

LEASE OF REAL ESTATE AT THE AURORA MUNICIPAL AIRPORT

THIS INDENTURE made this _____ day of _____, 2018 between the City of Aurora, an Illinois Municipal Corporation (“Landlord”) and ALB Properties, Inc. (“Tenant”).

WITNESSETH:

1) LEGAL DESCRIPTION OF LEASED PREMISES

The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the following described real estate, being a part of the Aurora Municipal Airport, Sugar Grove Township, Kane County, Illinois; to-wit:

That part of the Aurora Municipal Airport described as follows:

Part of the Southeast Quarter of Section 17, Township 38 North, Range 7 East of the Third Principal Meridian, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southeast Quarter of said Section 17; thence North 00 degrees 33 minutes 19 seconds East along the east line of the West Half of said Southeast Quarter a distance of 146.03 feet; thence North 89 degrees 43 minutes 53 seconds West a distance of 49.00 feet; thence North 00 degrees 16 minutes 07 seconds East a distance of 1000.00 feet to a point being 54.00 feet West of said Half Section line; thence North 89 degrees 43 minutes 53 seconds West a distance of 971.21 feet to the Point of Beginning; thence South 00 degrees 33 minutes 50 seconds West a distance of 181.70 feet; thence North 89 degrees 38 minutes 34 seconds West a distance of 140.52 feet; thence North 00 degrees 02 minutes 35 seconds East a distance of 190.00 feet; thence South 89 degrees 38 minutes 34 seconds East a distance of 142.24 feet; thence South 00 degrees 33 minutes 50 seconds West a distance of 8.30 feet to the Point of Beginning.

All lying in Sugar Grove Township, Kane County, Illinois.

Containing \pm 26,861.72 square feet or \pm 0.617 acres.

2) GROUND RENT

The Tenant will pay to the Landlord annual ground rent for the parcel described in Paragraph 1 of this Agreement in the amount of \$0.41976 per square foot times the square footage (\$11,275.48 per year) of the leased property which ground rent may, at the option of the tenant, be paid annually on the anniversary date of this Lease or in equal monthly installments. Said ground rent shall be due on the first day of the month after occupancy of the building, and each succeeding month hereafter until the termination of this Lease. Said ground rent is computed by multiplying the total square footage of the subject parcel by an

amount of \$0.41976 per square foot and shall be increased annually on the first day of December of each year of the Lease by an amount of 3% over the prior year ground rent.

3) ADDITIONAL RENT

- a. In addition to the ground rent provided in Section 2, the Tenant shall pay to the Landlord, as additional rent for use of the leased premises, an amount equal to 1½ percent (1.5%) of the gross receipts derived by the Tenant from the business conducted on the leased premises during the calendar month next preceding the date said rent is payable. Additional rent shall be paid monthly no later than forty-five (45) days after the end of the month for which it is assessed until the termination of this Lease. Gross income is defined as all cash received arising from the business activities generated on the airport by the Tenant, plus deductions for State and/or Federal excise/sales taxes as evidenced by appropriate paid tax returns and any other allowable deduction(s) as provided for in this Lease. Payment reports must be submitted on a form approved by the City of Aurora.
- b. If, for any reason, the rent as set forth in this Section is not paid when due a carrying charge of two percent (2%) per month or any portion of the month thereof shall be imposed on the amount which remains due and unpaid. In addition, if the Tenant is determined to be delinquent for any two (2) months during a consecutive twelve (12) month period then the Tenant shall be required to post a security bond equivalent to six (6) months of rent based on the amounts as set forth in Paragraphs 2 and 3(a) of this Lease or be in breach of this Lease.

4) LEASE TERM

The term of this lease shall begin on _____, 2018 and shall continue for a period of twenty (20) years expiring on _____, 2038. The Tenant shall have the option to renew this Lease for an additional ten (10) years not to extend beyond _____, 2048; provided, that at the time of such renewal, that any party hereto shall require the renegotiation of the amounts of ground rent and/or additional rent under Paragraphs 2 and 3 hereof. Tenant shall advise the Landlord by the procedure of the "NOTICES" Paragraph of this Agreement no sooner than January 1, 2035 and no later than January 31, 2035 of its intent to exercise the option contained herein.

