

HANGAR LAND LEASE AGREEMENT

BETWEEN

CITY OF MIDDLETON

AND

Name: _____

Street: _____

City, State, Zip: _____

LOT # _____ ADDRESS: _____

Adopted by the Middleton Common Council on August 17, 2004

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THIS AGREEMENT made and entered into this ____ day of _____, 200__, by and between City of Middleton, a municipal corporation organized and existing under the laws of the State of Wisconsin, hereinafter referred to as "LESSOR," and _____, hereinafter referred to as "LESSEE."

W I T N E S S E T H :

WHEREAS, Lessor is the owner and operator of Morey Airport; an airport situated in the City of Middleton, Wisconsin (the "Airport"); and

WHEREAS, Lessee desires to lease from the Lessor a parcel of land at the Airport to be used for the construction of an aircraft storage facility (a hangar);

NOW, THEREFORE, in consideration of the mutual promises of the Lessor and Lessee as set forth below, the Lessor and Lessee agree as follows:

**ARTICLE 1
TERM AND EXTENSION**

- A. Commencement: This Agreement shall commence on March 1, 2005, and shall terminate on February 28, 2030, unless terminated sooner as permitted by this Agreement. Notwithstanding the preceding sentence, in the event Lessee pays the annual rent at the time of the initial execution of this Lease prior to the lease commencement date, Lessee shall be permitted the right to enter the Leased Premises for the purpose of commencing construction of a hangar facility upon the Leased Premises. This such early entry onto the Leased Premises shall not operate to change the applicable commencement and termination dates of this Lease.
- B. Renewal/Nonrenewal: Lessee shall have two (2) five (5) year periods to extend this lease subject to the terms and conditions hereof, including the provisions governing the renegotiations of rental fees, unless no later than 180 days prior to the expiration of the Lease, the Lessee or Lessor serves upon the other notice in writing by registered mail addressed to such person at the address herein set forth stating the intention not to renew this lease. Lessor shall not unreasonably withhold renewal of this Lease. If at any time the Lessor decides not to renew the lease, Lessor shall have the option either to purchase the hangar at its fair market value, as determined by the City Assessor, or require the Lessee sixty (60) days to remove the hangar prior to termination of the Lease.
1. Unless notice of nonrenewal has been given, Lessee may submit notice to extend this Lease to Lessor in writing no later than 90 days prior to the expiration date at the address herein set forth.

2. Upon receipt of notice of renewal of this Lease, Lessor shall prepare an addendum to the Lease which shall reflect the Lessor's current terms and conditions for Hangar Land Leases. Any modifications to the Lease terms and conditions shall commence with the start of the option period.

ARTICLE 2 LEASED PREMISES; PURPOSE

The Lessor leases to the Lessee the following described portion of the Airport which, unless specifically stated otherwise, is referred to in this Agreement as the "Leased Premises."

A parcel of land approximately _____ feet by _____ feet and containing approximately _____ square feet, which is more specifically shown on Exhibit 1 which is attached to and made a part of this Agreement. This parcel will be used for the construction of a hangar facility by Lessee that will be used for the following purposes:

- A. The inside storage of aircraft owned by Lessee and the storage of related materials and supplies and for no other purpose unless approved in writing by the Lessor.
- B. Construction of hangar for lease or for sale by Lessee requires the following:
 1. If for lease, requires a Hangar Keepers agreement with Lessor.
 2. If for resale, requires approval from Lessor to assign lease, which approval shall not be unreasonably withheld.

ARTICLE 3 FEES AND RENTALS

- A. Review Fee. The Lessee shall pay the following fees and rentals:
 1. Parcel description and site plan review fee of \$500.00, to be paid at the time of application.
 2. This provision applies to initial lease of land for construction of hangar or for any substantial addition or modification to the premises.
- B. Rent: From and after the commencement date, Lessee agrees to pay Lessor the amounts specified in Exhibit 2 attached hereto, payable annually in advance on or before February 1, for the duration of the term of this Agreement. No demand for

payment need at any time be given; it shall be the duty of the Lessee to pay all monies when due.

- C. Renegotiations of Rates: The rates will be set by the Lessor for each five year period for the term of the lease using the Consumer Price Index – All Urban Consumers for Small Metro Areas prepared by the U.S. Department of Labor. The Lessor shall notify lessee at least 30 days prior to effective date of new rates. The lease rates may, however, be reopened for review of price structure, terms and conditions, if Federal, State, or local regulations result in major expenditures to the lessor due to lessee's tenancy.

