

AIRPORT USER ACCESS AGREEMENT

BETWEEN

WINNEBAGO COUNTY

AND

BASLER TURBO CONVERSIONS, LLC

THIS AGREEMENT, is made and entered into this 1st day of January, 2017 by and between the County of Winnebago, Wisconsin, referred to as the “Grantor” and “County,” and Basler Turbo Conversions, LLC, hereinafter referred to as the “Grantee.”

WHEREAS, the County operates Wittman Regional Airport consistent with applicable State and Federal regulations; and

WHEREAS, the County has prepared a Master Plan for the future development of Wittman Airport; and

WHEREAS, eligibility for Federal funds requires that the County control access to the airfield by airport users and tenants; and

WHEREAS, the Grantee and his invitees intend to taxi to and from Wittman Airport air operations areas; and

WHEREAS, the County desires for this operation to comply with guidelines and requirements concerning “Through-the-Fence” operations set forth by the Federal Aviation Administration, and that this Agreement shall extend to the future operational developments and plans of the Grantee concerning airport access;

BE IT AGREED by the parties hereto as follows:

1. The Grantee shall operate its facilities and provide its services in accordance with accepted safety practices as identified in Federal Aviation Administration and Wisconsin Department of Transportation, Bureau of Aeronautics guidelines, regulations, orders and requirements and as required by Wisconsin and Federal laws, and in accordance with rules and regulations of Wittman Airport including Parts 139 and 107 and other related Federal Aviation Regulations adopted and developed by the County. The Grantee shall

advise users of its services and facilities of these practices, rules, and regulations as part of its responsibilities hereunder

2. The County reserves the right to further develop and improve the landing area of the airport as it sees fit, regardless of the demands of the Grantee and without interference or hindrance.

3. The Grantee respects Wittman Airport's function as an airport. Therefore, the Grantee waives the right to all airport noise claims resulting from airport operations.

4. The Grantor reserves the right of approval of transfer and assignment of the operation authority herein mentioned to future business associates, owners, and or partners. Said approval will not unreasonably withheld.

5. The term of this Agreement shall be for five (5) years beginning January 1, 2017 and ending on December 31, 2021.

6. This Agreement shall be subordinate to the provisions of and requirements of any existing or future agreements between the county and the United States of America, relative to the development, operation, or maintenance of the airport.

7. If the County proves there to be an unfair monetary advantage held by the Grantee, due to their off-airport operations, over generally comparable on-airport operators, the Grantee shall agree to an amendment developed by the County, in full cooperation with the Grantee, to negate said advantage. This is intended to create an equal airport-usage cost bearing structure for comparable on-airport and off-airport operators, shielding the County from revenue erosion.

8. The Grantee agrees to pay a rate and charges schedule comparable to any other aircraft operator on the airport. This will include landing fees and fuel flowage fees. In addition, the Grantee agrees to pay an access fee for the privilege of using the airfield. This fee shall be One thousand One Hundred Two Dollars and 61/100 (\$1,102.61) per month, or an annual access fee of Thirteen Thousand Two Hundred Thirty-One Dollars and 32/100 (\$13,231.32) for any one Grantee. It may be adjusted at any time consistent with the provisions of paragraph seven of this agreement. The rental rate shall be adjusted on the anniversary of this Agreement, and each successive year at the greater of the increase of the National Consumer Price Index for all items for urban wage earners and clerical workers for the previous calendar year, or, three percent (3%).

9. The Grantee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulation in the event any future structure or building is planned for the Grantee's premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Grantee's premises.

10. This Agreement and all of the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of said airport or the exclusive or nonexclusive use of the airport by the United States during the time of war or national emergency.

11. The Grantee for himself, his heirs, personal representatives, Successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property in this agreement 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 said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Grantee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

12. The Grantee agrees to furnish service on a fair, equal, and no unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and no unjustly discriminatory prices for each unit of service. Proved that the Grantee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or any other similar types of price reductions to volume purchasers.

13. The Grantee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E. The Grantee 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 in this subpart. The Grantee assures that it will require that its covered sub-organizations provide assurances to the County that

they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR, Part 152, Subpart E, to the same effect.

