

GROUND LEASE
BETWEEN
WINNEBAGO COUNTY
AND
BEN JACOBS

1. Parties. This Lease Agreement executed this first day of April, 2018, by and between WINNEBAGO COUNTY, a State of Wisconsin Municipal Corporation, Oshkosh, Wisconsin 54901, hereinafter referred to as "LESSOR" and Ben Jacobs, hereinafter referred to as "LESSEE".
2. Lease Agreement. The LESSOR hereby agrees to and does lease unto the LESSEE and the LESSEE agrees to and hereby does lease from the LESSOR the premises hereafter described for the term and at the rental and upon the conditions hereinafter set forth.
3. Description of the Leased Premises.

The hangar will be fifty (50) feet by fifty (50) feet, with the leased area extending five (5) feet beyond the hangar on the sides and rear wall, and is located between the following approximate points:

North corner: Latitude N043° 59' 19.02" and Longitude W088° 33' 01.50"
East corner: Latitude N043° 59' 18.71" and Longitude W088° 33' 00.97"
South corner: Latitude N043° 59' 18.32" and Longitude W088° 33' 01.40"
West corner: Latitude N043° 59' 18.64" and Longitude W088° 33' 01.93"

The leased area shall also include land for a proposed apron, sized approximately forty (40) feet long and fifty (50) feet wide.

The leased premises consisting of 3,450 square feet more or less is depicted in Exhibit "A" attached hereto and incorporated herein by reference, Exhibit "A" being a site plan prepared by the LESSOR.
4. Length of Lease.
 - a. Term. This lease shall be for a period of twenty (20) years commencing on April 1, 2018

and ending on March 31, 2038.

- b. Right Upon Termination. At the end of the twenty (20) year term of the lease, paragraph 20 herein entitled "LESSEE's Rights Upon Termination" shall apply.
5. Rent. LESSEE agrees to pay rental during the term of this agreement as follows:
 - a. Land Area. For each square foot of land as described in paragraph 3 the rental shall be sixteen cents (\$0.16) per square foot per year, or Six Hundred Forty Dollars (\$640.00) whichever is greater. The rental rate shall commence at \$640.00.
 - b. Rental Adjustments. LESSEE agrees that the rental of the premises herein described and any future additions thereto, shall be adjusted on the anniversary of this agreement at three (3) year intervals. LESSOR agrees that the new rental rate shall constitute an increase of the previous rental rate by the average increase of the Consumer Price Index for All Urban Consumers (CPI-U) for the previous three (3) years.
 - c. Payment of Rent. All rent as herein provided shall be paid annually in advance on the first day of January of each lease year, or monthly in advance.
6. Authorized Uses.
 - a. Hangar. LESSEE understands the primary use of the premises shall be aircraft storage. LESSEE shall comply with Federal Aviation Administration (FAA) policy on Non-Aeronautical Use of Airport Hangars as outlined in FAA Order 5190.6B and in any other guidance published by the FAA concerning the use of hangars, so as not to ultimately impede the use of the hangar for aeronautical purposes. The premises shall not be used for any commercial purposes.
 - b. Use of Common Facilities. LESSEE is authorized to use in common with others, existing and future aeronautical facilities at Wittman Regional airport, subject to the Airport's rules and regulations and federal aviation regulations applicable to all such users in common.

- c. Cost of Improvements. The cost of construction of all improvements to the leased site areas shall be borne by the LESSEE.
- d. Subsequent Alterations. LESSEE shall have the right during the term of this lease to make alterations to existing improvements, attach fixtures, and erect additional structures in or upon the leased premises, provided however that no such alterations, etc. shall be commenced prior to obtaining LESSOR's written approval and further provided that the initial improvements contemplated herein, and all such alterations, fixtures or additional structures shall be subject to the provisions of paragraph 20 herein entitled LESSOR'S RIGHTS UPON TERMINATION. LESSOR's approval for subsequent alterations shall not be unreasonably withheld

