



# SANTA ROSA COUNTY BOARD OF COMMISSIONERS

Santa Rosa Administrative Offices  
6495 Caroline Street, Suite M  
Milton, Florida 32570-4592



JAYER WILLIAMSON, District 1  
ROBERT A. "BOB" COLE, District 2  
W. D. "DON" SALTER, District 3  
ROB WILLIAMSON, District 4  
R. LANE LYNCHARD, District 5

TONY GOMILLION, County Administrator  
ROY V. ANDREWS, County Attorney  
JAYNE BELL, OMB Director

## MEMORANDUM

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** ROY V. ANDREWS *RVA*

**DATE:** MARCH 15, 2016

**RE:** AMS v. SANTA ROSA COUNTY  
RENEWAL OF FIXED BASE OPERATOR LEASE AGREEMENT

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Aircraft Management Services (AMS) entered into a lease with Santa Rosa County on March 8, 2001, to provide a full service fixed base operation at Peter Prince Field. The term of the lease was for fifteen (15) years, ending April 1, 2016. The lease provided that AMS would provide fuel services utilizing a fuel farm constructed by Santa Rosa County utilizing FAA grant funds in 1992.

The lease provides that AMS has an option to renew for an additional fifteen (15) years on the same terms and conditions. AMS has timely exercised the option to renew.

AMS in January 2012 filed a complaint with the FAA alleging economic discrimination by Santa Rosa County in favor of Milton Aviation Partners (MAP), which entity has also been granted a Fixed Base Operator lease. On March 27, 2015, The Deputy Director of the FAA issued a Determination in favor of AMS and required a corrective action plan.

Santa Rosa County proposed a Corrective Action Plan, which was accepted by the FAA as set forth in the FAA letter attached, which would require certain changes to both Fixed Base Operator leases.

AMS has now proposed a simpler resolution, which would include dismissal of its complaint with the FAA and not require any changes to the lease by MAP. Essentially, the proposal would reduce the per square foot rental for AMS to that of MAP. A copy of the proposed renewal and addendum is attached.

I recommend the agreement and execution of the renewal lease.

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Attachments

cc: Tony Gomillion, County Administrator



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Office of Airport Compliance  
and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

December 22, 2015

Ms. Lynn Hoshihara  
Nabors, Giblin, and Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308  
Lhoshihara@ngnlaw.com

Dear Ms. Hoshihara:

**Re: Docket No. 16-12-02**

Thank you for your letter of August 28, 2015 and its accompanying documents proposing Santa Rosa County's corrective action plan to address the Order contained in the Director's Determination (DD) Aircraft Management Services, Inc., v. Santa Rosa County, Florida, FAA Docket No. 16-12-02, dated March 27, 2015.

The DD found the County in violation of Grant Assurance 22, *Economic Nondiscrimination* because of the manner in which it handled the fixed base operators (FBO) at the airport. As a result, the County was ordered to submit a corrective action plan outlining the steps it will take to become compliant with its Federal obligations. These proposed actions and the FAA's response to each proposed action are discussed below.

FUEL FLOWAGE FEES

Proposed Action: The County proposes to eliminate fuel flowage fees for both FBOs.

FAA Response: The FAA concurs with this action.

OPERATING HOURS

Proposed Action; The County proposes to equalize the operating hours of both FBOs by increasing MAP's operating hours to that of AMS.

FAA Response: The FAA concurs with this action.

RENTAL RATES

Proposed Action: The County proposes to increase MAP's rental rates to that of AMS.

FAA Response: The FAA concurs with this action.

LEASE TERMS

Proposed Action: The County proposes a 15-year initial term and one 15-year renewal term for both FBOs.

FAA Response: The FAA concurs with this action.

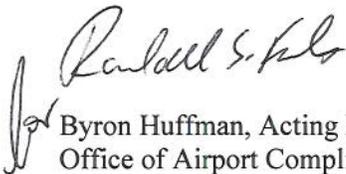
MINIMUM STANDARDS

Proposed Action: The County will adopt revisions to the Minimum Standards as recommended by FAA. Prior to final adoption, the County will seek input from the Orlando ADO.