5) USE OF PREMISES

a. Tenant agrees that the use of the premises shall be limited to the following list of activities according to the most recent Rules and Regulations and Minimum Standards for Commercial Activities at the Aurora Municipal Airport as adopted by the Aurora City Council and amended from time to time:

- 1) The right to operate, store and maintain their own aircraft.
- 2) Rental of hangar and office space to others subject to the aforementioned Rules and Regulations and Minimum Standards for Commercial Activities at the Aurora Municipal Airport as adopted by the Aurora City Council and amended from time to time.

The aforementioned authorized activities shall be limited to the Tenant only. No other business activities shall be authorized to be conducted or performed nor shall Tenant provide any additional service(s), other than those listed herein, from the leased premises without prior written approval from the City of Aurora. Any entity including one affiliated with Tenant corporation, operating from the premises without prior written approval from the City of Aurora shall be deemed to be a violation of this Lease Agreement. Should the Tenant not actively be engaged in any or all of the approved activities set forth in this paragraph for a period of time exceeding three (3) consecutive months, the City reserves the right to rescind said approved activity.

6) NON-DISCRIMINATION

The Tenant for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that:

- a. For all aeronautical leases involving services to the public; each lease must be in conformance with Section 308 of the Federal Aviation Act of 1958, as follows: “It is hereby agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended, and the lessor reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.”
- b. All leases involving services to the public must contain the assurances required by Title VI of the Civil Rights Act of 1964, and by Part 21 of the regulations of the Office of the Secretary of Transportation, as follows: “The lessee for himself, his personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: 1) 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 the use of said facilities; 2) in 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; 3) the lessee shall use the premises in compliance with all the other requirements imposed by 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, as amended.”

- c. All aeronautical leases involving services to the public must contain the provisions of paragraph 4b of the Project Application for Airport Improvements, as follows: “The lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to 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. In the event of breach of any of the above covenants, Tenant shall have thirty (30) days to resolve said breach to the satisfaction of the Landlord. If the parties hereto cannot agree that said breach has been, or can be, resolved then the matter may be resolved through appropriate legal proceedings.

7) USE OF AIRPORT FACILITIES

The Tenant shall have free use of the Aurora Municipal Airport, including, but not by way of limitation, the landing areas, aprons, taxiways and vehicle parking areas. This Lease shall not be construed to convey to the Tenant the exclusive use of any part of the Aurora Municipal Airport except those premises described in Section 1 herein, or to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended. The Landlord reserves the right to lease to any other party any portion of the Aurora Municipal Airport not described in Paragraph 1 herein (and subject to the terms of the Right of First Refusal) other than public facilities, and to grant to others the privilege and right of conducting any one or more activities of an aeronautical nature.

8) CARE OF LEASED PREMISES

- a. Tenant shall keep and maintain the leased premises and all improvements of any kind, which may be erected, installed or made thereon by Tenant in good and substantial repair and condition, including the exterior condition thereof, and shall make all necessary repairs and alterations thereto. Subject to the prior written approval of Landlord approving the right to operate and maintain such facility, the Tenant shall assume all responsibility for the installation and maintenance of any fuel or oil (or any other material deemed hazardous by the Environmental Protection Agency) storage facility on the airport that is for the sole use of the Lessee. Maintenance includes, but is not limited to, any and all environmental clean-ups of the site and/or removal of the facility. Tenant agrees to hold harmless from any responsibility or expense, the Landlord for any maintenance of the facilities. Tenant shall provide proper containers for trash and garbage and shall keep the premises free and clear of rubbish, debris and litter at all times. Tenant shall also maintain all aprons, ramps and taxiways that are constructed by Tenant and are for the exclusive use of Lessee, its sublessees, guests and invitees. Tenant shall keep mowed and in a slightly condition all landscaping and grass areas within the leased premises. Tenant shall be responsible for payment of all electric, telephone, road, water, natural gas and other public utility services used on the premises.
- b. At the termination of this Lease or of any extension or renewal thereof, Tenant shall surrender the leased premises, including all buildings and site improvements constructed or installed by the Tenant, in good condition, reasonable wear and tear and damage by fire, explosion, windstorm or any other casualty excepted. All such buildings and improvements shall become the sole property of the Landlord upon termination of the Lease. Regardless of the time when such termination occurs, or the reason therefore, the Landlord shall have no obligation to account for, or pay the value or cost of, such buildings or improvements to the Tenant or Mortgagee.

