

LEASE AGREEMENT
BETWEEN THE CITY OF ANN ARBOR
AND HERRON AVIATION GROUP
FOR THE PROPERTY LOCATED AT
719 AIRPORT DRIVE, ANN ARBOR, MI

This Lease Agreement (the “Agreement”) is between the CITY OF ANN ARBOR, a Michigan municipal corporation (“City”), and HERRON AVIATION GROUP, a Michigan Limited Liability Company (“Lessee”) and is effective as of the date of the last signature below (this date being the “Effective Date”).

RECITALS

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

1. PREMISES: City leases to Lessee and Lessee leases from City the real property in Pittsfield Township, Washtenaw County, Michigan that is described in the attached Exhibit A, and which is located at and commonly known and referred to as 719 Airport Drive (the “Premises”) together with the buildings, structures, and improvements thereon, including the aircraft ramp, and land around the building. The total area of the Premises is approximately 66,750 square feet.
2. CONDITION OF PREMISES: The Premises is being leased and delivered “AS IS” and “WHERE IS” in its present condition and City disclaims any, and makes no further, warranty or representation as to the Premises including as to the condition of any buildings, improvements, fixtures, soil conditions, or any environmental conditions on or under the Premises. Lessee acknowledges and agrees that it has been allowed to enter upon the Premises for such inspections, tests and other studies as Lessee considers appropriate or desirable with respect to the condition of the Premises. Lessee has determined that the Premises is in a condition satisfactory to it, and Lessee accepts the Premises, including the buildings, improvements and fixtures, in its present condition, “AS IS” and “WHERE IS” and acknowledges the Premises is in the condition called for in this Agreement.
3. TERM: The term of this Agreement shall be for a period of 20 years commencing on May 1, 2023 (“Commencement Date”) and expiring on April 30, 2043 (“Expiration Date”) absent earlier termination in accordance with the terms of this Agreement. Upon expiration of this Agreement, all right, title and interest in the Premises, including in any improvements, additions, alterations, buildings, and fixtures, shall be absolutely and unconditionally vested in City.
4. EXTENSION OF TERM: Lessee shall have the option to extend the term of this Agreement for an additional period of 10 years (“Extension Term”) by providing City with written notice thereof at least 90, but not more than 180, days before the Expiration Date. Within the period extending from 180 days before the Expiration Date through any ensuing month-to-month tenancy, City may show the Premises to prospective lessees, display the usual and ordinary “FOR RENT” signs in and about the Premises and otherwise advertise them, and do and have done such other things that are appropriate for releasing or otherwise disposing of the Premises.

5. RENT: For Lessee's lease of the Premises, Lessee agrees to pay to City without set-off or deduction, annual land rent of \$0.459 per square foot per year for a total annual rent in the amount of \$30,638.25 (the "Rent"). Lessee shall pay Rent to the City in monthly installments of 1/12 of the annual Rent, in advance on or before the 1st day of each month. The first monthly installment of Rent shall be paid to the City on or before the Commencement Date. The amount of annual land Rent shall increase annually on January 1 by the percentage increase, if any, in the Consumer Price Index ("CPI") 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 CPI shall be calculated by using the 12-month period (October to October) preceding each January 1 when the rent adjustment is to take place. If a substantial change is made in the manner of computing the CPI, then the CPI shall be adjusted to the figure that would have been used had the manner of computing the CPI in effect at the date of this Agreement not been altered. If the CPI (or a successor or substitute index) is unavailable, a reliable governmental or other non-partisan publication evaluating the information used in determining the CPI shall be used. Delays in computing the CPI by either party shall not impair the continuing obligation of the Lessee to pay rent adjustments. Any monthly installment of Rent owed by Lessee to City under this Agreement but not timely made shall accrue interest that the rate of 1% per month or the maximum rate allowable by law, whichever is lower.

6. TAXES, ASSESSMENTS AND UTILITIES: During the term of this Agreement, Lessee shall pay all amounts that become due for taxes, special assessments, gas, water, heat, electricity, or other utilities or services supplied or related to the Premises. The City shall provide Lessee with copies of all property tax bills and special assessments upon City's receipt of same. Lessee shall provide the City proof of its compliance with the obligations in this Section upon the City's written demand.

7. HOLDING OVER: If Lessee continues its possession of the Premises after expiration or early termination of this Agreement, then Lessee's hold-over tenancy shall be on a month-to-month basis on the same terms and conditions in effect at the time the holding over first occurs or such other agreed upon terms and conditions and subject to City's rights to terminate and re-take possession of the Premises and other remedies. In the event of a hold-over, City's acceptance of such Rent payments shall not result in a waiver of any of City's rights, nor shall it have the effect of extending this Agreement.