ARTICLE 4 STANDARDS FOR GENERAL AVIATION OPERATORS

The provisions set forth in Exhibit 3, entitled Morey Airport Minimum Standards for Tenants and Service Providers are made a part of this Agreement as are any amendments thereto made from time to time. If at any time this Agreement and the Morey Airport Minimum Standards for Tenants and Service Providers are in conflict in the requirements or obligations of the Lessee, the Morey Airport Minimum Standards for Tenants and Service Providers shall control.

ARTICLE 5 RIGHTS AND PRIVILEGES OF LESSEE

Subject to the terms and conditions hereinafter set forth, Lessee is hereby given the following rights and privileges:

- A. Storage - Lessee has the right and obligation to store aircraft on Lessee's Leased Premises. At least one aircraft must be housed on a regular basis in all hangars. Lessee shall be permitted to use the hangar for flight planning, and other uses permitted by Lessor by prior written approval under Section 2.A., provided that the primary use during the term of this Lease shall be for the storage of aircraft. Notwithstanding the foregoing, Lessor acknowledges that Lessee may, from time to time and on a temporary basis, not have any aircraft stored in the hangar. The lack of aircraft in the hangar may be because the aircraft are in use, are temporarily located at facilities in other geographic locations, or Lessee may be selling or disposing of one or more aircraft and in the process of acquiring one or more new aircraft. Failure to house the prescribed number of aircraft shall constitute a material act of default, upon determination by the Lessor. Lessee understands that a violation of this paragraph gives the Lessor the rights set forth in Article 11.

- B. Aeronautical Facility Use -Subject to established fees, the Lessee shall be permitted to use, in common with others, existing and future aeronautical facilities at the Airport as they may exist or be modified, augmented, or deleted from time to time. These facilities shall include, but not be restricted to the landing areas, their extensions and additions, roadways, aprons, and any air navigation facilities or other conveniences for the flying, landing, and taking-off of aircraft. Nothing herein shall prohibit the Lessor from modifying, augmenting, or deleting any such facilities.
- C. Ingress and Egress - Subject to rules and regulations governing the use of the Airport as may be established by the Lessor, the Lessee, its employees, suppliers of materials, furnishers of service, sub-lessees, business visitors, and invitees shall have the right of ingress and egress to and from the Premises leased exclusively to Lessee.
- D. Quiet Enjoyment - The Lessor covenants that upon paying the rent and performing the covenants and conditions herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Agreement. Lessee agrees that temporary inconveniences, such as noise, disturbances, traffic detours, temporary inaccessibility and the like, caused by or associated with the construction of Airport improvements or Airport events shall not constitute a breach of quiet enjoyment of the Leased Premises.
- E. Sub-lease of hangar (requires Hangar Keepers Agreement) or lease assignment if so approved by Lessor. The lessee shall not be allowed to sub-lease or re-lease land only.

ARTICLE 6 RIGHTS AND PRIVILEGES OF LESSOR

In addition to other rights and privileges, the Lessor has the following rights and privileges:

- A. Airport Development or Change of Use - The Lessor has the following rights:
 - 1. To develop or improve the landing areas and other portions of the Airport as it sees fit in Lessor's exclusive discretion, regardless of the desires or views of the Lessee, and without interference or hindrance. If the development of the Airport requires the land covered under this lease, the Lessor shall have the right to either:
 - (a) Substitute another parcel of land for the Leased Premises, and relocate Lessee's improvement(s) to that new parcel at no cost to the Lessee, or

- (b) Purchase Lessee's hangar at its fair market value, as established by the City Assessor, and terminate this Agreement. In the event of a substitution and relocation or a hangar purchase and Agreement termination as permitted by this section, the Lessor shall have no liability to the Lessee for any loss, expense, damage or cost of any nature, except as defined herein.
 - 2. To change the use of the lands within the Airport to other uses. If Lessor eliminates the Airport, Lessor shall have the obligation to purchase Lessee's hangar at its fair market value, as established by the City Assessor, and terminate this Agreement.
- B. Aerial Approaches – The Lessor has the right to take any action it considers necessary to protect the aerial approaches and transition surfaces of the Airport against obstruction, together with the right to prevent the Lessee or sub-lessee from erecting or permitting to be erected any building or other structure on the Airport, which, in the opinion of the Airport Commission would limit the usefulness of the Airport or constitute a hazard to aircraft.
- C. War, National Emergency, Riot, or Natural Disaster - During time of war, national emergency, riot or natural disaster, the Lessor shall have the right to lease the entire Airport or any part thereof to the United States or State of Wisconsin for military or National Guard use and, in such event, the provisions of this Agreement, insofar as they are inconsistent with the provisions of any lease to any such unit of government, shall be suspended for the term of such government lease.
- D. Access to Leased Premises - To the extent necessary to protect the rights and interests of the Lessor, or to investigate compliance with the terms of this Agreement, the Lessor or its designee shall at any and all times have the right to inspect the Leased Premises, including all buildings, structures, and improvements erected thereon, subject to reasonable notice given to Lessee.
- E. Unrestricted Right of Flight - The Lessor, for the use and benefit of the public, has a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased 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 air, using said airspace or landing at, taking off from, or operating on or about the Airport.