9) CARE OF AIRPORT FACILITIES

The Landlord shall maintain in good repair and operating condition all of the facilities and premises of the Aurora Municipal Airport which are not leased to the Tenant and which remain under the authority and control of the Landlord. Said facilities and premises shall include, without limitation, all runways, aprons, taxiways, parking areas, roadways and lighting equipment.

10) INSURANCE

- a. Tenant covenants and agrees to maintain in force and effect at all times during the term of this Lease and any extension thereof public liability insurance in amounts as required by Landlord, but in no event less than \$5,000,000 combined single limit for bodily injuries or property damage or such other amount as may be set forth in the most current Rules and Regulations of the Aurora Municipal Airport and/or the Minimum Standards for Commercial Activities of the Aurora Municipal Airport as adopted by the City of Aurora. Said insurance shall protect Tenant and City of Aurora and its agents or employees from loss on account of each and every claim or demand arising out of alleged wrongful or negligent acts or omissions on the part of Tenant, its agents, servants or employees. Said insurance shall be with a company or companies satisfactory to the City of Aurora, and shall include coverage commonly known as "Airport Liability," "Hangar Keeper's Liability," "Worker's Compensation" and "Product Liability." The City of Aurora shall be named as an additional insured in such insurances and shall be provided with certificates of the insurance evidencing such coverage throughout the life of this Agreement. The Landlord reserves the right to request and receive copies of the Tenant's insurance policies as referenced herein. Said insurance shall be primary coverage and any insurance that the City of Aurora may have shall be considered secondary and non-contributory and all said insurance policies shall contain an endorsement to this effect.
- b. Tenant covenants and agrees to maintain in force and effect at all times during the term of this lease and any extension thereof, policies of fire and extended coverage insurance, insuring the buildings and improvements located on the demised premises to their full replacement value. Said insurance shall be with companies approved by the City of Aurora Risk Manager. The City of Aurora shall be named as an additional insured in such insurances and shall be provided with certificates of the insurance evidencing such coverage throughout the life of this Agreement. The Landlord reserves the right to request and receive copies of the Tenant's insurance policies as referenced herein. Said insurance shall be primary coverage and any insurance that the City of Aurora may have shall be considered secondary and non-contributory and all said insurance policies shall contain an endorsement to this effect.

11) ASSESSMENTS

It is understood and agreed that the Landlord may from time to time assess against the leased premises (to the extent that any such improvements benefit the Tenant's leasehold) a portion of its costs of furnishing, installing, maintaining and renewing various utility services. Such assessment against the leased premises shall be a fraction of the total assessment, the numerator of which is total lease area square feet and the denominator of which is the total square footage of all land designated for leasehold sites (but not less than 500,000 square feet) at the Aurora Municipal Airport. The Tenant shall be responsible for any and all taxes and assessments against the leased premises coming due during the term of this Lease.

12) SUBORDINATION

a. State and Federal Law

This Lease is subject to all applicable State and Federal laws as well as all articles and conditions of grant agreements entered into between the Landlord and the Federal Aviation Administration and the Department of Aeronautics of the State of Illinois and nothing contained herein shall be construed to prevent the Landlord from making such further commitments as it desires to make to the Federal Government or to the State of Illinois so as to qualify for further expenditure of federal and/or state funds at the Aurora Municipal Airport.

b. Local Ordinances

This Lease shall be subject and subordinate to all ordinances of the City of Aurora, the Rules and Regulations of the Aurora Municipal Airport and/or the Minimum Standards for Commercial Activities at the Aurora Municipal Airport, as the same may be in effect and amended from time to time.

13) CONDEMNATION

In accordance with the statutes of the State of Illinois relative to eminent domain, the Landlord shall have the power to condemn this leasehold, or any portion thereof, even though the Landlord is, itself, a party hereto.

14) RIGHT OF ACCESS

The Landlord hereby reserves the right to enter upon the leased premises at reasonable times for the purpose of making inspections to determine if the conditions and requirements of this Lease are being fully complied with. Should any buildings on the leased premises become

deficient in maintenance or in need of repair, Tenant hereby agrees to repair same within thirty (30) days after receipt of notice from Landlord. Failure to comply shall be a breach of this Lease.

15) STORAGE OF DAMAGED AIRCRAFT

No damaged aircraft shall be stored in view of the general public.

16) TENANT'S PERSONNEL

All personnel employed by the Tenant on the leased premises shall be schooled, trained and competent for their assigned duties and shall be of good moral character.

