

**LEASE AGREEMENT**

**THIS INSTRUMENT**, made and entered into the 19 day of AUGUST, 2009, by and between the **CITY OF LEESBURG**, a Florida Municipal corporation, hereinafter called the Lessor, and **JOHN H. OSBORNE & DEREK SCHOENING, jointly and severally, d/b/a Lake Marine Sales Center**, hereinafter referred to as the Lessee,

**WITNESSETH:**

Lessor owns real property on which Lessee desires to operate a marine sales and service business in Leesburg, Florida. Lessor has agreed to lease the property to Lessee, under the terms set forth hereinbelow.

**NOW THEREFORE**, for and in consideration of the mutual covenants and promises contained herein, the continued possession of the premises by Lessee, and other good and valuable considerations, in hand paid and given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **PROPERTY AND TERM.** The real property which shall be subject to this Lease is specifically described as follows:

8735 U.S. Highway 441 South, Leesburg, FL 34788,  
legally described as:

That part of Lot 6, Silver Lake, Addition "A", according to the record plat thereof as recorded in Plat Book 5, Page 41, Public Records of Lake County, Florida, bounded and described as follows:

Commence at the most Westerly corner of said Lot 6 of Silver Lake, Addition "A", and run North 19° 31' 26" East along the Northwesterly line of said Lot 6, a distance of 200.00 feet to the Point of Beginning of this description. From said Point of Beginning, continue North 19° 31' 26" East along the Northwesterly line of said Lot 6, a distance of 317.00 feet to a point on the Southwesterly right of way line of U.S. Highway 441, said point being on a curve

line of U.S. Highway 441, said point being on a curve concave Northeasterly and having a radius of 15,746.10 feet and a radial bearing of South 17° 13' 21" West; thence Southeasterly along the arc of said curve and said Southwesterly right of way line through a central angle of 01° 05' 35" an arc length of 300.37 feet to the Southeasterly line of the aforementioned Lot 6 of Silver Lake, Addition "A"; thence leaving said Southwesterly right of way line, run South 19° 31' 26" West along the said Southeasterly line of Lot 6, a distance of 331.92 feet to a point that is North 19° 31' 26" East 200.00 feet from the most Southerly corner of said Lot 6; thence North 70° 28' 34" West parallel with the Southwesterly line of said Lot 6 a distance of 300.00 feet to the Point of Beginning.

The term of this Lease shall commence as of September 1, 2009, and will continue for a term of 36 months, ending on the last day of August, 2012, unless earlier terminated by mutual agreement of the parties or under other terms and conditions set forth in this Lease.

If Lessee remains in possession after the termination date, it shall be on a month to month basis. All terms and conditions of this Lease other than those pertaining to the amount of Rent or the term shall continue to apply fully, provided that Lessor may at any time thereafter adjust the Rent by giving written notice to Lessee not less than 15 days prior to the date on which the adjustment is to take effect, and provided further that once the term converts to month to month status, either party may cancel this Lease by giving the other party written notice at least 60 days prior to the effective date of cancellation.

2. RENT. Rent during the term shall be paid monthly in advance, on the first day of each calendar month, and continuing on the 1<sup>st</sup> day of each month thereafter until the end of the term. Rent shall for the first lease year shall be \$1,000.00 per month; rent for the second lease year shall be \$1,500.00 per month; and rent for the third lease year shall be \$2,000.00 per month, all *plus applicable sales tax*. Each installment of Rent is payable in advance, and shall be paid at

City Hall, Post Office Box 490630, Leesburg, Florida 34749-0630, or in such other manner as Lessor may, from time to time, direct by written notice to Lessee.

Time is of the essence of this contract, and in particular Lessee acknowledges and agrees that it is responsible for paying the Rent promptly, and that failure to do so within 10 days of the due date will constitute a default under this lease and entitle Lessor, after first giving three days written notice of default to Lessee, to pursue any remedy allowed by law or under this lease for a default. If at any time a check given by Lessee to Lessor is returned unpaid, thereafter Lessor may require all future payments under this lease to be made in cash or by cashier's check.

Any installment of Rent or any other charge accruing under the provisions of this Lease that is not paid when due shall bear interest at the rate of 1.5% per month (18% per annum) from the date when the same was payable by the terms hereof, until the same is paid by Lessee.

