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**AIRPORT LEASE AND
CONCESSION AGREEMENT**

THIS LEASE AND CONCESSION AGREEMENT (hereinafter referred to as "Agreement"), entered this 16th day of October, 2020, by and between the **COUNTY OF LIVINGSTON** (hereinafter referred to as "Landlord"), and **BWG AVIATION, LLC**, (hereinafter referred to as "Tenant"), whose offices are located at 40350 Grand River Avenue, Novi, MI 48375.

WITNESSETH:

WHEREAS, the parties desire to enter into an Agreement for land owned by the County of Livingston at the Livingston County Airport.

NOW, THEREFORE, IT IS AGREED by and between the parties as follows:

1. **DEMISED PREMISES.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the "demised premises" at Livingston County Airport which is described on Exhibit "A", attached hereto and incorporated herein by reference, together with the rights to occupy all buildings and improvements, constructed or situated thereon at any time during the term hereof, and all appurtenances thereto. A depiction of the building and demised premises is attached hereto as Exhibit "B".

Tenant is granted the exclusive use of said demised premises, subject to the terms and conditions hereof, for the purpose of maintaining and operating on said premises a hangar for the purpose of sheltering aircraft and a fixed base operation (FBO). Tenant may sublease or grant rights hereunder to its tenants or sublessees subject to the terms and conditions set forth herein, including but not limited to Articles 18 and 19.

2. **TERM.** Tenant shall have and hold the demised premises for the term of twenty (20) years, beginning on the first (1st) day of November, 2020 ("the Effective Date"), and ending on the thirty-first (31st) day of October, 2040, inclusive, unless said term is terminated as provided herein. Tenant shall pay the rental charge as set forth in Article 3.

Subject to valid, uniform, and consistently applied charges, fees, rules, ordinances, and regulations governing said airport and the demised premises issued by the federal and state aeronautical agencies and by the Landlord which now exist or may subsequently be amended or adopted by said agencies or Landlord, it being expressly understood that this privilege covers the entire period of the lease term created hereunder and any extension thereof as set forth herein, Tenant and its agents, invitees, visitors, customers, and sublessees shall have the right of ready access to and from, and the privilege of using for the term of this Agreement, or any extension thereof, in common with others and the public, the public areas at Livingston County Airport, including runway access roads and runway.

3. **RENTAL.** Beginning on November 1, 2020, Tenant shall pay to Landlord as rental for the demised premises and the rights, privileges and concessions granted to it herein, subject to the duties and obligations outlined in this Agreement, the annual sum of Nine Thousand One Hundred Eight and 72/100 Dollars (\$9,108.72), payable in monthly rental payments as set forth below. Rental payments for the initial year shall be as follows:

November 1, 2020 – December 31, 2020 = \$759.06/month

The first monthly rental payment shall be made on the first (1st) day of November, 2020, and subsequent monthly rental payments shall be made on the first (1st) day of each and every month thereafter, in advance, during the term hereof, provided that the amounts due as monthly rental payments for rent subsequent to the initial year of the lease term shall be determined as hereinafter provided. All rent due under this Agreement shall be paid at the office of the Livingston County Aeronautical Facilities Board, Livingston County Airport, Howell, Michigan. It is understood and agreed that the rent for the first year of the lease term is based upon a total rental area of 21,600 square feet at a rate of \$ 0.4217 per square foot per annum.

Commencing on the first (1st) day of January, 2021, and every January 1 thereafter during the term of this Agreement or any extension, the annual rate of rent shall be increased by the lesser of 3% or the annual Consumer Price Index, defined as to the amount obtained by dividing the initial rental price of \$ 0.4217 per square foot per annum by the Detroit-Ann Arbor, All Items Consumer Price Index figure which is the most recently published one immediately preceding the commencement date of this Agreement, and multiplying the quotient thereof by the Consumer Price Index, Detroit-Ann Arbor, All Items, which is the most recent one published immediately before the effective date of the rent adjustment which is being computed. It is expressly understood that the rent will be increased by 3%, or otherwise adjusted in accordance with changes in the said Consumer Price Index, whichever is lesser, once every year during the term of this Agreement, and any extension(s).

For purposes of this Agreement, the Consumer Price Index means the Index for "All Items" for Urban Wage Earners and Clerical Workers Commodity Groups for the Detroit area, as determined by the United States Department of Labor, Bureau of Statistics.

