

FIXED BASE OPERATOR'S AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, _____, between the **(Airport owner)**, an Illinois Political Sub-Division, hereinafter referred to as the Owner, and _____ hereinafter referred to as the Operator;

WITNESSETH:

WHEREAS, Owner is a Political Sub-division organized and existing under and by virtue of the laws of the State of Illinois and has heretofore acquired a public airport in **CITY**, Illinois, and known as **AIRPORT NAME** upon which Owner has constructed certain facilities consisting of runways, taxiways, multiple hangars together with other facilities shown by plans and specifications in the files in its offices, together with water drainage, sanitary, heating and electrical facilities; and

WHEREAS, Operator and Owner, through (Governing Board) , said (Governing Board) being the official governing body of Owner have agreed in respect to the management of the aforesaid operation as hereinafter specified.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the parties hereto as follows:

1. The term of this Concession Agreement shall be for a period of _____ consecutive months, commencing on _____, and ending _____, and month to month thereafter, termination to be made by giving thirty (30) days notice to the other party.

2. Owner does hereby give and grant unto Operator exclusive rights of use and occupancy of facilities, equipment and improvements commonly known as the (Name of Building) and the (Name) hangar in and upon said airport and non-exclusive rights to use common areas of said airport including runways, taxiways, aprons, roadways, flood lights, landing lights, signals and other conveniences for the take-off, flying and landing of aircraft.

3. Owner and Operator specifically agree further as follows:

(a) Owner reserves for its own use and without charge, rebate, or reduction in payments hereinafter provided to be made by Operator, the right and privilege to use or occupy that non-exclusive area which is granted in Paragraph 2 hereof, as may be needed at any time hereafter, in the sole discretion of the

Owner, for storage purposes, said space to be selected at the option of and in the sole discretion of Owner.

(b) That any right herein granted to install, operate, maintain, repair or store shall be subject to approval at all times of Owner in the interests of safety and convenience of all concerned, this paragraph not limited to but having reference in particular to any equipment necessary for the conduct of Operator's business.

(c) That included in the rights herein granted are rights of ingress to and egress from the premises, which rights shall extend to operators, employees, passengers, guests, invitees and patrons of Operator.

(d) That the rights herein granted, the same shall include the right of Operator, in common with others authorized so to do, to use common areas of said Airport, including runways, taxiways, aprons, roadways, flood lights, landing lights, signals and other conveniences for the take-off, flying and landing of aircraft of Operator.

4. Operator, at his own expense, shall use and occupy (in common with others) the aprons, space, facilities, taxiway, runways, etc. as set forth in Paragraph 2 hereof, in accordance with the limitations placed upon such use and occupancy herein for the following purposes, and only for the following purposes:

(a) Operation and conduct of a primary flight school, which school shall include courses for the attaining of private, commercial and instructor's certificates, and if benefits are now or in the future extended to veterans by the Veterans Administration of the United States for such purpose, a flight school in compliance with and in connection with such benefits and said Veterans Administration.

(b) Operation of the maintenance hangar as a service shop for repairs and service to aircraft for the convenience of said Airport and its patrons.

(c) Conduct of private plane operations, which shall include the servicing, storing and repairing as hereinafter set forth.

(d) Conduct of the sale of aircraft, aircraft accessories, aircraft parts, and products used in connection with the servicing, sale or handling of aircraft.

(e) Conduct of charter service.

(f) Custom Crop spraying, crop seeding, insect control program, aerial farm survey

program, and aerial commercial advertising programs of all types.

(g) Conduct of such other activities as may be mutually agreed upon by the Owner and Operator.