3. USE. The premises shall be used for a marine sales lot, boat and marine engine repair and maintenance, and general business offices for the foregoing only, in strict compliance with all local, state and federal ordinances, laws, rules and regulations, whether now in force or hereafter enacted or amended. No other use shall be made of the premises without the prior, written permission of the Lessor. Lessee shall make no unlawful or offensive use of the premises, nor shall any industrial use be made thereof, nor shall any activity be carried on at the premises which constitutes a nuisance to surrounding property. There shall be no outside storage of parts, equipment or other items except for boats themselves, all of which must be fully licensed and operable, and all outside storage shall comply with all City of Leesburg ordinances now in effect or hereafter adopted or amended.

Lessee may not display banners, balloons, streamers, tapes, inflatable figures or other similar items to advertise its business or draw attention to its business or wares on the property.

Lessee shall not allow the production, use, handling or storage, of dangerous or toxic chemicals or substances (other than fuel and lubricants commonly utilized in boats and marine engines, while stored within the tanks designed for such storage within the boats or engines themselves), machines or equipment causing excessive noise or dust particles or anything else of any nature whatsoever which would be injurious to the building or property in the reasonable opinion of Lessor. All petroleum products and other potentially hazardous or toxic substances shall be stored, transported, handled and disposed of in strict accordance with applicable laws, rules and regulations, and shall not be disposed of in any manner upon the leased property. Lessee shall at its expense clean up any spills or other environmental contamination resulting from Lessee's activities at the premises, and shall indemnify Lessor against all claims for damages or other relief, plus attorney's fees and costs, due to any production, use, handling, storage, or disposal of any hazardous or toxic wastes or substances by Lessee whatsoever, as such may be defined from time to time by any local, State or Federal agency, whether at the premises or elsewhere. Lessee shall be responsible for the acts and behavior of its officers and employees, licensees, invitees, agents, clients, customers and anyone else on Lessee's premises.

4. INGRESS AND EGRESS. Ingress and egress from the Premises shall be to and from U.S. Highway 441 only. There shall be no public access permitted to the Premises from Airport Boulevard and no easement is granted nor shall any easement be implied over the land lying between the Premises and Airport Boulevard. The gate onto Airport Boulevard shall remain closed and locked at all times.

5. UTILITIES. All utilities serving the premises, including but not limited to electricity, water, refuse and garbage service, sewage disposal and pollution abatement charges, telephone and other telecommunications, impact fees (of any type or purpose, including but not

limited to water and sewer, roadways, police and fire protection, public schools, parks and recreation or otherwise) and janitorial service shall be secured and paid for by Lessee, who shall hold Lessor harmless from any loss or damage, including attorney's fees, arising out of failure by Lessee to pay all utility charges when due.

6. TAXES. Lessee shall pay all sales taxes due on the rent under this lease, and all personal property taxes assessed against Lessee's property kept at the premises, together with any ad valorem or intangible personal property taxes assessed against this leasehold interest. Lessor is a tax exempt entity, therefore if any taxes or assessments of any nature whatsoever are levied against Lessor by reason of this Lease or Lessee's occupancy of the premises, Lessee shall pay all such taxes within 30 days of when they first become due (e.g. for real property taxes, no later than November 30 of each year). In the year in which this Lease terminates, Lessee shall remit to Lessor a sum equal to the estimated real property taxes for that year, prorated through the date the Lessee relinquishes possession of the premises to Lessor and all of Lessee's personal property is removed.

7. INSURANCE. Lessor shall insure the property against damage by fire and other casualties, however **such insurance shall protect Lessor's interests only**. Lessee is responsible for insuring its own personal property on the premises, along with the property of Lessee's patrons which may from time to time be stored at the premises. Also, Lessee shall at its expense procure, and maintain in force throughout the term, personal injury and public liability insurance in the amount of \$1,000,000.00 as a single limits policy including both death or personal injury, and property damage coverage, showing Lessor as a named insured, with a waiver of subrogation in favor of Lessor. Proof of such insurance shall be provided to Lessor no later than the commencement of the term and upon request by Lessor thereafter for the balance of the term. All

policies to be obtained by Lessee shall be procured from insurers duly licensed in the State of Florida and having a rating of "A" or better from A.M. Best.