7. Obligations of LESSOR.

- a. Operation and Maintenance of Facilities. LESSOR agrees that it shall, during the term of this lease and any extension of renewal hereof, within its financial ability, operate, maintain and keep in good repair all public and common facilities and services on Wittman Regional Airport, including the landing area, taxiways, terminal building and parking aprons, obstruction lights, runway and taxiway lighting, security lighting, and airport security fencing.
- b. Snow Removal, etc. LESSOR agrees that it shall keep the public areas of the Airport free from obstructions, including the clearing and removal of snow, grass, stones or other foreign objects, as reasonably necessary and with reasonable promptness in accordance with the established priorities for runways, taxiways, ramps, access roads and areas immediately adjacent thereto for the safe, convenient and proper use of the Airport by LESSEE and others.

8. Obligations of LESSEE.

- a. Acceptance of Premises. LESSEE, by execution of this lease represents that it has

inspected the Airport and the leased premises, and that it accepts the condition of same as they now exist, and fully assumes all risks incident to the use thereof, including, but not limited to, any hidden, latent, or other dangerous conditions on the Airport or the leased premises. LESSEE accepts the leased premises in their present condition and agrees to repair and maintain any improvements, fixtures, or any other object on the leased premises without expense to LESSOR. LESSEE further agrees to remove or cause to be removed at LESSEE's expense, any trash, garbage or debris generated by LESSEE's use of the leased premises except temporarily in connection with collection or removal of same.

- b. Outside Storage. LESSEE may keep reasonable equipment and materials within his leasehold in locations susceptible to view by the public, at the discretion of the LESSOR. Any equipment or materials stored within the leasehold of the LESSEE found objectionable to the LESSOR shall be subject to paragraph 16, "Default", of the Lease Agreement.
- c. Lighting and Signs. LESSEE shall secure in advance written approval from LESSOR before placing any exterior lighting or exterior signs on the leased premises.
- d. Compliance with Federal Aviation Regulations and Transportation Security Administration Directives. LESSEE agrees to comply with Federal Aviation Administration Advisory Circular AC 107-1 (Aviation Security - Airports) or any successor regulations and the LESSOR's policies, present or future, as outlined in the LESSOR's Security Master Plan as approved by the Federal Aviation Administration, and any Transportation Security Administration (TSA) directives as may be required. LESSEE further agrees that any fines, costs of defense, including reasonable attorney's fees, disbursements, or any other expenses incurred by LESSOR through enforcement of Federal Aviation Administration Advisory Circular AC 107-1 or FAR Part 139, if

applicable, or TSA directives, because of acts by LESSEE, its employees, agents, suppliers, contractors, sub-contractors, guests, or patrons shall be paid by LESSEE on demand of LESSOR.

LESSOR shall retain the right to materially alter the terms of this Lease agreement or, in the alternative, to terminate this Lease agreement pursuant to the terms of paragraph 20, herein, should any changes in federal or state law or regulation require such alteration or termination.

- e. LESSEE'S Taxes. LESSEE shall promptly pay any and all taxes and assessments levied on or against LESSEE's property on said premises, and all licenses, permits, occupational and inspection fees assessed or charged against said premises of either party to this lease by reason of the LESSEE's use or occupancy of said premises, and the LESSEE shall hold the LESSOR free and harmless from any loss, damage, or expense, including reasonable attorney's fees, arising out of or by reason of any charges specified in this subparagraph.
- f. Compliance With Laws, etc. LESSEE agrees to comply with all laws, ordinances, rules and regulations promulgated by LESSOR and any governmental unit having jurisdiction, applicable to the use of said premises and to use said premises in compliance therewith.
- g. Liens. LESSEE agrees to promptly pay all sums legally due and payable on account of any labor performed on or materials furnished, caused by the LESSEE or his agents or assigns, for the leased premises. LESSEE shall not permit any liens to be placed against the premises on account of labor performed or material furnished and in the event such a lien is placed against the premises, LESSEE agrees to save 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.
- h. Repair of Premises. LESSEE shall at its sole expense keep, maintain and repair the