17) EXAMINATION AND AUDITS

At all times during the terms of this Lease, the Tenant and its affiliates shall maintain accurate books, accounts, records and receipts in a manner acceptable to a Certified Public Accountant and as approved by the City of Aurora, showing the true status of all business conducted on the leased premises and preserve same until they have been audited by the City of Aurora's auditor. Such documents shall be made available, at any time, to the City of Aurora for examination and audit. Furthermore, Tenant shall annually present to the Landlord a copy of Tenant's annual fiscal audit report within 120 days of the close of Tenant's fiscal year.

18) DELAYS IN ENFORCEMENT

No delay on the part of any party in enforcing any of the provisions of this Lease shall be construed as a waiver thereof. No waiver on the part of any party of a breach of any of the provisions of this Lease shall be construed as a waiver of any subsequent breach.

19) ASSIGNMENT OF LEASE

This Lease may not be assigned or subleased including any transfer to a parent company or subsidiary company of Tenant or transfer of a controlling interest in Tenant without prior written consent of the Landlord and such consent shall not be unreasonable withheld.

20) NOTICES

All notices required hereunder shall be in writing and shall be deemed to have been delivered if deposited in the United States mail, certified mail, return receipt requested, with postage prepaid and addressed, if to the Landlord at:

City Clerk
City of Aurora
44 East Downer Place
Aurora, IL 60507

With a copy to:

City of Aurora Law Department
44 East Downer Place
Aurora, IL 60507

And if to Tenant at:

ALB Properties, Inc.
1901 Devonshire Ct.
Oswego, IL 60543

21) SUCCESSORS AND ASSIGNS

The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and/or assigns of the parties hereto.

22) INTERPRETATION

a. Severability

It is the intention of the parties hereto that the provisions of this Lease shall be severable with respect to declaration of invalidity of any provision contained herein.

b. Headings

The paragraph headings are for convenience only and do not define, limit or describe the contents of such paragraphs.

c. Governing Law and Venue

The laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease. Venue for any litigation between the parties arising out of this lease shall be in the Circuit Court in the Sixteenth Judicial Circuit, Kane County Illinois.

d. Amendments

No amendments, modifications or supplements to this Lease shall be effective unless in writing and executed and delivered by both parties to this Lease.

23) LEASEHOLD MORTGAGE

At Landlord's discretion the leasehold may be mortgaged and subject to the further conditions as follows:

- a. Any mortgage and/or subordination agreement shall be subject to landlord's review and approval (Landlord reserves the right not to agree to any mortgage or subordination agreement in its sole discretion).
- b. A Memorandum of Lease in recordable form shall be executed and recorded in the Office of the Recorder of Kane County.
- c. Tenant shall have no right to amend, modify, cancel or terminate this Lease without the Mortgagee's prior written consent thereto.
- d. In the event of any default on the part of Tenant hereunder, Landlord shall give Mortgagee written notice thereof, and an opportunity to cure said default for a period of not less than thirty (30) days beyond, or longer than, any period given to Tenant to cure such default.
- e. If the Mortgagee shall take possession of Tenant's leasehold estate, by foreclosure or otherwise, then (i) Mortgagee shall be liable for any previous defaults of Tenant occurring prior to the time Mortgagee takes possession, and (ii) Mortgagee's right to assign or sublet all or any portion of the premises shall be conditioned on the prior consent of Landlord, in Landlord's sole discretion.
- f. Landlord's obligation to agree to a mortgage on the demised premises is subject to mortgagee's obligation to notify Landlord of any breaches by Tenant of the terms of the mortgage and giving Tenant and/or Landlord sixty (60) days to cure said breach(s) and full reinstatement of the mortgage on cure.
- g. Tenant agrees that any uncured breach or the terms of any mortgage on the premises will be a breach of this Lease and entitle Landlord to immediate possession of the demised premises.

IN WITNESS WHEREOF, the Landlord has caused this Lease to be executed by its Mayor and attested by its City Clerk, and its corporate seal affixed hereto, and Tenant has caused this Lease to be executed by its President and attested by its Secretary and its corporate seal affixed hereto, effective the day and year first above written.

LANDLORD: CITY OF AURORA, a Municipal Corporation

BY _____
MAYOR

ATTEST:

CITY CLERK

TENANT:

BY _____

ATTEST:

SECRETARY