessee shall provide a copy of same to the Lessor within twenty-four (24) hours of receipt by Lessee. Any environmental violation of the provisions of this Lease shall be deemed to be a default under this Lease if not cured within ninety days (90) days of receipt of notice from the Lessor or such time permitted to bring the Premises into compliance by the regulatory agency with jurisdiction over the subject violation, whichever is shorter, shall be grounds for termination of this Lease, and shall also provide the Lessor grounds for taking whatever other action it may have in addition to termination based upon default as provided for under this Lease. If Lessor receives a notice from any governmental entity asserting a violation by Lessee of Lessee's covenants and agreements contained herein, or if Lessor otherwise has reasonable grounds upon which to believe that such a violation has occurred, Lessor shall have the right, but not the obligation, to enter the Premises and perform environmental site assessments for the purpose of determining whether there exists any environmental condition that could result in any liability, cost or expense to Lessor. Lessee agrees to cooperate with any investigation, audit, inquiry by Lessor or any governmental agency regarding possible violation of any environmental law, regulation or in response to any spill, leak or other emergency situation involving hazardous, toxic, flammable or other pollutants or contaminated materials.

With regard to any contamination caused by Lessee or arising by reason of Lessee's use or occupancy of the Premises, Lessee shall immediately report same to Lessor and take such action as is necessary to clean up and remediate the Premises at its own expense in accordance with applicable federal, state, and local law. The remediation must continue until the applicable governmental authorities have determined that no further action is necessary. If Lessor is unable to lease the Premises during the period of cleanup and remediation due to the environmental condition or cleanup work being performed, in addition to any other damages, Lessee shall be responsible for payment of lost rent or lost use to Lessor.

## 24. ENVIRONMENTAL INSPECTIONS

Lessor shall have the right, but not the obligation, to have an environmental assessment of the Premises prepared within the first one hundred eighty (180) days of this Lease, and to provide a copy of such report to Lessee to establish a base line indicating the current condition of the Premises. Within the last one hundred eighty (180) days of the Lease Term, Lessor shall have the right, but not the obligation, to have an environmental assessment performed to determine whether any hazardous substances or contamination have been generated, released, stored or deposited over, or presently exist beneath or on the Premises from any source.

## 25. LESSOR'S RIGHT OF ENTRY

Lessee shall permit Lessor and the agents and employees of Lessor to enter the Premises at all reasonable times for the purpose of inspecting them, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs, without any rebate of rent and without any liability to Lessee for any loss of occupation or quiet enjoyment of the Premises. Lessor shall provide reasonable notice to Lessee prior to any such entry of the Premises unless impractical to do so as a matter of public health, safety, or welfare. In addition, Lessee shall permit Lessor, within the last one hundred eighty (180) days prior to the expiration of any Lease Term, to place on the Premises any usual or ordinary "for lease" signs and to exhibit the Premises to prospective Lessees at reasonable hours.

## 26. ABANDONMENT OF PREMISES

Lessee shall not vacate or abandon the Premises at any time during the Lease Term.