Should the United States Government revise its Price Index at any time, the parties hereto will follow such suggestions as the government may issue for making an arithmetical changeover from one index to another. Should the Price Index be wholly discontinued, then its successor or the most nearly comparable successor index thereto shall be substituted, with the appropriate adjustments taken into account.

4. PURPOSES FOR WHICH DEMISED PREMISES TO BE USED. Landlord also hereby grants to Tenant, for the term of the lease created by this Agreement, and any extension thereof, the right and concession to conduct an FBO operation on the demised premises, namely, the providing of hangar space, flight training service, and more specifically grants to Tenant, the following rights, privileges and concessions, subject to the duties and obligations outlined in this Agreement with respect to its occupancy and use of the demised premises.

- A. The operation of a flight school and aircraft rental (to students and non-student pilots);

- B. Aircraft sales brokering;
- C. Aircraft Management;
- D. Aerial photography;
- E. Banner Towing;
- F. Pilot service;
- G. Vending machines;
- H. Non-profit organization activities;
- I. Ground school;
- J. Maintenance of aircraft;
- K. Aircraft washing, waxing, cleaning;
- L. Aircraft storage and rental of storage;
- M. Avionics sales and servicing;
- N. Pilot supplies;
- O. Maintenance of aircraft owned or operated by third parties other than Tenant which may or may not be based at the facility; provided however, that Tenant may only maintain an inventory of 220 gallons of oil for said maintenance on the demised premises and further, that Tenant complies at all times with all OSHA requirements and obtains and maintains all required permits and licenses and conducts its activities in accordance with all Federal, State and local requirements.
- P. Charter Operations;
- Q. Office space shall be used for aviation purposes. Office space may be used for other related uses as approved by the Livingston County Aeronautical Facilities Board.

Tenant shall conduct no other operations except as set forth above. All additional uses of the premises shall be approved by the Landlord in writing. The approval of additional uses consistent with an FBO operation shall not be unreasonably withheld provided, however, that the Landlord reserves the right to add additional terms and

conditions for additional uses, as it deems proper, in the exercise of the Landlord's discretion.

5. CONDUCT OF OPERATIONS ON DEMISED PREMISES. In its exercise of the rights, privileges, concessions, duties, and obligations granted to it herein, and in its use of the demised premises, Tenant hereby obligates itself and shall require its sublessees, licensees, and assigns to be obligated to the following requirements and regulations:

- A. Shall not consent to any unlawful use of the demised premises, nor permit any such unlawful use thereof.
- B. All employees shall have, as required, proper and effective federal and state certificates or licenses covering their individual and particular functions.
- C. Comply with all local, federal, and state ordinances, and laws, including the rules and regulations of the federal and state aeronautical authorities and the local governing authorities and the standards of service adopted by the Landlord.
- D. Shall at all times comply with rules, regulations, and ordinances of Landlord as they now exist or may subsequently be amended or adopted.
- E. The operations of Tenant, its sublessees, employees, invitees, assigns, and those doing business with it, and the manner in which it supplies the goods, services and facilities on the demised premises and at Livingston County Airport which it is given the right and concession to do under the terms hereof, shall be conducted in an orderly and proper manner and at the particular times and in the particular manner specified by Landlord and according to the standards established by Landlord, and so as not to annoy, disturb, or be offensive to others at Livingston County Airport. Landlord shall have the right to complain to Tenant as to the demeanor, conduct, and appearance of Tenant's employees, sublessees, invitees, and those doing business with services and facilities at times and in the manner and according to the standards mandated by Landlord, whereupon Tenant will take all steps necessary to remove the cause of the complaint and bring its operations or its sublessee's operations and services into compliance with such standards.
- F. Comply with all rules and regulations of the State Fire Marshal in the conduct of operations on the demised premises.
- G. Tenant, during the term of this Agreement, or any extension thereof, agrees to pay:

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- 1) All personal property taxes and assessments and all license fees applicable to its activities, or other charges which are legally levied or assessed on the personal property situated on the demised premises;
 - 2) Any tax or assessment determined to be properly payable by Tenant under Act 189 of the Public Acts of 1953, as amended, for the lease or use of the demised premises except those assessments that have been levied prior to the execution of this Agreement; and
 - 3) All sales or use taxes and assessments, license fees or other charges of any nature, without exception, legally levied or assessed arising out of the activities conducted on or the occupancy of the demised premises; Provided, always, Tenant shall pursue, at its expense and with due diligence, any exception taken by it to any of the aforementioned taxes or assessments.
- H. Tenant shall pay for water, gas, sewer, charges and electric current, telephone service, and other utilities utilized or consumed on the demised premises.
- I. Tenant agrees at all times to keep the demised premises in a neat, clean, and orderly condition, free of weeds, rubbish, or any unsightly accumulations of any nature whatsoever.
- J. Tie-down of aircraft shall not hinder or obstruct in any manner whatsoever the safe landing, taxiing or take-off of aircraft from the public landing area of the Livingston County Airport, or interfere with the proper use of the field by others, or which may be objectionable to the Livingston County Aeronautical Facility Board, the Michigan Aeronautics Commission, or the Federal Aviation Administration. Tie-downs shall not be established in the greenbelt area set forth in the description above, as shown in the attached site plan. Tenant shall be permitted to park aircraft on the Ramp Area as depicted on the attached Exhibit "A".
- K. All authorized operations shall be conducted on leased premises, unless written consent to the contrary is obtained from the Landlord.
6. IMPROVEMENTS TO THE DEMISED PREMISES. Tenant may, at its own expense, and with the prior written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned, make alterations, additions, and improvements to the demised premises, including the replacement of any buildings. Tenant shall commence construction of a new building on the demised premises within 180 days of the Effective Date of this Lease, and shall complete construction within 12 months of the Effective Date of this Lease. Within 90 days of completion of any improvements, Tenant shall provide Landlord with a copy of any as-built drawings, including architectural renderings, specifications, plumbing and electrical plans. All said alterations, additions,

replacement buildings, or improvements shall be and remain the personal property of Tenant throughout the term of this Agreement, or any extension thereof.

7. FIRST RIGHT OF REFUSAL TO PURCHASE BUILDINGS. Tenant shall have the right during the term of this Agreement to sell, or dispose of any buildings and/or business owned by said Tenant on the property leased hereunder, subject to the right of the Landlord to purchase said buildings and or business upon terms equal to those received by Tenant in any bona fide offer to purchase by another bona fide purchaser which Tenant wishes to accept. In order to exercise the first right of purchase, Landlord must, within forty-five (45) days of receipt from Tenant of notice of any bona fide offer to purchase signed by Tenant, send written notice to Tenant, of its intent to match said offer. The Landlord must within ninety (90) days of sending its notice to Tenant or the time period specified in the offer, whichever is longer, complete its purchase. Notices hereunder should be addressed to the parties hereunder and sent by certified mail. Tenant shall be entitled without further notice to Landlord to convey said buildings, and/or business to a bona fide purchaser upon failure of Landlord to comply with the time limitations herein imposed.

In the event that the Landlord does not exercise its first right to purchase recited above, it is agreed and understood between the parties hereto that the Landlord shall approve or disapprove the bona fide purchaser prior to transfer, sale, or other assignment by Tenant to said bona fide purchaser, and that inquiry by the Landlord to the third party shall be by reasonably objective standards, i.e., financial stability, qualifications to operate and maintain an aviation business similar to Tenant's and any and all other objective standards necessary to insure to the Landlord that the continued stability of the airport in general and the demised premises specifically shall continue in such a regular course of business as if Tenant had continued to lease from the Landlord.

In the event the Landlord approves the sale and the bona fide purchaser, it is agreed and understood between the parties hereto, that twenty-four (24) months from and after the date of any transfer, sale or other assignment by Tenant, this Lease shall become void and fully terminated and any third parties taking by or through said Tenant, will be required to negotiate and obtain a new Lease from Landlord, said new Lease not to be unreasonable or arbitrary. The rental rate for said new lease shall be determined by applying the Detroit-Ann Arbor All Items Consumer Price Index figure which is the most recently published one immediately preceding the commencement date of the new lease, as determined in Article 3 to the base rate as of the date of this lease.

In the event Tenant desires to dispose of any building owned by it on the demised premises either during or at the expiration of this Lease, the Landlord shall have the first option of purchasing said buildings.