8. MAINTENANCE. Lessee shall maintain any structures or other improvements on the premises so that they are at all times safe for their intended uses and habitations, and so that they do not become an eyesore and are compatible with the conditions existing elsewhere on the Leesburg International Airport. Lessee acknowledges that the current structures and improvements, and their condition, are satisfactory to it, after Lessee conducted all inspections and evaluations it deemed necessary to arrive at that conclusion. Lessee shall maintain the plumbing, electrical, heating and air conditioning systems at its expense including the replacement of any components as needed. Lessee shall maintain both the interior and exterior (including roof) of all structures in such a manner that at the end of the term, the structures shall be returned to Lessor in good and serviceable condition, without any damage or wear other than and ordinary wear and tear a reasonable person would expect to occur over the life of the Lease term. Lessee shall also maintain the grounds and landscaping on the leased premises, the parking areas and outdoor/parking area lighting, and other exterior areas of the leased premises not within any building or structure, in a condition at least comparable to the condition of such areas as of the date of this Lease, and in a condition consistent with the appearance of surrounding property within the Leesburg International Airport.

Lessee shall obtain at its expense a dumpster or other garbage and trash receptacle which can be locked or secured to prevent garbage and trash from being removed unnecessarily, blown or scattered in the surrounding area. The receptacle shall be closed at all times except when garbage or trash is being deposited or properly removed. In case garbage or trash attributable to Lessee is scattered outside of the receptacle so as to constitute an unclean, unattractive or

unsanitary condition, Lessor may, at its option, have the refuse cleaned up and bill Lessee for the reasonable cost thereof by adding the same to the next rent installment due as additional rent to become due and payable to Lessor. If the cleanup costs are not paid within 45 days of billing, Lessor may pursue collection in a civil action for damages, or may elect to terminate this Lease without thereby waiving the right to collect the amount due from Lessee as damages. No garbage or trash, including but not limited to paper and cardboard, shall be bundled or left outside of the required and approved receptacle for garbage and trash. If Lessee contracts with a company other than the City of Leesburg for removal of certain items of trash or recyclable materials, Lessee shall require that company to clean up all trash and material left behind during the collection process, and if any such company demonstrates a pattern of leaving behind trash or waste material due to careless collection procedures, resulting in the littering of the premises or any portion of Leesburg International Airport, in addition to any other remedies available to it under this Lease, Lessor may compel Lessee to terminate its contract with such company and may bar such company from operating at the premises. All petroleum or other wastes stored in barrels or drums shall be removed periodically and disposed of properly, and no such barrels or drums shall be left behind when Lessee vacates the premises.

If Lessee fails to maintain the structures or grounds properly, Lessor may give written notice of deficiencies to Lessee, specifying a reasonable time within which repairs are to be made, and if Lessee fails to act within the time specified, Lessor may make all repairs or take any other action it deems necessary and charge the cost thereof to Lessee as additional rent hereunder, to be payable immediately upon demand.

9. FIRE EQUIPMENT. Lessee shall provide and maintain, at Lessee's sole expense, approved fire protection devices adequate for each room of leased premises in accordance with

current or future City of Leesburg and State of Florida fire and life safety codes and requirements. Proof of said compliance and regular inspections shall be provided to Lessor at least annually.

10. ENTRY AND INSPECTION. At any reasonable time, Lessor may enter the leased premises personally or through a designated agent and conduct an inspection to determine if Lessee is complying with the terms of this lease. If such inspection reveals deficiencies, Lessor may, but shall not be obligated to, make such repairs, or take any other action, as may be necessary to bring Lessee into compliance, and recover the costs thereof either from the deposit, or from Lessee, in which case the costs shall be considered additional rent due immediately from Lessee; failure by Lessee to pay these sums shall be grounds for termination of this lease.

Lessor may show the premises to prospective purchasers and Mortgagees, and during the 90 days prior to termination of this lease, to prospective tenants, during business hours on reasonable notice to Lessee.