## 27. INDEMNIFICATION

Lessee agrees to indemnify and hold harmless the Lessor from and against any and all liability, claims, demands, damage, expense, fees, fines, penalties, suits, proceedings, actions and causes of actions of any and every kind and nature arising or growing out of or in any way connected with the use and occupation of the Premises or any operation therefrom, or arising out of or in any way connected with any act or omission of the Lessee, and sub-tenants and their respective successors and assigns, or anyone claiming by, through or under them, or resulting from any breach, violation or non-performance of any covenants, condition or agreement herein contained on the part of the Lessee to be kept and performed, to the extent resulting in injury to the person or persons or property damage or loss of life or property of any kind or nature whatsoever sustained during the Lease Term hereof, except to the extent that such bodily injury or property damage or loss results from the negligence of Lessor, its agents, employees or sub-shall, if required by Lessor, defend, at its own expense, any and all such actions, suits, and proceedings, which may be brought against the Lessor or in which the Lessor may be impleaded or joined with others in any such actions or proceedings and shall satisfy, pay, and discharge any and all judgments, orders and decrees that may be recovered against the Lessor in any such action or proceeding. In addition, as set forth in Section 18.d. herein, Lessee shall provide documentation to Lessor demonstrating that Lessee's contractors performing any construction, alteration, repair, or maintenance on the Premises have agreed to indemnify Lessor for any injury or damages related to the contractor's conduct regarding said work on the Premises. Notwithstanding the above, Lessee shall be relieved of all obligations and responsibilities described herein for any and all actions, suits and proceedings which results from the sole negligence of Lessor, its agents, employees or sub-contractors. Compliance with the insurance requirements as provided in this Section shall not relieve Lessee of its liability or obligation to indemnify the Lessor as set forth herein. Lessee recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by the Lessor in support of this indemnification in accordance with laws of the State of Florida. This clause shall survive the termination of this Lease.

## 28. INSURANCE

Lessee shall procure and maintain at its cost, during the Lease Term, insurance as listed below. The policies of insurance shall be primary and written on forms acceptable to the Lessor and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best and Company rating of no less than A:VII. No changes are to be made to these specifications without prior written specific approval by the Lessor.

- a. Commercial General Liability, providing coverage for Premises and operations including but not limited to bodily injury, property damage, contractual, products and completed operations, collapse, underground and explosion, owner's and contractor's protective, contractual and personal injury with limits of not less than two million dollars (\$2,000,000.00) per occurrence, two million dollars (\$2,000,000.00) aggregate.
- b. Property, for all buildings and improvements and Lessee's personal property on the Premises and for all risks of loss included in Fire and Common "Special Form" perils with limits no less than current replacement value of buildings and improvements. Coverage must also include windstorm and flood with limits no less than current replacement value of buildings and improvements. Lessee is responsible for full replacement cost, including any deductibles. The term "replacement value" shall mean the actual replacement cost less depreciation. The replacement value shall be determined whenever reasonably requested by Lessor.
- c. Automobile Liability, if applicable, including bodily injury and property damage for all vehicles owned, leased, hired and non-owned vehicles with limits of not less than one million dollars (\$1,000,000.00) per occurrence, one million dollars (\$1,000,000.00) aggregate.
- d. Storage Tank Liability, if applicable, with limits not less than one million dollars (\$1,000,000.00) per occurrence, one million dollars (\$1,000,000.00) aggregate or equal to actual exposure.
- e. Builders Risk, if applicable. During the Lease Term, Lessee shall, at its sole expense, procure and maintain Builders Risk Insurance for the construction of any improvements, alterations or new construction equal to or greater than one hundred thousand dollars (\$100,000) in value on the Premises, naming Lessor as an additional insured. Said coverage shall be obtained with a limit of no less than one hundred percent (100%) of the completed replacement cost value issued on an All Risk form including Windstorm & Hail and Flood. Coverage should apply on a replacement cost basis.
- f. Workers Compensation: Workers compensation insurance in accordance with Florida statutory law and Employers Liability insurance with a limit of not less than one million dollars (\$1,000,000.00) each accident, one million dollars (\$1,000,000.00) each disease/employee, one million dollars (\$1,000,000.00) each disease/maximum. A waiver of subrogation must be provided. Coverage should apply on a primary basis.

All policies required by this Lease, with the exception of Workers Compensation, or unless specific approval is given by Lessor, are to be written on an occurrence basis, and for liability policies shall name the City of Venice, its elected officials, officers, agents, and employees as additional insured as their interest may appear under this Lease. Insurer(s) shall agree to waive all rights of subrogation against the City of Venice, its elected officials, officers, agents, and employees.

Each insurance policy required by this Lease shall apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.

All policies required by this Lease shall be endorsed to state that coverage shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice to Lessor by certified mail, return receipt requested.