Upon the expiration of this Airport Lease, Tenant shall have the privilege of removing any and all of said buildings, alterations, additions, hangars, or improvements placed on the demised premises at any time prior to the expiration of the lease term covered by this Agreement, or any extension thereof, providing that on such removal, Tenant shall restore

the premises to a graded and level condition and of neat appearance. However, no building, hangar, or other improvements may be removed by Tenant until all rents due have been paid to date. If Tenant does not intend to remove the aforesaid alterations, additions, hangars, buildings, or improvements prior to the end of the term of this Agreement, it shall give written notice of this fact to Landlord at least sixty (60) days prior to such termination, in which case Landlord may, in its discretion exercise its option rights, or order Tenant to remove any or all such alterations, additions, hangars, buildings, or improvements. Failure on the part of Tenant to comply with such order to remove shall entitle Landlord to cause to have any or all said alterations, additions, hangars, buildings, or improvements removed, and the cost of such removal shall become the obligation and the responsibility of Tenant, or, at the discretion of Landlord the alterations, additions, hangars, buildings, or improvements may be allowed to remain in place and shall thereupon become the property of Landlord. Upon surrendering the demised premises for any reason whatsoever, Tenant shall surrender possession to Landlord free and clear of any encumbrances whatsoever, excepting those placed thereon by Landlord.

8. RAMP AND TAXI-WAY MAINTENANCE. During the term of this Agreement, Landlord shall be responsible for all ramp and taxi-way maintenance and all snow removal thereon, and shall at all reasonable times keep the ramp and taxi-way maintained, free and reasonably clear of snow, weeds, significant cracks or crevices, and debris, and otherwise in a safe condition including hard surface replacement as needed.

9. COMPLIANCE WITH ORDINANCES, RULES, REGULATIONS, STANDARDS, FEES AND CHARGES. Landlord shall have the right to adopt and enforce uniform and consistently applied ordinances, rules, regulations, standards, fees, and charges, and any amendment thereto with respect to the operation and use of Livingston County Airport, which may provide, by way of example and not by way of limitation, for the payment of such fees and charges for the exercise of rights, privileges, and concessions granted herein by Landlord, but excluding rentals and fees for ground occupancy which are fixed in the manner set forth in Article 3 for the safety of those using the airport, the times and manner in which Tenant and its sublessees, licensees, and assigns are required to conduct its operations and activities and provide its goods, services and facilities to the public on and from the demised premises and to exercise its concession and perform its duties and obligations under the terms of this Agreement, and Tenant agrees that it and its sublessees and assigns will observe and obey same. The statements set forth herein in explanation of Landlord's rights do not grant and shall not be construed to grant Tenant rights not otherwise specifically granted in this Agreement.

Tenant shall construct all hangars and all improvements thereto in accordance with all applicable county and township ordinances, Livingston County Airport's Rules and Regulations, regulations of the Michigan Fire Marshal, and any other applicable state, county and local laws, ordinances and regulations.

It is further understood and agreed that at any time during such occupancy or the construction of said hangars or improvements thereof, and also upon their completion, said premises, hangars and improvements located thereon shall be subject to the inspection

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and approval of the Michigan State Fire Marshal and the Landlord, and any other representatives of interested state, county, or local governments, as specified above.

Tenant agrees, during the occupancy of the demised premises and in the exercise of its concession on said premises, to comply with all laws and ordinances, state, federal, and local, including all building codes, pertaining to sanitation, health, police, and fire protection.

The Landlord shall extend water, sewer, telephone, gas and electric utilities to the perimeter of the leased premises. The cost of extension and connection of any of the above utilities from the perimeter to its buildings is the obligation of Tenant, as is the extension of electrical services from the airport electrical vault and any telephone or other communications utilities.

10. INSURANCE. Tenant and its sublessees, licensees, and assigns shall comply with the following insurance requirements:

- A. Workers' Compensation Insurance. Procure and maintain during the life of this Agreement Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- B. Airport/Commercial General Liability Insurance. Procure and maintain during the life of this Agreement, Airport/Commercial General Liability Insurance on "Occurrence Basis" with limits of liability not less than \$3,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent.
- C. Aircraft Liability. Procure and maintain during the life of this Agreement, Aircraft Liability Coverage, including bodily injury, property damage and passenger liability with limits of not less than \$1,000,000 per occurrence, with a limit of \$100,000 per seat, covering all owned, non-owned and hired aircraft exposures.
- D. Motor Vehicle Liability. Procure and maintain during the life of this Agreement, Motor Vehicle Insurance, including Michigan No-Fault Coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- E. Hangarkeeper's Liability. Procure and maintain during the life of this Agreement, Hangarkeepers Legal Liability coverage in a minimum amount equal to the maximum value of all aircraft in the care, custody or control of Tenant, its sublessees, licensees, or assigns.