FAA Response: The FAA concurs with this action.

Based on the above, FAA accepts the County's corrective action plan. If you have any questions or require assistance, please contact Kevin Willis, Manager of the Airport Compliance Division at (202) 267-4187.

Sincerely,



Byron Huffman, Acting Director  
Office of Airport Compliance  
and Management Analysis

cc: Ryan P. Hatler  
Michael J. Schofield  
Clark, Partington, Hart, Larry, Bond & Stackhouse  
125 West Romana Street, Suite 800  
P.O. Box 13010  
Pensacola, FL 32591-3010

Copy to:

FAA Part 16 Airport Proceedings Docket  
FAA Airport Compliance and Management Analysis, ACO-100

**RENEWAL OF FIXED BASED OPERATOR LEASE AGREEMENT  
AND ADDENDUM THERETO**

This Agreement executed this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Santa Rosa County, a political subdivision of the state of the Florida hereinafter called "County," and Aircraft Management Services, Inc., a corporation organized and existing under the laws of the State of Florida (hereinafter "AMS"), and authorized to do business in the state of Florida hereafter called "Lessee" is entered into for the terms as set forth herein:

**WITNESSETH:**

WHEREAS, the County owns and operates an airport known as Peter Prince Field, and

WHEREAS, the County has an existing Lease with AMS, attached hereto as Exhibit A and which terms are incorporated herein, and

WHEREAS, AMS has executed and timely notified the County of its execution of an additional term of 15 years, and

WHEREAS, both parties desire to confirm the extension of the Lease on the original terms, conditions, rights, and responsibilities with the exception of those noted within this Addendum;

THEREFORE, in consideration of mutual covenants and agreements contained herein and contained in the original Lease which is reincorporated herein, the County and the Lessee do hereby undertake, promise, agree, and pledge for themselves, their successors and assigns as follows:

1. All terms and conditions of the Lease executed March 8, 2001 are hereby incorporated herein as the terms and conditions of this renewal.

2. This Agreement shall be for a term of fifteen (15) years beginning April 1, 2016 and ending on April 1, 2031, both dates inclusive, unless sooner terminated pursuant to the provisions and terms of the original Lease.

3. All other articles of the original lease shall remain in full place and effect with the exception of those rental rates contained in Exhibit B for office space and aircraft maintenance/supply spaces. The parties agree to modify the per square foot per year cost as follows:

Area:

Office Space - Dollar per square foot per year \$ .50

Aircraft Maintenance/Supply Spaces - Dollar per square foot per year \$ .25

4. All other terms and conditions including those on Exhibit B to the prior lease are specifically reincorporated herein and continue throughout the effect of this extension.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COUNTY COMMISSIONERS  
Santa Rosa County, Florida

By: \_\_\_\_\_  
Chairman

STATE OF FLORIDA  
COUNTY OF SANTA ROSA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, \_\_\_\_\_, who ( ) is personally known to me, or ( ) produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Print, Type, or Stamp Name of Notary Public]  
State of Florida at Large

Commission Number: \_\_\_\_\_

My Commission Expires

[Notarial Seal]

# **EXHIBIT A**

ORIGINAL

**FIXED BASE OPERATOR LEASE AGREEMENT**

THIS AGREEMENT, executed this 8<sup>th</sup> day of March, 2001, by and between SANTA ROSA COUNTY, a political subdivision of the STATE OF FLORIDA, hereafter called "COUNTY", and Aircraft Management Services, Inc., a corporation organized and existing under the laws of the State of Florida and authorized to do business in the State of Florida, hereafter called "LESSEE", and entered into for the terms as set forth herein:

**WITNESSTH:**

**WHEREAS**, the County owns and operates an airport known as "Peter Prince Field ", located in Santa Rosa County, State of Florida, which airport and any additions or improvements thereto or changes therein the County hereafter makes or authorizes are hereinafter collectively referred to as the "Airport"; and

