

LEASE AGREEMENT

CITY OF ANN ARBOR

and

SOLO AVIATION, INC.

This Lease is made between the CITY OF ANN ARBOR, a Michigan municipal corporation (City), and SOLO AVIATION, INC. (Lessee).

In consideration of the mutual promises below, City and Lessee agree as follows:

1. **PREMISES:** The City agrees to lease to the Lessee terminal and vehicle parking space at the Ann Arbor Municipal Airport located in Pittsfield Township, Washtenaw County, Michigan and more particularly described in Exhibit A, Terminal Space and Exhibit B, Designated Vehicle Parking Area, both which are attached hereto and made a part of this Lease and which locations are collectively hereafter known as Premises. The total area of the terminal space is approximately 461 square feet and the vehicle parking area will include approximately 1,000 square feet. Lessee has inspected the Premises and is satisfied with their condition as further stated herebelow in paragraph 21.
2. **LEASE DURATION:** The term of the lease shall be thirty-two (32) months commencing on November 1, 2012 and terminating June 30, 2015 unless sooner terminated or extended as provided in this Lease. The Lessee shall have one (1) additional option to renew the lease for a three (3) year period in accordance with paragraph 6. This agreement may only be changed in writing, and signed, by the City and the Lessee. At the end of the Lease, the Premises and any improvements thereto, whether installed by the City or the Lessee, shall be the sole property of the City of Ann Arbor.
3. **RENT:** The terminal rent for the first eight (8) months of the Lease shall be at an annualized rate of \$18.892 per square foot, with annual adjustments for the following five years to not exceed five percent (5%) of the per square of the previous year's cost. The vehicle parking space rent for the first eight (8) months of the Lease shall be at an annualized rate of \$1.477 per square foot, with annual adjustments for the following five years to not exceed five percent (5%) of the per square of the previous year's cost. Lessee shall pay to the City the annualized rent in monthly installments of 1/12 the annualized rate, in advance or before the first day of each calendar month starting November 1, 2012, at the Ann Arbor Municipal Airport office or any other place the City may designate in writing. Failure to make monthly payments in accordance with the terms and conditions of this Lease, for whatever reason, shall be subject to the penalties as stated in Paragraph 4 (Late Payment) and Paragraph 7 (Termination) of this Lease. The terminal and vehicle parking space rent will be increased each July 1 during the term, by the percentage increase, if any, in the Consumer Price Index. "Consumer Price Index"

means the Consumer Price Index published by the Bureau of National Statistics of the United States Department of Labor, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1967=100). The Consumer Price Index shall be calculated by using the twelve (12) month period (April to April) preceding each July 1 when the rent adjustment is to take place. If a substantial change is made in the manner of computing the Consumer Price Index, then the Consumer Price Index will be adjusted to the figure that would have been used had the manner of computing the Consumer Price Index in effect at the date of this lease not been altered. If the Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other non-partisan publication evaluating the information used in determining the Consumer Price Index will be used. Delays in computing the Consumer Price Index by either party will not impair the continuing obligation of the Lessee to pay rent adjustments.