8. PERMITTED USES AND OCCUPANCY: The Premises and any buildings, structures, and improvements located thereon shall be used and occupied for aviation related activities and/or services and for no other purpose(s) without City's written consent. Lessee agrees it shall 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 or nuisance. Lessee shall not use the Premises in violation of any law, municipal ordinance or regulation. On any breach of this Agreement, the City may, after providing the required notice and allowing for any applicable cure period, at its option, terminate the Agreement forthwith and reenter and repossess the Premises. Lessee also agrees that the Airport Manager, and/or his/her duly authorized representative(s) or agent(s), may, after providing reasonable advance notice, at any reasonable time enter upon the Premises for the purposes of making any inspection deemed necessary by the manager in order to determine whether Federal, State or Municipal rules and regulations governing the operation of

the airport or the use and occupancy of leasehold interests are being complied with. It is mutually acknowledged that this Agreement does not grant to the Lessee the right to engage in any commercial operations as defined in the Rules and Regulations pertaining to operation of Ann Arbor Municipal Airport, and specifically forbids commercial operations unless that right is granted by City in an Airport Commercial Use Permit.

9. **COMMERCIAL USE PERMIT REQUIRED:** Lessee shall apply for, obtain and maintain an Airport Commercial Use Permit from City if it uses the Premises for commercial purposes which may include additional or other requirements or conditions on commercial operations, including, but not limited to, minimum insurance requirements for permitted commercial aviation activities.

10. **COMPLIANCE WITH APPLICABLE LAWS:** Lessee shall comply with all building, use and zoning restrictions on the Premises, if any, and all applicable laws, orders, ordinances, codes and regulations, as may be amended from time to time, related to or affecting the Premises and/or uses and activities occurring thereon, regardless of their origin or kind, including notification and review requirements in Part 77 of the Federal Aviation Regulations.

11. **HAZARDOUS MATERIALS:** Neither Lessee nor Lessee's agents, employees, invitees or guests shall generate, release, store or dispose of hazardous materials ("Hazardous Materials") as defined or regulated by federal, state or local environmental statutes, ordinances, rules or regulations ("Environmental Laws"), at, upon, under or within the Premises or any portion thereof except in accordance with Environmental Laws. Lessee shall comply strictly and in all respects with the requirements of any Environmental Laws, and shall notify City immediately in the event of any discharge or discovery of Hazardous Materials at, upon, under, or within Premises.

12. **ADVERTISING DISPLAY:** Lessee shall not advertise on the Premises without City's express written consent, which shall not be unreasonably withheld as long as the advertising is limited to whatever services Lessee provides on the Premises, and complies with the requirements of the municipality having jurisdiction.

13. **MAINTENANCE, REPAIR AND CARE:** Lessee shall, at its own cost, maintain and repair the Premises, including all buildings, structures, improvements, and paved surfaces, to City's satisfaction during its tenancy. Lessee shall also operate, maintain and keep the Premises in a commercially reasonable condition, in compliance with applicable laws and ordinances, including keeping the Premises clean and free from rubbish and dirt, snow and ice, and the grass mowed at all times. Lessee shall not injure or damage the Premises, or create a nuisance or menace to anyone near the Premises. City shall not be obligated to make or perform any maintenance, repairs, replacements of any kind, nature or description whatsoever to the Premises or the building now or hereafter located thereon. If Lessee fails to comply with the obligations in this Section, the City may, after providing 10 days' advance written notice, enter the Premises and make the repairs, perform the maintenance, or otherwise cure the breach at Lessee's cost, which amount shall be paid by Lessee to City within 7 days' of City providing Lessee an invoice for same. Beyond ordinary repairs and maintenance, Lessee shall not make any improvement, alteration, or addition, to the Premises without City's advance written approval, nor, at the end of its tenancy, shall Lessee remove any improvement, alterations or additions to the Premises, without the City's advance written approval, which shall not be unreasonably withheld. In all cases in which repairs to the

Premises are necessitated by the willful or negligent conduct of Lessee, its employees, customers, or agents, such repairs shall be Lessee's responsibility.

14. **MANDATORY IMPROVEMENTS, MODIFICATIONS AND ALTERATIONS:** During the term of this Agreement, Lessee shall have the obligation, at its own cost and expense, to construct and complete the mandatory improvements upon or to the Premises and to modify, change, alter, renovate, or add to the building and/or other improvements upon the Premises in accordance with the requirements of Exhibit B. Lessee must obtain City's written consent for material changes to the proposed improvements, modifications, and alterations in Exhibit B. All improvements, modifications and alterations to the Premises must be constructed and completed in compliance with applicable laws, codes and regulations.

