

Attachment B – Specialized Aviation Service Organization Operator Agreement

THIS AGREEMENT is entered into as of _____, 20____, by and between the DUPAGE AIRPORT AUTHORITY, an Illinois Special District (“Authority”), and _____, an _____ corporation (“Operator”).

1. Term of Agreement: This Agreement shall be effective as of _____, and shall automatically terminate on _____, unless this Agreement is terminated prior to that time under the provisions of this Agreement.
2. Location of Operations: During the term of this Agreement, the Operator shall maintain office and operations space at _____, or such other locations as determined by the Operator located at the DuPage Airport, DuPage County, Illinois (hereinafter the “Airport”), for the purpose of conducting the operations authorized herein, PROVIDED that during the term of this Agreement the Operator adheres to the Authority’s Minimum Standards, as adopted by the Authority’s Board of Commissioners and as may be amended from time to time (“Minimum Standards”), with regard to the location of its authorized activities.
3. Permitted Activities:
 - (a) While this Agreement is in effect and the Operator is not in default, the Operator shall have permission of the Authority to conduct the following activities: _____.
 - (b) Notwithstanding any other provision of this Agreement, the Operator further understands and agrees that the Operator is not permitted to engage in gasoline, fuel and oil sales.
 - (c) The Operator may conduct its permitted activities through the use of an operating corporation under the following conditions:
 - (i) Operator must identify the operating corporation;
 - (ii) Operator must obtain the written consent of the Authority to use of said operating corporation, which consent shall not be unreasonably withheld;

(iii) The operating corporation must undertake in writing to guarantee performance of all obligations of the Operator under this Agreement; and

(iv) Operator and the operating corporation shall be jointly and severally liable for all obligations of the Operator under this Agreement.

In the event of the use of an operating corporation for the permitted operations under this Agreement, the term "Operator" as used in this agreement shall include such operating corporation for all purposes of this Agreement.

(d) It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical and related services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Authority reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical or related nature.

(e) It is further understood and agreed by the Operator that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft on the airport from performing any service on its own aircraft with its own regular employees (including but not limited to, maintenance and repair) that it may choose to perform, after conforming to all applicable governmental codes and regulations.

4. Services Provided by Authority: The Authority reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the Operator with regard to the public landing areas of the airport and the maintenance thereof.

5. Public Portions of Airport: The Operator shall have use and have access to all public portions of the Airport for taxi, landing and takeoff of aircraft and shall have use of roads and public automobile parking lots in the same manner and to the same extent as any member of the public. The Operator shall not conduct any operations, other than those stated in this Paragraph 5, on public portions of the airport, including but not limited to the service, storage, demonstration, or sale of any product or service on public portions of

the Airport, unless written authorization is granted for such use. The Authority reserves the right to further develop or improve the landing area of the airport as it deems necessary, regardless of the desires or view of the Operator, and without interference or hindrance therefrom. The Authority reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction together with the right to prevent the Operator from erecting or permitting to be erected any building or other structure on or adjacent to the airport which, in the opinion of the Authority, would limit the usefulness of the airport or constitute a hazard to aircraft.

6. Fees: The Operator shall pay to the Authority for the right to conduct all permitted operations per the attached Exhibit A attached hereto and made a part hereof and as may be amended by the Authority from time to time. Individual operator fees are paid as follows:

(a) The annual fee for conducting Aircraft Charter Operations shall be paid in advance and the annual fee per aircraft shall be divided into a monthly fee paid each month in advance. (b) The minimum annual fee for conducting Aircraft Maintenance Operator or Avionics / Instrument Repair Maintenance Operator shall be divided into a monthly fee paid in advance and an additional fee paid within sixty (60) days of each quarter of each calendar year of this Agreement.

(i) Minimum Monthly Base Fee: The minimum monthly base fee shall be a sum equal to one-twelfth (1/12) of the total annual fee.

(ii) Additional Fee: Within sixty (60) days after the end of each quarter of each calendar year of this Agreement, an additional sum shall be paid to the Authority by the Operator which is equal to the reported billable hours for Aircraft Maintenance Operator and Avionics and Instrument Repair Maintenance Operator times the then current fee per hour, minus the minimum monthly base fees actually paid during that quarter.

(c) The annual fee, per instructor, for conducting Flight Training Operations shall be paid in advance.