4. **LATE PAYMENT:** Should Lessee fail to make the monthly rental payment by the fifteenth (15th) day of the month, an additional late payment penalty of one (1) percent per month or \$15 (whichever is higher), for the unpaid balance of the annual rent will be required of the Lessee. Rent shall be deemed paid on the date when received by the Ann Arbor Municipal Airport Office or City Treasurer. If a check for payment is dishonored for any reason that is not the fault of the City, rent shall be deemed paid when the check is honored. If a check is returned, a fee of twenty-five (25) dollars, or as amended by City, will be assessed to the Lessee's account. Rent, more than sixty (60) days past due shall be considered delinquent and in default, and subjects the Lessee to termination and eviction.
5. **DEFAULT PAYMENT:** If the Lessee defaults on any payment(s) or expenditure(s) other than Rent required to be paid or expended by the Lessee under the terms and conditions of the Lease, the City may, at its option, make the payment(s) or expenditure(s). The amount paid shall be payable to the City by the Lessee on the next ensuing rent day together with interest at fifteen (15) percent per annum from the date of payment by the City, or at the highest rate permitted by law (whichever is lower). If Lessee defaults on payment(s), the City shall have the same remedy(ies) as on default in payment for Rent.
6. **LEASE EXTENSION:** At least ninety (90) days but not more than one hundred eighty (180) days before the expiration of the initial term or subsequent terms of this Lease, Lessee must notify City in writing of its desire to lease the Premises for the three-year extension period. After receipt of the written notice, City, at least sixty (60) days prior to the expiration of the initial lease term or subsequent terms, shall notify Lessee upon what, if any, terms, rental rates and conditions City would be willing to lease the Premises. If City is willing to lease the Premises, the building and land rental rate offered Lessee shall not exceed that permitted by law and the term shall be for three years. Lessee may enter into a lease on the offered terms and conditions by making notice of acceptance to City at least fifteen (15) days prior to the expiration of this lease. If the Lessee does not accept the offer, or if no offer is made, City has the right to show the Premises to prospective Lessees and may display in and about the Premises and in the windows of it, the usual

and ordinary "TO RENT" signs. The rights and obligations of this paragraph shall not apply if, for any reason, this Lease is terminated prior to the termination date provided in paragraph 2 of this Lease.

7. **TERMINATION:** If the Lessee does not accept the offer of an extended lease as stated in Paragraph 6, or if no offer is made, the Lessee is required to vacate the premises at the final day of the term of this agreement. This Lease may also be terminated for (a) cause; (b) Lessee's violation or not fulfilling any of the terms and conditions of this agreement; (c) in accordance with any provision of this Lease; (d) the damage or destruction of the Airport Terminal Building such that the Building is unsafe for occupancy; or (e) as provided under law. Upon receipt of the notice of failure to fulfill the terms and conditions of this agreement, the Lessee will correct all the deficiencies within thirty (30) days or a notice to terminate the agreement will be sent by the City, requiring the Lessee to immediately vacate the Premises and the contract terminated. The termination of this Lease and vacation of the Premises does not relieve the Lessee from any obligations incurred prior to the termination of this Lease.
8. **HOLDING OVER:** It is agreed that in the event of the Lessee holding over after the expiration of the lease, tenancy shall be on a month-to-month basis in the absence of a written agreement between the City and Lessee or notice of termination. Acceptance of Rent by the City after the expiration of the lease shall not constitute an extension of the lease beyond the month in which the rent payment was accepted. The terminal and vehicle parking rental rate for holding over shall be computed by the City in accordance with Paragraph 3 (Rent) and the terms and conditions of this Lease.
9. **USE AND OCCUPANCY:** During the continuance of the lease, the Premises shall be used and occupied for aviation related activities, and for no other purpose(s) without the written consent of the City. The Lessee by accepting this Lease agrees for itself, its officers, employees, agents, successors, and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Ann Arbor Municipal Airport, or otherwise constitute a hazard. The Lessee will not use the Premises in violation of any law, municipal ordinance or regulation. It is mutually acknowledged that this Lease requires the engagement in those commercial operations defined below and more specifically as listed in the required annual Airport Commercial Use Permit. At all times during the Term, the Premises and related facilities shall be used and operated by the Lessee as a general aviation refueling service. Lessee shall, as required by this Lease and subject to having an approved Airport Commercial Agreement, provide the following goods and services:
 - A. The sale of aviation fuels (100LL and Jet Fuel) and lubricants. Supplier of aviation fuels and lubricants shall be required to notify the City, in writing, the quantity of fuels and lubricants delivered to or picked up by Lessee following each occurrence and Lessee to remit to the Airport the Fuel Flowage Fee upon receipt of the fuel or Billing from Airport. All personnel assigned the responsibility of loading or dispensing aviation fuels shall have a minimum of 20

hours of experience and training and be supervised at all times. All personnel shall wear clean and neat uniforms identifying them with the organization and related services. Lessee shall train all personnel with equipment and procedures for recovery and legal disposal of all types of spilled fuel or hazardous materials. Training will include procedures for cleaning up and properly disposing as well as for notifying appropriate agencies and the airport when a fuel or material spill occurs. Lessee will also be responsible for the cost of the cleanup operation and for the disposal of related hazardous materials including aircraft and vehicle fuel and oil;