15. **IMPROVEMENTS AND FIXTURES TO BE PART OF PREMISES:** Notwithstanding any other provisions in this Agreement, all buildings, improvements, and fixtures constructed or installed by Lessee which are attached or affixed to the building or Premises or its systems, including but not limited to, air conditioning or heating systems, air circulation or fan systems, floor tile or covering, walls, partitions, plumbing, fire suppression, electrical and lighting systems shall become the sole property of City upon expiration of this Agreement. Lessee shall not encumber the Premises in any way beyond the Agreement term.

16. **CONSTRUCTION LIENS ON PREMISES PROHIBITED:** Lessee shall not suffer or permit any construction liens or other liens to be filed against the Premises, nor against Lessee's leasehold interest in the Premises, nor against Lessee's interest in any improvements, by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Lessee or anyone holding the Premises or any part hereof through or under Lessee. Notwithstanding the foregoing, if any such construction liens or materialmen's lien shall be recorded against the Premises, or any improvements thereon, Lessee shall cause the same to be removed; provided, however, that Lessee may in good faith contest any such construction lien. If Lessee shall fail to discharge or secure such lien as herein provided, City shall have the right to file a bond securing such lien and Lessee shall pay the cost of such bond to City within 30 days. The filing of any such lien claim against the interest of City in the Premises shall also be an event of breach hereunder subject to the opportunity to cure. Lessee hereby agrees to indemnify, defend and save City harmless from all costs, loss and liability arising from the lien, including reasonable attorney's fees.

17. **THIRD-PARTY PAYMENTS:** If Lessee fails to timely make any payment required by this Agreement to third-parties then City may, at its option, make such payment, in which case Lessee shall be liable to City for the same upon the City's provision of an invoice or bill to Lessee.

18. **ACCESS AND INSPECTION:** City may enter and inspect the Premises, for any purpose, at all reasonable hours after providing at least 24 hours advance notice to Lessee. In the case of an emergency, City may enter the Premises at its discretion. If City reasonably deems appropriate, and demands, any repairs to the Premises required to be made by Lessee under this Agreement, and if Lessee fails to commence and complete them within a reasonable period, City may make or cause to be made the repairs without any liability to Lessee for any loss that may accrue as a result, in which case Lessee shall, upon receipt of an invoice from City, reimburse City for its costs arising from or related to such repairs.

19. INSURANCE:

- a. Lessee, at its own cost and expense, shall, at a minimum, procure and keep in effect at all times during the term of this Agreement such insurance policies, including those set forth below, as will protect itself and the City from various hazards and all claims for bodily injuries, death or property damage that may arise under this Agreement, whether the act(s) or omission(s) giving rise to the claim were made by the Lessee, any subcontractor, or anyone employed by them directly or indirectly. Required insurance policies include:
 - i. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be named as an additional insured. There shall be no added exclusions or limiting endorsements specifically for the following coverages: Products and Completed Operations, Explosion, Collapse and Underground coverage or Pollution. Further there shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. The following minimum limits of liability are required:
 - 1) \$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined.
 - 2) \$5,000,000 Per Project General Aggregate
 - 3) \$1,000,000 Personal and Advertising Injury
 - 4) \$2,000,000 Products and Completed Operations Aggregate
 - ii. Fire and extended Property and Casualty coverage insurance insuring the Premises, including all leasehold improvements, for their full replacement value which City and Lessee agree is \$258,000.00. The insurance policy shall show City, any mortgagee of Lessee, regarding the Premises, and Lessee as named insureds. The insurance policy shall carry an endorsement requiring that City shall be given 30 days written notice before any change in or any cancellation of the policy. Certificates of all insurance policies shall be delivered to City. City and Lessee and all parties claiming under them mutually waive any right of recovery against each other for any loss occurring to the Premises or as a result of activities conducted on the Premises, which is covered by insurance, regardless of the cause of the damage or loss. Each insurance policy covering the Premises shall contain an endorsement recognizing this mutual release by City and Lessee and waiving all rights of subrogation by their respective insurers.
- b. City shall be named as an additional insured on each insurance policy or coverage.

- c. Lessee shall provide to City documentation satisfactory to City, through City-approved means (currently myCOI), demonstrating it has obtained the required insurance policies and endorsements. The certificates of insurance endorsements and/or copies of policy language shall document that Lessee satisfies the following minimum requirements. Lessee shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Lessee shall provide the same documentation for its subcontractor(s) (if any).
- d. Insurance required under subsection (a)(i) above shall be considered primary as respects any other valid or collectible insurance that City may possess, including any self-insured retentions City may have; and any other insurance City possesses shall be considered excess insurance only and shall not be required to contribute with this insurance.
- e. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company(s); name and address of the agent(s) or authorized representative(s); name(s), email address(es), and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which may be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified Lessee shall furnish City with satisfactory certificates of insurance and endorsements. Upon request, Lessee shall provide within 30 days a copy of the policy(ies) and all required endorsements to City. If any of the above coverages expire by their terms during the term of this Agreement, Lessee shall deliver proof of renewal and/or new policies and endorsements to City at least ten days prior to the expiration date.
- f. Any Insurance provider of Lessee shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V." Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by City.
- g. Upon completion of the mandatory improvements, the required insurance policies and coverage amounts shall be subject to review and adjustment to reflect the change in the value of the Premises and improvements.