(d) The annual fee for conducting Aircraft Rental Operations shall be paid on the first day of each month as shown on Exhibit A attached hereto. Said charges shall be paid by the

Operator on the day first written above, and said payment shall represent the charge for the first month of the agreement (the "Initial Payment"). The Authority shall bill Operator, monthly, the same amount as the Initial Payment until such time as Operator communicates to the Authority, in writing, that Operator has realized a change in the aircraft which the charge is being assessed on. During the term of this Agreement, the charge shall be strictly on a month-to-month basis, and at no time shall Operator be reimbursed for a portion of a month due to a change in aircraft. In order for Operator to effectuate a change in the amount of the Initial Payment, Operator must communicate to the Authority, in writing, the change in the aircraft first registered with the Authority. Such written notice must be received by the Authority no later than the first day of any given month during the term of this Agreement, and the invoicing shall be adjusted accordingly on a month-to-month basis.

(e) If this Agreement is for a period in excess of five (5) years, then effective the 5th, 10th and 15th anniversaries of this Agreement, the Authority may change the amount and/or method of computing the fees stated herein; PROVIDED that the Operator shall only be required to pay any such new fees as are required of other SASO operators conducting the same class of permitted activities as the Operator.

It is expressly understood and agreed to by the Operator that the annual fee, or any other fee as provided herein, is not a tax separately payable by any customer of the Operator, and that the Operator is prohibited from designating or itemizing said fees on any invoice or receipt for any customer.

7. Quarterly Report of Billable Hours (if applicable): Within sixty (60) days after the end of each quarter of each calendar year of the term of this Agreement, the Operator shall furnish to the Authority a written statement, which shall state the following information:

(a) Total billable hours of maintenance invoiced by the Operator in connection with operations based at the Airport.

Said statement shall accompany the payment of the Additional Fee as described in Paragraph 6.

8. Records: At all times, the Operator shall keep accurate books, accounts, records and receipts, showing the true status of all business conducted on the premises, and shall preserve the same until ninety (90) days after the end of the term of this Agreement. The Operator shall produce said books and records at the Airport for audit by the Authority within thirty (30) days after written notice by the Authority to produce such records; PROVIDED, however, that the Authority may not request an audit more frequently than once per calendar year. If the audit discloses a difference of more than five percent (5%) between billable hours as reported by the Operator and as disclosed by an audit, the cost of the audit shall be charged to and payable by the Operator, and the Authority shall also have the option of terminating this Agreement, unless the Authority reasonably determines that the audit difference was based upon an inadvertent error made in good faith by the Operator.
9. Delinquent Payments: Any payments required by this Agreement shall be considered delinquent thirty (30) days after the date they are due and payable. A service charge of 1-1/2 % per month from the date due and payable until paid shall be charged the Operator for such delinquencies. Any payments, which are delinquent for more than thirty (30) days, shall constitute a default.
10. Indemnity: Operator shall keep and hold harmless the Authority and its Commissioners, officers, employees, agents and representatives, from and against any and all claims, demands, suits, judgments, costs and expenses asserted or claimed by any person or persons, including employees or agents of the Authority or the Operator, by reason of death or bodily injury to any person or persons, or loss or damage to any property, resulting in whole or in part from the operations of the Operator.

11. Insurance: The Operator shall obtain and maintain continuously in effect at all times during this Agreement, at the Operator's sole expense, insurance issued by an insurance company licensed to do business in the State of Illinois of such a type and in such amounts as provided in the Authority's Minimum Standards for all activities conducted by the Operator per the attached Exhibit B attached hereto and made a part hereof as may be amended in the Minimum Standards from time to time; PROVIDED, however, that notwithstanding anything to the contrary in the Minimum Standards, the Operator shall not be obligated to obtain and maintain such insurance in an amount unreasonably in excess of such amounts at other General Aviation Reliever airports in the State of Illinois. Subject to the immediately preceding sentence, the Authority reserves the right to change the required insurance coverage at any time by letter and the Operator shall comply within thirty (30) days from the date of Notice. Such insurance shall name the Authority and its Commissioners, officers, employees, agents and representatives as co-insureds thereunder. The Operator shall at all times maintain and file in the Authority office copies of such insurance policies or insurance certificates evidencing the existence of the required insurance coverage and evidence of payment of the premium for the current period. Each such policy or certificate shall include a provision requiring written notice to the Authority not less than thirty (30) days prior to amendments or termination of the required coverage. Failure of the Operator to comply with the provisions of this paragraph shall be a default by the Operator and sufficient grounds to terminate this Agreement under subparagraph 23a of this Agreement.
12. Fees, Licenses and Taxes: The Operator shall pay all fees, licenses, or taxes upon personal property used in the operation of its businesses.
13. Service Standards: The Operator agrees:
 - (a) To furnish good, prompt and efficient services adequate to meet all reasonable demands for goods and services of the kinds they render at the Airport;
 - (b) To furnish goods and services on a fair, equal and non-discriminatory basis to all users thereof;
 - (c) To charge fair, reasonable and non-discriminatory charges for all goods and services by the Operator hereunder, provided that the Operator may be allowed to make reasonable and non-discriminatory discount, rebate or similar types of price reductions to volume purchasers;