14. It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, the County reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.

15. Grantee assures that he requires direct airfield access to effectively conduct his business.

16. Grantee agrees, at its own cost and expense, to furnish County with Certificate of Insurance indicating proof of the following insurance from companies licensed in the State:

- (a) Aircraft Liability – with a minimum of \$5,000,000 Combined Single Limit of Liability for Bodily Injury and Property damage.
- (b) Commercial General Liability Insurance – (non-aircraft) with a minimum limit of \$1,000,000 Combined Single Limit for bodily Injury and Property Damage Liability. This insurance shall include on the Certificate of Insurance the following coverage:
 - a. Premises – Operations
 - b. Products and Completed Operations
 - c. Broad Form Property Damage
 - d. Broad Form Blanket Contractual
 - e. Personal Injury
 - f. Errors and Omissions; if applicable
- (c) Automobile Liability Insurance with a minimum limit of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage Liability for all ground vehicles operated on airport property. This insurance shall include Bodily Injury and Property Damage for the following coverage:
 - a. Owned Automobiles
 - b. Hired Automobiles
 - c. Non-Owned Automobiles.

Such insurance shall include Winnebago County as an additional insured as pertains to the negligence of the user or Grantee. Such insurance shall include a thirty (30) day notice prior to cancellation or material policy change, which notice shall be given to the Winnebago County Insurance Coordinator, 448 Algoma Boulevard, P. O. Box 2808, Oshkosh, WI 54903-2808. All such notices will name the user or Grantee and identify the contract.

17. The rights granted herein are associated only with a ten-acre parcel of land owned by the Grantee at 35th and Oregon Streets, Oshkosh, Wisconsin.

18. Resolution of Disputes:

This Agreement shall be covered by the laws of the State of Wisconsin. Claims, disputes, and other matters in questions between the parties to this Agreement arising out of, or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association then pertaining, upon the express written consent of all parties to this Agreement. In the event the parties proceed to arbitration, the following shall govern any such proceedings.

- A. The American Arbitration Association shall submit a panel of five arbitrators to the parties. The parties shall alternate strikes until one arbitrator remains who shall arbitrate the dispute. The party initiating the first strike shall be determined by the winner of a coin flip.
- B. The costs of the arbitration proceeding (except the filing fee, which shall be paid by the party initiating the proceeding) shall be borne equally by the parties. Each party shall pay their own legal fees and expenses incurred in connection with the proceeding.
- C. Any arbitration shall take place in the City of Oshkosh, Winnebago County, Wisconsin.
- D. Unless otherwise agreed by the parties, the arbitration hearing in this matter shall be limited to one day in length with the arbitrator providing each side equal time to present its case during the day.
- E. Any discovery proceeding shall be limited to the thirty (30) day period prior to the date of the arbitration hearing. The party requesting the discovery shall pay for all costs incurred by the opposite party, except for attorney's fees, related to the discovery procedure, including but not

limited to, witness and reporters fees related to depositions, photocopying fees, postage fees, and delivery fees.

F. The arbitrator, in issuing any ruling with regard to any arbitration matter, shall issue a written decision which shall include written findings of fact and conclusions of law.

G. The proceeding and arbitration shall be governed by the laws of the State of Wisconsin, including specifically, Chapter 788 of the Wisconsin Statutes.

19. Notices. Notices shall be sufficient if sent by certified mail, postage prepaid, addressed to:

Lessor

Airport Director
Wittman Regional Airport
525 W. 20th Avenue
Oshkosh, WI 54902

Lessee

Basler Turbo Conversions LLC
P. O. Box 2305
Oshkosh, WI 54903

SIGNATURE PAGE FOLLOWS

IN WITNESS HEREOF, the parties hereto and hereunto set their hands to the Agreement the day and year last above written.

WINNEBAGO COUNTY (GRANTOR)

By: _____
Mark Harris, County Executive

By: _____
Susan Ertmer, County Clerk

BASLER TURBO CONVERSIONS, LLC
(GRANTEE)

By: Handwritten signature 12/19/16

By: _____