11. ADDITIONAL RENT. All taxes, costs, charges, and expenses which Lessee is required by this Lease to pay, together with all interest and penalties thereon which may accrue in the event Lessee fails to pay such amounts, and all damages, costs and expenses (including attorney's fees) which Lessor may incur by reason of any failure by Lessee to comply with the terms of this Lease, shall be deemed to be additional rent, and in the event of nonpayment thereof by Lessee, the Lessor shall have the same rights and remedies with respect thereto as Lessor may have, at law, in equity, or under this lease, for nonpayment of the rent itself.

12. ALTERATIONS AND IMPROVEMENTS. No material alterations or improvements to the premises shall be made by Lessee, nor shall any signs be erected, unless Lessor has reviewed the plans and specifications and given its written consent before

commencement of any such work. Any signs must be monument type signs which comply with the City of Leesburg sign ordinance in effect at the time the sign is put in place. Lessor may require Lessee to remove any unauthorized signs, alterations, or improvements, and to return the premises to their original condition, and if Lessee fails or refuses to do so then Lessor may have the necessary work done and assess the cost against Lessee, to be paid immediately upon demand. All work must conform to applicable codes and be performed by licensed and bonded contractors, and all required building permits, as well as statutory performance and payment bonds (with Lessor shown as a co + beneficiary), shall be secured. At the end of the term or upon any earlier termination of this lease, all alterations and improvements on the premises, not including trade fixtures, shall become the property of Lessor and shall not be removed by Lessee, unless prior to termination or within 5 days thereafter Lessor directs removal of any such improvements, in which case lessee shall at its expense remove those improvements specified within 15 days after termination and return the premises to their original condition.

As consideration for paying no rent in September and October, 2009, Lessee agrees at its expense to paint the exterior of the building a color which has been approved in writing by Lessor prior to commencement of painting; repair the overhead doors and all roof leaks; add landscaping consistent with the applicable requirements of the City of Leesburg Land Development Regulations; and remove all junk and debris from the property. Any fence constructed by Lessee must be approved in writing by Lessor prior to commencement and must be steel or aluminum decorative type fencing.

13. LIENS. The Lessee shall not have the power or authority to subject the Lessor's interest in the premises to mechanics', laborers' or materialmen's liens of any kind against Lessor's interest during this Lease. If such a lien is filed, Lessee shall cause the premises to be

released therefrom within five (5) days of written demand by Lessor, either by payment in full, or by posting of bond which by law releases Lessor's interest from the legal effect of such lien. Prior to commencing work, Lessee shall obtain from any contractor, subcontractor, laborer or materialmen performing work or providing materials for the premises, a waiver of lien whereby such person specifies that he or she will not impose any lien or claim against the real property by reason of the work done or materials provided. Any such work shall be done only under written contract and Lessor shall have the opportunity to approve such contract before work commences, if the dollar value of the contract, or the total project of which the contract is a part, exceeds \$15,000.00.

14. REPRESENTATIONS OF LESSOR. In order to induce Lessee to enter into this lease, the Lessor has made the following representations and no others:

A. Lessor has good title to the premises, and the right to enter into this Lease without the joinder or consent of any other person or entity;

B. So long as Lessee performs all the covenants and agreements of this lease, Lessee shall have quiet and undisturbed possession of the premises.

15. REPRESENTATIONS OF LESSEE. In order to induce Lessor to enter into this Lease, the Lessee has made the following representations, and no others:

A. Lessee has inspected the premises and found them to be fit for its intended purposes.

B. Lessee has assured itself that the zoning of the premises will permit the intended use, and will not violate any zoning or land use rules during occupancy, and will obtain and keep in force all licenses and permits required for the operation of Lessee's business at the premises.

Lessee will abide by all applicable laws, ordinances, and regulations in the occupancy of the property and the operation of its business on the property.

C. Lessee is acting solely on its own behalf, and not on behalf of any third party or undisclosed principal whomsoever.

D. Lessee will perform and abide by each and every term, covenant and agreement of this lease, and will comply fully with all laws, rules and regulations now in force or hereafter enacted pertaining to any aspect of Lessee's business operations or other activities on the leased premises.