- B. The sale of specialized aviation sundries and flight crew equipment such as navigational computers, maps, charts, map cases, specialized flying clothing, and similar accessories within a store in the premises or terminal;
- C. The availability of a maintained, fueled and insured Courtesy Car for flight crews using the Ann Arbor Airport;
- D. The sale, and/or leasing of aircraft, aircraft parts, supplies and accessories;
- E. Lessee shall make available for rental, a minimum of two (2), clean, well maintained and FAA certified aircraft;
- F. The sale, servicing, maintenance and repair of aircraft and related equipment, supplies and accessories;
- G. The conduct of a flight school for pilot training. The flight school shall have at a minimum one trained and certified flight and ground instructor and two (2) clean and well maintained aircraft;
- H. Lessee agrees that the hours of operation for the premises, fuel and other aviation services shall be at a minimum, 7:30 A.M. to 8:00 P.M. (September through May) and 7:30 A.M. to 10:00 P.M. (June through August);
- I. Utilize trained personnel for parking of all transient aircraft as well as providing extra personnel and supervision during special events such as the annual airport open house and University of Michigan football game days;
- J. APU and portable engine heater or facilities.

No other goods or services may be provided, unless approved in advance and in writing by City. Lessee, as provider of all services, shall be subject to all applicable laws and regulations regarding approved services.

Lessee shall not alter, modify or discontinue the provision of the goods and services required by this Article at any time during the Lease Term or any extension to the Lease

Term or transfer of lease of Premises without the express written authorization of the Airport Manager. Violation of this provision will subject the lease to the termination provisions as outlined in Paragraph 7 (Termination).

10. ASSIGNMENT: The Lessee promises not to assign, transfer, encumber or sublet the Premises or any part of the Premises and services without the prior written consent of the City, which consent will not be unreasonably withheld. Lessee shall give the City sixty (60) days written notice of its intention to assign, transfer, encumber or sublet the Premises or services.
11. BANKRUPTCY AND INSOLVENCY: The Lessee agrees that a) if the estate created by this Lease is taken in execution or by other process of law, b) the Lessee is declared bankrupt or insolvent according to law or any receiver be appointed for the business and property of the Lessee, or c) if any assignment is made of the Lessee's property for the benefit of creditors, then this Lease may be canceled at the option of the City in accordance with Paragraph 7 (Termination) of this Lease.
12. RIGHT TO MORTGAGE/SUBORDINATE:
 - A. The City reserves the right to subject and subordinate this Lease at all times to the lien of any mortgage or mortgages now or later placed upon the City's interest in the land which the Premises is a part or upon any encumbrance later placed on the land which the Premises forms a part. The Lessee promises and agrees to execute and deliver upon demand any further instrument(s) subordinating this Lease to the lien of any mortgage or mortgages as shall be desired by the City and hereby irrevocably appoints the City the attorney-in-fact of the Lessee to execute and deliver any such instrument or instruments for and in the name of the Lessee.
 - B. This Lease shall be subordinate to the provisions of any existing or future agreement between the City 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.
13. TENANT TO INDEMNIFY: The Lessee agrees to indemnify and hold harmless the City from any liability for damages to any person or property in, on or about the Premises. The claims made and/or damages alleged that are covered by this indemnification include all claims for bodily injury or property damage related to (a) the condition of the Premises; (b) the use or misuse of the Premises by Lessee or its agents, contractors, or invitees; or (c) any event on the Premises, whatever the cause. Lessee's indemnification does not extend to liability for damages resulting from the negligence of the City. Lessee must procure and maintain during the term of this Lease commercial general liability and property damage insurance for the benefit of the City with policy limits of not less than \$500,000 for damages resulting to one (1) person and \$1,000,000 for damages resulting from anyone (1) occurrence. Said insurance shall provide coverage for the Premises,

