

LEASE

THIS LEASE (the "Lease") is made and entered _____, 2016, by and between the _____ (applicant) _____ (hereinafter "_____"), and the **COMMISSIONERS OF ST. MARY'S COUNTY**, a body corporate and politic (hereinafter "County").

1. **LEASED PREMISES.** County hereby leases to the _____ (applicant) a portion of that building known as the Captain Walter Francis Duke Terminal Building (the "**Terminal**"), consisting of approximately 730 square feet, more particularly shown as Rooms _____ and _____ and described at **Exhibit A** attached hereto and incorporated by reference (the "**Leased Premises**"), together with the nonexclusive right to use the "common area" of the Terminal in common with County, other tenants, their invitees, customers and employees as well as ingress and egress to the Leased Premises. _____ (applicant) shall also have the nonexclusive right to use the parking facilities as designated from time to time by the County and curb space outside the Terminal to the extent such facilities are available.
2. **TERM.** The term of this Lease shall be for one (1) year (the "Initial Term") and commence on the 1st day of _____, 2016, (the "Lease Commencement Date"), and terminate at midnight on the last day of _____, 2017 or such earlier date on which this Lease is terminated pursuant to the provisions hereof (the "Lease Termination Date"). _____, no later than 180 days before the expiration of the Initial Term, or any Renewal Term, shall notify the County of its intent to renew this Lease for an additional three (3) year period. The County shall notify _____ (applicant) within 90 days of receipt of such notice whether this Lease shall be renewed. This Lease may be renewed up to two (2) three (3) year periods.
3. **EARLY TERMINATION.** Either party may terminate this Lease upon 120 days prior written notice by either party, sent certified mail, return receipt postage prepaid requested to the other party as indicated in the NOTICES paragraph. The notice period shall commence on the date of the mailing.
4. **RENT, FEES AND PAYMENT.** The parties agree that the rent shall be _____ (\$xxx.xx) Dollars per month for the first year of this Lease. Each and every year thereafter, the rent shall be increased by two and one-half percent (2.5%) annually. _____ (applicant) entitled to lease _____ (#) _____ tie down spaces for _____ (applicant) aircraft on the ramp in front of the Terminal Building. The parties agree that a Tie-Down Lease Agreement shall be completed for each aircraft and shall be subject to a monthly fee as specified in **Exhibit B**.
 - a. All payments shall be collected by and are to be made payable to the Commissioners of St. Mary's County c/o the Fiscal Manager, Department of Public Works and Transportation, P.O. Box 508, California, Maryland 20619. An additional fee for returned checks in the amount of \$25 will be assessed for any payment not honored by the issuing financial institution.

b. Payments not received in full by the tenth (10th) of the month will be subject to a late fee of ten percent (10%) of the unpaid rent. If the Lease Amount is delinquent by thirty (30) days or more, the Lessee will be in default, and this Lease Agreement will automatically terminate. Lessor reserves the right to seek damages for unpaid rent and any necessary repairs to the Leased Premises.

5. USE. The (applicant), will use the space for:

The (applicant) shall not use or suffer or permit to be used the Leased Premises for any other purpose or use in violation of any law or ordinance including but not limited to the Airport Master Plan and Airport Rules and Minimum Standards, as amended from time to time, or any regulation of any governmental authority or in any manner that will constitute any unreasonable annoyance to an occupant of the Terminal or any part thereof, or in any manner that will violate, suspend, void or serve to increase the premium rate or make inoperative any policy or policies of insurance at any time carried on any property, buildings or improvements of the Terminal or any part thereof. As a condition of use, the (applicant) shall provide to the Airport Manager a copy of all valid and current professional licenses, registrations and permits necessary for the permitted use described herein. The (applicant) will update this information as necessary.

6. QUIET ENJOYMENT. The (applicant), upon performing and observing all the covenants and agreements to be performed and observed by it, shall and may peaceably and quietly have and enjoy the Leased Premises during the term of this Lease.