- F. Pollution Liability. Procure and maintain during the life of this Agreement, "pollution coverages": Protecting the transportation and dispensing of aeronautical fuel to any vehicle, plane or container, with limits of liability of not less than \$1,000,000 per occurrence.
- G. Additional Insured. Airport/Commercial General Liability, Aircraft Liability, Motor Vehicle Liability, Hangarkeepers Liability, and Pollution Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds. The Landlord and all elected and appointed officials, all County employees and volunteers, all County boards, commissions and/or authorities and board members, including employees and volunteers thereof.
- H. Cancellation Notice. All policies described above shall include an endorsement stating the following: It is understood and agreed that Thirty (30) days, Ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to Landlord.
- I. Proof of Insurance Coverage. Tenant, its sublessees, licensees, or assigns shall provide the Landlord with certificates for all coverages listed above.
- J. Expiration of Policies. If any of the above insurance coverages expire during the term of this Agreement, Tenant and/or sublessees, licensees, or assigns shall deliver renewal certificates and/or policies to Landlord at least ten (10) days prior to the expiration date.

11. COMPLIANCE WITH FEDERAL AGREEMENTS. This Agreement shall be subordinate to the provisions of any existing or future agreement between Landlord 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; provided, however, that any right, title, and interest of Tenant to the demised premises shall not be taken without just compensation therefor being made.

- A. Tenant shall furnish good, prompt, and efficient service adequate to meet all the demands for its services at the airport.
- B. Tenant, its sublessees, licensees, or assigns shall charge fair, reasonable and nondiscriminatory prices for each unit of sale, lease, or service, provided that Tenant and/or its sublessees, licensees, or assigns may be allowed to make reasonable and nondiscriminatory discounts, rebates, and other similar types of price reductions to volume purchasers.

- C. This Agreement shall be non-exclusive and subordinated to the provisions of any existing or future agreement between Landlord 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.
- D. Landlord reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Tenant and without interference or hindrance.
- E. Landlord reserves the right to take reasonable action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Tenant from erecting or permitting to be erected additional hangars or other structures on the airport which, in the opinion of Landlord, would limit the usefulness of the airport or constitute a hazard to aircraft.

12. INDEMNIFICATION. The Tenant, its agents, licensees, invitees, sublessees, and employees shall protect, indemnify and hold harmless the County, its elected and appointed officers, employees and agents from any and all claims, costs, judgments, losses, damages, recoveries, lawsuits and expenses, including, but not limited to, all costs from administrative proceedings, any adverse environmental conditions or liability occurring during its use or occupancy of the demised premises, court costs and attorney fees arising out of or resulting from the Tenant's, its agents, licensees, invitees, sublessees, and employees acts or omissions under this Agreement.

The Tenant's indemnification responsibilities under this section shall include the sum of claims, damages, costs, lawsuits and expenses which are in excess of the sum reimbursed to the County, its elected and appointed officers, employees and agents by the insurance coverage obtained and/or maintained pursuant to the requirements of this Agreement.

13. RIGHT-OF-WAY FOR INGRESS AND EGRESS, PARKING, FENCING. Tenant and/or its sublessees, licensees, assigns, agents, invitees and employees shall have free ingress and egress to the demised premises. Such access shall include use of a gate to be installed by Landlord as shown on Exhibit "A" for ramp access. The gate shall be closed at all times and Tenant shall be provided a key to access said gate.

14. CONDITIONS UPON USE OF THE PREMISES. Tenant and/or its sublessees or assigns shall have the right to erect a sign(s) upon the exterior of the hangar, as approved by the Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. No other signs or advertising matter shall be painted, posted, or displayed upon any portion of the demised premises, including upon the hangars and structures placed thereon, without the written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned. Tenant shall also have the right to common sign space at the entrance of the area shown on Exhibit "A", such signs as

approved by Landlord. The size of the sign space shall be proportionate to the amount of land leased by Tenant in that area. Tenant shall comply with the Howell Township Sign Ordinance prior to erection of signs.