20. RIGHT TO MORTGAGE/SUBORDINATE:

- a. City may subject or subordinate this Agreement and the leasehold and tenancy it creates to the lien of any mortgage or mortgages now or later placed upon the City's interest in real property on which the Premises are located.

- b. This Agreement is subordinate and subject to any agreements between the City and the United States of America concerning airport operation or maintenance.
- c. Lessee shall execute and deliver upon demand to City, or any nominee or designee that City identifies, any and all instruments necessary or appropriate for City to exercise its rights under this Section. Licensee also hereby irrevocably appoints the City as Lessee's attorney-in-fact to execute and deliver any such instruments on Lessee's behalf.

21. **TITLE:** Lessee, at its cost and expense, may obtain a leasehold title policy from a title company acceptable to Lessee insuring Lessee' leasehold title in the Premises in an amount deemed appropriate by Lessee. Lessee's entry into possession of the Premises shall constitute approval of the condition of title to the Premises and all matters affecting said title which would be disclosed by an accurate title insurance policy.

22. **LESSEE INDEMNIFICATION:** To the fullest extent permitted by law, Lessee shall indemnify, defend and hold City, its officers, employees and agents harmless from all lawsuits, actions, claims, losses, liabilities, damages, judgments, costs and expenses including attorney's fees resulting or alleged to result, in whole or in part, from any act or omission by Lessee or its officials, employees, contractors, or agents, which is in any way connected or associated with this Agreement, the Premises, or Lessee's rights or obligations related to either, by the Lessee or anyone acting on its behalf under this Agreement. Lessee shall not be responsible to indemnify City for losses or damages caused by or resulting from City's negligence or willful misconduct or the negligence or willful misconduct of anyone acting on its behalf under this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement for any reason.

23. **DAMAGE TO OR DESTRUCTION OF PREMISES OR IMPROVEMENTS:** Lessee acknowledges that it is insuring the Premises and its personal property, whether under the same or separate insurance policies. In the event of damage to the Premises or improvements caused by fire or other casualty, Lessee shall promptly rebuild the Premises to the condition it was in before the casualty. All Rent herein provided for shall abate entirely in case the entire Premises are untenable and pro rata for the portion rendered untenable, in case a part only is untenable, until the same will be restored to a tenantable condition. The insurance carried by Lessee to cover casualty damage to the Premises shall be available for the reconstruction. If the improvements constructed by Lessee on the Premises are rendered untenable by fire or other casualty during the term of this Agreement to the extent that the building(s) must be demolished and rebuilt, and the casualty insurance proceeds for the building available for payment by the insurance company are not subject to any lien, Lessee may, at its option, to be evidenced by notice given to City within 30 days after the occurrence of the damage or destruction, elect to terminate this Agreement as of the date of the damage or destruction. In that event, City shall be entitled to all insurance proceeds for the damage to improvements on the Premises.

24. **CONDEMNATION:** In the event all of the Premises shall be taken through condemnation, or so much of the Premises shall be taken that it is not feasible for Lessee to continue to operate on the Premises, then Lessee shall have the option of terminating this Agreement. Such termination shall be without prejudice to the rights of either City and Lessee to recover compensation from the

condemning authority for any loss or damage caused by such condemnation. Neither City nor Lessee shall have any right in or to any award made to the other by the condemning authority, and Lessee shall have the specific right to make a separate claim with the condemning authority for the value of Lessee's property, the loss of all or any portion of the leasehold interest herein, and Lessee's moving and relocating expenses.