- (d) That it will not, on the grounds of race, color, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of Transportation and Title VI of the Civil Rights Act of 1964. The Authority reserves the right to take such action as the United States Government may direct to enforce this covenant;
- (e) To the extent that any of its provisions are applicable to Operator or to its operations, it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Operator assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Operator assures that it will require that its covered suborganizations provide assurances to them that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect;
- (f) That it will comply with the Americans with Disabilities Act, to the extent that any provisions of said Act are applicable to Operator or to its operations;
- (g) That the facilities to be provided by Operator for the purpose of providing goods and services at and from the Airport shall remain open for such periods during each day and such days during each week as may be necessary to meet reasonable demands for such goods and services; and
- (h) That personnel performing services and selling services hereunder shall be neat, clean and courteous, and Operator shall not permit its agents, servants or employees so engaged, to conduct business in a loud, noisy, boisterous, offensive or objectionable manner.

14. Non-Exclusive Use: This Agreement shall in no way convey the exclusive use of any part of the Airport except that leased or provided by Operator and shall not be construed as providing any special privilege for any public portion of the Airport. The Authority reserves the right to lease to other parties any other portion of the Airport for any purpose deemed suitable for the Airport by the Authority.

15. Assignment: The Operator is hereby prohibited from assigning any rights provided in this Agreement without the written consent of the Authority, which consent shall not be unreasonably withheld. Any such unauthorized assignment shall be void and shall be cause for immediate termination of this Agreement.
16. Transfer of Stock or Ownership of Operator: During the term of this Agreement, transfer of a controlling ownership interest in the Operator shall not be made without the written consent of the Authority, which consent shall not be unreasonably withheld. Any such unauthorized transfer shall be void and shall be cause for immediate termination of this Agreement. Notwithstanding the prohibitions contained within paragraphs 15 and 16 above, the Operator is not prohibited from entering into a written assignment or transfer agreement with respect to a controlling interest in the Operator, provided the same is made subject to the written consent of the Authority; such consent shall not unreasonably be withheld. Within sixty (60) days subsequent to the Authority's receipt of written notice of the existence of any such proposed assignment or transfer, the Authority shall provide its consent or denial in writing and any denial shall specifically state all reasons for any refusal to consent.
17. Working Capital Requirements: In addition to aircraft, equipment, parts and facilities, the Operator shall maintain adequate working capital as determined by the Authority.
18. Agreements of the Authority with the United States: The terms and conditions hereof shall not be construed to prevent the Authority from making commitments it desires to the United States Government, or to the State of Illinois, to qualify for the expenditure of Federal or State funds upon the Airport. This Agreement shall also be subordinate to the provisions of any existing or future agreement between the Authority, or its predecessors or successors, and the United States or the State of Illinois, relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal or State funds for the development of the airport. This Agreement is subject to all articles and conditions of the War Assets Administration Grant of the facilities of the Authority and the Deed issued under said Grant to the County of DuPage, which said Deed is recorded in the Recorder's Office of DuPage County as document 537769. During the time of war or national emergency, the Authority shall have the right to lease the airport or any part thereof to the United States Government for military or naval use, and if such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to

the Government, shall be suspended and Operator shall not be entitled to any compensation from the Authority whatsoever for such suspension.