including without limitation all common areas. Any commercial general liability policy that the Lessee is required to maintain will (a) name the City as an additional named insured, (b) be endorsed to provide that it will not be canceled or materially changed for any reason except on 30 days' prior notice to the City. Lessee shall deliver on execution of this Lease certificates of the policies to the City and thereafter certificates evidencing renewal of the policies. Upon the Lessee's failure to provide proof of insurance by providing a copy of the policy(ies) within five (5) business days after being notified of the Lessee's failure to file the documents, the City may terminate this Lease subject to the terms and conditions set forth in Paragraph 7 (Termination).

14. **CASUALTY LOSS:** Lessee must give the City notice of fire or other casualty on the Premises. It is understood and agreed between the parties that if the Lessee's facility(ies) within the Premises is/are damaged or destroyed in whole or in part by fire or other casualty during the term of this Lease, the Lessee will replace or repair and restore the facility to its condition prior to the loss, or remove it in its entirety from the Premises with reasonable dispatch. There shall be no abatement of rent during the period of restoration or removal. Once removal of the Lessee's facility from the airport has been completed and the site restored to the satisfaction of the City, this Lease may be terminated by the City.
15. **IMPROVEMENTS/ALTERATIONS:** The Lessee is responsible for all expenses related to the maintenance and repair of Lessee's facilities within the Premises. The Lessee agrees to make reasonable repairs, refurbishment and maintenance of facilities to a level of quality equal to the other similar facilities on the airport or within the terminal. The Lessee shall not make any alterations, additions, or structural improvements to the Premises without the City's advance written approval.
16. **RESERVATIONS:**
 - A. The Lessee by accepting this Lease expressly agrees that it, its successors and assigns will not erect nor permit the erection of any structure or object on the Premises without the prior written approval of the City. Should Lessee breach this covenant, the City reserves the right to enter upon the Premises and remove the offending structure or object and Lessee shall be solely responsible for all removal costs.
 - B. The City reserves the right to acquire and demolish or relocate with recourse, the Lessee's facilities on the Premises in accordance with this Lease; should the removal be required for reasons of safety or airport development. In such event, the City shall give no less than ninety (90) days written notice of its need and intent regarding the facilities.
 - C. There is hereby reserved to the City, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the

right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Ann Arbor Municipal Airport.

- D. The City reserves the right to use the airspace above the Premises for the operation of aircraft taking off or landing, at the Ann Arbor Municipal Airport. The Lessee by accepting this Lease agrees for itself, its successors, and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from Ann Arbor Municipal Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of the Lessee.
- 17. **SERVICES NOT EXCLUSIVE:** It is understood by the Lessee that no right or privilege has been granted which would operate to prevent any person, firm, or corporation from operating aircraft or performing like services on the airport or from performing any services on its own aircraft with its employees or contracted employees (including, but not limited to, maintenance and repairs that it may choose to perform).
 - 18. **ACCESS TO PREMISES:** The City reserves the right of free access at all times to the Premises and other facilities. Upon proper notice to the Lessee, the Airport Manager, and/or his/her authorized agent(s) accompanied by the Lessee and/or his/her authorized agent(s), may at any reasonable time enter the Premises to make an inspection to determine if the Lessee is complying with the terms and conditions of this Lease, regulations that govern the operation or the use and occupancy of the Premises.
 - 19. **CARE OF PREMISES:** The Lessee shall not perform any acts or carry on any practices which may injure the Premises or be a nuisance or menace to other airport lessees or tenants. Lessee shall keep the Premises under its control clean and free from rubbish at all times. In the event the Lessee shall not comply with these provisions, after seven (7) days written notice for all other required remedies, the City may enter upon the Premises and remove rubbish in which event the Lessee shall pay to the City all costs involved. Lessee shall pay this charge to the City within fifteen (15) days of presentation of the bill or the City shall have the same remedy(ies) as on default in payment of Rent.
 - 20. **COMPLIANCE WITH LAWS, ORDERS, REGULATIONS, OR ORDINANCES; CONSTRUCTION AND INTERPRETATION:**
 - A. The Lessee shall at its own expense promptly comply with all laws, orders, regulations, or ordinances of all Municipal, County, State, and Federal authorities affecting the Premises and the cleanliness, safety, occupation, and use of the Premises, including, but not limited to 42 U.S.C. 6991 et seq., 40 C.F.R. Part 281, and MCL 299.701, et seq.