leased premises, any improvements thereto and all equipment in a good and well-maintained condition consistent with good business practice and in a manner which will preserve, enhance and protect the general appearance and value of the leased premises, and of the Airport. Failure to maintain and repair shall be deemed a default under this Lease. In the event LESSEE fails to comply with this subparagraph, LESSOR shall issue a written notice to LESSEE regarding its failure to maintain and repair. The notice must state with reasonable specificity (1) the nature of LESSEE's failure to keep, maintain or repair, and (2) the remedy required by LESSOR to cure the default. In the event that LESSEE fails within thirty (30) days after receipt of LESSOR's default notification under this paragraph, to commence appropriate action to cure such default, LESSOR shall have the right thereafter to terminate this lease immediately, or in the alternative, to cure said default in an efficient, effective, and good workmanlike manner, and to assess the costs thereof against LESSEE. LESSEE hereby agrees to pay any and all such assessments, including all costs, disbursements and reasonable attorney's fees incurred by LESSOR in curing said default within thirty (30) days after LESSOR's demand. Provided, however, that if LESSEE commences appropriate action to cure a default as soon as reasonably possible thereafter, LESSOR shall have the option of declaring LESSEE in default and proceeding to cure the provision herein or permitting LESSEE to proceed with curing the failure to maintain or repair if LESSEE is proceeding in a reasonable manner to do so.

- i. Non-Assignment. LESSEE shall not at any time assign any part of this agreement; nor sublease the premises without consent of the LESSOR, which shall not be unreasonably withheld; nor assign any of the leased premises. Any sublease agreement that is mutually agreed to by the LESSOR and LESSEE must maintain compliance with FAA Order 5190.6B and any other guidance published by the FAA as it relates to Non-Aeronautical Use of Airport Hangars.

- j. Utilities. LESSEE agrees to install or cause to be installed on the leased premises, meters for all utilities to be used on the premises, and to pay any and all costs and expenses incurred as a result of the installation and use of such utilities.
 - k. Security. The parties hereby agree that LESSEE assumes all responsibility and obligation for providing security on the leased premises.
9. Quiet Enjoyment. LESSOR covenants, warrants, and represents that it has full right and power to execute and perform this Lease and to grant the estate leased herein and that LESSEE, upon payment of rent herein specified and performance of the covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the leased premises during the full term of this lease, subject to LESSOR's right to inspect the premises as stated in Paragraph 10 hereunder.
10. LESSOR's Right of Entry. LESSOR, its agents, and employees shall have the right to inspect the leased premises at any reasonable time for the purpose of examining same and to ascertain if they are in good repair. Prior to any inspection by the LESSOR, it shall arrange with the LESSEE for a suitable time to make such inspection, except in emergency situations such as fire or other conditions hazardous to property or life.
11. Civil Rights Assurances. LESSEE, in the use of the leased premises for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the premises that: (1) no person on the grounds of sex, race, color, creed, physical condition, developmental disability, sexual orientation, national origin or ancestry 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 premises and the furnishing of services thereon, no person on the grounds of sex, race, color, creed, physical condition, developmental disability, sexual orientation, national origin or ancestry shall be excluded from participation in,

denied the benefits of, or otherwise be 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; (4) that the LESSEE shall use the premises so as not to be in contravention of Section 942.04, Wisconsin Statutes; (5) that the LESSOR shall not discriminate in its employment practices in contravention of Section 111.322, Wisconsin Statutes. LESSEE, in the conduct of its authorized business activities on said demised premises and on said Airport, shall furnish good, prompt and efficient services adequate to meet the demands for its service at the Airport, and shall furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit of sale or service; provided, however, that LESSOR shall be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

LESSEE shall have the right and privilege of engaging in, and conducting all operations authorized under the terms of this lease, provided, however, that this Agreement shall not be construed in any manner to grant the LESSEE or those claiming under him the exclusive right to use the premises or facilities of the aforementioned Airport other than those leased exclusively to the LESSEE hereunder.