**ARTICLE 7
OBLIGATIONS OF LESSEE**

Except as otherwise specifically provided herein, Lessee shall have the following obligations.

- A. Condition of Leased Premises - Lessee accepts the Leased Premises in its present condition and, without expense to the Lessor, will maintain any installations thereon.

- B. Construction - Lessee shall construct a hangar on the Leased Premises. A final set of construction plans that have been approved and stamped by a registered, professional engineer shall be submitted to and approved by the Plan Commission before any construction begins. The construction plans shall include a site plan. The site plan shall include the location of utilities and utility connections, existing and proposed grades, site drainage information, paving details and all other items on the "Development Checklist." Lessee acknowledges having received a copy of the "Development Checklist." Lessee is prohibited from deviating from the Lessor - approved construction plans without written permission from the Lessor. Construction must begin within six (6) months from the execution of this Agreement and must be completed within six (6) months from the time construction begins. Construction scheduling and operations shall be coordinated with, and approved by the Airport Manager before construction shall begin, such approval not to be unreasonably withheld. Any and all portions of the Airport that are disturbed by Lessee or its contractors during construction shall be restored by Lessee, at its expense, to the same condition as before construction began

- C. Maintenance, Exterior Storage, and Housekeeping - Lessee shall at its expense, keep, maintain, and repair the Leased Premises, any improvements thereto, and all equipment and buildings in an operable condition acceptable to the Lessor, consistent with good business practices, and in a manner to preserve and protect the general appearance and value of other premises in the immediate vicinity. This shall include, but not be limited to: roof, exterior painting, all doors, paved areas, lighting, grass, and landscaped areas within lease lines.

Lessee further agrees that there will be no outside storage of equipment, materials, supplies, or damaged or partially dismantled aircraft on the Leased Premises, and will remove at its expense all trash, garbage, and drained oil, and not deposit the same on any part of the Airport except temporarily in conjunction with collection or removal.

In the event Lessee does not keep the Leased Premises in a condition acceptable to the Lessor, the Lessor has the right to issue a written notice to remedy the condition forthwith. Should Lessee fail to perform satisfactorily within ten (10) days of such

notification, or show cause for extension of said time period, the Lessor shall have the right to perform, or have performed by an outside contractor the necessary work without liability, and Lessee agrees to pay the Lessor one hundred twenty five percent (125%) of such expenses within fifteen (15) days upon invoice receipt.

In the event of fire or any other casualty to buildings or other structures owned by Lessee, Lessee shall either repair or replace the building or remove the damaged building and restore the Leased Premises to its original condition; such action must be accomplished within one hundred twenty (120) days of the date the damage occurred. Upon petition by Lessee, the Lessor may grant, at its sole discretion, an extension of time if warranted.

- D. Additions or Alterations - Lessee is prohibited from making alterations, attaching external fixtures, or making other changes to the hangar facility or leased premises unless approved in advance in writing by the Lessor.
- E. Signage and Illumination - Lessee shall not paint upon, attach, exhibit or display in or about said Leased Premises any sign without the written consent of the Lessor is first obtained regarding the nature and construction of said sign, such approval not to be unreasonably withheld.
- F. Utilities - Lessee agrees to provide its own connections with utilities and to make separate arrangements with the companies and agencies responsible for these services. Lessee shall pay for all utility service supplied to the Leased Premises, and if required by the utility providers as a condition of providing the services, Lessee will install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make utility service or facility changes, Lessee will either make such changes and installations, at its expense, as directed and required by the utility providers, or pay the utility provider for such changes made. The Lessor shall have the right, without cost to Lessee, to install and maintain in, on or across the Leased Premises, sewer, water, gas, electric, and telephone lines, electric substations, or other installations necessary to the operation of the Airport, or to service other tenants of the Lessor; provided, however, that the Lessor shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Lessee's use of the Leased Premises. Should it be necessary to extend utility services to the Leased Premises which will benefit the Lessee and others, the Lessee agrees to pay the prorated amount attributed to the benefit of the Leased Premises as established by the Lessor and billed by assessment of the City or utility company based on an agreed-upon payment schedule.
- G. Discrimination - Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree

that 1) no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, 2) that in the construction of any improvements on, over, or under the Leased Premises and the furnishings of services, thereon, no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and 3) the Lessee shall use the Leased 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.

