

LEASE AGREEMENT

This lease agreement is by and between the County of Cochise, hereinafter referred to as "LESSOR", and Master Aircraft Services, Inc, an Arizona Subchapter S corporation, hereinafter referred to as "LESSEE."

WHEREAS, the Parties hereto are aware of and agree that no current lease exists between LESSOR, and LESSEE.

WHEREAS, LESSEE wishes to lease the Southwest metal WW II hangar on the Bisbee-Douglas International Airport known as HANGAR I, and to have an option on leasing the Northwest hangar in the same group of three hangars, described as Hangar II, and LESSEE wishes to lease said hangar, and provide an option on the second hangar.

ARTICLE I. LEASE

LESSOR hereby grants to LESSEE a lease to provide aircraft painting services to aircraft in a tie-down aircraft hangar, which is located at the Bisbee-Douglas International Airport (hereinafter "Airport") and more specifically identified as follows:

HANGAR I with an option to rent HANGAR II (said option being described in Article XI of this Lease).

A map of HANGAR I AND HANGAR II is attached hereto as Exhibit A.

A. The leased hangar shall be used to provide painting and minor repair services on aircraft by LESSEE. Where required by the Federal Aviation Administration ("FAA"), aircraft shall be registered with that agency.

B. LESSEE may store or use flammable, environmentally harmful or damaging, combustible chemicals or materials at or in the leased hangar area, but only those necessary to provide painting and minor repair services by LESSEE. LESSEE shall not create

a danger, risk, or nuisance or perform any other act or thing which interferes with the quiet enjoyment of the Airport by LESSOR, any other lessee, tenant, or member of the public beyond that which would normally be expected from aircraft painting and minor repair services.

C. Except where modified or amended by terms of this Lease Agreement, provisions of Arizona Revised Statutes, Title 33, Chapter 3, Landlord and Tenant, shall apply. Where terms of this Lease Agreement and the Arizona Revised Statutes conflict, terms of this Lease Agreement shall control, unless expressly prohibited by law.

D. LESSEE is not authorized to use the leased hangars as a residence, nor, for any other purpose other than as specified in paragraph A, above. Use of the premises for any other purpose other than as specified in paragraph A, above, will be considered a breach of the Lease Agreement. However, LESSEE may, at its option, install a modular office building outside the hangars that, from time to time, may be used for overnight use.

E. LESSEE may use the area on Exhibit A that is outside the hangars for parking vehicles.

ARTICLE II. TERM AND IMPROVEMENTS

The term of this Agreement shall be for twenty (20) years, commencing at midnight on August 9, 2019, and ending at midnight on August 9, 2039. At any time after the two-year anniversary of this Agreement, the Lessee may cancel this Agreement upon giving Lessor at least ninety days written notice of its intent to cancel. Lessee acknowledges and agrees that upon termination, whether early pursuant to the preceding provision or upon the conclusion of the full twenty (20) year term, the Lessee will receive no credit for any such improvements, nor will Lessor be under any obligation to reimburse or otherwise compensate Lessee for any such improvements, and all such improvements shall become the property of Lessor.

The properties subject to this LEASE are parcels of real property, both improved and unimproved, owned by LESSOR, and the above described hangar #1, and any adjoining and contiguous land suitable for LESSEE'S use, consistent with existing LESSOR'S rules and regulations, and FEDERAL AVIATION ADMINISTRATION'S current or future imposed rules and regulations. LESSEE agrees that operation will not impede the movement of aircraft or vehicles in the areas adjacent to Hangars I and II.

**ARTICLE III.
LEASE PAYMENTS**

LESSEE shall pay over to LESSOR, fifteen (15) days after the end of each calendar quarter, the amount of: \$4,750.00 USD. LESSOR and LESSEE further agree that the LEASE PAYMENT shall be adjusted annually, based on the COST OF LIVING INDEX PERCENTAGE, as set forth in the COLA at each anniversary date, according to the index for the end of the prior year.