12. Holding Over. In the event that LESSEE holds over in its occupation of the demised premises, or any portion thereof, after the expiration or other termination of this lease or any renewal or extension thereof, such holding over shall operate and be construed as a tenancy from month to month at the same monthly rental that applied to the last preceding month and subject to all the other terms and conditions herein provided, and in no event shall the tenancy be deemed to be one

of longer than one month. However, nothing contained herein shall be construed as consent by the LESSOR to the holding over of the demised premises by the LESSEE.

13. Reasonable Exercise of LESSOR's Rights. All rights privileges, options and powers as are reserved by LESSOR with respect to the leased premises, shall be exercised in a reasonable manner, without unnecessary and unreasonable interference with the LESSEE's use and occupancy of the premises; and wherever LESSEE's rights or privileges to act under this lease are stated to be subject to prior consent or approval of LESSOR, it is understood and agreed that consent or approval shall not be arbitrarily or unreasonably withheld.

14. Condemnation.

- a. If at any time during term hereof the whole of the demised premises shall be taken for any public or quasi-public use, under any statute, or by right of eminent domain, then, in such event, when possession of the demised premises shall have been taken thereunder by the condemning authority, the term hereby granted, and all right of the LESSEE hereunder, shall immediately cease and terminate, and the rent shall be apportioned and paid to the time of such termination. Lessee shall be paid fair market value for any improvements he caused upon premises. Value to be established as that prior to condemnation.

15. Damage to Premises. In the event of partial or complete loss to the demised premises by fire, the elements, accident, or other occurrence, the LESSOR shall have no obligation to compensate LESSEE for any loss incurred except that caused by Lessor's negligence. LESSEE shall, within thirty (30) days of said loss give notice to LESSOR of its intent to repair or rebuild, or of its intent to terminate this Lease. In the event that LESSEE chooses to repair or rebuild, the rent shall continue unabated.

In the event that a loss or occurrence on the leased premises caused by an act of neglect of LESSEE causes a loss to the LESSOR's or other property on the Airport, LESSEE shall, at its

expense, repair, replace, or rebuild or cause to be repaired, replaced or rebuilt, any such property damaged or lost to its previous condition as soon as reasonably possible, and to reimburse LESSOR, its agents, employees, other lessees, contractors and suppliers for any and all costs and expenses, including reasonable attorney's fees incurred as a result of such loss or damage. Any question regarding the reasonableness of LESSEE's performance under this paragraph shall be submitted to arbitration, and the parties agree to be bound thereby.

16. Default. LESSOR shall give written notice to LESSEE of any default under this lease in the payment of rent or otherwise, and LESSEE shall have the right for ten (10) days after notice to cure any default with respect to the payment of rent, and shall have the right to cure other defaults in accordance with other provisions of this lease specifically applicable to said default.

17. Future Development.

- a. LESSOR reserves the right to further develop or improve the Airport in LESSOR's sole discretion, regardless of the desires or opinions of LESSEE, except Lessor cannot cause material devaluation of Lessee's property by said development. LESSOR further reserves the right to take any action it considers necessary to protect the aerial approaches to the Airport against obstructions, together with the right to prevent LESSEE from erecting or causing to be erected any building or other structure on the leased premises which, in the opinion of the LESSOR and in its sole discretion, would limit the usefulness of the Airport or constitute a hazard to aircraft, subject to LESSEE's right to Quiet Enjoyment of the leased premises under paragraph 9 herein.

18. LESSOR's Right To Terminate.

- a. The LESSOR shall have the right to terminate this agreement in its entirety immediately upon the happening of the following events:
 - i. Filing of a petition, voluntary or involuntary, for the adjudication of LESSEE as bankrupt.