- H. Costs of Enforcement - Lessee covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and other costs and expenses that shall be made and incurred by the Lessor in enforcing this Agreement.
- I. Taxes, Licenses, and Permits - Lessee shall obtain and keep current all municipal, State and Federal licenses and permits that may be required in its operation. In addition, Lessee will bear, pay, and discharge all taxes, assessments and levies of every nature and kind which may be taxed, charged or assessed lawfully against the Leased Premises and improvements thereon, or which may be lawfully levied or imposed upon the leasehold by a governmental agency.
- J. Liens - Lessee agrees to promptly pay all sums legally due and payable on account of any labor performed on, or materials furnished for the Leased Premised. Lessee shall not permit any liens to be placed against the Leased Premises on account of labor performed or material furnished, and in the event such a lien is placed against the Leased Premises, Lessee agrees to save the Lessor harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.
- K. Parking - Lessee agrees to prohibit vehicle parking on the Leased Premises other than those vehicles specifically associated with the use of the Leased Premises, and no other. Lessee, its employees, sub-lessees, guests and invites shall park only on the Leased Premises, or on designated public parking areas. Lessee, its agents or guests are expressly prohibited from operating any vehicle on any area of the Airport designated as a "movement area." Lessee shall at all times comply with posted signs regulating the movement of vehicles.
- L. Laws, Ordinances, Rules and Regulations - Lessee agrees to observe and obey the rules and regulations governing the conduct and operation of the Airport facilities

promulgated from time to time by the City of Middleton. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including all applicable Federal Aviation Administration orders, regulations and advisory circulars that pertain to any conduct or operation at the Airport.

- M. Storage of Flammable Fluids - Lessee agrees that the storage of gasoline or other flammable fluids in bulk quantities shall be limited to the Airport Fuel Farm or to such area as designated by the Airport Manager. Lessee agrees that the storage of all other gasoline or flammable fluids shall be in a locker labeled "FLAMMABLE", approved by or in a manner acceptable to the Fire Marshall. The Fire Marshall may, at his discretion, prohibit or impose restrictions on the storage of said materials if, in the Marshall's opinion, the storage is determined a safety hazard. The disposal of any hazardous chemicals or fluids on the Airport premises is prohibited. The Lessee further agrees not to transport, or cause to be transported, onto airport premises, gasoline or other flammable fluids for the purpose of self-fueling aircraft. The Lessee further agrees that fueling of aircraft on airport premises will be done only at airport approved locations or facilities.
- N. Snow Plowing – The Lessor or its agent agrees to provide snow removal services to the Lessee's leased premises in the hangar area, except within three (3) feet of the hangar door. Snow plowing adjacent to or in aircraft parking areas and on all movement areas will be consistent with the requirements of the FAA as established in Advisory Circular Airport Winter Safety and Operations or its successors. Snow removal shall be accomplished only after all runways, aprons, and primary taxiways have been first cleared.
- O. Covenants – Lessee acknowledges receipt of a copy of the Morey Airport Covenants that apply to its Leased Premises and shall comply with the requirements of these Covenants.
- P. Compliance With Federal Aviation Regulations. Lessee, for itself, its personal representatives, successors in interest and assigns, and as a part of the consideration hereof, does hereby covenant and agree to comply with Federal Aviation Regulation Part 1542 (Airport Security) and Lessor's policies as outlined in Lessor's Airport Security Plan. Lessee further agrees that any fines assessed against Lessor through enforcement of Federal Aviation Regulation Part 1542 or Part 139 because of acts by Lessee's employees, agents, suppliers, tenants or guests, or any combination thereof, shall be borne by Lessee. Lessee shall conduct a self-audit of its keys or other access media to the Leased Premises on an annual basis. Lessee shall provide Lessor with a copy of the said audit. Lessee shall replace or re-key the locks or other controls to its Leased Premises whenever lost or stolen keys or other access media exceed 5% of the total keys or other access media issued for the locking device in question.