25. LESSEE'S REPRESENTATIONS AND WARRANTIES: Lessee represents and warrants to City that:

- a. The Premises is being leased in its "AS IS AND WHERE IS" condition, and Lessee represents and warrants that it inspected and examined, and knows the condition of, the Premises, and that neither City nor its employees or agents have made any representations concerning the Premises' condition. Lessee accepts the Premises in its present condition as of the date of the execution of this Agreement. 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 buildings or any part of the Premises or for any loss or damage resulting to the Lessee or its property from bursting, stoppage, or leaking of water, gas, sewer or steam pipes.
- b. Lessee shall expeditiously and diligently pursue and complete the mandatory improvements in Exhibit B, and Lessee shall at all times comply with and adhere to applicable laws, codes and regulations affecting the Premises and use thereof.
- c. There are no lawsuits, actions, causes of action, or claims pending or threatened against Lessee, and there currently exist no grounds for any such lawsuits, actions, causes of action, or claims relating to Lessee, or which challenge the right of Lessee to execute this Agreement or perform its obligations hereunder.
- d. Lessee has the right, power, and authority to enter into this Agreement and to perform all the obligations hereunder.
- e. Lessee agrees that, without City's prior written consent, the Premises shall not be occupied by any other person, entity or firm, its agents, employees, contractors, vendors, supplies, except in accordance with this Agreement.
- f. Lessee shall obtain and maintain in force at all times all insurances policies and coverages required hereunder, and it shall neither do, nor permit, any act or thing which may increase the casualty risk, fire hazard, or insurance coverages on the Premises, except with the prior written consent of City, and Lessee acknowledges that in that event, City reserves the right to require additional insurance coverage.
- g. Lessee shall not interfere with or interrupt City's ongoing use of the airport areas surrounding and adjacent to the Premises.

26. CITY'S REPRESENTATIONS AND WARRANTIES: City represents and warrants to Lessee that:

- a. City has the power, authority and legal right to grant the leasehold interest in the Premises, and to enter into and perform its obligations in this Agreement, and the execution, delivery, and performance of this Agreement has been duly authorized by the City Council.
- b. As long as Lessee is not in default subject to all applicable notice and cure periods under this Agreement, Lessee shall be entitled to quiet possession of the Premises during the term of this Agreement.
- c. City shall not unreasonably interfere with or interrupt Lessee's use of the Premises.

27. BREACH, CURE, RIGHTS AND REMEDIES.

- a. Breach. Any one or all of the following which remains uncured after 30 days written notice to Lessee, unless a different cure period is specified, shall constitute a breach:
 - i. Failure to pay rent, taxes, assessments, utilities, or other sums or amounts required to be paid under this Agreement, and said amount is not paid within 10 days after the due date;
 - ii. Failure or breach in the performance of any covenant, term or condition contained in this Agreement other than payment of rent or other sums of money required to be paid under this Agreement, and, if any said breach is not remedied within 30 days after written notice thereof by City provided that if such breach is not capable of being cured within 30 days, Lessee shall not be deemed to be in breach if Lessee commences to cure within such 30 days and thereafter diligently pursues the same to completion;
 - iii. Failure by Lessee to obtain or maintain in effect any policy of insurance or to pay when due any insurance premiums required by the terms of this Agreement to be paid by Lessee provided that if such breach is not capable of being cured within 30 days, Lessee shall not be deemed to be in breach if Lessee commences to cure within such 30 days and thereafter diligently pursues the same to completion;
 - iv. Abandonment or vacation of the Premises by Lessee for a period of 6 consecutive months;
 - v. Failure to operate a commercial aviation business pursuant to an approved Airport Conditional Use Permit for 12 consecutive months provided that if such breach is not capable of being cured within 30 days, Lessee shall not be deemed to be in breach if Lessee commences to cure within such 30 days and thereafter diligently pursues the same to completion;
 - vi. Failure to complete the mandatory improvements in Exhibit B in compliance with applicable schedules and/or deadlines provided that if such breach is not capable of being cured within 30 days, Lessee shall not be deemed to be in

breach if Lessee commences to cure within such 30 days and thereafter diligently pursues the same to completion;

vii. An assignment for the benefit of Lessee's creditors, or the appointment of a receiver for any property of Lessee in or upon the Premises in any action, suit or proceeding by or against Lessee and within 60 days thereafter Lessee shall fail to secure the discharge of such receiver;

viii. The appointment or taking possession by any receiver, liquidator, assignee, trustee, creditor or other similar official of Lessee or any assignee, or of any substantial part of the Premises, or the ordering or winding up or liquidation of Lessee's affairs and the continuance of the decree or order unstayed and in effect for a period of 60 days or more, whether or not consecutive, or Lessee's consent to the foregoing;

ix. The commencement by Lessee of a voluntary proceeding under the Federal Bankruptcy Code or any other applicable state or federal law or consent by Lessee to the entry of any order for relief in an involuntary case under any such law.