19. Rules, Regulations, Standards and Applicable Codes: The Operator agrees to comply with and be subject to each of the following:

- (a) The Airport Rules and Regulations adopted by the Authority which are now in effect and which may be adopted from time to time regarding the management, use and operation of the Airport.
- (b) The Authority's Minimum Standards for land, buildings, facilities, parking, hours of operation, personnel and aircraft ownership and availability which are now in effect and which may be adopted from time to time for the types of operations conducted by the Operator.
- (c) All ordinances, rules, regulations and executive and administrative orders and directives, promulgated by the Authority, or by any authorized Federal, State or local government agency or official which relate to abatement, control or regulation of noise emissions by aircraft using the Airport as such apply to aircraft owned by, operated by, under the control of and/or doing business with the Operator.
- (d) In addition to compliance with all applicable building, zoning and hazard codes, all improvements to be constructed on any leased premises must be approved by the Authority as to architectural suitability and location and height with respect to other airport facilities. No improvement will be permitted that in any way interferes with or derogates airport facilities or operations.
- (e) Facilities for the storage and disposal of toxic materials and contaminants must comply with all applicable governmental rules, regulations, standards and requirements. Operator will obtain all necessary permits for storage and disposal and will provide the Authority with copies of such permits and evidence of compliance with the terms and conditions thereof. Improper storage or disposal of toxic materials or contaminants shall be grounds for termination of this Agreement. Operator shall be responsible for the costs of correcting any contamination or damage to the leased and/or adjacent areas caused by it or its agents improper storage, disposal or use of any such materials, and such responsibility by the Operator shall survive the termination of this Agreement.

20. Notices: Whenever any notice or payment is required by this Agreement to be made, given, or transmitted to the parties hereto, such notice or payment shall be deemed delivered if given in person or by registered or certified mail as follows:

Authority: Executive Director
DuPage Airport Authority
2700 International Drive
Suite 200
West Chicago, Illinois 60185

Operator: _____

21. Waiver of Terms: The waiver by the Authority to the Operator of any breach of terms, covenants or conditions herein contained shall not be deemed waiver of a subsequent breach.

22. Severability and Construction: It is the intention of all parties to this Agreement that the provisions of this Agreement shall be severable in respect to a declaration of invalidity of any provisions hereof. This Agreement shall be construed in accordance with the laws of the State of Illinois. This Agreement constitutes the entire agreement between the parties, and it may not be altered, amended, or modified except by written agreement of all of the parties hereto.

23. Termination:

(a) The Authority may immediately terminate this Agreement by a written notice of termination to the Operator in the following circumstances:

(i) If the Operator assigns or purports to assign any rights granted under this Agreement without first obtaining written consent of the Authority, in violation of paragraph 15 above.

(ii) In a controlling interest in the Operator is transferred without written consent of the Authority, in violation of paragraph 16 above.

- (iii) If the Authority has the option of terminating this Agreement under the provisions of paragraph 8 above.
 - (iv) If the Operator defaults under any lease agreement with the Authority, and the Operator fails to cure such default under any applicable grace or cure period.
 - (v) If the Operator fails to comply with paragraph 11 above.
- (b) The Authority may terminate this Agreement with respect to the Operator if the Operator fails to comply with any of the terms of this Agreement. Except as provided in paragraph 23a above, the Authority shall first notify the Operator in writing of the failure to comply. If the Operator does not correct the failure and fully comply within sixty (60) days after delivery of said notice, the Authority shall provide a second notice to the Operator in writing of the failure to comply. If the Operator does not correct the failure and fully comply within thirty (30) days after delivery of said second notice, the Authority may terminate this Agreement by written notice of termination. Upon delivery of said termination notice, all rights of Operator shall be canceled.
- (c) The Operator may terminate this Agreement by written notice to the Authority no later than thirty (30) days prior to the proposed termination date. In the event of such termination, the Operator shall pay all fees due as of said termination date within thirty (30) days thereafter.

24. Additional Remedies of the Authority: In addition to the provisions of paragraph 23 above, in the event of any failure of the Operator to comply with the terms, conditions and covenants of this Agreement, the Authority may seek further relief and additional remedies, to the fullest extent permitted by law, in any court of competent jurisdiction, including but not limited to monetary damages and injunctive relief. In the event that the court determines that the Operator's failure to comply with the terms, conditions and covenants of this Agreement was unreasonable, the Authority shall also be entitled to recover its attorney's fees and costs.

DUPAGE AIRPORT AUTHORITY

By _____

Executive Director

Attest _____

OPERATOR

By _____

Its _____

Attest _____

EXHIBIT A – FEES

**<< INSERT ATTACHMENT C OF THE DUPAGE AIRPORT AUTHORITY MINIMUM
STANDARDS >>**