Lessor reserves the right to review, annually, coverage form/policy, and the types and amount of insurance and revise the same as deemed reasonably necessary by Lessor by providing not less than thirty (30) days written notice to Lessee. Any such revisions shall be in accordance with generally accepted industry standards based on the use of the Premises.

The procuring of required policies of insurance shall not be construed to limit Lessee's liability, or to fulfill the indemnification provisions and requirements of this Lease.

The Lessee shall, at its sole cost, be responsible for payment of all premiums for insurance contributing to the satisfaction of this Lease and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not Lessor is an insured under the policy.

The Lessee shall, at its sole cost, comply with all requirements, pertaining to the Premises, of any insurance organization or company, necessary for the maintenance of insurance, as provided in this Lease, covering any building and appurtenances at any time located on the Premises.

Certificates of insurance evidencing occurrence form coverage and conditions to this Lease are to be furnished to Lessor fourteen (14) days prior to the Effective Date of this Lease and prior to expiration of each insurance policy.

Notices of claims associated with this Lease shall be provided to the Lessee's insurance company and Lessor, as soon as practicable after notice to the Lessee.

Notwithstanding said insurance policies, Lessee shall be obligated for the full and total amount of any damages, injury, or loss caused by the negligence, recklessness, or intentional wrongful conduct of Lessee and persons employed or utilized by Lessee in connection with this Lease.

## 29. NOTICES

All notices required or authorized under this Lease shall be given in writing and shall be served by mail on the parties at the respective address shown below:

LESSOR: City of Venice  
Venice City Manager  
401 W. Venice Avenue  
Venice, Florida 34285

LESSEE: Blue Skies Unlimited LLC  
221 North Broad Street, Suite 3A  
Middletown, DE 19709



### 30. FORCE MAJEURE

The parties shall be temporarily excused from performance under this Lease if an Event of Force Majeure directly or indirectly causes nonperformance. An "Event of Force Majeure" shall mean any event, which results in the prevention of, or delay of performance by a party of its obligations under this Lease and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, act of God, fire, flood, earthquake, storm, lightning, epidemic, pandemic, war, riot, civil disturbance, sabotage and governmental actions. Within five (5) working days after the occurrence of an Event of Force Majeure, the nonperforming party shall deliver written notice to the other party describing the event in reasonably sufficient detail and how the event has precluded the nonperforming party from performing its obligations hereunder. The nonperforming party's obligations, so far as those obligations are affected by the Event of Force Majeure, shall be temporarily suspended during, but no longer than, the continuance of the Event of Force Majeure and for a reasonable time thereafter as may be required for the nonperforming party to return to normal business operations. If excused from performing any obligations under this Lease due to the occurrence of an Event of Force Majeure, the nonperforming party shall promptly, diligently, and in good faith take all reasonable action required for it to be able to commence or resume performance of its obligations under this Lease. During any such time period, the nonperforming party shall keep the other party duly notified of its schedule and all other such actions required for it to be able to commence or resume performance of its obligations under this Lease.

### 31. PROPERTY RIGHTS RESERVED

This Lease and all provisions hereof are subject to and subordinate to the terms and conditions of the instruments and documents under which the Lessor acquired the subject property from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the Lease of said lands from the Lessor, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by the Lessor pertaining to the Airport. In addition, this Lease shall be subordinate to the provisions of any existing or future agreements between Lessor and the United States Government or other governmental authority, 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 or other governmental funds for the development of the Airport, to the extent that the provisions of any such existing or future agreements are generally required by the United States or other governmental authority of other civil airports receiving such funds.

### 32. TAXES

All taxes, assessments and charges on lands or improvements and obligations upon the Premises shall be promptly paid by the Lessee when due. The Lessee shall have the right to contest or protest or review by legal proceedings any such other manner as may be provided by law. Such taxes or assessments imposed by governmental authorities and to institute such proceedings in the name of itself as well as the Lessor as it may deem necessary; provided, however, that any expense incurred by reasons thereof shall be borne by the Lessee and such proceedings shall be conducted free of any expense to the Lessor. Under such circumstances, Lessee shall fully indemnify and save the Lessor from all loss, cost, damage and expense incurred or to be incurred or suffered by the Lessor. In addition, Lessee shall furnish to Lessor for its inspection upon request in writing, official receipts of the appropriate taxing authority or other proof satisfactory to the Lessor

evidencing payment by Lessee.