b. Right to Terminate and Re-Enter. If Lessee fails to cure any breach subject to all applicable notice and cure periods within the period required, then City may terminate this Agreement, or, without terminating this Agreement, may re-enter the Premises, with or without process of law and take possession thereof and City shall not be liable for damages by reason of such re-entry or forfeiture, and re-let the Premises. No re-entry or taking possession of the Premises by City shall be construed as an election to terminate this Agreement unless a written notice of such intention is given to Lessee or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any re-letting without termination because of any breach by Lessee, City may at any time after such re-letting elect to terminate this Agreement for any such breach. In the event the City obtains possession of the Premises by re-entry, summary proceedings, or otherwise, the Lessee agrees to pay City the expense incurred in obtaining possession of the Premises, and all expenses and commissions which may be paid in and about the letting of the same, and all other damages. Notwithstanding such breach and re-entry by City, Lessee shall remain liable for all Rent as it becomes due and all costs, expenses and attorney fees to enforce this Agreement; provided, however, that City shall be obligated to mitigate damages.

c. City Option to Cure. If Lessee fails to perform any of its obligations under this Agreement, after City provides the written notice and subject to all applicable notice and cure periods, City shall have the right, but not the obligation, to perform the obligation for the account and at Lessee's expense. Reasonable and necessary costs incurred by City to cure a breach shall be paid by Lessee to City upon demand. If Lessee fails or refuses to reimburse City for the expenses, the reasonable and necessary costs of cure shall be added to the next installment of Rent. City may elect, but shall not be obligated, to cure at any time and without notice any breach

by Lessee under this Agreement. Whenever City so elects, Lessee shall immediately, upon demand, pay to City, all reasonable costs and expenses thereby incurred by City, plus interest on all amounts advanced by City. In addition, in the event that City requires the services of any attorneys to enforce against Lessee any of the provisions or rights under this Agreement, Lessee shall pay to City all reasonable attorneys' fees and costs incurred by City.

- d. Effect of Waiver. One or more waivers of any covenant, obligation or requirement of this Agreement, by either party shall not be construed as a waiver of a subsequent breach of same and the consent or approval by City to or of any act by Lessee requiring City's consent or approval shall not be deemed a waiver of City's consent or approval to or of any subsequent similar act by Lessee.
- e. Notice of City's Breach; Lessee's Waiver. If City fails to perform any of the terms, conditions, or agreements provided for in this Agreement which are to be performed by City, and, if the failure is not remedied within 10 days after written notice of the failure is given by Lessee to City or if more than 10 days will be reasonably required to cure the breach, and City does not commence to cure the failure within the 10 days or later does not proceed diligently to cure the failure, then in such event the City will be deemed to be in breach and Lessee may pursue any remedies available at law or in equity.
- f. Remedies Cumulative and Not Exclusive. To the fullest extent permitted by law, City's rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies and benefits allowed by law.

28. CITY RESERVATIONS AND MISCELLANY:

- a. City may develop or improve the operational and landing areas of the airport as it sees fit, regardless of the desires of Lessee, and without Lessee's interference.
- b. City may, but need not, maintain and keep in repair the landing area of the airport and all operational or publicly-owned facilities of the airport.
- c. Nothing in this Agreement shall be construed to grant Lessee any right, nor shall Lessee otherwise have in law or equity any right, to prevent any person from operating aircraft at the airport or performing any services on its own aircraft with its own employees, contractors, and agents.
- d. Lessee shall not erect nor permit the erection of any structure or object on the Premises above a mean sea level elevation of 845 feet.
- e. Nothing in this Agreement shall be construed to give Lessee any right to restrict the airspace above the surface of the Premises, whether for noise or any other reasons.

- f. 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. Lessee shall not use the Premises in any manner that interferes, or could interfere, with the landing and taking off of aircraft from Ann Arbor Municipal Airport or otherwise constitute a hazard.
- g. City reserves the right to further develop or improve any properties contiguous with or near the Premises, subject to the provisions of Paragraph 29 below.

29. **ADJACENT GRASS AREA:** The City acknowledges that Lessee has expressed an interest in also leasing the grass area which is adjacent to and located west of the Premises for the future construction of hangars (“Grass Area”). The City agrees to work in good faith with Lessee to further investigate this possibility and grants to Lessee a right of first refusal with respect to leasing the Grass Area. If the City receives an offer to lease the Grass Area upon terms that the City is willing to accept, the City will deliver the offer to Lessee and Lessee will have 15 days to notify the City that it will lease the Grass Area on the offered terms. If Lessee fails to notify the City within this time period, the City may lease the Grass Area to the other party and the Lessee’s right of first refusal shall automatically terminate and be of no further force or effect.

30. **NON-DISCRIMINATION:** Lessee and its agents and employees shall not discriminate against any person or class of persons based on race, color, creed, national origin, marital status, age, condition of pregnancy, religion, physical limitations, source of income, family responsibilities, educational association, or sexual orientation or sex, and shall be bound by the non-discriminatory provisions as required by the Code of Federal Aviation Regulations, as 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.