5. The consideration to be paid by the Operator to Owner for the rights and privileges herein conferred, and as rental, shall be as follows:

(a) Operator shall purchase all aviation gasoline from the Owner. Any aviation grade auto gas, which is purchased by Operator and sold from Operator's fuel truck, does not have to be purchased from Owner. Owner agrees to stick all gasoline tanks the last day of each month. Owner shall check meter readings of the individual pumps. Owner shall bill the Operator for all gas pumped at a rate equal to Owner's price per gallon to purchase plus \$_____ per gallon. Owner shall make reasonable, diligent efforts to secure fuel at the best value available. Payments to be made by the 30th of the month following billing. Operator will bill for all gas purchased. The flowage fee for aviation gas shall not apply to aviation grade auto fuel sold by Operator from their fuel truck.

(b) Operator shall pay the entire cost of heating the maintenance hangar. Owner shall also pay the cost of heating, and cooling in the (admin or office) building and electrical cost of maintenance hangar. Operator will do all janitorial for (admin or office) building.

(c) Operator shall pay the Owner (rate) per square foot for _____ square feet office space per month and Operator shall pay Owner (rate) per square foot for _____square feet of maintenance hangar space per month. All payments shall be made on a _____ basis.

(d) In the event Operator fails to pay Owner for any of the charges in this paragraph, then and in that event a financing charge computed upon a periodic rate of 1 1/2% per month will be charged upon the unpaid outstanding balance of amounts previously due but unpaid and said outstanding balance shall be computed by adding to any previous balance the current purchases less credits for payments made within the billing period. The financing charge made herein is the equivalent of an ANNUAL PERCENTAGE RATE of 18% per annum. Operator agrees to pay reasonable attorney fees and costs incurred by Owner for enforcing any of the rights or amounts provided for in this Agreement.

(e) Operator agrees to use his best efforts to promote and advertise for the use of the

airport and its facilities. Owner agrees to pay Operator the sum of \$ /month payable quarterly.

6. Owner and Operator agree that there is now in existence on said Airport an administration building, maintenance hangar and multiple 'T' hangars and have agreed that all lands, buildings or facilities not described in Paragraph 2 are expressly excluded from this contract and reserved wholly and exclusively for the use of the Owner. Operator further agrees that all buildings not described in Paragraph 2 are hereby reserved exclusively to the Owner, and shall be in Owner's exclusive control for such purposes, including rental, as Owner determines to be fit and proper.

Operator further agrees as part of the consideration for this contract that he and his employees shall and will assist all patrons of the said Airport, whether his customers or not, the assistance to include the handling of the aircraft, tying down of aircraft, and all other incidentals common to the tying down. Operator shall be entitled to make such additional charges for certain of such services as shall be reasonable.

(a) All monthly hangar rentals will be billed from Owner's office with Owner collecting all fees.

(b) All overnight hangar storage for 'T' hangars shall be collected by Operator and turned in to the Owner the first day of each month. Operator cannot sublet 'T' hangars for extended period of time (more than seven (7) days) without express written consent of Owner.

(c) Operator shall rent hangars for Owner and notify their office of a cancellation or new rental within twenty-four (24) hours. The Operator on a form furnished by the Owner must certify all rentals.

(d) The Operator will furnish service necessary for the storage of all planes for which he may charge a reasonable fee.

(e) Operator will provide all service and equipment for tie downs. Operator agrees to keep tie down ropes in serviceable and adequate condition. All tie down fees belong to Operator.

(f) Operator agrees to make the maintenance hangar, ramp and apron area available to the to allow the to conduct its annual Fly-In Breakfast.

(g) Operator's name shall be put at the top of the aircraft hangar waiting list and shall be given the opportunity to select the first hangar that becomes available after . In the event they choose not to take the hangar that becomes available they shall have one (1) other opportunity to take the next

hangar that becomes available. Should they refuse to take one (1) of the first two- (2) hangars that become available, then their name shall be placed at the bottom of the waiting list.

7. Owner and Operator further agree that this contract, and in particular all provisions, stipulations and agreements contained in Paragraphs 5 and 6 hereof, are conditioned upon and limited by the agreements between Owner and Operator set forth herein as follows, as the following provisions apply to said agreements and Paragraphs 5 and 6:

(a) Gross charges made by Operator to his customers shall include not only gross cash receipts but also all charges placed on the books of Operator as accounts receivable, whether as open account, contract, note or otherwise, minus bad debts, computation thereof to be made at the end of Lessee's fiscal year.