7. INSPECTION. The Lessor may, with prior notice to the Lessee, enter and inspect the Leased Premises for the purpose of ensuring Lessee's compliance with its obligations under this agreement. In the event of an emergency, the Lessor may enter the Leased Premises without prior notice to Lessee.

8. ASSIGNMENT AND SUBLETTING. The (applicant) will not sublet all or any portion of the Leased Premises, nor assign or transfer this right of occupancy, or modify the permitted use, without prior written consent of the County.

9. UTILITY CHARGES. The (applicant) agrees to pay all charges for the hookup (if any) of telephone, cable, and internet during the term of the Lease related to the Leased Premises and all operations therein. The parties further agree that the rent collected pursuant to the RENT paragraph shall include any and all portion of (applicant)'s pro rata share for the usage of janitorial services of common areas, electricity, gas, water, sewer, and trash disposal.

10. ALTERATIONS, MAINTENANCE AND REPAIRS. No structural changes, alterations or additions to the Leased Premises shall be made by the (applicant) without prior written consent of the County, both as to whether the alterations may be made and as to how and when they will be made. All costs associated with said alterations and/or improvements shall be the sole responsibility of the (applicant). Any approved change, alteration or addition shall remain for the benefit of and become property of the County, unless otherwise provided in writing.
11. SURRENDER OF POSSESSION. On the expiration or other termination of this agreement, Lessee's rights to use of the Leased Premises shall cease and Lessee shall vacate the Leased Premises without unreasonable delay. Except as otherwise provided in this agreement, all fixtures, improvements, equipment and other property bought, installed, erected, or placed in the Leased Premises by the Lessee shall remain the property of the Lessee. Lessee shall have the right to remove these fixtures, improvements, equipment and other property prior to the expiration or termination of this agreement. The Lessee shall be responsible for any damage caused by such removal. Title to fixtures, improvements, equipment and other property not removed as of the expiration or termination of this agreement, shall vest in Lessor.
12. DAMAGE OR DESTRUCTION. If any portion of the Leased Premises is damaged or destroyed by fire or other casualty (whether or not insured against), the (applicant) shall give immediate written notice thereof to the County. If such damage or destruction is covered by insurance, the County shall file all necessary proofs of claim and the proceeds of such insurance shall be paid to the County. The County may, in the first instance, elect to repair, restore or reconstruct, at its own expense, the Leased Premises to its condition at the time immediately preceding the casualty and may apply and disburse any insurance proceeds for that purpose. In such event, this Lease shall continue in full force and effect. County shall inform the (applicant) within fifteen (15) days of this intention. If, however, County elects not to repair, restore or reconstruct the Leased Premises, then, in such event, this Lease shall be terminated as of the date notice is sent to the (applicant).
13. AIRPORT RULES AND MINIMUM STANDARDS. The (applicant) hereby represents that it and all personnel occupying these Leased Premises shall, prior to occupancy, review and understand all Airport Rules and Minimum Standards in effect and subsequently in effect as amended from time to time. All of the (applicant)'s activities on the Leased Premises and at the Terminal shall be conducted consistent with all such Rules, Standards, and other protocols in effect from time to time.
14. AIRPORT SECURITY. The (applicant) shall keep records of customer and air traffic its business generates in and out of the airport terminal and property as part of its occupancy and use of the Leased Premises.
15. USE OF PARKING AREAS. All automobile parking areas, driveways, entrances and exits to the Terminal, and other facilities furnished by the County shall at all times be subject to

the exclusive control and management of the County, and the County shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all such facilities and areas. The County shall from time to time designate areas to be used by (applicant) personnel for parking or related activities.

16. WAIVER. Failure of any party to insist upon the strict performance of any of the terms, conditions, and covenants herein shall not be deemed a waiver of any right or remedies that such party may have, nor shall a waiver on one occasion constitute or be construed as a waiver of any subsequent breach or default in the terms, conditions, and covenants herein contained.