ARTICLE 8 INSURANCE

Lessee shall, at its expense, maintain insurance in full force and effect during the terms of this Agreement in such amounts and coverages as to meet the minimum limits of liability specified below, and insurance shall be placed with companies or underwriters authorized to do business in the State of Wisconsin satisfactory to the Lessor. The Lessor, its committees, commissions, agencies, appointed and elected officials, employees, and representatives shall be named as additional insured. Certificates of Insurance evidencing the required insurance shall be filed with the Lessor, and upon request certified copies of the required insurance policies shall also be filed. The Certificates of Insurance and all such policies shall contain a provision that coverage will not be canceled or non-renewed during the term of this Agreement unless thirty (30) days advance notice in writing has been given to the Lessor in the manner specified in this Agreement. If any insurance furnished by Lessee is underwritten on a claims made basis, the retroactive date shall be prior to coincide with the date of this Agreement and the Certificate of Insurance shall state that coverage is claims made and indicate the retroactive date. Any replacement insurance underwritten on a claims made basis shall be retroactive to the date of termination of the predecessor insurance.

A. Commercial General Liability (for commercial operations)

Coverage must include premises and operations.

Limits - Bodily injury and property damage combined single limit - \$1,000,000 each occurrence.

B. Comprehensive General Liability for all owned aircraft operated at Morey Airport.

Bodily injury and property damage:

A combined single limit for each occurrence of \$1,000,000.

C. Property Insurance (for all property on the Leased Premises).

Limit - Lessee shall carry sufficient all-risk property insurance on owned and leased buildings and equipment, including aircraft, at the Airport. Lessee may elect to self-insure Lessee's aircraft. This does not relieve Lessee of its obligation to maintain and provide evidence of all other insurance under this Article 8. If Lessee self-insures any aircraft, including any temporary period during which aircraft are not being operated, Lessee shall provide thirty (30) days' advance notice in writing to Lessor that the aircraft is being self-insured.

It is expressly understood that the Lessor has no responsibility for Lessee's owned or leased equipment.

Any such insurance provided by Lessee as required, above, shall be deemed to be primary in the event of any claim.

If Lessee fails to obtain replacement insurance following notice of cancellation or non-renewal from an insurer during the thirty (30) day advance notice in writing of cancellation or non-renewal from the insurer, the Lessor may elect, at its option, to terminate this Agreement upon the cancellation or other termination of any insurance policy issued in compliance with this Article, unless another policy has been filed and approved pursuant to this Article, and shall have been in effect at the time of such cancellation or termination.

ARTICLE 9 INDEMNIFICATION AND HOLD HARMLESS

Lessor shall stand indemnified by Lessee as herein provided. 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 therefor. In the use of the leased premises, in the erection or construction of any improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall indemnify, save harmless and defend Lessor from any and all losses that may proximately result to Lessor because of any negligence on the part of Lessee, its agents, assigns, sublessees, or any other third parties, in their use of the Leased Premises, including without exclusion because of enumeration, any and all damages except such damage and liability as may be caused by negligence on the part of said Lessor.

ARTICLE 10 SUBLEASE or ASSIGNMENT

The Lessee shall not sublease or assign the Leased Premises, or any part of the Leased Premises without the express written consent of the Lessor, such consent to not be unreasonably withheld. However the Lessee shall have the specific right to assign the Lease and all of its rights and duties hereunder to a bona-fide lending institution, and the Lessor hereby permits the Lessee to encumber and grant a security interest in any property or property rights it may have in the Leased Premises or property located thereon. Further, the Lessor will not unreasonably withhold its consent to the use of the Leased Premises by any person, persons or company obtained by any of Lessee's lenders in the event any Lender forecloses on any of the above mentioned property. This lease may be so assigned and the Leased Premises so sublet for another air oriented purpose other than that described in this Lease if the Lessor approves such purpose. Any assumption of this lease under these or other provisions, shall obligate the person or persons to pay any and all past due rent before

approval of transfer will be given. At a minimum, the Lessor will require that any sublease agreement be in writing and that it include: that the agreement be subject to the terms and conditions of this Agreement; that sub-lessees maintain aircraft liability insurance in the amounts and in the manor prescribed in this agreement. Notwithstanding the foregoing, Lessee shall be permitted to assign its rights under this Agreement to a limited liability entity controlled by Lessee or wholly-owned by the owners of Lessee, provided that the limited liability entity agrees in writing to the assignment and to be bound by the terms of this Agreement.