(b) Operator shall at all times keep a uniform set of books in which shall be recorded a full, complete and accurate record of all transactions of Operator, including all receipts, charges, open accounts, contracts, notes, expenses and disbursements. Operator shall deposit all receipts in a bank of his choice and all disbursements shall be made by check. A certified public accountant annual audit may be made at Owner's request at the end of each year during the term of this contract except the last year when the audit shall be through the final day of business. A copy of the audit shall be furnished Owner. Cost of the audit shall be borne by Operator, and Owner shall pay for any additional audits. Any monthly settlement, for which provision is hereinafter made, shall be subject to corrections upon the making of such audit.

(c) Settlements with reference to the provisions of Paragraph 5 and 6 hereof shall be made between the Owner and Operator, and each shall pay the other that which is owed for each month during the terms hereof, said settlements to be made not later than the last day of the month following that in which the business or transactions are performed.

(d) Operator will put forth every effort consistent with good business to service all aircraft, promote sales, student instructions, charter business, agricultural aviation, aerial advertising, aerial photography or any other aviation service that would benefit Operator or Owner.

(e) Operator agrees to supply any equipment that the business at Airport will warrant, in order to provide adequate service to Airport patrons.

(f) Operator agrees to pay Owner as and for consideration for the operational privilege, 5% of any amount over and above \$50,000.00 of net profit. That profit is defined as gross income less operating expenses less federal and state income taxes. The percent of net profit for the operational privilege shall be due and payable on the last day of each month the net profit described above exceeds \$50,000.00.

8. Operator agrees that any buildings in the future erected, proposed to be erected, including the buildings already erected on said Airport are and shall remain the property of the Owner, and upon termination of this contract, Operator shall surrender any said buildings used by him in good condition, reasonable wear and tear excepted. Operator further agrees that upon the termination of this contract at any time and for any reason, Operator shall have and will fully settle and pay all accounts owing by him to the Owner before removing any property solely owned by him from said premises, but upon the settlement of said accounts, then Operator shall have the right to freely remove all aircraft, tools, equipment and trade fixtures from the buildings and from property of Owner, which aircraft, tools, equipment and trade fixtures are solely owned by Operator.

9. Operator shall be permitted to purchase and use a fuel truck to dispense aviation grade auto fuel to aircraft upon request; the total weight of said vehicle never to exceed in the aggregate more than 12,500 pounds. Said vehicle must be parked on a concrete pad or moved daily from different site to different site for parking when temperatures exceed fifty degrees (50°) so as to avoid any injury due to the weight of the vehicle to the airport apron at Operator and Owner facilities.

10. It is agreed between the Operator and Owner that said Operator shall maintain accurate records of the gallons of aviation grade auto fuel dispensed from the fuel truck and to submit such records to the Owner by the 10th of each month for the prior month's usage.

11. Operator agrees to assume and hold harmless Owner from any and all liability occasioned by the disbursement of aviation grade auto fuel from Operator's truck, including but not limited to Environmental Protection Agency violations, fines, attorney fees, clean up cost and any other damages of any kind caused by the disbursement of fuel from Operator's tank truck. Should damages result from the disbursement of fuel from Operator's truck, including but not limited to damages to the airport apron or aircraft in which fuel is being dispenses, then at Owner's option this Agreement may be terminated and the

dispensing of aviation grade auto fuel shall cease, irrespective of any other term or condition of this Agreement.

12. Operator agrees to comply with any and all State, Federal, County, or local regulations regarding the disbursement of fuel, including but not limited to those required under the Federal Environment Protection Agency. This Agreement shall not require Owner to make any capital improvements to airport in order to allow Operator to come in compliance with any regulations provided for under the Environmental Protection Agency, or other similar agencies for the disbursement of fuel from Operator's truck.