- B. The Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
 - C. This Lease shall be subordinate to the provisions and requirements of any existing or future agreements between the City and the United States, relative to the development, operation or maintenance of the airport.
 - D. Lessee agrees the rules and regulations, as amended from time to time, governing the Ann Arbor Municipal Airport, shall be binding and incorporated by reference into this lease.
 - E. Lessee agrees that this Lease will be construed in accord with Michigan law. The parties will rely solely on the terms of this Lease to govern their relationship. This lease merges all prior proposals, negotiations, representations, agreements, and understandings with respect to the Lease. Reliance on any representation, omission, action or inaction outside of this Lease is unreasonable and does not establish any rights or obligations on the part of either party. If any covenant of this Lease is invalid, illegal, or unenforceable, that covenant will be enforced to the fullest extent permitted by law, and the validity, legality, and enforceability of the remaining covenants will not in any way be affected or impaired.
21. **CONDITION OF PREMISES AT TIME OF LEASE:** The Premises is leased “as is.” The Lessee acknowledges that he/she/it has examined Premises prior to the making of this lease, and knows the condition of Premises herein described as Exhibit A and Exhibit B. Lessee states that the City and or its agent(s) have made no representations as to its condition or state of repairs of the Premises. Lessee accepts the Premises in its present condition at the date of the execution of this lease. The City shall not be responsible or liable to the Lessee for any loss or damage from the acts or omissions of persons occupying any part of adjoining premises or damages resulting to the Lessee or its property from bursting, stoppage, or leaking of water, gas, sewer or steam pipes unless the City owns or controls the utility service.
22. **UTILITIES AND TAXES:** Lessee will pay all charges made against the Premises, gas, water, heat, and electricity for the duration of this lease, as the same shall become due. Lessee shall be responsible for and pay all taxes and special assessments assessed against the premises and its contents. Failure to pay all taxes shall subject the Lessee to the same remedy as provided in Paragraph 7 (Termination) of this lease. Lessee shall provide City with a copy of the paid tax receipt within thirty (30) days of the date the tax bill was paid.
23. **SIGNS AND ADVERTISING DISPLAY:** The erection of signs and advertising displays in and about the Premises must receive prior City approval. No awning shall be installed or used on the exterior of the Premises unless the awning is approved in writing by the

City. Lessee shall have the right to display on or about the Premises appropriate signs for the purpose of identifying the Lessee and its services.