### 33. DEFAULT AND TERMINATION

The happening of any one or more of the following events (hereinafter referred to as an event of default) shall constitute a breach of this Lease on the part of the Lessee:

- a. The failure of Lessee to pay any rent or other amounts or charges due under this Lease and the continued failure to pay same for a period of thirty (30) days after the due date.
- b. The failure of Lessee to fully and promptly perform any act required of it in the performance of this Lease or to otherwise comply with all of the terms and conditions hereof.
- c. The levy of execution or attachment of the leasehold interest of Lessee by process of law or otherwise in satisfaction or partial satisfaction of any judgment, debt or claim; provided Lessee shall have the right to contest any such action against it, and during the period of contest no breach shall occur as a result of any such action.
- d. Lessee's vacating or abandoning the Premises
- e. Lessee's non-compliance with Section 287.133, Florida Statutes, concerning Criminal Activity on Contracts with Public Entities.
- f. Material breach by Lessee of any term, provision, obligation or condition of this Lease.

Lessee shall not be deemed in default under the Lease in the payment of rent or the payment of any other monies required in this Lease, or in the furnishing of any bond or insurance policy when required unless Lessor shall first give to Lessee written notice of the default and Lessee fails to cure the default within ten (10) working days. Said written notice shall not be given by Lessor to Lessee until any grace period provided for in this Lease has expired.

With respect to any events set forth in paragraphs b. or f. of this Section, Lessee shall not be deemed in default under the Lease unless Lessor first gives to Lessee written notice of default, and Lessee fails to cure the default within thirty (30) days unless the Lessor reasonably determines that a shorter time for compliance is required to protect the public health, safety or welfare.

In the event that Lessee by failing or neglecting to do or perform any activity provided for in this Lease, defaults under this Lease and the failure continues beyond the time provided for Lessee to cure after written notice of default from Lessor specifying the nature of the act or thing to be done or performed, then Lessor may, but shall not be obligated to, do or perform or cause to be done or performed such act or thing, entering on the Premises for such purpose, if Lessor shall so elect. Lessor shall not be held liable or in any way responsible for any loss, inconvenience, annoyance, or damage resulting to Lessee on account of any such activity. Lessee shall repay to Lessor on demand any expenses, including compensation to the agents and employees of Lessor. Any activity done by Lessor pursuant to the provisions of this Section shall not be construed as Lessor's waiver of any such default by Lessee, or as a waiver of any covenant, term, or condition contained in this Lease or the performance of it, or of any other right or remedy of Lessor. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when

the amounts become due as in this Lease provided, shall bear interest from the date they become due until paid at the rate of ten percent (10%) per year, compounded annually.

In addition, in the event that Lessee by failing or neglecting to do or perform any activity provided for in this Lease, defaults under this Lease and the failure continues beyond the time provided for Lessee to cure after written notice of default from Lessor specifying the nature of the act or thing to be done or performed, then Lessor, at its election, may declare this Lease to be terminated, ended and null and void, and re-enter upon and take possession of the Premises whereupon all right, title and interest of Lessee in the Premises shall end. Any such action by Lessor shall not be deemed to preclude the exercise of any other remedy available to Lessor as provided by statute or general law at the same time or in subsequent times or actions.

#### 34. WAIVER OF DEFAULT

No waiver of any breach of any of the term, provision, obligation or condition hereof shall be taken or construed to be a waiver of any other or succeeding breach of the same or any term, provision, obligation or condition hereof.