**E. EXCEPT FOR THE ITEMS SET FORTH SPECIFICALLY IN THIS LEASE, ALL WARRANTIES OF ANY NATURE CONCERNING THE PREMISES, EITHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED, ARE WAIVED BY LESSEE AND DISCLAIMED FULLY BY LESSOR. LESSEE UNDERSTANDS AND AGREES THAT LESSOR DOES NOT WARRANT THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY, THEIR HABITABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, AND THAT ALL SUCH WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARE HEREBY WAIVED BY LESSEE AND DISCLAIMED BY LESSOR.**

F. If Lessee is not a natural person, then Lessee warrants that it is duly formed and validly existing under state law and local ordinances, and that all things required by law or by Lessee's governing documents, necessary to the execution of this lease have been accomplished, and the person signing this lease is authorized to bind Lessee.

16. **INDEMNITY.** Lessee will indemnify Lessor, and hold Lessor harmless, from and against all claims, debts, demands, or obligations which may be made against Lessor, or Lessor's

interest in the premises, excepting only those matters which are the direct and proximate result of the gross negligence or deliberate acts of Lessor, its agents, servants or employees, arising out of or in any way connected with Lessee's use and occupation of the premises. If it becomes necessary for Lessor to defend any action against it, seeking to impose such liability, Lessee will pay not only any judgment entered against Lessor in such proceeding, but also all costs and attorney's fees paid or incurred by Lessor in its defense of any such proceeding.

17. **DAMAGE BY LESSEE OR BY FIRE AND CASUALTY.** In the event the premises are damaged by fire or other casualty, not caused by the negligent or deliberate acts of Lessee, its agents, servants, employees or guests, Lessee may elect to repair the damage within a reasonable time, and the rent due hereunder shall abate until repairs are completed, by the proportion by which the damage prevents Lessee's use of the premises, or in the alternative Lessee may at its sole option elect to terminate this Lease. If Lessee elects to terminate this Lease rather than repair the premises, any insurance proceeds payable due to a fire or other casualty, under any policy procured by Lessor, shall be the sole property of Lessor.

If the premises are damaged by the intentional or negligent acts or omissions of Lessee or any of its agents, servants, employees or guests, Lessee shall be obligated to restore the premises within a reasonable time at its expense, and if it fails to do so, then Lessor may repair such damage and restore the premises to their original condition without notice to or consent by Lessee, and recover the entire cost of the repair from Lessee immediately, together with any lost rent and other amounts otherwise payable hereunder by Lessor as a result of the intentional or negligent acts of the Lessee, its agents, servants, employees or guests.

18. **BANKRUPTCY.** This lease shall be terminated immediately, without notice to Lessee, in the event Lessee or any surety of Lessee on this lease become bankrupt, or files any

proceedings as debtor, or takes or has taken against it any action or proceeding in bankruptcy or insolvency, or for reorganization or appointment of a trustee of all or a portion of Lessee's or the surety's property; or if Lessee or any surety makes an assignment for the benefit of creditors.

19. NO WAIVER. No failure by either party to exercise any remedy available to it in the event of a breach of this lease shall be deemed a waiver of any subsequent breach, whether of the same or a different provision of this lease, nor shall it be considered a justification of any subsequent breach. Acceptance of rent by Lessor at any time when Lessee is in default shall not be construed as a waiver of such default, or of Lessor's right to terminate this lease on account of such default, nor shall any waiver or indulgence granted by Lessor to Lessee be taken as an estoppel against Lessor, it being expressly understood that if Lessee is in default and Lessor accepts rent during the continuance of such default or fails promptly to avail itself of its remedies for such default, this shall not constitute a waiver of such default, but Lessor may at any time, if such default continues, terminate this lease on account thereof.

20. DEFAULT. In the event of a default by Lessee, other than a failure to pay rent or additional rent, which default continues longer than five (5) days after the giving of written notice to Lessee by Lessor demanding that the default be cured, Lessor may terminate this lease and resume possession of the premises immediately, and recover from Lessee liquidated damages as specified below, or at its option Lessor may take such action and expend such sums as may be necessary to cure the default, and recover the cost to cure from the deposit or charge it to Lessee as additional rent.