**ARTICLE IV.
STATE OF REPAIRS**

LESSEE shall maintain the real property and improvements thereon in good repair and free of trash, weeds and other miscellaneous items of every kind and nature which are not being utilized in any actual operation on the leased premises. LESSEE shall use their best efforts to assure, at all times, that removed paint and stripper material, including that presently accumulated on the premises, does not exceed a volume in excess to eight (8) fifty-five (55) gallon metal and or plastic drums. If LESSEE violates this provision, it shall be given written notice of same by LESSOR and shall be provided forty-five (45) days to cure. If the hazardous wastes are not brought below the established limit within 45 days, LESSOR, at its option, may remove said wastes and bill LESSEE for any costs incurred for said removal and clean-up.

**ARTICLE V.
INDEMNIFICATION, LIABILITY AND INSURANCE**

To the fullest extent permitted by law, LESSEE (as "Indemnitor") hereby agrees to defend, indemnify, and hold harmless LESSOR, and its departments, agencies, officers, officials, agents, employees and volunteers (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including, but not limited to, court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused as a direct or indirect result of any acts or omissions of LESSEE or any of its owners, officers, directors, agents, employees or subcontractors, regardless of whether or not such Claims are caused in part by a party indemnified hereunder. This indemnity includes, but is not limited to, any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such LESSEE to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is agreed that

LESSEE will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. LESSEE shall not be obligated to defend Indemnitee against any Claims or indemnify Indemnitee resulting solely from the negligence or willful misconduct of Indemnitee and not in any way resulting from any act or omission of LESSEE or anyone directly or indirectly employed by LESSEE or anyone for whose acts LESSEE may be liable. The LESSEE agrees to waive all rights of subrogation against the County, its departments, agencies, officers, officials, agents, employees and volunteers for losses arising from this Lease Agreement. This indemnification shall survive the termination of this Lease Agreement.

Any insurance, its limits, amount and type required herein to be maintained by the LESSEE shall in no way be construed as limiting the scope of this Indemnity.

LESSOR shall not be responsible for, and assumes no liability arising from vandalism, fire, smoke, theft, damage or loss to LESSEE's property, including without limitation, the aircraft or any other items unless such vandalism, fire, smoke, theft, damage or loss is solely the fault of LESSOR. LESSEE hereby releases and discharges LESSOR from all claims, damages, losses, liabilities and demands by LESSEE for loss of or damage to LESSEE's person, employees, property, income or profit.

LESSEE shall procure and maintain during the term(s) of this Lease Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with the terms of this Lease Agreement.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

LESSOR in no way warrants that the minimum limits contained herein are sufficient to protect the LESSOR from liabilities that might arise out of this Lease Agreement or any work performed by any subcontractors or employees per the terms of this Lease Agreement. LESSOR is free to purchase such additional insurance as may be determined necessary.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE - Contractor shall provide coverage with limits of liability not less than those stated below:

1. Commercial General Liability-Aviation – Occurrence Form

Policy shall include bodily injury, property damage, products and completed operations, Hangarkeepers' liability, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Fire Damage	\$100,000
Each Occurrence	\$1,000,000
Hangarkeepers’ Liability-Each Loss Limit	\$4,000,000
Hangarkeepers’ Liability-Each Aircraft Limit	\$2,000,000

- a. The policy shall be endorsed to include the following additional insured language: **"The County of Cochise shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of, the LESSEE"**.
- b. Additional Insured Endorsement shall include Contractor’s ongoing and completed operations.
- c. Policy shall contain a **waiver of subrogation** endorsement, as required by this written contract, in favor of Cochise County, and its departments, agencies, officers, officials, agents, employees and volunteers for losses arising from work performed by or on behalf of the **LESSEE**.
- d. **LESSEE's subcontractors** shall be subject to the same minimum requirements identified above. LESSEE shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectible insurance as evidenced by the certificates of insurance and endorsements for each subcontractor.