Landlord reserves the right to further develop its land and to lease the same for any lawful purpose whatsoever, or to provide any services it deems necessary or desirable in its sole and absolute discretion for the public, regardless of the desires or views of Tenant and without interference or hindrance.

Tenant and/or its sublessees and assigns shall perform all maintenance services as required on the leased premises which include, but are not limited to, sewers, drains, lighting, and repairs to any buildings under its control, and for those items solely for Tenant's use.

15. NONDISCRIMINATION. Tenant and/or its sublessees, licensees, or assigns, as required by law, shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight or marital status. Tenant and/or its sublessees, licensees, or assigns shall adhere to all applicable federal, state and local laws, ordinances, rules and regulations prohibiting discrimination, including but not limited to, the following:

- A. The Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended.
- B. The Michigan Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended.
- C. Section 504 of the Federal Rehabilitation Act of 1973, P.L. 93-112, 87 Stat. 394, as amended, and regulations promulgated thereunder.
- D. The Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 328 (42 USC Sec. 12101 *et seq.*), as amended, and regulations promulgated thereunder.

Breach of this section shall be regarded as a material breach of this Agreement and in the event Tenant and/or its sublessees, licensees, or assigns is found not to be in compliance with this section, the County may terminate this Agreement, effective as of the date of delivery of written notification to Tenant and/or its sublessees, licensees, or assigns.

16. TERMINATION, CANCELLATION, FORFEITURE. Landlord and Tenant agree that this Agreement shall terminate at the expiration of the term herein specified. Further, that upon the breach by Tenant of any of the covenants, terms, and conditions herein, and/or its failure to carry out its obligation to provide to the public the goods, services, and facilities which are called for herein and at the times and in the manner

prescribed by Landlord, Landlord shall have the right to give written notice to Tenant to cure such breach within thirty (30) days. If such breach is not cured or corrected by Tenant, this Agreement, and all rights, privileges and concessions herein granted, may be deemed forfeited by Tenant and canceled by Landlord upon the receipt by Tenant of notice in writing from Landlord of such cancellation, termination, and forfeiture of all rights hereunder. It is expressly understood and agreed by Tenant and Landlord that the thirty (30) day cure provision stated above shall not be required for a repeated breach of the same term, condition, obligation or provision. If a repeated breach occurs the Landlord may terminate this Agreement effective immediately upon delivery of written notice to Tenant. This shall be in addition to and shall in no way affect any other rights reserved to Landlord or existing in Landlord by virtue of the laws of the State of Michigan or by the terms of this Agreement. Forbearance by the Landlord of a default occurring on the demised premises shall not be deemed a waiver of the default nor a waiver of any rights of enforcement specified in this Agreement.

Tenant may terminate this Agreement if Livingston County Airport ceases to be operated as a public airport and landing field, provided that the conditions of Article 5 shall remain in effect.

17. EMINENT DOMAIN. If all or any portion of the demised premises shall be taken by any governmental authority under power of eminent domain:

- A. All damages awarded as compensation for the taking or diminution in value to the hangars or improvements on the demised premises constructed by Tenant shall belong to and be the property of Tenant and any mortgagee thereof. Tenant and Landlord each assume responsibility for taking whatever action each deems necessary to protect their interests in any proceedings for the condemnation of any part of the leasehold estate herein.
- B. If only a part of the demised premises shall be so taken or condemned, Tenant shall, at its expense, proceed to make a complete architectural unit of the remainder of the hangars on the demised premises; and there shall be an abatement of the rental thereafter to be paid hereunder, corresponding with the proportion which the value of the portion of the demised premises so taken may bear to the value of the entire demised premises at the time of such taking.
- C. If more than fifty percent (50%) of the demised premises shall be so taken, Tenant may, at its option, terminate this Agreement and shall only be liable for the unpaid balance of the rent to the date of termination.