13. As part of the consideration for this contract, Owner and Operator further specifically agree as follows:

(a) That Owner or its authorized representatives, servants and employees shall have sole and general control and supervision of all activities of the public or other persons on said Airport, consistent with the reasonable rules and regulations of said Airport and the reasonable conduct of the business of Operator.

(b) Owner or its authorized representatives, servants and employees shall have the sole authority to make all Airport flying rules and regulations, and requirements applicable to the use of said Airport by private, commercial or public aircraft flying, taking off or being in or about said Airport for any purpose with approval by Federal Aviation Administration, any other agency of the Federal Government, the State of Illinois or any other public agency.

(c) That the Operator will, if required of him as such Operator and will maintain such flight records of operations of said airport and such other data as may be required by the Federal Aviation Administration, any other agency of the Federal Government, the State of Illinois or any other public agency.

(d) That any airport manager, employed by Owner, shall have complete control, under Owner's direction, of said Airport and any and all activities in relation thereto except the conduct of Operator's business as herein permitted and limited.

(e) Operator will, with Owner, its authorized agents, representatives, servants and employees, act at all times under the rules and regulations of the Federal Government, the Federal Aviation Administration, the Division of Aeronautics of the State of Illinois, and the rules and regulations of Owner, or

the rules and regulations of any other proper authority having jurisdiction now or hereafter over conduct of operations at said Airport.

(f) Operator shall not erect or place any signs or advertising matter at any place on said Airport or the buildings thereon without the consent of Owner.

(g) That Operator shall and will keep the premises occupied or used by him in a safe, sanitary and clean condition and shall dispose of all debris and other waste matter which may accumulate, and shall provide metal containers, with proper covers, for any waste within any building on said Airport used by him.

(h) That all repairs to roofs, drains, gutters, pavements, sewers, pipes and electrical conduits appurtenant to any buildings on said Airport or the area of said Airport, including heating equipment, shall be repaired and maintained by Owner, it being understood that Operator shall use all reasonable care in his use of said buildings and that described in Paragraph 2 hereof, except that where any said repairs have been necessitated by the negligence of the Operator, his employees or servants, then and in that case Operator shall be responsible therefore.

(i) That any repairs, improvements, alterations, or fixtures other than those of a removable nature made or installed by Operator in any building under this Agreement shall, from the date of such installation or making thereof be in the property of Owner unless otherwise provided by agreement prior to said installation.

(j) That Owner shall furnish all labor and equipment for mowing, snow removal and any major improvements that are necessary for the operation of the Airport.

(k) That any decision, determination or act of the (Governing Board) of Owner in the filed of legislative action made in good faith and upon information then submitted to (Governing Board) in respect to the sufficiency of any operation by any person upon said Airport, or in respect to any rule or regulation it may adopt in respect to the use of said Airport by Operator or any other person shall be binding upon Operator at all times.

(l) That there is reserved to the Owner, its authorized agents, representatives, servants or employees the right to enter upon any premises occupied by Operator at any time for the purpose of

making an inspection of the same if such is deemed expedient to the end that the covenants and conditions of this Agreement may be fully performed.

(m) That Owner will give permission for Operator to store his planes, or planes for sale in unoccupied hangar space if not rented, or used for related storage. When transit craft request space that Operator is using, the Operator shall place his planes or sale planes in the tie down area. Operator's use of hangar space is on a daily basis only.

(n) Operator shall perform the following duties daily:

(i) Wind up gas pump hose;

(ii) Close apron gate;

(iii) Raise and lower American flag;

(iv) Report light outages for runway, apron, or beacon;

(v) Check hangar doors for security; and

(vi) Maintain public restrooms in a sanitary manner.

(o) Operator shall participate in and be a member of storm water pollution control committee for Owner.

(p) Operator shall report any NOTAMS to appropriate authorities.