#### 35. ACCELERATION OF RENT

If any of the events referred to in Section 33 occur then, in addition to all other rights available to the Lessor, the full amount of the current Monthly Rent and any other payments required to be made monthly by the Lessee, and the next ensuing six (6) months' worth of Monthly Rent will immediately become due and payable as Accelerated Rent.

#### 36. RELATIONSHIP OF THE PARTIES

The execution of this Lease or the performance of any of the terms, covenants, and conditions hereof shall not be deemed or construed to have the effect of creating between Lessor and Lessee the relationship of principal and agent, or of a partnership or of a joint venture and the relationship between the parties hereto shall be and always remain that of Lessor and Lessee. Lessee is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and Lessor shall in no way be responsible for the duties and obligations of Lessee.

#### 37. SUBLETTING AND ASSIGNMENT OF LEASE

Unless Lessee has received prior written consent of Lessor, Lessee shall not assign this Lease. Otherwise, Lessee shall not sublet the Premises or any part of the Premises, or any right or privilege appurtenant to it, or allow any person other than Lessee and Lessee's agents and employees to occupy or use the Premises or any part of them.

#### 38. BANKRUPTCY OR INSOLVENCY OF LESSEE

In the event the Lessee at any time during the term of this Lease should suffer or permit an involuntary or voluntary petition in bankruptcy to be filed against it or make any assignment for the benefit of its creditors, or should a receiver or trustee be appointed for the Lessee's property and such or petition is not vacated within sixty (60) days thereafter, same shall constitute a default hereunder and in addition to all other rights of Lessor in the event of default, Lessor shall have the

right, at its option, and without notice, to consider the same a termination of this Lease.

### 39. MORTGAGE RIGHTS OF LESSEE

The Lessee shall have the right to mortgage its leasehold interest under this Lease, together with Lessee's right and interest in any buildings or improvements placed upon the Premises by the Lessee, for the purpose of securing a loan, provided that such mortgage will be subject to and inferior to the prior right, title and interest of the Lessor in the Premises, and provided also that Lessee and Lessor enter into an addendum to this Lease setting forth specific terms and conditions, as well as the respective rights of Lessee and Lessor, regarding any such mortgage, prior to the existence of any such mortgage.

### 40. CONDEMNATION

- a. In the event of the taking of part or all of the Premises or improvements located thereon in any proceedings for condemnation or eminent domain (or any conveyance by Lessor to avoid legal proceedings, of which Lessee shall be immediately notified), all parties hereto, including any mortgagee, shall be entitled to such rights as provided to each of them by Florida law including, but not limited to, making any claim against the condemning authority with regard to the Premises. If only a portion of the premises shall be so taken, then this Lease shall continue in full force and effect; provided, however, if the remainder of the Premises is not suitable for the use then being made of the Premises by Lessee, or if the remainder of the Premises is not one undivided parcel of property then the Lessee, at its option, may give the Lessor thirty (30) days' notice of termination of this Lease.
- b. If Lessee exercises its option to terminate as provided for under this Section, Lessee shall be released from payment of any rents, taxes or other obligations under the Lease and from any further liability for the payment of any rent or the performance of any conditions thereunder upon the date of termination.
- c. If the Lessee does not exercise its option to terminate as provided for under this Section, then all of the terms and conditions of the Lease shall continue in full force and effect, except that Lessee shall be entitled to a rent adjustment throughout the remaining term of the Lease and any extension thereof; said rent adjustment to accurately reflect the decreased value of the leasehold interest for which Lessee has not been fully compensated. Said rent adjustment shall be calculated upon a reappraisal of the property value of the remaining real property of the Premises, with said reappraisal performed at Lessor's expense. Upon the occurrence of a taking of part of the Premises or improvements located thereon as contemplated above in this Section, if Lessee does not exercise its option to terminate, then this Lease shall be amended to remove such taken real property from the Premises.
- d. In the event of the taking of part or all of the Premises or improvements thereon by inverse condemnation or a regulatory taking, Lessee shall be afforded all rights provided under this Section.