- ii. The making by LESSEE of any general assignment for the benefit of creditors.
 - iii. The abandonment by LESSEE of its demised premises, or its conduct of air transportation and aeronautics, except in connection with its surrender to mortgagee, or other parties succeeding to LESSEE's interest hereunder, provided however, that such surrender shall be subject to prior written approval by LESSOR, and further provided that nonuse of the leased premises by LESSEE, so long as the premises available for bona fide lease or sublease for any use or purpose authorized hereunder, shall not be deemed abandonment as long as LESSEE is not in default of any of the terms of this lease.
 - iv. The lawful assumption by the United States Government or any authorized agency thereof of the operation and control or use of the Airport and facilities, or any substantial part or parts thereof. In such event, the LESSEE may elect to terminate upon failure of the LESSOR to do so.
- b. Failure of LESSOR to declare this lease terminated upon a default by LESSEE for any of the reasons set out above shall not operate to bar or destroy the right of LESSOR to cancel this lease by reason of any subsequent violation of the terms of this lease. Further, the acceptance of rental by LESSOR for any period after default of any of the terms, covenant, or conditions by LESSEE shall not be deemed a waiver of any right on the part of LESSOR to cancel this lease.

19. Mortgages and Subordination. LESSEE shall have the right at any time during the term of this agreement at its own expense to renegotiate and obtain a loan or loans which may be secured by a mortgage on the improvements to the subject premises or any other land owned by the LESSOR, and LESSEE hereby agrees to so inform any bank or loaning agency prior to negotiating or obtaining a loan. In the event that LESSEE encumbers the subject premises or any other land owned by LESSOR, said encumbrance shall be cause for immediate termination of this lease by

LESSOR. Further, LESSEE agrees that in the event of such an encumbrance, it shall remove or cause to be removed, at no expense to LESSOR, said encumbrance and shall do so immediately. LESSEE further agrees that in the event such an encumbrance damages LESSOR in any way, LESSEE shall on demand reimburse LESSOR in full for said damages.

20. LESSEE's Right Upon Termination. At the termination of this lease, LESSEE shall be entitled to elect one of the following options:

- a. LESSEE shall return the leased premises to LESSOR clear of all or any specifically designated improvements above ground level which have been purchased or constructed by LESSEE, its agents, employees, assigns or successors; provided, however, that LESSEE shall have thirty (30) days after termination in which to remove all such improvements or those specifically designed by LESSOR. In the event that demolition by LESSEE exceeds the thirty (30) day period, LESSEE shall pay rent at the then current rate for any excess days, or
- b. The LESSEE may negotiate the sale of the improvements existing on Airport property to the Airport or a third party. LESSOR maintains the right to approve such a sale and a new land lease, said approval not to be unreasonably withheld, or
- c. The LESSEE may, with mutual consent of the LESSOR, transfer title of said improvement in lieu of removal of the said improvements of LESSEE'S and LESSEE hereby agrees to execute all appropriate documents to vest title of said improvements to LESSOR free and clear of any and all liens and encumbrances, or
- d. The LESSEE may enter into a new 20-year lease agreement.

21. Non-exclusive Lease. It is understood and agreed by and between the parties that LESSOR retain the privilege of entering into other agreements which may or may not be similar to this lease and which may or may not contain similar terms with other entities for the use of other Airport facilities but this paragraph shall not be construed to abrogate LESSEE's right to Quiet

Enjoyment contained herein. LESSEE hereby agrees that it will not object to, obstruct or hinder in any way LESSOR's right to enter into such agreements, even though such agreements may be adverse to LESSEE's interests.

22. Liability.

- a. Fire Liability. It is understood and agreed by the parties that in no event shall LESSOR be liable for any damages to the leased premises or to any of LESSEE's other property at this location caused by or resulting from fire,
- b. Damage Other Than That By Or Resulting From Fire. It is understood and agreed that LESSOR shall not be liable for any non-fire related repairs arising out of injury or damage to LESSEE's property caused by LESSEE.
- c. Insurance. LESSEE agrees, at its own cost and expense, to furnish the County Insurance Administrator with a Certificate of Insurance indicating proof of the following insurance:
 - i. Workers Compensation - statutory - in compliance with the Compensation law of the State, if applicable.
 - ii. General Liability Insurance - with a minimum combined single limit of liability per occurrence for bodily injury and property damage of \$1,000,000 during periods of construction of improvements on the property and during periods of time when aircraft is stored upon the property or when storage buildings upon the property are used to store any large items of personal usage other than a boat or an automobile. At all other times, the minimum combined single limit of liability per occurrence for bodily injury and property damage shall be \$300,000. This insurance shall include on the Certificate of Insurance the following coverages:
 1. Premises - Operations
 2. Products and Completed Operations
 3. Broad Form Property Damage