17. INDEMNIFICATION.

a. The (applicant) agrees to indemnify, defend and hold the County harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly or indirectly out of the use, maintenance, or repair of the Leased Premises or the (applicant)'s breach of any provision of this Lease, except to the extent attributable to the negligent or intentional act or omission of the County, its employees, agents or independent contractors.

b. The (applicant) assumes all the risk incident to, or in connection with, its operation under this Lease and shall be solely responsible to defend all claims arising from accidents or injuries to persons or property occurring on the site of its operations, and shall indemnify, defend, and save harmless the Lessor, its authorized agents and representatives, from any and all penalties for violation of any law, ordinance, or regulation affecting or having application to its operations, and from any and all claims, suits, losses, or damages for injuries to persons or property, of whatever kind or nature, arising directly or indirectly out of its operations and its use of the Demised Area or resulting from the act or omission of (applicant), its agents, employees, or customers.

c. The County agrees to indemnify, defend and hold the (applicant) harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly out of the negligence of the County or its employees or agents, , except to the extent attributable to the negligent or intentional act or omission of the (applicant), its employees, agents or independent contractors.

d. Notwithstanding anything to the contrary herein, (applicant) and the County each waive any claims that each may have against the other with respect to consequential, incidental or special damages.

e. Each party's obligations under this section are contingent upon: (i) its receiving prompt written notice of any event giving rise to an obligation to indemnifying the other party, and (ii) the party seeking indemnification granting the other party the right to control the defense and settlement of the same.

18. INSURANCE. (applicant), at its own cost and expense, shall take out and carry in effect during the term of this Lease and any renewal thereof policies described below:

a. commercial general liability insurance written on an occurrence basis with respect to the Demised Area and the business operated by (applicant) and any subtenants, concessionaires, or licensees of (applicant) in the Demised Area with minimum combined single limits of One Million Dollars (\$1,000,000) per occurrence and in the aggregate. Such liability insurance shall, in addition, extend through contractual liability insurance, to any liability of (applicant) arising out of the indemnities provided in this Lease. Such liability insurance shall also include broad form endorsement coverage, including personal injury coverage and shall have no deductible amount.

b. workers' compensation or similar insurance for all its employees affording statutory coverage and containing statutory limits.

c. automobile liability insurance with limits no less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate and with no deductible amount.

d. aircraft liability insurance, including temporary substitute aircraft and non-owned aircraft liability, with minimum combined single limits of \$1,000,000 per occurrence and in the aggregate and \$100,000 per passenger per occurrence and with a deductible amount no greater than \$1,000. Coverage shall include bodily injury or death and mental anguish, including passenger injuries and property damage.

Prior to final approval of this Lease Agreement, (applicant) shall provide to the Lessor a copy of (applicant)'s insurance coverage and binder/terms.

19. NOTICES. All notices and other communications to be given hereunder by either party shall be in writing and shall be mailed to the respective party as follows:

If to the (applicant) : insert individual name
insert name of entity
insert street address
_____, MD 2xxxx

If to the County: Commissioners of St. Mary's County

Attn: County Administrator
P.O. Box 653
Leonardtown, MD 20650

and

Director
Department of Public Works and Transportation
44825 St. Andrews Church Road
P. O. Box 508
California, MD 20619

Any notice so sent shall be deemed to have been given or made on the date the same was deposited with the United States Postal Service as Certified Mail, return receipt requested, with postage thereon fully prepaid.

20. DEFAULT AND RIGHT TO CURE.

a. The following will be deemed a default by (applicant) and a breach of this Lease: (i) non-payment of Rent, or the actual cost of utilities or expenses; or (ii) the (applicant)'s failure to perform any other term or condition under this Lease. The (applicant) shall have the right to cure such default within thirty (30) days of the event of default and provided that such efforts are prosecuted to completion with reasonable diligence. If the (applicant) remains in default beyond any applicable cure period, the County will have the right to exercise any and all rights and remedies available to it under law and equity.

b. The County shall be deemed in default and breach of this Lease if it fails to perform any term or condition or breaches any warranty or covenant under this Lease and such default or breach remains uncured thirty (30) days after receipt of written notice from the (applicant) specifying the failure or breach. There will be no default if the County has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of the County. If the County remains in default beyond any applicable cure period, the (applicant) shall have the right to exercise any and all rights and remedies available to it under law and equity.

