

FACILITY LEASE AGREEMENT

AUGUSTA MUNICIPAL AIRPORT – 3AU

THIS LEASE AGREEMENT (the “**Lease**”) is made and entered into on this ____ day of _____, 2023, by and between the City of Augusta, Kansas, a municipal corporation hereinafter referred to as “**City**” or “**Lessor**”, and _____, hereinafter referred to as “**Lessee**” for type of aircraft: _____ and tail number: N____.

WHEREAS, Lessor is the owner of the Augusta Municipal Airport (the “**Airport**”); and

WHEREAS, Lessor desires to lease the facilities more fully described herein, subject to the following terms and conditions.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

ONE

Other Lease Agreements

1.1 The provisions of all other lease agreements between the parties are hereby superseded by this Lease Agreement.

TWO

Leased Premises and Access

2.1 Lessor hereby leases to Lessee, its successors and assigns, the following T-Hangar space(s), Tie Down space(s) and/or Community Hangar space(s) at the Airport.

Type of Space

T-Hangar _____

Tie Down _____

Community Hangar _____

Said space(s) are hereinafter referred to as the “**Leased Premises**”.

2.2 The Leased Premises include, for the use and benefit of Lessee herein, in common with others authorized so to do, all runways, taxiways, and aprons adjacent and appurtenant to said Leased Premises which are or may be provided at the Augusta Municipal Airport. Only general aviation aircraft permitted to utilize the runways, taxiways, and aprons at the Augusta Municipal Airport are permitted access to the runways, taxiways, and aprons adjacent and appurtenant to said Leased Premises.

2.3 Lessee shall not place any additional locking devices on the service door to the Leased Premises without first providing a copy of the key or combination for the lock to Lessor. Lessor reserves the right to remove the lock from the Leased Premises in the event access is needed. Any necessary replacement of the lock will be at the Lessee's expense.

2.4 Lessor reserves the right to enter the Leased Premises at any reasonable time for the purpose of making any inspection it deems expedient to enforce the covenants and conditions of this Agreement. Except in the event of an emergency involving the safety of persons or threat to property, Lessor will make a reasonable effort to contact Lessee before entering the Leased Premises. When practical in the view of Lessor, Lessee shall have the right to accompany Lessor during inspections of the Leased Premises.

THREE

Term

3.1 Lessee, its successors and assigns, shall have and hold the Leased Premises for one month from the Effective Date of this Lease Agreement. The "Effective Date" of this Lease Agreement is the first day of the month following the date of its execution.

3.2 Subsequently, this Lease Agreement shall be deemed automatically renewed and extended for sequential one month terms, on the terms and conditions herein provided, unless either party gives the other party written notice not to extend and renew said Lease Agreement at least thirty (30) days prior to the date of automatic renewal and extension.

FOUR

Rental

4.1 In consideration for use of the Leased Premises, Lessee agrees to pay Lessor the monthly amount identified in the fee schedule resolution adopted by the Governing Body of the City of Augusta, as may be amended from time to time, for the amount and type(s) of leased space comprising the Leased Premises.

4.2 The initial monthly lease rate for this Agreement is: \$_____.

4.3 Monthly lease payments shall be paid to the Augusta City Clerk on or before the fifteenth (15th) day of each month, commencing from the Effective Date of this Lease Agreement. If payment is received after 5:00pm on the 15th day of the month, the delinquent amount shall be subject to a 1.5% late payment fee.

4.4 Monthly lease payments shall be paid via ACH, personal service, or by mailing to the following address:

City of Augusta
City Clerk's Office
113 East 6th Avenue
P.O. Box 489
Augusta, Kansas 67010

Monthly lease payments addressed or delivered to departments or divisions of the City of Augusta other than the City Clerk, including the Augusta Municipal Airport FBO Office, will not be accepted and may be subjected to a late payment fee pursuant to Section 4.3 of this Agreement.

4.5 Lessee will receive a three percent (3%) discount on Lessee's monthly lease payments if Lessee enrolls in the automatic ACH withdrawal of Lessee's monthly lease payments.