Should Lessee fail to pay any rent or additional rent hereunder, and if such rent is not paid along with any interest, penalties and late charges, within 3 days after written notice given by Lessor to Lessee, then Lessor may retake possession of the premises immediately, and

recover from Lessee the present value of the rent to have been paid by Lessee over the remainder of the term, computed using a discount rate of 6%, or at its option Lessor may elect to sue for each installment of rent as it falls due. In the event Lessor elects to recover the present value of future rents, the rent for the remainder of the term shall be considered accelerated and due immediately upon notice being given to Lessee. Once Lessor has retaken possession (or if Lessee refuses to surrender possession, once Lessor has given Lessee written notice of termination) this lease shall be terminated and Lessee shall have no right to reinstate this lease, whether by payment of the arrearages or otherwise.

Upon termination of this lease, Lessee shall surrender the premises peaceably to Lessor immediately, and if Lessee fails to do so it shall be deemed guilty of unlawful detainer of the premises and be subject to remedies provided for that violation. This lease shall be considered terminated immediately upon the giving to Lessee by Lessor of written notice of termination. Liquidated damages of \$75.00 per day shall be paid by Lessee for each day or portion thereof that Lessee fails to surrender possession of the premises to Lessor in accordance with this lease, after termination or expiration hereof.

In any event, in addition to recovery of possession and liquidated damages, Lessor shall also recover all additional rent, special damages, costs and attorney's fees incurred by it as a result of the default by Lessee. Lessee agrees that it would be impossible to compute the general damages suffered by Lessor should Lessee default, that it is therefore proper to provide for liquidated damages, and that the amount of liquidated damages set forth herein is reasonable and does not constitute a penalty or forfeiture.

21. REMEDIES CUMULATIVE. Lessor's remedies under this lease are cumulative, and no one remedy shall be exclusive, in law or equity, of any other rights which Lessor may

have, and the exercise of one right or remedy shall not impair Lessor's standing to exercise any other right or remedy.

22. ARREARAGES. Any amount of money to be paid to Lessor by Lessee under this lease, which is not paid within 10 days of the date when it first falls due, shall bear interest at the rate of 10% per year until paid in full. Lessor, at its sole option, may elect to apply any payment by Lessee either to amounts most recently due, to amounts farthest in arrears, or to interest due on the arrearages.

23. ASSIGNMENT. This lease may not be assigned by Lessee, nor may Lessee sublet the premises either in whole or in part, without prior written permission from Lessor, which may not be withheld, conditioned or delayed unreasonably so long as no default exists hereunder, provided that no change in use is made and the assignment will not violate any other agreements by Lessor. Lessor shall not be required to consent to any sublease or assignment whatsoever as long as any default by Lessee remains in existence. Approval by Lessor of any assignment shall require the assent of the Airport Manager, the Airport Advisory Board, and the City Commission.

Notwithstanding the foregoing, Lessee may assign this Lease once, without prior permission of Lessor, but only to a duly formed Florida for – profit corporation in which John S. Osborne and Derek Schoening are the only officers, directors and shareholders. At the time of any such assignment, Lessee shall provide Lessor with written notice of the assignment, a copy of the assignment document, and an affidavit attesting under oath that John S. Osborne and Derek Schoening are the only shareholders, officers and directors of the assignee corporation. No such assignment shall relieve John S. Osborne or Derek Schoening of personal liability under

this Lease and they shall remain, after the assignment, jointly and severally liable under this Lease.

If this lease is assigned to any person or entity pursuant to the provision of Title 11, U.S.C. (the Bankruptcy Code), any and all consideration payable or otherwise to be delivered in connection with any such assignment shall be paid and delivered to Lessor, to be and remain the exclusive property of Lessor and shall not constitute property of the Lessee or of the estate of Lessee within the meaning of the Bankruptcy Code. Any such consideration not paid or delivered to Lessor as provided above shall be held in trust by the recipient for the benefit of Lessor and shall be promptly paid and delivered to Lessor. Any assignee under the Bankruptcy Code shall be deemed, by having received such assignment and without further act or deed, to have assumed all of the obligations of Lessee arising under this lease, from and after the date of such assignment. Upon demand by Lessor, any such assignee shall execute and deliver to Lessor an instrument confirming such assumption.