4. Blanket Contractual
 5. Professional Liability, if applicable
- iii. Aircraft liability - (if applicable only) with a minimum of \$100,000 each person for Bodily Injury Liability/\$300,000 per occurrence of combined single limit of Bodily Injury and Property Damage Liability. Experimental Aircraft will be individually reviewed for appropriate liability limits. Such insurance shall include Winnebago County as an additional insured as pertains to the negligence of the LESSEE. 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, 112 Otter Avenue, P.O. Box 2808 Oshkosh, Wisconsin 54903-2808. All such notices shall name the LESSEE and identify this lease agreement.
- iv. Automobile Liability Insurance with a minimum combined single limit of liability per occurrence of \$1,000,000.00 for bodily injury and property damage for the following coverages:
1. Owned Automobiles, if applicable
 2. Hired Automobiles
 3. Non-Owned Automobiles
- v. During construction LESSEE and their contractors shall provide all of the above insurance requirements where applicable including increased general liability limits of \$2,000,000 if explosion, underground and/or collapse is involved and \$5,000,000 if asbestos is involved.
- vi. LESSEE shall name Winnebago County as an additional insured on all such insurance policies, unless such requirement is waived in writing by Winnebago County's Insurance Administrator.

- vii. LESSEE shall immediately inform Winnebago County of the occurrence of any events which might alter Lessee's minimum general liability limits as set for in subparagraph 2, above.
 - viii. LESSOR may review and alter those insurance requirements pertaining to the LESSEE on an annual basis. LESSOR shall not unreasonably alter these insurance requirements pertaining to the LESSEE.
- d. Indemnification. LESSEE shall indemnify LESSOR and hold it harmless against and from all loss, cost and expense, including but not limited to attorneys fees and other costs of defense, occasioned to LESSOR at any time by reason of liability imposed by law upon LESSOR for damages because of operations of LESSEE conducted at or from the leased premises pursuant to rights granted hereunder, but only if such liability arise in whole or in part by reason of any negligent act or omission of LESSEE or of any person or organization for whose acts or omissions the LESSEE is legally responsible.
23. Storage of Fuel. LESSEE is prohibited from installing, storing, or dispensing fuels on the leased premises as described in the airport rules and regulations.
24. Severability. In the event that any provision herein contained 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 contained herein, provided that the validity of any such provisions does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid provisions of this agreement.
25. Notice. Any notice required or desired to be served by either party upon the other may be served by depositing such notice in certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

a. To the LESSOR:

Airport Director
Wittman Regional Airport
525 W. 20th Avenue
Oshkosh, WI 54902-6871

b. To the LESSEE

Ben Jacobs
5788 I-Ah-May-Tah Road
Oshkosh, WI 54901-1343

Or to such other address or person as shall from time to time be designated by the parties in writing.

26. Easements. LESSOR hereby agrees that it shall grant Easements necessary to supply utilities to the subject premises and taxiway access between existing taxiway and leased property.

27. Entire Agreement. This agreement constitutes the entire agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This agreement cannot be added to, altered or amended in any way except by written agreement signed by both of the parties hereto.

28. Successors. The conditions, covenants, and agreements in the foregoing lease contained to be kept and performed by the parties hereto shall be binding upon said respective parties and their successors.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF the parties have caused this agreement to be executed by their proper officers thereunto duly authorized as of the day and year above written.

WINNEBAGO COUNTY (LESSOR)

BY: _____
Mark L. Harris
County Executive

Susan T Ertmer
County Clerk

(LESSEE)

BY: _____