FIVE Insurance

5.1 Lessee shall obtain, maintain and file with Lessor a policy for general liability insurance for an amount not less than One Million Dollars (\$1,000,000) to cover all facets of its use of the airport and the Leased Premises at the Augusta Municipal Airport pursuant to this Lease Agreement. The above-referenced insurance coverage policy shall name the City of Augusta, Kansas as an *Additional Insured* and shall contain a specific provision that such insurance coverage is primary in coverage and the Lessor's liability coverage shall be non-contributory for all losses related to the negligence, property, or actions of the Lessee. Lessee shall also provide a waiver of subrogation in favor of the City of Augusta, Kansas for all such insurance coverage policies. Any deductible shall be the responsibility of the Lessee. Lessee shall provide Lessor with copies of current certificates of insurance complying with the requirements of this section that are valid and in effect throughout the life of this Lease Agreement and any renewal or extension thereof. Required insurance coverage shall not be canceled, changed in coverage, or reduced in limits without sixty (60) days prior written notice to the Lessor. Failure to provide such valid certificates of insurance shall be grounds for the immediate cancellation and termination of this Lease Agreement by Lessor without penalty or the need to provide prior oral or written notice of such cancellation to Lessee.

SIX Use of Premises

6.1 It is understood that the use of Leased Premises under this Lease Agreement is governed by the provisions of local, state and federal laws, rules, regulations and official guidance, specifically including Kansas Statutes Annotated 3-116, which provides: "The governing body, park board or airport authority, as hereinafter provided, may lease, assign or sublease the whole or any part of any such airport or municipal field for aviation purposes, to one or more responsible persons, associations or corporations, jointly or severally, for any purpose directly or incidentally and necessarily required for the successful and proper operation of such property upon such terms as shall insure the impartial operation thereof, and rendition of services and conveniences thereon, on an equal basis to all users of said airport or municipal field for aviation purposes." Lessee shall occupy and use the Leased Premises for any lawful purpose or activity in accordance therewith.

6.2 Lessee shall comply with all Environmental Laws affecting the Leased Premises during the Lease Term and shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Airport by Lessee, Lessee's agents, employees, contractors, or invitee. The term "Hazardous Substances," as used in this Lease, shall mean and include any and

all hazardous substances or hazardous waste which, during the term of this Lease, are regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or cleanup, including without limitation, "CERCLA"; or state transfer and use restrictions (all such laws, rules and regulations being referred to collectively as "Environmental Laws").

6.3 Mechanics who do not have an established, commercial presence on the airport are not allowed to provide maintenance or repair services of any kind to aircraft located at Augusta Municipal Airport. If Lessee prefers to utilize non-established mechanics, the aircraft shall be taken to that mechanics operating location. "Pickup truck" or "suit case" mechanics and the like shall be prohibited from providing any services at Augusta Municipal Airport. Notwithstanding the above, pursuant to FAA Order 5190.6B, Lessee, with its own equipment and employees shall be allowed to perform maintenance on Lessee's aircraft within the Leased Premises, provided it is not done in a manner that would be unsafe, unsightly, or detrimental to the efficient use of Airport facilities by others.

SEVEN

Redelivery of Premises

7.1 Lessee will, at the termination of this Lease Agreement, surrender and deliver to Lessor the Leased Premises in a clean condition, subject only to normal wear and tear.

EIGHT

Assignment or Subletting

8.1 The Lessee may only assign or sublet all or any portion of the Leased Premises or assign its interest under this Lease with the written consent of Lessor. No such sublease or assignment shall relieve the Lessee, or any sub-lessee or assignee of Lessee, of any liability for Lessee's obligations hereunder or from strictly complying with the terms and conditions of this Lease Agreement.

NINE

Restrictions and Operations

9.1 If Lessor's operation of the Airport or Lessee's operations at the Airport are substantially restricted by any competent governmental or judicial action, then either party hereto will have the right, upon notice, to (a) terminate the lease by thirty (30) days written notice to the other; or (b) if the lease is not so terminated to an equitable reduction in the services and facilities to be afforded hereunder or the rental to become due hereunder, from the time of such event until such restriction has been remedied and normal operations restored.