21. MISCELLANEOUS PROVISIONS.

a. This Lease contains the entire understanding between the parties hereto with respect to the Leased Premises and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between

and among the parties hereto with respect to the property other than as set forth herein. No change or modification of the Lease shall be valid unless the same is in writing and signed by all parties hereto. No purported or alleged waiver of any of the provisions of this Lease shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced.

b. The Lease shall be governed by and construed in accordance with the laws of the State of Maryland without regard to choice of law provisions. Captions herein are for convenience or reference only and in no way define, limit or expand the scope or intent of this Lease. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female, and vice versa. This Lease may be executed in two or more counterparts, all of which together shall constitute but one and the same Lease. In the event that one or more of the provisions hereof shall be held to be illegal, invalid or enforceable, such provisions shall be deemed severable and the remaining provisions hereof shall continue in full force and effect.

c. **SOVEREIGN IMMUNITY.** By entering into this Lease, the County and its “employees,” as defined in the Local Government Tort Claims Act, §§ 5-301 *et seq.* of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability as may be provided for by law. No provision of this Lease modifies or waives any provision of the Local Government Tort Claims Act.

d. **THIRD PARTY BENEFICIARY.** It is specifically agreed between the parties executing this Lease that it is not intended by any of the provisions of this Lease to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein without the written consent of the County, and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof in fulfilling the obligations of the Lease.

e. **NO INDIVIDUAL LIABILITY.** No elected official, appointed official, employee, servant, agent or law enforcement officer shall be held personally liable under this Lease and any extension or renewals thereof, provided they are acting within the course and scope of their employment or governmental duties and responsibilities.

f. The (applicant) understands that all operations, uses and occupancy of the Leased Premises must be in strict compliance with all grant requirements, rules and regulations, and related provisions for airport use and operations without restrictions or limitations. The (applicant) further agrees that, in the event there is a question of interpretation, it will comply with the County’s interpretation of such requirements, rules, laws and regulations, as and when notified by the County of its interpretation, time being of the essence. This provision supersedes any other provision of this Lease which may

be in conflict therewith. Any default by the (applicant) shall permit the County to immediately terminate the Lease as a non-exclusive remedy.

g. All furniture, equipment, and other personal property to be used by the (applicant) shall be provided and maintained by the (applicant) at the (applicant)'s cost. Storage of furniture, equipment or other materials elsewhere at the Terminal or on the Airport shall be solely as permitted by the County from time to time.

h. Basic cleaning of common areas shall be provided by County as determined necessary by County in its sole, absolute and unreviewable discretion. The (applicant) may supplement the County's efforts in this regard.

i. The (applicant) shall have access to the Leased Premises 24 hours a day, 7 days a week. The County, in the event of an exigency and with notice to the (applicant) (reasonable under the circumstances) may define and determine reasonable access to the Leased Premises less than "24/7." Use of spaces within the Terminal, other than the Leased Premises or the Common Area, such as the conference room, shall be coordinated with the County based on availability and standards as specified by the County.

ATTEST:

APPLICANT / ENTITY NAME

By:

Applicant Name, title

WITNESS:

COMMISSIONERS OF ST. MARY'S COUNTY

By:

James R. Guy, President

**APPROVED FOR FORM
AND LEGAL SUFFICIENCY:**

RECOMMENDED BY:

George R. Sparling, County Attorney

George Erichsen, P.E, Airport Manager

SAMPLE

4-6-2016

EXHIBIT A

DESCRIPTION OF THE LEASED PREMISES

SAMPLE

4-6-2016

EXHIBIT B

TIE DOWN LEASE AGREEMENT

SAMPLE

4-6-2016