31. **ASSIGNMENT:** Lessee shall not assign, delegate, transfer, encumber or sublet this Agreement, or any part of it, without the City’s express written consent, which shall not be unreasonably withheld. Any assignment, delegation, transfer, encumbrance or sublet attempted by Lessee in violation of this Section shall be void and amount to a material breach of the Agreement.

32. **ENTIRE AGREEMENT:** This Agreement represents the entire understanding and agreement between the parties with respect to the leasing of the Premises and it supersedes all prior representations, negotiations, agreements, or understandings whether written or oral. Neither party has relied on any prior representations in entering into this Agreement.

33. **GOVERNING LAW; CHOICE OF LAW AND FORUM:** This Agreement shall be governed by and construed according to Michigan law, without regard to its choice of law jurisprudence. Any lawsuits arising out of or related to this Agreement shall be filed in a state or federal court that has lawful subject matter jurisdiction and is, if a state court, is located in Washtenaw County or, if a federal court, in the Eastern District of Michigan. Lessee submits to the personal jurisdiction of any such court.

34. SEVERABILITY: If any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties or other circumstances.

35. SUCCESSORS AND ASSIGNS. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

36. NOTICES: Any written notice required by this Agreement shall be given by email and overnight mail or delivery service, addressed to the following:

Notice to Lessee:

Herron Aviation Group
Attn: Brian Herron
6620 Dexter Ann Arbor Rd
Dexter, MI 48130
Email: brian@herrononline.com

With a copy to:

Herron Aviation Group
Attn: Brian Herron
719 Airport Dr
Ann Arbor, MI 48108
Email: brian@herrononline.com

Notice to City:

City of Ann Arbor
Attn: City Administrator
301 E. Huron Street
Ann Arbor, MI 48104
Email: mdohoney@a2gov.org

With a copy to:

City of Ann Arbor
Attn: Unit Manager
Fleet & Facilities
801 Airport Drive
Ann Arbor, MI 48108
Email: mjkulhanek@a2gov.org
and airport@a2gov.org

With a copy to:

City of Ann Arbor
Attn: City Attorney
Office of the City Attorney
301 E. Huron Street, 3rd Floor
Ann Arbor, MI 48103
Email: akaur@a2gov.org

37. AMENDMENTS: This Agreement may only be amended, in writing, signed by both parties.

38. BINDING ON SUCCESSORS AND ASSIGNS. The promises, conditions and agreements made and entered into by the parties are binding on their respective successors and assigns.

39. ELECTRONIC OR FACSIMILE SIGNATURES: City and Lessee agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

[SIGNATURES ON NEXT PAGE]

CITY:
CITY OF ANN ARBOR, MICHIGAN

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Dated: _____, 2023

Approved as to Substance:

Milton Dohoney Jr., City Administrator

Approved as to Form:

Atleen Kaur, City Attorney

LESSEE:
HERRON AVIATION GROUP LLC

By: _____
Name:
Title:

Dated: _____, 2023

STATE OF MICHIGAN)
) ss:
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____