TEN

Right of Flight

10.1 There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of Lessor and the public a right of flight for the passage of aircraft in the air space above the surface of the Leased Premises herein leased, together with the right to cause in said air space

such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from or operation on the Augusta Municipal Airport.

ELEVEN

Compliance with Rules

11.1 Lessee, its agents, employees, contractors and licensees, shall observe and comply with all applicable rules, regulations, and laws of Lessor and other federal, state and local governmental authorities. Wherever in this Lease Agreement the Lessee is required to obtain the consent of the Lessor, the obtaining of such consent shall not relieve the Lessee from its responsibility to comply with all applicable rules, regulations, and laws, specifically including but not limited to all rules, regulations and directions of the Federal Aviation Administration, as from time to time may be amended.

TWELVE

Default and Cancellation

12.1 If default is made in the payment of any installment of Rent on the due date thereof, or if Lessee shall default in the performance of any other term or condition of this Lease Agreement (other than payment of rent) and such default (other than payment of rent) exists for sixty (60) days after written notice thereof, or if the premises be vacated or abandoned in violation of the terms of this Lease Agreement, then in any such event, in addition to and not in limitation of any other remedy permitted by law, this Lease Agreement shall terminate, at the option of Lessor.

THIRTEEN

Miscellaneous

13.1 Lessee shall not, on the grounds of race, color, sex, religion, national origin, age or disability, discriminate or permit discrimination against any person or group of persons in violation of any federal, state or local laws or of Part 21 of the regulations of the Office of the United States Department of Transportation (49 CFR 21). Lessor reserves the right to take such action as the United States Government or any state or local government may direct to enforce this covenant. The Lessee assures that it will comply with all applicable laws, ordinances, statutes, Executive Orders and rules which are promulgated to assure that no person will, on the grounds of race, creed, color, national origin, sex, age or disability be discriminated against in employment or in the use of services, programs or facilities. Lessee further assures that it will undertake an affirmative action program as required by 124 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart.

13.2 This Lease Agreement shall not be deemed consent by Lessor to the attachment of any lien to the Leased Premises or to any portion of the Augusta Municipal Airport property. Lessor hereby expressly denies any such consent. Lessee hereby warrants to Lessor that it will

not cause or allow any lien or encumbrance to attach to the Leased Premises or any portion of the Augusta Municipal Airport property.

13.3 Lessee shall strictly comply with all federal and state statutes, regulations and rules regarding storage, use, handling, disposal and remediation of spills of hazardous and toxic material as defined by existing federal and state laws and regulations. Hazardous waste (e.g. antifreeze, batteries, used oil filters, etc.) disposal is the sole responsibility of Lessee and such materials shall not be disposed of in Augusta Municipal Airport trash facilities. Lessor reserves the right to inspect all areas occupied by Lessee in which hazardous and toxic materials are used and stored to determine if Lessee is in compliance with all appropriate and applicable laws and regulations concerning these materials. Lessee shall notify Lessor immediately when a spill of hazardous or toxic material occurs and give full disclosure of the nature of the spilled material and what measures are being taken to contain and remediate the spill. It is understood between the parties that the Leased Premises will be used without damage or injury to the surrounding environment and Lessee will not contaminate, injure or destroy any of the vegetation or foliage at the Augusta Municipal Airport. Lessee will not allow, condone or participate in any way in dumping or allowing the escape of any hazardous material of any description.

13.4 Lessee agrees to comply with all FAA requirements with respect to its operations, including use of the Leased Premises. This includes but is not limited to furnishing good, prompt and efficient services on a fair, equal and nondiscriminatory basis to all users of the Augusta Municipal Airport and charging fair, reasonable and nondiscriminatory prices for services, provided that Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

13.5 Nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, as revised.

13.6 Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Augusta Municipal Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Leased Premises which, in the opinion of Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft.