2. Property Insurance: LESSEE shall maintain Fire Legal Liability on all real property being leased, including improvements and betterments owned by LESSOR.

Coverage on LESSEE’s Contents	100% Replacement Cost
Coverage on HANGAR(s)	100% Replacement Cost

- a. Property insurance shall be written on Causes of Loss Special Form (formerly “all risk”) replacement cost coverage and shall name the LESSOR

- b. Policy shall be endorsed, as required by this written agreement, to include the LESSOR as a loss payee with respects to losses arising out of the use and/or occupancy of the property subject to this Lease.
- c. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the LESSOR for losses arising from this Lease.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a **waiver of subrogation** endorsement, as required by this written contract, in favor of the County of Cochise, and its departments, agencies, officers, officials, agents, employees and volunteers for losses arising from work performed by or on behalf of the LESSEE.
- b. This requirement shall not apply to each LESSEE or subcontractor that is exempt under A.R.S. § 23-901, and when such LESSEE or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).
- c. **LESSEE's subcontractors** shall be subject to the same minimum requirements identified in this section. LESSEE shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectible insurance as evidenced by the certificates of insurance and endorsements for each subcontractor.

4. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement,(and which does not apply to personal vehicles of employees that are used only to drive to and from work.

Combined Single Limit (CSL) \$1,000,000

- a. Policy shall not contain any restrictions of coverage with regard to operations on or near airport premises.
- b. The policy shall contain, or be endorsed to contain, **The County of Cochise as an additional insured/named insured with respect to liability arising out of the activities performed by, or on behalf of the LESSEE, including automobiles owned, leased, hired or borrowed by the LESSEE.**
- c. **LESSEE's subcontractors** shall be subject to the same minimum requirements identified in this section. LESSEE shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectible insurance as evidenced by the certificates of insurance and endorsements for each subcontractor.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The LESSEE's insurance coverage shall be primary insurance and that any insurance carried by the LESSOR shall be excess and non-contributory with respect to all other available sources.

C. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Agreement, LESSEE shall provide to the LESSOR, within two (2) business days of receipt, a notice if a policy is suspended, voided, canceled, reduced in coverage or endorsed to lower limits. Such notice shall be mailed, e-mailed, hand-delivered or sent by facsimile transmission to Facilities Director, Cochise County, Melody Lane, Building C, Bisbee, AZ 85603.

D. ACCEPTABILITY OF INSURERS Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than A- VIII. The LESSOR in no way warrants that the above-required minimum insurer rating is sufficient to protect the LESSEE from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: LESSEE shall furnish the LESSOR with certificates of insurance (ACORD form or equivalent approved by the LESSOR) as required

by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the LESSOR before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall have '**Cochise County, its departments, agencies, officers, officials, agents, employees and volunteers**' and main County address as '**Certificate Holder**' and be sent directly to (**County Department Representative's Name and Address**). The County project/agreement number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

F. SUBCONTRACTORS: LESSEE's certificate(s) shall include all subcontractors as insureds under its policies or LESSEE shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectible insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The LESSOR reserves the right to require, at any time throughout the life of this contract, proof from the LESSEE that its subcontractors have the required coverage.

G. APPROVAL AND MODIFICATIONS: The parties to this Lease understand and acknowledge that economic conditions, inflation, business expansion can change greatly over the course of the twenty-year term of this Lease and, thus, the appropriate amounts of insurance may likewise change. If a change is appropriate, the parties agree to negotiate changes in amounts in good faith.

ARTICLE VI. OBEDIENCE TO LAWS

LESSEE shall observe and obey all laws, ordinances, rules and regulations promulgated and enforced by LESSOR and by any other proper authority having jurisdiction or control over the conduct or operation or over improvements or structures upon the Bisbee-Douglas International Airport.