ARTICLE 11 DEFAULTS AND REMEDIES

- A. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by the Lessee.
1. The filing by Lessee of a voluntary petition in bankruptcy.
 2. The institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as a bankrupt pursuant to such proceedings.
 3. The taking by a court of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
 4. The filing of any lien against the Airport or any of its property as the result of any act or omission of Lessee, if the lien is not discharged or contested in good faith by Lessee (as determined by the Lessor) within thirty (30) days of Lessee's receipt of notice of the lien, unless Lessee posts a bond within this time period equal to the amount of the lien.
 5. The voluntary abandonment by Lessee of its operations at the Airport for a period of sixty (60) days or more.
 6. The appointment of a receiver of Lessee's assets, or any general assignment for the benefit of Lessee's creditors.
 7. The transfer of Lessee's interest herein by other operation of law.
 8. The failure by Lessee to make any payment required by this Agreement for a period of thirty (30) days after the time such payment becomes due, where such failure continues for a period of thirty (30) days after written notice from the Lessor.

9. The falsifications by the Lessee of any of its records or figures so as to deprive the Lessor of any of its rights under this Agreement.
 10. The failure by Lessee to perform any of the covenants, conditions, or obligations imposed on it by this Agreement where the failure continues for a period of thirty (30) days after written notice from the Lessor, unless a shorter time is specified in this Agreement.
 11. A sale or other transfer of stock in Lessee's corporation which divests the present stockholders of controlling interest without the written approval of the Lessor, such approval not to be unreasonably withheld.
 12. The transfer or assignment, or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of the Lessor, such approval not to be unreasonably withheld. It shall be understood for the purpose of this part that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer."
 13. The committing of waste on the premises. Lessee shall comply with all applicable laws and ordinances respecting the use and occupancy thereof, and Lessee shall make any alterations, additions or improvement to the premises in order to comply with such laws or ordinances.
 14. Lessee and Lessee's guests or invitees shall not use, nor permit any person to use, the premises in violation of the laws of the United States, the State of Wisconsin or of any other lawful authority.
- B. In the event of any default by the Lessee, the Lessor shall have the right to declare this Agreement terminated. In addition to the termination right described in the preceding paragraph, the Lessor shall have the following rights and remedies upon default by Lessee:
1. The recovery of any unpaid rent, fees and other payments due and owing at the time of termination, plus any unpaid rent and fees that would have been earned and other payments what would have been made if the Agreement had not been breached by Lessee.
 2. The recovery of any damages, costs, fees and expenses incurred by the Lessor as a result of the breach of the Agreement by Lessee.
 3. The removal of all persons from the Airport, and the removal and storage at Lessee's expense of all of its property on the Airport.

4. Any other right or remedy, legal or equitable, that the Lessor is entitled to under applicable law.
- C. In the event of any such termination as described above, the Lessor shall have the right at once and without further notice to the Lessee to enter and take full possession of all property and space occupied by the Lessee under this Agreement. Upon the termination of this Agreement for any reason, Lessee shall yield up all property, space, equipment and facilities to the Lessor in the same condition as when received, reasonable and ordinary wear and tear and damage by the elements excepted. In the event of the failure on the part of the Lessee upon the termination of this Agreement to immediately remove from the Airport all property owned by it, the Lessor may effect such removal and store such property at Lessee's expense. Lessee shall pay and discharge all reasonable costs, -attorney's fees, and expenses that are incurred by the Lessor in enforcing the terms of this Agreement and restore and surrender the Leased Premises to the Lessor in the same condition as when originally received. If the Lessee fails to remove its property and to restore and surrender the Leased Premises as required, the Lessor may do so and the Lessee shall be liable to the Lessor for all expenses of removing the property (including storage fees, if any) and restoring the Leased Premises.
- D. The failure of the Lessor to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the Lessor to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the Lessor for any period after a default by Lessee shall not be deemed a waiver of any right on the part of the Lessor to terminate this Agreement.

ARTICLE 12 ADDITIONAL TERMINATION RIGHTS

In addition to the termination rights set forth in the preceding Article, the Lessor may also terminate this Agreement if any of the following events occur:

- A. A determination by the Lessor, by resolution or ordinance, that termination is necessary to secure federal funding for Airport development. In this event, the Lessor shall give Lessee sixty (60) days written notice, and at the expiration of such sixty day period, title to any and all improvements made by Lessee upon any Airport land shall immediately vest in the Lessor without further proceedings or conveyances, and the Lessor may immediately enter and take possession. However, in such event, the Lessor shall make payment to Lessee in a sum sufficient to cover the fair market value as established by the City Assessor, of the hangar and any other structure Lessee has erected upon such land.