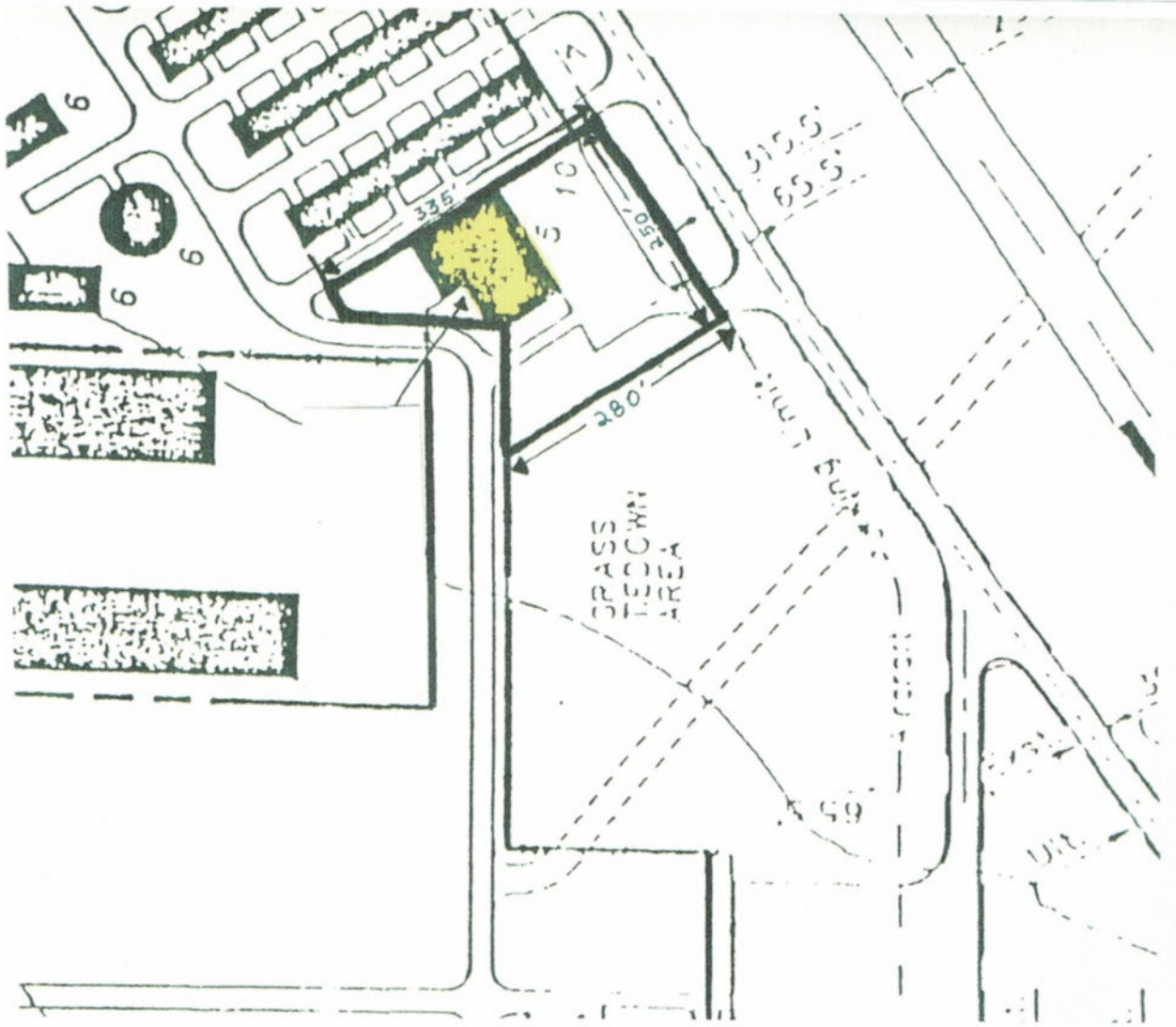
STATE OF MICHIGAN)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by _____, a _____, on behalf of the Herron Aviation Group LLC.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____

EXHIBIT A
DESCRIPTION OF PREMISES

The Premise is that parcel of land situated on the municipal airport of the City of Ann Arbor, Michigan, commonly known as 719 Airport Drive Hangar Building, approximately 66,750 square feet in land area on which a metal hangar building of approximately 10,654 square feet, including maintenance and office space, is located. Said building being part of the Ann Arbor Municipal Airport's 2008 Airport Layout Plan and designated as building #14. The leased land is further dimensioned below.



**EXHIBIT B
MANDATORY IMPROVEMENTS
AND SCHEDULE FOR COMPLETION**

Interior and Life Safety Improvements

Completion Date

1) Install exit signage and emergency lighting for exit routes and exits to comply with the requirements of the local authority having jurisdiction (AHJ).	90 days after occupancy
2) Install GFCI receptacles or GFCI protected circuits for all locations required by the AHJ.	90 days after occupancy
3) Secure electrical conduit and devices (switches, receptacles, junction boxes, etc.) and ensure all are covered as required by the AHJ.	90 days after occupancy
4) Install stair rails/ hand rails on the storage area stairway as required by the AHJ.	90 days after occupancy

Exterior Building Improvements

5) Repair or replace damaged exterior siding and trim as necessary.	180 days after occupancy
6) Remove unused/abandoned signage, conduit, piping from the exterior of the building.	180 days after occupancy
7) Repair or replace damaged gutters and downspouts as necessary.	180 days after occupancy
8) Replace cracked or broken windows, including those in the hangar door.	180 days after occupancy
9) Repair or replace damaged soffits, fascia and eaves as necessary.	180 days after occupancy
10) Replace or repair exterior pedestrian doors (and frames) if necessary.	270 days after occupancy
11) Replace damaged weather-stripping, seal/caulk around doors and windows to provide a weathertight enclosure.	270 days after occupancy
12) Repair or replace damaged overhead doors on the north and east sides of the building.	270 days after occupancy
13) Repaint all exterior walls of the building, doors, trim, eaves, soffits, fascia, gutters and downspouts to provide an attractive and uniform appearance.	270 days after occupancy

Exterior Site Improvements

14) Remove the large arborvitae trees, including stumps, from the north side of the building.	180 days after occupancy
15) Repair the parking lot adjacent to the west side of the building. Repair and crack seal the parking lot on the north side of the building. Restripe the entire parking lot (north and west of the building).	270 days after occupancy