Additionally, this LEASE SHALL BE SUBJECT TO ALL Federal laws, rules or regulations governing the use of said airport and shall be subordinate to any conditions imposed by

the Federal government necessary for LESSOR to procure Federal aid in the development of said airport.

**ARTICLE VII.
ASSIGNMENTS**

The Lease is personal to LESSEE and shall not be assigned, sublet or otherwise transferred in whole or in part to any other person or entity without LESSOR's consent, which shall not be unreasonably withheld.

**ARTICLE VIII.
MATERIAL BREACH OR DEFAULT OF LEASE AGREEMENT**

The occurrence of any of the following, which shall include but not be limited to, constitute a material breach or default of this Lease Agreement by LESSEE:

- A. Failure to pay rent under this Lease Agreement when due.
- B. Except as otherwise specifically provided in this Lease Agreement, failure to perform any other provision of this Lease Agreement, if the failure to perform is not cured, at the sole discretion of LESSOR, within ten (10) days after notice of the failure has been given to LESSEE. If the breach or default cannot be reasonably cured within ten (10) days, LESSEE shall not be in breach or default of this Lease Agreement if LESSEE commences to cure the breach or default within the ten (10) day period and diligently and in good faith continues to cure the default.
- C. Performing any work, services, operations or functions not the subject of or intent of this Lease Agreement or within the scope of this Lease Agreement.
- D. Failure to operate, perform work or services or maintain the hanger(s) or hanger area in a safe and environmentally sound manner.

LESSOR, at any time after LESSEE commits a material breach or default of this Lease Agreement, may elect to cure the breach or treat LESSEE as being in default, in either instance at LESSEE's cost. Upon failure of LESSEE to pay rent when due, LESSOR may impose late fees pursuant to the then-current Schedule of Fees, or may immediately or at any time thereafter until all rent and late fees are paid, treat the LESSEE as being in default and terminate the Lease pursuant to provisions of Paragraph 15 and A.R.S. § 33-301, *et seq.* If LESSOR, at any time, by reason of LESSEE's breach or default, pays any sum

or does any act that requires the payment of any sum, the sum paid by LESSOR shall be due immediately from LESSEE to LESSOR at the time the sum is paid, and if paid at a later date shall be subject to late fees and penalty charges as shown in the then-current Schedule of Fees. The sum, together with the late fees or penalty charges, shall be an additional fee owed to the LESSOR pursuant to this Lease Agreement.

ARTICLE IX. RIGHT TO ENTRY

LESSOR reserves the right to enter upon the premises at any reasonable time for the purpose of inspecting the same to determine that LESSEE is complying with all the terms, covenants and conditions contained herein. Prior to inspection, LESSOR shall provide forty-eight (48) hours advance notice to LESSEE.

ARTICLE X. IMPROVEMENTS

LESSOR and LESSEE both desire to improve the HANGAR into a usable rentable facility. Both LESSOR and LESSEE will find mutually agreeable and approved contractors to do improvements (the approval of which contractors and repairs shall not be unreasonably withheld by either party) on the HANGAR to a point where it is usable and safe for use by LESSEE. LESSOR agrees to advance such costs prior to entrance, and to take said costs off of future rent payments, on a dollar-for-dollar basis. LESSOR further agrees to allow additional improvements to be done by LESSEE, as needed, such as insulation, painting, plumbing, etc., including reasonable labor charges, and likewise take said costs off of future rent payments. Before costs will be deducted from rent payments, LESSEE must provide LESSOR with itemized invoices and receipts of any improvements. LESSEE is to be responsible for any specific improvements germane to painting and specifically aircraft painting to be solely borne by LESSEE, with no offsets against future rent, such as overspray fans, water treatment equipment, air compressors, partitions, curtains etc.