**ARTICLE 13
CANCELLATION BY LESSEE**

Lessee may cancel this Agreement at any time that it is not in default in its obligations by giving the Lessor thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events, if such event materially impairs the conduct of Lessee's normal business on the Airport:

- A. The issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining normal use of the Airport or any substantial part of it, and the remaining in force of such injunction for a period of sixty (60) consecutive days, such injunction not being the result of any fault of Lessee;
- B. The inability of Lessee to use, for a period of six (6) consecutive months, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake or similar casualty or Acts of God or the public enemy; or
- C. The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least ninety (90) days.

Failure of Lessee to declare this Agreement canceled for any of the reasons set out above shall not operate to bar or destroy the right of Lessee to cancel this Agreement by reason of any subsequent occurrence of the described events.

**ARTICLE 14
WAIVER OF SUBROGATION**

The Lessor and Lessee hereby release each other from any and all responsibility to the other for any loss of damage to property caused by fire or other peril if the property is insured for such loss or damage in any policy of insurance, even if such loss or damage is caused by the fault or negligence of the other party or anyone for whom such party is responsible. The Lessor and the Lessee agree that to the extent any such policy of insurance provides a right of subrogation in the insurer, or to the extent a right of subrogation exists independent of such policy, each will indemnify and hold the other harmless for any loss, claim or expense suffered as the result of any action taken pursuant to the right of subrogation. To the greatest extent possible, the Lessor and the Lessee will, in furtherance of the intent of this provision, make every effort to obtain from its insurance carrier a waiver of subrogation for the matters here described in any such policy of insurance.

**ARTICLE 15
REMEDIES CUMULATIVE; NO WAIVER**

All of the rights and remedies given to the Lessor in this Agreement are cumulative and no one is exclusive of any other. The Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether stated in this Agreement or not.

The failure of the Lessor to take action with respect to any breach by Lessee of any covenant, condition or obligation in this Agreement shall not be a waiver of such covenant, condition or obligation or a subsequent breach of the same or any other covenant, condition or obligation. The acceptance by the Lessor of any rent or other payment shall not be a waiver by it of any breach by Lessee of any covenant, condition or obligation.

**ARTICLE 16
DAMAGE TO PROPERTY OF LESSEE AND OTHERS**

The Lessor shall have no liability to the Lessee or its sub-lessees, contractors, guests or invitees for any damage to their property caused by fire, tornado, earthquake, windstorm or other casualty, or for any damage caused by the act or omission of a third party.

**ARTICLE 17
DAMAGE TO PREMISES AND PROPERTY
BY LESSEE AND OTHERS**

If any part of any Airport property is damaged by the act or omission of the Lessee, its agents, officers, employees, contractors, sub-lessee and subcontractors, the Lessee shall pay to the Lessor, upon demand, any amount that the Lessor reasonably determines is necessary to repair or replace the property.

**ARTICLE 18
LESSOR REPRESENTATIVE**

The Airport Manager under the guidance of the airport commission, is the official representative of the Lessor for the administration and enforcement of this Agreement.

**ARTICLE 19
SUBORDINATION**

This Agreement is and shall be subordinate to any existing or future Agreement between the Lessor and the United States regarding the operation or maintenance of the Airport.

**ARTICLE 20
COMPLIANCE WITH LAW**

At its own expense, the Lessee shall comply with all laws of the United States and the State of Wisconsin, all applicable local ordinances, and all rules and requirements of any law enforcement, fire department or other municipal agency. At its own expense, the Lessee shall obtain any and all permits and licenses which may be necessary for any activity at the Airport for which a license or permit is required. The Lessee shall not do or allow to be done anything at the Airport that is in violation of, or prohibited by any law, ordinance, rule, requirement, permit or license. If the Lessor or his representative identifies to the Lessee any such violation, the Lessee will immediately desist from or cause to be corrected such violation.

**ARTICLE 21
GOVERNING LAW;
VENUE FOR DISPUTES**

This Agreement shall be deemed to have been made in, and shall be construed in accordance with the laws of the State of Wisconsin. Any lawsuit related to or arising out of disputes under this Agreement shall be commenced and tried in the circuit court of Dane County, Wisconsin, and the Lessor and the Lessee submit to the exclusive jurisdiction of the circuit court for such lawsuits.