18. ASSIGNMENT OF INTEREST. It is agreed that Tenant shall not assign or transfer its rights, concession, or leasehold interests granted under the terms of this Agreement, including the hangars or improvements on the demised premises, without complying with Article 7 and without the written consent and approval of Landlord, which shall not be unreasonably withheld pursuant to the standard set forth in Article 7, provided,

however, that Tenant may with prior notice to Landlord transfer its interest in this Agreement to a corporation or limited liability company which is owned by the majority of its members. No transfer of majority ownership of any such corporation may occur without complying with the requirements of this paragraph and Article 7.

19. SUBLEASES. It is agreed that Tenant shall not sublease its concessions or leasehold interests granted under the terms of this Agreement, including the hangars or improvements on the demised premises without the written consent and approval of the Landlord, which consent and approval shall not be unreasonably withheld, delayed or conditioned. It is expressly understood and agreed that any subleases are restricted to sublessees who are leasing for aviation related purposes. In the event that it is determined by the Federal Aviation Administration (FAA) or any successor agency that a sublease of space violates any agreements Landlord has with said agency, Tenant shall terminate the sublease upon sixty (60) days written notice from Landlord.

20. SERVICE FEE. If, during the term of this Agreement, Tenant shall be late in making rental payments or other fees and charges as provided herein, Tenant shall pay, and Landlord shall receive, a service charge of one and one-half percent (1.5%) per month of such late payments, fees, and charges each and every month until said amount is paid. This shall be in addition to and in no way affect any other rights reserved to Landlord or existing in Landlord by virtue of the laws of the State of Michigan or by the terms of this Agreement.

21. SUCCESSORS, ASSIGNS AND LESSEES. The covenants, conditions, obligations, and agreements made and entered into by the parties hereto are hereby declared binding upon themselves and their successors, assigns and sublessees.

22. LIENS. Tenant shall protect and indemnify the Landlord against liens of every kind or character which may be levied for labor performed or materials furnished in connection with construction, maintenance, or improvements performed on the leased premises by Tenant.

23. NONDISCRIMINATION. Tenant, for itself, its personal representatives, successors in interest, and as a part of the consideration hereof, does hereby covenant and agree that (1) no person, on the grounds of race, color, national origin, religion, age, sex, height, weight, marital status, disability, political affiliation, or belief 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, national origin, religion, age, sex, height, weight, marital status, disability, political affiliation, or belief, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Tenant 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 22, 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.

In the event of the breach of any of the above non-discrimination covenants, the Landlord shall have the right to terminate this Agreement and to re-enter the premises and repossess said land and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

24. WAIVER OF CLAIMS. Tenant hereby waives any and all claims against the Landlord, its elected and appointed officials, commissions, employees and agents which may have arisen prior to the execution of this Agreement.

25. HOLDOVER. Any holdover beyond the termination date set forth in this Agreement shall be on a month-to-month basis. In the event of holdover, the rent and other terms of this Agreement shall be as set forth herein.

26. MODIFICATIONS. Modifications of this Agreement may be made only by the written mutual consent of the parties hereto.

27. WAIVERS. No failure or delay on the part of either of the parties to this Agreement in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

28. DISREGARDING TITLES. The titles of the Articles set forth in this Agreement are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this Agreement.

29. COMPLETE AGREEMENT. This Agreement, the attached Exhibit A, Exhibit B, and any additional or supplementary documents incorporated herein by specific reference, contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

30. SEVERABILITY. If any provision of this Agreement is held invalid, it shall be considered to be deleted and the remainder of this Agreement shall not be affected thereby. Where the deletion of the invalid provision would result in the illegality and/or unenforceability of this Agreement this Agreement shall be considered to have terminated as of the date the provision was declared invalid.

31. CERTIFICATION OF AUTHORITY TO SIGN AGREEMENT. The persons signing on behalf of the parties to this Agreement certify by their signatures that they are duly authorized to sign this Agreement on behalf of said parties and that this Agreement has been authorized by said parties.


DRAFT

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this instrument on the day and year first above written.

LANDLORD:
LIVINGSTON COUNTY BOARD
OF COMMISSIONERS

By: _____
Carol S. Griffith, Chairperson

TENANT:
BWG AVIATION, LLC

By:  10/16/20
Phillip Bozek, Member

APPROVED AS TO FORM FOR
COUNTY OF LIVINGSTON:
COHL, STOKER & TOSKEY, P.C.
By: TIMOTHY M. PERRONE — 2020

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