#### 41. SURRENDER OF LEASE

The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation of this Lease, shall not work as a merger, and shall, at the option of Lessor, terminate all or any existing subleases or sub-tenancies, or may, at the option of Lessor, operate as an assignment to it of any or all such subleases or sub-tenancies.

#### 42. AIRPORT PROTECTION

It shall be a condition of this Lease, that the Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the 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, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the Airport. In addition, the Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77. Further, the Lessee expressly agrees for itself, 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 otherwise constitute an airport hazard.

#### 43. AIRPORT DEVELOPMENT AND EVENTS

Lessor reserves the right to develop, improve, repair, and alter the Airport and its runways, taxiways, navigational aids, terminal facilities, aircraft parking aprons and roadways, as it may deem appropriate. Lessee hereby releases and discharges the Lessor, its successors and assigns, from any and all liability to Lessee arising out of or connected to the making of such improvements, repairs, and alterations so long as a means of reasonably equivalent ingress and egress are concurrently made available to Lessee. In addition, Lessee hereby acknowledges and accepts that public events may be held from time-to-time at the Airport, which may temporarily cause additional traffic and noise in and around the Premises, and that Lessor shall not be responsible to Lessee for any disruptions to Lessee's operations on the Premises related to any such event.

#### 44. NONDISCRIMINATION

The Lessee for itself, its 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 Premises, (2) 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 be otherwise subjected to discrimination, (3) that the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter as if said Lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights

#### 45. DISCLAIMER OF THIRD PARTY BENEFICIARIES

This Lease is solely for the benefit of the formal parties to this Lease.

#### 46. SEVERABILITY

If any part of this Lease is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Lease if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Lease is declared severable.

#### 47. LAND USE APPROVALS

This Lease shall not be construed as a basis for (i) granting or assuring or indicating; or (ii) denying, refusing to grant or preventing any future grant of land use and/or zoning approvals, permissions, variances, special exceptions, or rights with respect to the Premises by the City of Venice or any other regulatory authority.

#### 48. REDELIVERY OF PREMISES

Lessee will surrender and deliver the Premises, including the land and any leasehold improvements, at the end of this Lease, or any extension hereof, to Lessor in good order and condition, reasonable wear and tear excepted.

#### 49. BINDING UPON SUCCESSORS

This Lease shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto. The terms and obligations of this Lease shall run with the land referenced in Exhibit "A" to the Lease, which is attached hereto.

#### 50. APPLICABLE LAW AND VENUE

This Lease and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any action brought pursuant to this Lease shall be in the 12<sup>th</sup> Judicial Circuit Court, South County, in and for Sarasota County.

#### 51. FEDERAL REVIEW

Lessee acknowledges this Lease may be subject to the review and inspection of the federal government to determine satisfactory compliance with Lessor's obligations as described in Section 31 herein. Lessee shall agree to modify any of the terms and conditions of this Lease, which may be determined by the federal government to be in violation of existing laws, regulations, grant assurances or other requirements. In the event the parties are unable to agree to a reasonable modification of the terms and condition of this Lease in accordance with the requirements of the federal government, either party may rescind this Lease by providing one hundred twenty (120) days written notice to the other party.

## 52. AMERICANS WITH DISABILITIES ACT

Lessee shall at all times maintain compliance with the requirements of "The Americans with Disabilities Act" as published in the Federal Register and the State of Florida's Accessibility Requirements Manual on the Premises.

## 53. RADON GAS

Florida law requires that the following notice be provided on at least one document, form, or application executed at the time of or prior to execution of a rental agreement for any building: "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."

## 54. ATTORNEYS' FEES AND COSTS

The prevailing party in any action concerning any action brought pursuant to this Lease shall be entitled to an award of reasonable attorneys' fees and all costs incurred through both trial and appeal.

## 55. QUIET ENJOYMENT

Lessee, upon paying the rents herein reserved and performing and observing all the terms and conditions of this Lease on Lessee's part to be performed and observed, shall peaceably and quietly, have, hold and enjoy the Premises during the Lease Term, subject to all provisions of this Lease. Lessee is leasing the Premises subject to the noises and sounds and impacts to persons and property that are customarily contained or emanate from an airport.