LESSEE shall not make or cause to be made any alterations or improvements to the airport area or leased hanger area, including modifications or alterations of the leased hanger area or the hangar's electrical installations or equipment, without ***first*** securing the written consent of LESSOR. LESSOR may impose restrictions upon any proposed alterations or improvements. All such alterations or improvements shall comply with Airport Policy and all applicable building, zoning and fire codes. Upon the termination of this Lease Agreement, the alterations or improvements shall become the property of LESSOR and shall remain on the premises.

**ARTICLE XI.
OPTION AND USE OF HANGAR 2**

LESSEE may or may not need to use HANGAR II. For a period beginning on August 9, 2019, through August 9, 2022, LESSEE shall be allowed to use HANGAR II on a temporary basis, provided such use does not exceed 6 days per month and that proper fire suppression equipment is available any time any aircraft are present. Any days over the permitted 6 days per month, will be payable at a rate of one-ninetieth (1/90th) of the current quarterly rent for HANGAR I, for each day of use over 6 days. LESSEE must advise LESSOR when it uses HANGAR II, by providing a start date and end date by the end of each month in which HANGAR II is used. Payment for the use of HANGAR II shall be paid within 30 days of the start date and payments are due and owing each month that HANGAR II is in use.

In addition, LESSOR hereby offers LESSEE an option to lease HANGAR TWO using exactly the same lease terms as for HANGAR I, as set forth in this Lease, with the period to exercise such option being for a period from the full execution of this Lease by both parties through August 9, 2022. If the Option is not exercised by such date, said Option shall expire, and any use of Hangar II, or any long-term lease, is dependent upon LESSOR and LESSEE arriving at mutually agreeable terms.

**ARTICLE XII.
LEASE RENEWAL**

It is expressly agreed between the Parties that if the lease is renewed, it shall be renewed for one whole and consecutive 10-year period, with fixing of the rent of the renewed Lease according to an amount negotiated by the parties in good faith.

**ARTICLE XIII.
NOTICES**

Any written notice required to be given to LESSOR may be delivered in person or mailed to the director in charge of The Development Services Department-Cochise County, 1415 Melody Lane, Building E; Bisbee, AZ 85603,

and

any such notice required to be given to LESSEE may be delivered in person or mailed to Master Aircraft Services, Inc, One North Air Terminal Drive, Douglas, AZ 85607.

**ARTICLE XIV.
TAXES AND ASSESSMENTS**

LESSEE shall pay any and all taxes or special assessments which may be levied or assessed against (1) the leased premises, and (2) LESSEE's interest in the leased premises.

**ARTICLE XV.
DUPLICATE DOCUMENTS**

This Agreement consists of two (2) duplicate originals and shall become operative upon the affixing of the last signature provided for hereafter, or September 13 , 2019, whichever event first occurs.

**ARTICLE XVI.
ENTIRE AGREEMENT**

This Lease Agreement contains all the representations and the entire understanding and agreement between the parties pertaining to the use of the leased hangar area or any other matters connected therewith. All correspondence, memoranda, or oral or written agreements pertaining to the leased hangar area or the parties hereto, which originated before the date of this Lease Agreement are null, void and no longer in force and with no effect, and are replaced in total with this Lease Agreement unless otherwise expressly stated in this Lease Agreement. This Lease Agreement shall not be altered, amended, or modified except by a writing signed by LESSOR and LESSEE.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be signed by their duly authorized representatives.

LESSEE:

MASTER AIRCRAFT SERVICES, INC.

Alejandro Garcia, President

Date

Jose Garcia, Vice President

Date

Gustav A. Haussler III, Treasurer

Date

APPROVED AS TO FORM:

Mushkatel, Robbins & Becker, PLLC
Counsel to Master Aircraft Services

Date

LESSOR:

Peggy Judd, Chairperson
Cochise County Board of Supervisors

Date

ATTEST:

Arlethe Rios, Clerk of the Board

Date

APPROVED AS TO FORM:

Britt Hanson, Chief Civil Deputy
Cochise County Attorney

Date