14. The Operator shall and will be liable for every claim and demand of whatsoever nature made on behalf of or by any person, persons, firms, partnership, corporation, or otherwise for any wrongful act or omission on the part of Operator, his agents, servants and/or employees, and from all loss and damage for reasons of such actions or omissions, this to include any operations by Operator upon the Airport, and including but not being limited to conduct of charter service, conduct of flight schools, custom crop spraying, cropseeding, insect control programs, aerial farm survey programs and commercial advertising programs of all types. Operator shall maintain public liability insurance to fully protect the Owner against any loss, property damage or injury to person due to any operations carried on by the Operator in the conduct of his business as a fixed-base operator. Operator shall also carry adequate Workmen's Compensation Insurance and Occupational Disease Insurance.

Operator shall provide suitable insurance coverage pertaining to his specific activity and provide the following:

- (a) To name the Owner on policies as an additional insured.
- (b) To require insurance company to provide airport owner with fifteen (15) days minimum notice, in writing prior to cancellation or discontinuance of any insurance coverage.
- (c) The insurance company shall also provide the owner with a certificate of insurance.
- (d) All Operators contracting for taxi service, rentals and/or other related air service shall comply with FAR 135, Part 298, Sub-section 42 C.A.B. Economic Regulations.
- (e) All Operators contracting for any type of operating privileges shall provide the following coverage:

- (i) Workmen's Compensation;
- (ii) Unemployment Insurance;
- (iii) Other types of coverage that could be mandated by the State of Illinois; and
- (iv) General liability policy of not less than \$1,000,000.00, to cover all aspects of Operator's intended business including but not limited to property damage, bodily injury, negligence, environmental liabilities and all other aspects of the intended use and operation of the FBO.

15. Owner shall maintain insurance coverage upon buildings and property owned by it and located at said Airport, insuring said buildings and property against loss by fire, wind and other hazards. Owner shall further maintain insurance protecting third persons against damage by fire or other casualty to aircraft and other personal property of third persons, stored, placed or otherwise lawfully located in any building or area on said public airport within the control, use, occupancy or possession of Owner, whereby Owner is protected from liability to third persons for negligence by Owner, its servants, agents or employees.

16. In the event of destruction of any of the facilities herein mentioned or in the event of substantial changes in the extent or character of aviation activities provided herein, which shall cause substantial injury or undue hardship upon either party by reason of any of the provisions of this contract which either party would not have made had they known such changes would have occurred during the term of this contract or any extension provided herein, then such party, so injured may request a renegotiation of the

rights, privileges and obligations under this contract, but not of the term or option of extension provided in this contract.

17. Operator shall not and will not at any time during the terms of this contract assign, hypothecate or transfer this Agreement or any interest therein, without the written consent of Owner.

18. Operator and Owner further agree that in case of failure on the part of the Operator to comply fully with settlement and payment of all accounts at regular accounting periods, or Operator's failure to diligently and faithfully perform the terms of the contract to the end that such operations shall be operated efficiently and properly, at the sole subjective judgment of Owner, such failure shall constitute grounds for the cancellation and termination of this Agreement by Owner at its option and shall give the right to re-enter and take possession of premises described in Paragraph 2 hereof; provided however, that before so canceling or terminating the contract, Owner shall give written notice to Operator specifying particulars in which Operator has failed to comply with the term of this Agreement and shall extend to Operator a reasonable time, but not less than fifteen (15) days, in which to correct the objections made and assigned as ground for cancellation and termination of this contract.

19. Owner and Operator further agree that all terms and provisions of this contract are subject and subordinate to the following agreements:

(a) During any time of war or national emergency, Owner shall have the right to use and possession of the landing area or any buildings or any part thereof of said Airport to the United States Government for military or naval use, and, if such agreement is executed, the provisions of this contract, insofar as they are inconsistent with the provisions of said agreement to the United States Government, shall be suspended.

(b) This contract is, and shall be subordinate to the provisions of any existing or future agreements between the Owner and the United States of America relative to the operation or maintenance of said Airport, the execution of which has been, or may be required as a condition precedent to the expenditure of Federal funds for the developments of said Airport.