## 56. TIME IS OF THE ESSENCE

Time is of the essence in the Lease.

## 57. SECTION TITLES

The Section titles used in this Lease are merely for convenience and are not to be used in interpretation of the particular provisions of this Lease.

## 58. MISCELLANEOUS AND DEFINITIONS

Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. Whenever the terms Lessor or Lessee are used herein, as the context requires such terms shall include their respective authorized employees and agents.

## 59. ENTIRE AGREEMENT AND AMENDMENTS

This Lease contains the entire Agreement between the parties and shall not be modified in any manner except by an instrument in writing signed by the parties.

## 60. ACKNOWLEDGEMENT

The parties acknowledge that they have read this Lease, that they fully know, understand and appreciate its contents, that they have been advised by or have had an opportunity to consult with their counsel regarding its contents, and that they are executing the same and making the promises herein voluntarily, with authority, and of their own free will.

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IN WITNESS WHEREOF, the parties have hereto set their hands and seals as of the date indicated.

**LESSOR**

**CITY OF VENICE, FLORIDA**

By: \_\_\_\_\_  
Nick Pachota, Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Kelly Michaels, City Clerk

Approved as to form and correctness:

\_\_\_\_\_  
Kelly Fernandez, City Attorney

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did take an oath.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**LESSEE**

WITNESSES:

**BLUE SKIES UNLIMITED, LLC,**

\_\_\_\_\_

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

Address: \_\_\_\_\_

\_\_\_\_\_

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

Address: \_\_\_\_\_

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

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

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

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, on behalf of Blue Skies Unlimited, LLC, **by means of  physical presence or  online notarization**, who is personally known to me or who produced \_\_\_\_\_ as identification.

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

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

My Commission Expires:

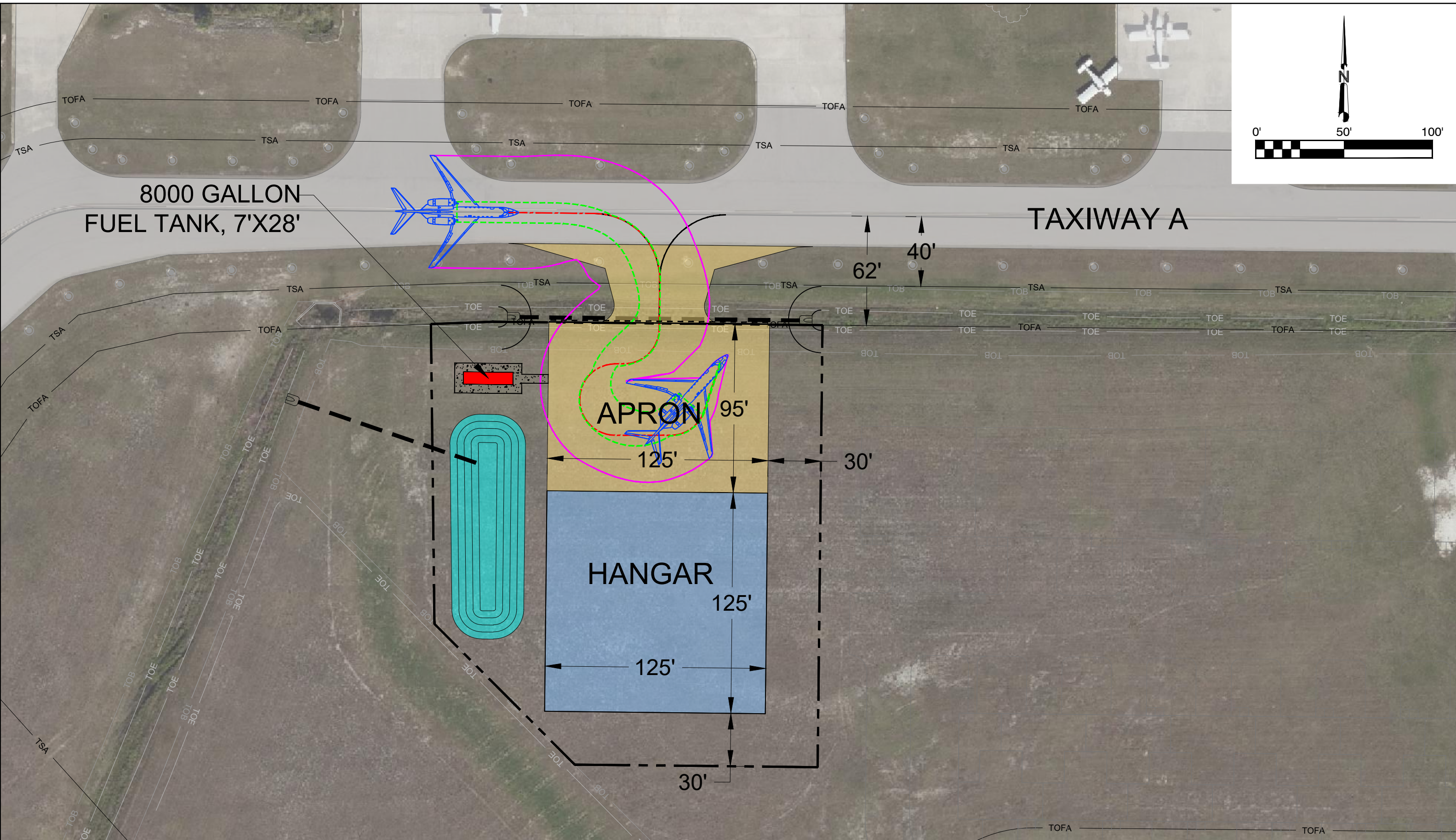
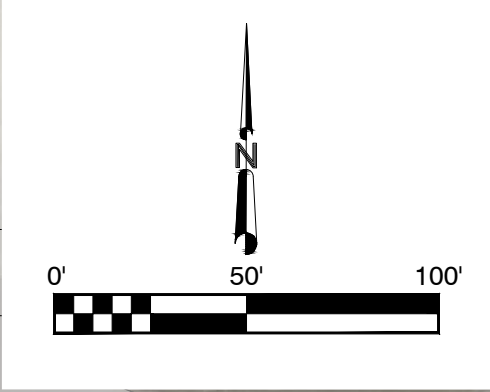
EXHIBIT "A"  
Premises

A parcel of land lying in the Northwest quarter of Section 19, Township 39 South, Range 19 East, Sarasota County, Florida, described as follows:

COMMENCE at the Northwest corner of said section 19, being monumented with a nail and disk found, no #; thence S.89°35'46"E., along the North line of said section 19, a distance of 1678.44 feet to point the lies N.89°35'46"W., a distance of 3668.73 feet from the Northeast corner of said section 19, being monumented with a broken top 6"X6" concrete monument; thence leaving said section line S.00°24'14"W., a distance of 705.04 feet; to the POINT OF BEGINNING; thence S.00°40'32"E., a distance of 169.91 feet; thence S.44°53'24"E., a distance of 112.51 feet; thence S.89°22'27"E., a distance of 137.66 feet; thence N.00°37'31"E., a distance of 250.50 feet; thence N.89°24'55"W., a distance of 186.42 feet; thence S.87°55'32"W., a distance of 35.40 feet to the POINT OF BEGINNING;

Parcel contains 51,714 square feet, more or less.

EXHIBIT "B"  
Plan



8000 GALLON  
FUEL TANK, 7'X28'

TAXIWAY A

APRON 95'

HANGAR

VENICE  
MUNICIPAL AIRPORT



HANGAR  
DEVELOPMENT

EXHIBIT-B  
AUG. 11, 2023

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Exhibit "C"  
Authorized Registered Aircraft

King Air C90GT – N178EJ