13.7 During the time of war or national emergency, Lessor shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

13.8 This Agreement shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

13.9 The provisions of this Agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

FOURTEEN
Subordination

14.1 This Lease Agreement will be subordinate to the provisions of any existing or future agreement between Lessor and the United States of America relative to the operation or maintenance of the Augusta Municipal Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Augusta Municipal Airport. The Lessor reserves the right and authority to insure that the Augusta Municipal Airport will be operated and maintained in accordance with any Act, regulation and/or covenant imposed upon it by the United States of America or its subordinate bodies.

FIFTEEN
Indemnity

15.1 Lessee shall indemnify and hold Lessor harmless from and against any and all loss, cost, claim, demand, judgment or liability from time to time asserted by any person or entity arising from Lessee's use and occupancy of the Leased Premises, or from the conduct of Lessee's business or any work, activity, or thing done, permitted or suffered by Lessee in, on or about the Leased Premises or arising from any act or omission of Lessee or any of its officers, agents, contractors, employees or invitees, and from all costs and attorney fees incurred in the defense of any such claim or action or proceeding brought thereon. Lessee, at the request of Lessor, shall defend any such action or proceeding at Lessee's expense.

SIXTEEN
Notices

16.1 All notices required under this Lease shall be deemed to be properly served if reduced to writing and sent by certified mail or personal delivery and the date of such notice will be deemed to have been the date on which such notice is delivered or attempted to be delivered as shown by the certified mail return receipt or a commercial delivery service record. All notices shall be addressed as follows, unless otherwise specified in writing:

LESSOR:	<u>City of Augusta</u>	LESSEE:	<u>_____</u>
	<u>ATTN: City Clerk</u>		<u>_____</u>
	<u>113 East 6th Avenue</u>		<u>_____</u>
	<u>P.O. Box 489</u>		<u>_____</u>
	<u>Augusta, Kansas 67010</u>	E-Mail:	<u>_____</u>
Phone:	<u>(316) 775-4510</u>	Phone:	<u>_____</u>

SEVENTEEN
Entirety

17.1 It is mutually agreed that the covenants and conditions herein are the full and complete terms of this Lease Agreement, and that no alterations, amendments, or modifications of said terms shall be binding unless first reduced to writing and signed by both parties hereto.

The parties further agree that no earlier statements or prior written matter have any force and effect.

EIGHTEEN

Registration and Airworthy Condition

18.1 Except where the aircraft is an *Aircraft Under Construction* (defined in Section 18.2) or temporarily out of service while undergoing maintenance or repair, the aircraft must be airworthy. To demonstrate that the aircraft is airworthy, Lessee must produce current records documenting successful completion of a required annual airworthiness condition inspection conducted by an inspector certified by the FAA, upon the request of the Lessor as provided for in Section 18 of this Agreement. The Lessor may, at any time, require Lessee to demonstrate that the aircraft is airworthy. Lessee must produce the required documentation within 30 days of the date the Lessor requests such documentation. Failure to maintain an aircraft in airworthy condition – or to demonstrate that the aircraft is airworthy – may result in immediate termination of this Agreement and removal of the aircraft from the premises.

18.2 A non-airworthy aircraft in the process of being built or extensively restored (*Aircraft Under Construction*), or temporarily out of service in the process of becoming airworthy, may be stored in the Hangar. Before storing any Aircraft Under Construction, Lessee must first obtain Lessor’s written consent. Lessor reserves the right to inspect an Aircraft Under Construction every 90 days to ensure demonstrable progress toward completion is being made, including, but not limited to, progress show on Lessee’s written progress plan or builder’s log, and to ensure the Hangar is not being used to merely store aircraft parts.

NINETEEN

Covenant to Bind Successors

19.1 It is agreed that the provisions, covenants, and conditions of this Lease Agreement shall be binding upon and inure to the benefit of the heirs, trustees, legal representatives, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease Agreement on the day and year first above written.

LESSOR

LESSEE

RAY SEIF
AIRPORT MANAGER
AUGUSTA MUNICIPAL AIRPORT

PRINTED NAME