**ARTICLE 22
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be taken to be an original, and all collectively but one instrument.

**ARTICLE 23
SEVERABILITY**

In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement.

ARTICLE 24
**SURVIVAL OF OBLIGATIONS/
SUCCESSORS AND ASSIGNS BOUND**

The Lessee shall be responsible for the obligations in Article 9 in perpetuity. Additionally, any payment obligation and repair obligation that exists as of the termination or cancellation of this Agreement shall extend until the obligation is satisfied.

All of the provisions, covenants, and stipulations in this Agreement shall extend to and bind the heirs, legal representatives, successors and assigns of the respective parties.

ARTICLE 25
ENTIRE AGREEMENT

This Agreement contains and embodies the entire Agreement between the Lessor and the Lessee and supersedes and replaces any and all prior agreements, understandings and promises on the same subject, whether they are written or oral.

ARTICLE 26
NO ASSIGNMENT

This Agreement may not be assigned, nor may any part of it be assigned, except as provided here-in, without the express written consent of the Lessor, such consent not to be unreasonably withheld.

ARTICLE 27
EXPIRATION OR TERMINATION

A. Expiration. Upon expiration of this Agreement, the Lessor may, at its sole discretion, do any of the following:

1. Negotiate a new agreement with Lessee:
2. If Lessee is in default pursuant to Article 11, or if Lessor otherwise terminates or elects not to renew because: a) the Leased Premises and surrounding land will no longer be used as an airport; b) the structure(s) are not in compliance with building standards; c) the structure(s) are no longer suitable for their intended purposes; or d) termination or non-renewal is necessary to obtain or maintain federal funding pursuant to Article 12 herein, then Lessor may order and require Lessee to remove all structures located on the Leased Premises and

restore the site to its original condition within (90) days of written notice from Lessor to do so.

B. Termination. Upon termination of this Agreement, the Lessor may, at its sole discretion, do any of the following:

1. Negotiate a new agreement with Lessee:
2. Take title to all structures located on the Leased Premises, subject to the obligation of Lessor, if Section 6.A. applies, to pay Lessee the fair market value of such structures pursuant to the terms of this Agreement.
3. If Lessee is in default pursuant to Article 11, or if Lessor otherwise terminates or elects not to renew because: a) the Leased Premises and surrounding land will no longer be used as an airport; b) the structure(s) are not in compliance with building standards; c) the structure(s) are no longer suitable for their intended purposes; or d) termination or non-renewal is necessary to obtain or maintain federal funding pursuant to Article 12 herein, then Lessor may order and require Lessee to remove all structures located on the Leased Premises and restore the site to its original condition within (90) days of written notice from Lessor to do so.

ARTICLE 28 HOLDOVER POSSESSION OF PREMISES BY LESSEE

In the event that Lessee should hold over and remain in possession of the Leased Premises after the expiration of this Agreement or termination for any cause, the holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Lessor or Lessee, upon notice as required to end month to month tenancies.

ARTICLE 29 PARAGRAPH HEADINGS

All paragraph and subparagraph headings contained in this Agreement are for convenience in reference only, and are not intended to define or limit the scope of any provision.

**ARTICLE 30
NOTICES**

Notices to the Lessor or Lessee provided for in this Agreement shall be hand delivered or sent by certified mail, postage prepaid, addressed to:

Lessor
City of Middleton
7426 Hubbard Avenue
Middleton, WI 53562

Lessee
Name
Address
City/State/Zip

or to such other addresses as the parties may designate to each other in writing from time to time, and such notices shall be deemed to have been given when so sent.

All payments shall be made payable to the City of Middleton and sent to the attention of the City Treasurer at the Lessor's address stated above.

**ARTICLE 31
SIGNATURES**

IN WITNESS WHEREOF, the parties have hereto have caused this Agreement to be executed by their proper officers, this ____ day of _____, 200_.

Signed in the Presence of:

LESSOR:
City of Middleton

By: _____

Signed in the Presence of:

LESSEE:

By: _____

**EXHIBIT 1
LOT DIAGRAM**

Lot Number ____ on attached site plan

EXHIBIT 2
Rates and Charges

March 1, 2005 through February 28, 2010 (initial five-year period as described in Article 3C)

LEASED AREA: _____sq. ft. X \$_____ per sq. ft./year

ANNUAL TOTAL _____

Future rate to be determined in accordance with Article 3C.