If Lessee or any assignee or sublessee is not a natural person, the following shall be deemed to be assignments requiring the written consent of Lessor as a condition to continued occupancy of the premises hereunder:

- a. Sale of more than 49% of the shares of a corporate Lessee which are issued and outstanding on the commencement date of this lease;
- b. Issuance by a corporate lessee of additional shares which results in the shares issued and outstanding on the commencement date of this lease being reduced, after the new issue, to less than 51% of the then outstanding and issued shares;

c. Any other action by a corporate lessee, or its shareholders, the result of which is to reduce the percentage of shares owned by those shareholders existing as of the date of this lease to less than 51%;

d. Any change in the partners of a lessee which is a general partnership;

e. Any change in general partners of a limited partnership lessee or any reduction in the percentage of ownership in the partnership by any general partner, or any change in the membership or control of a limited liability company which is a lessee hereunder, or other change in the equity ownership structure of any entity not specifically listed herein, the result of which is the transfer of more than 49% of the equity interest in such entity to persons who were not equity owners in the entity at the time this Lease was executed.

24. MEMORANDUM. Lessor may, at its option, record a memorandum of this lease in the Public Records of Lake County, Florida, so as to alert third parties of the nature and duration of Lessee's interests in the premises.

25. ESTOPPEL CERTIFICATE. At any time, upon request by Lessor, the Lessee agrees to execute a certificate stating:

A. That no default exists at the time on the part of Lessor, or setting forth the nature of the default if one does exist;

B. The term, rent payable, termination date and other material conditions of this lease;

C. That Lessee's interest is inferior and subordinate to the lien of any mortgage now encumbering Lessor's interest in the premises, or hereafter executed by Lessor.

26. RELATIONSHIP OF PARTIES. Nothing in this Lease shall be deemed to create a relationship of partnership, principal and agent, or any other relationship between the parties

other than landlord and tenant. Lessee agrees that it shall not challenge the fee title of Lessor in the premises or claim any interest superior thereto.

27. COSTS AND FEES. In the event it is necessary for Lessor to employ counsel to enforce the obligations of Lessee hereunder, the Lessee shall reimburse Lessor for reasonable attorney's fees so incurred, whether or not suit is filed; and if a legal action is commenced by either party, then at the conclusion of such action the prevailing party shall be entitled to recover its reasonable costs and attorneys fees, in addition to any other relief granted.

28. GOVERNING LAW. This lease shall be applied and construed in accordance with the Laws of Florida. Venue for any action hereunder shall be in Lake County, Florida. The courts of the State of Florida shall have jurisdiction to hear and decide any and all disputes which arise under this lease.

29. NOTICES. Any notice required by this lease shall be in writing and shall be either delivered in person, sent by overnight courier such as United Parcel Service or Federal Express, or mailed by United States Mail, certified with return receipt requested and all postage charges prepaid. Except where receipt is specifically required in this lease, any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed to be effective three days after the date of postmark; notices delivered in person shall be effective upon delivery; and notices sent by overnight courier shall be effective as of the next business day after being placed into the hands of the courier service, properly addressed; and any time period shall begin running as of that date, whether or not the notice is actually received. Notices shall be given in the following manner, or in such other manner as may be directed by either party, in writing, from time to time:

A. To Lessor: at the address given for payment of rent.

B. To Lessee at the premises with a copy to 9023 South U.S. Highway 441, Leesburg, FL 34788.

30. CONSTRUCTION. Any word in this lease shall be read as either singular or plural, and as either masculine, feminine or neuter gender as the context may require. Captions are included for convenience only, and shall not be construed to limit, expand, or otherwise modify the text of this lease in any manner.

31. NATURE OF AGREEMENT. This lease sets forth the entire agreement of the parties; it takes precedence over all prior representations, negotiations and agreements, whether oral or written, which are deemed to have merged into this lease and to have been extinguished to the extent not set forth specifically herein. The execution of this lease has not been induced by either party by any representations, promises or understandings not expressed herein, and there are no collateral agreements, promises or undertakings whatsoever in any way touching on the subject matter of this lease which are not expressly contained herein. This lease may not be amended in any manner whatsoever, other than by written instrument signed by all parties hereto, including Guarantors.

32. BINDING EFFECT. This lease shall be binding on, and inure to the benefit of, not only Lessor and Lessee, but also their respective successors and assigns.