(c) Owner specifically reserves the right to further develop or improve landing area, buildings or any facilities of said Airport as it sees fit, regardless of the desires or views of Operator and

without interference or hindrance, and further reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including the right to prevent Operator from erecting any building or other structure upon the airport or within the obstruction limits of said Airport establishment by the Federal Aviation Administration or the Division of Aeronautics of the State of Illinois which, in the opinion of the Owner would limit the usefulness of the Airport or constitute a hazard to aircraft.

(d) Owner reserves the right, but shall not be obligated to Operator to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of said Airport, together with the right to direct and control all activities of Operator in such regard.

(e) The Operator of Airport agrees to conduct his operations and to operate any premises or buildings used by him on said public Airport for the use and benefit of the public and to make available all airport facilities and service to the public without unjust discrimination, and upon reasonable terms and conditions; and to refrain from imposing or levying excessive, discriminatory, or otherwise unreasonable charges or fees for any of Operator's facilities, services or products for sale or for any airport service. Operator further agrees that no charge shall be made by him for any service offered by him in excess of any fee or charge or schedule of fees or charges posted on the premises occupied and used by him. Operator shall grant no favor, privilege or discriminatory right to any patron, customer, or other person serviced by him in the furnishing of any service or products, which are not extended to other members of the public. Operator shall have such access to the service apron, runway, and landing area on said Airport as may be accorded to any other person or the public, subject to the rules and regulations of the Owner, and provided, as aforesaid, that any such access or use by the Operator shall be non-exclusive and that nothing contained in this paragraph shall be deemed to confer or give to Operator any rights incident to the carriage of passenger, cargo or freight by air as a public carrier, or any rights or privileges reserved by law, by agreement or otherwise, for military, naval or other aircraft of the United States, the State of Illinois, or the Owner.

(f) The use and occupancy by Operator of the building, facilities and area of said Airport described in Paragraph 2 hereof under this Agreement shall be subordinate to any program or undertaking by the Owner for the development, expansion, extension or improvement of said Airport. This Agreement shall not be construed to grant to Operator an exclusive right for the use of the landing area or navigation facility of

said Airport upon which Federal Funds have been, are to be, will be or may be expended contrary to Title 49, U.S.C., Subtitle VII, as amended, in such a way as to inhibit the Owner from receiving funds or financial aid or other assistance from the Federal Aviation Administration or its successor for the development, expansion, extension and improvement of said Airport. Any provision of this Agreement found to be in conflict with said Title 49, U.S.C., Subtitle VII, as amended, or to inhibit the receipts of funds, financial aid, or assistance from the Federal Aviation Administration shall be and become inoperative upon the execution hereafter of any agreement between the Owner and the Federal Aviation Administration or any other Agency of the Federal Government or agency of the State of Illinois for the release or expenditure of Federal funds or the giving of other financial aid or assistance by the Federal Aviation Administration for the further development, expansion, extension or improvement of said Airport.

(g) The Operator for himself, his personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree 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, (3) that the Operator 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.

(h) The Operator agrees to furnish services on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service PROVIDED, that the Operator may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(i) Owner reserves the right to access the leased buildings for maintenance and repair of Airport equipment and facilities.

20. It is specifically agreed between Owner and Operator that if any provision of this Agreement or the application of any provisions hereof to any situation, person or circumstance is held to be invalid, such provision, as to such situation, person or circumstance, shall be deemed to be exorcised from this Agreement, and the invalidity thereof as to such situation, person or circumstance shall not affect any of the other provisions of this Agreement or the application of such provision to situations, persons or circumstances other than those to which it is invalid. This Agreement shall be applied and shall be effective in every situation and circumstance and to every person insofar as its validity extends.

21. The provisions of Ordinance No. 96-2 are hereby made a part of this Agreement by reference and the provisions thereof shall be binding on the parties to this Agreement.

BY: _____
(Title)

BY: _____
(Title)