24. **ATTACHMENTS:** If the Lessee defaults in the terms and conditions of this Lease or deserts the Premises, it shall be lawful in accordance with the laws of the State of Michigan, for the City, its certain attorneys, representatives and assigns to attach the Premises and Lessee's facilities within the Premises. The City shall provide a thirty (30) day written notice of its attachment of the Premises and Lessee's facilities within the Premises to the Lessee and any City authorized sub-Lessee. No third party rights are implied. Lessee agrees to pay all expenses incurred in obtaining possession of the Premises and the facilities within the Premises.
25. **QUIET ENJOYMENT:** The City promises that the Lessee, on payment of all the required fees and charges and performing all the Lessee's promises and obligations under the lease, shall and may peacefully and quietly have, hold and enjoy the Premises for the duration of the lease term.
26. **REMEDIES NOT EXCLUSIVE:** It is agreed that each of the rights, remedies and benefits provided by this lease shall be cumulative, and shall not be exclusive of, any other right, remedy and benefit, or of any other rights, remedies and benefits allowed by law.
27. **DISCRIMINATION:** Lessee, its agents and employees, shall not discriminate against any person or class of persons by reason of race, color, creed, national origin, marital status, age, condition of pregnancy, religion, physical limitations, source of income, family responsibilities, education association, sexual orientation or sex. Lessee, it agents and employees shall be bound by the non-discriminatory provisions required by the Code of Federal Aviation Regulations, and as such Regulations may be amended. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, 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, as said regulations may be amended.
28. **NOTICES:** Whenever under this lease a provision is made for notice of any kind, it is sufficient if the notice to the Lessee is in writing addressed to the Lessee at its last known post office address and deposited in the mail with postage prepaid.

**Solo Aviation, Inc.
801 Airport Drive
Ann Arbor, Michigan 48108**

If the notice is to the City, it is sufficient if it is in writing addressed to the last known post office address of the City and deposited in the mail with postage prepaid.

**Ann Arbor Municipal Airport
801 Airport Drive
Ann Arbor, MI 48108
Attn: Airport Manager**

29. **OWNERSHIP OF FIXTURES AND IMPROVEMENTS:** Notwithstanding any other provisions in this Lease, any improvements to the Premises become the sole property of the City upon expiration or termination of this Lease and its approved extensions. Lessee shall not encumber the Premises and its applicable property in any way beyond the lease term. All business fixtures and equipment, not attached to the Premises shall remain the Lessee's and be completely removed at the termination of this agreement.
30. **RIGHT OF FURTHER DEVELOPMENT:** The City reserves the right to further develop or improve the landing areas of the airport as it sees fit, regardless of the desires or views of the Lessee and without interference or hindrance.
31. **CONSENT:** In all cases requiring written consent from the City, consent shall not be unreasonably withheld. In all cases in which the consent has been requested in writing, the City will respond within sixty (60) days or the consent will be automatically approved.
32. **WAIVER:** One or more waivers of any promises or conditions by the City shall not be construed as a waiver of a further breach of the same promise or condition.
33. **SETTLEMENT OF CLAIMS:** Upon notice from the City, Lessee agrees to settle, adjust and defend any claim made or suit brought against the City for any loss, injury or damage arising out of Lessee's use of the Premises, at the Lessee's sole cost and expense and to pay any judgment rendered, together with cost of court.
34. **AMENDMENTS:** This is the full and complete understanding of the Lease, all prior or future verbal or written agreement(s) are null and void. This Lease may only be changed, in writing, signed by both parties. The promises, conditions and agreements made and entered into by the parties are declared binding on their respective heirs, successors, representatives and assigns, or sub-Lessee.
35. **HEADINGS:** The numbering and headings are not a part of this lease and are intended only to assist in locating the relevant lease terms.
36. **AUTHORIZED AND BINDING.** Lessee and each person executing this Lease on behalf of Lessee warrant and represent to the City that Lessee is validly organized, existing, and authorized to do business under Michigan law; the Lessee has full power and lawful authority to enter into this Lease; and that the execution of this Lease by the individual

who has signed below is legally binding on Lessee in accordance with its terms. This Lease is binding on successors and assigns.

CITY OF ANN ARBOR,
a Michigan Municipal Corporation

SOLO AVIATION, INC.

By _____

By _____

John Hieftje, Mayor Date

John Solo, Owner Date

By _____

Jacqueline Beaudry, City Clerk

Approved as to Substance:

Approved as to Form:

By _____

By _____

Steven D. Powers, City Administrator

Stephen K. Postema, City Attorney