33. CONDEMNATION. If the whole of the leased property, or such portion thereof as will make the leased property unsuitable for the purposes herein leased, is condemned for any public use or purpose by any legally constituted authority, then in either of such events this Lease shall cease from the time when possession is taken by such public authority and rental shall be accounted for between Lessor and Lessee as of the date of the surrender of possession. Such termination shall be without prejudice to the rights of either Lessor or Lessee to recover

compensation from the condemning authority for any loss or damage caused by the condemnation. Neither Lessor nor Lessee shall have any rights in or to any award made to the other by the condemning authority.

34. SEVERABILITY. If any provision hereof is declared invalid or unenforceable, it shall be severed herefrom and the remainder of the lease shall continue in full force as if executed originally without the invalid portion.

35. RULES AND REGULATIONS.

(a) The Lessor has appointed a manager for the Leesburg Municipal Airport, and the Lessor reserves the right for the said manager or his duly authorized agent to enter the premises during business hours for the purpose of performing inspections considered necessary by the manager, and the Lessee shall promptly correct any conditions which are reasonably considered a hazard to life or to protect property. The Lessee agrees not to have explosives, gasoline or other highly flammable materials in, on or about the premises leased; however, excluding fuel and lubricants commonly used in motor vehicles, which shall be used, transported, handled and disposed of in accordance with applicable laws, rules and regulations.

(b) The Lessee covenants and agrees to observe and obey all reasonable and lawful rules and regulations which may, from time to time, during the term hereof, be adopted and promulgated by the Lessor for operations at said airport.

(c) The Lessor reserves unto itself, 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 real property heretofore described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in said airspace for landing on, taking off from or operation on the airport.

(d) The Lessor reserves the right to take whatever action may be necessary or appropriate for the operation, maintenance and improvement of the airport and although consideration shall be made of the interest to the Lessee hereunder, Lessee shall have no vested rights to continued operation of the airport in the manner in which it is now operated, nor to continue to operate without competition.

(e) The Lessee agrees for itself, its successors and assigns, to prevent any use of the heretofore described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

(f) The Lessee agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the heretofore described real property to such a height so as to comply with Federal Aviation Regulations, Part 77 or as amended by F.A.A.

(g) This lease shall be subordinate to the provisions of any existing or future agreement entered into between the City of Leesburg and the United States for the improvement or operation and 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.

(h) This lease and all provisions hereof shall be subject and subordinate to all the terms and conditions of the deed under which the Lessor acquired the property known as Leesburg Municipal Airport from the United States of America, and shall be given only such effect as will not conflict or be inconsistent with such terms and conditions.

36. NON-EXCLUSIVE RIGHT PROVISION. Nothing herein contained shall be construed as granting, or authorizing the granting of, an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

37. NONDISCRIMINATION PROVISIONS.

(a) The Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land 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 is 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 in any aspect of the process of such construction, or the awarding of bids;

(3) That the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

(b) In the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including exercise or expiration of appeal of rights.

(c) Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(d) Noncompliance with provision (c) above shall constitute a material breach thereof and in the event of such noncompliance the Lessor shall have the right to terminate this lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States, either or both said Governments shall have the right to judicially enforce provision (c) above.

(e) Lessee agrees that it shall insert the above provisions in any lease by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

38. ADA COMPLIANCE. If during the term any alterations or improvements to the premises are required in order to comply with the Americans With Disabilities Act, such improvements shall be the responsibility of the Lessee. The Lessee shall observe and comply with all requirements of the ADA in all of its activities at the premises and shall hold the Lessor harmless from any loss or damage (including court or administrative costs and attorney's fees) arising out of any violation of ADA by Lessee in the operation of its business or any failure by Lessee to make any improvements required by the ADA in connection with the use and occupancy of the premises by Lessee.

39. RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in sufficient quantities, may present health risk to persons who are exposed to it over

time. Levels of radon that exceed Federal and State Guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

**IN WITNESS WHEREOF**, the parties have caused their duly authorized officers to execute this Lease on the day and year first above written.

LESSOR: The City of Leesburg, Florida

BY: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Attest: \_\_\_\_\_  
City Clerk

WITNESSES (two required):

\_\_\_\_\_  
(as to all Lessees)

LESSEE:

\_\_\_\_\_  
JOHN S. OSBORNE  
H. ...

\_\_\_\_\_  
(as to all Lessees)

\_\_\_\_\_  
DEREK SCHOENING