**WHEREAS**, the County requested proposals from qualified operators to provide a full service fixed base operation, including fuel sales at the airport; and

**WHEREAS**, Lessee is also proposing to provide a quality full service fixed base operation; and

**WHEREAS**, Lessee desires to lease certain property at the airport to construct a new general aviation terminal and upgrade the existing operation; and

**WHEREAS**, the County desires to lease said property to Lessee for construction of the proposed structure and expanded general aviation activities; and

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, the County and the Lessee do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

**ARTICLE 1 - PREMISES**

**A. USE OF AIRPORT.** Lessee shall have the use of the leased premises for the purpose of operating a non-exclusive full service fixed base operation, including the sale of fuel and other services as outlined in Lessee's proposal submitted to County. The authorized operations may include, but not be limited to, the following activities:

1. Fuel & Oil Sales

2. Air Frame & Power Plant Repair

3. Aircraft Rental

4. Flight Training

5. New Aircraft Sales

Including Sale of Parts & Accessories for Aircraft

6. Used Aircraft Sales

Including Sale of Parts & Accessories for Aircraft

7. Avionics & Instrument Repair Services

8. Air Taxi Operation

9. Specialized Operation and Other Aeronautical Functions

10. Landing, taking off, taxiing and towing, parking, loading and unloading, testing and servicing Lessee's and Lessee's customers' aircraft in areas and locations as designated from time to time by Santa Rosa County;

11. Lessee shall provide Pilot instruction and training.

12. Lessee shall provide a rental/training fleet of at least six (6) aircraft.

13. The provision of any other goods or services usually connected with a full service fixed base operation, as approved by Santa Rosa County, which approval shall not be unreasonably withheld.

It is agreed, however, that in the event any other operator applies to County for the privilege of establishing a fixed base operation on the Airport, County shall not permit the same unless the proposed new operation shall offer facilities and services, which in the reasonable opinion of County, are substantially equal to those offered by Operator hereunder, and further provided, that no lease will be made between County and a third party operator which shall contain provisions or terms more favorable to said third party than those offered to Operator. This Agreement shall be interrupted consistent with applicable FAA regulations. To the extent that this agreement conflicts with FAA regulations, said regulations shall prevail.

**B. EXCLUSIVE SPACE.** Lessee shall have for its exclusive use that certain area as shown on Exhibit "A" attached hereto and made a part hereof by reference (hereinafter "exclusive space" or "exclusive area").

**C. JOINT-USE SPACE.** Lessee shall have the right to use, in common, the following areas:

- (1) Space and facilities adjacent to the exclusive space consisting of sufficient ground area to permit the efficient taxiing of Lessee's aircraft and its customers' aircraft subject to the reasonable control of Santa Rosa County;

**D. MAINTENANCE AND REPAIR.** Lessee shall be responsible for all maintenance and repair of any new facilities constructed pursuant to this section. At the termination of this agreement, Lessee shall repair and restore premises to a condition of good repair, reasonable wear and tear accepted. At the end of the initial period and option periods of this agreement, facilities constructed by Lessee pursuant to this section shall become the property of the County.

## ARTICLE 2 - TERM

The term of this agreement shall be fifteen (15) years, beginning April 1, 2001, and ending on April 1, 2016, both dates inclusive, unless sooner terminated as hereafter provided.

Rental charges and other fees provided for in this Agreement shall commence on April 1, 2001, (hereinafter "Commencement date"). In addition, Lessee shall have the right at the end of this term to renew the lease for one additional fifteen (15) year period under the same terms and conditions. Exercise of such additional fifteen (15) year option shall be by certified mail to Santa Rosa County at least six (6) months prior to the expiration of the initial term.

### **ARTICLE 3 - RENTALS AND FEES**

**A. ANNUAL RENTALS.** Lessee, for and in consideration of the privileges granted herein, hereby covenants and agrees to pay County rental as determined by Exhibit B attached hereto.

**B. LEASE SPACE.** Lessee shall pay to the County an initial rate per square foot per year for the hangar facilities and exclusive area leased under Article 1, paragraph B, as set forth in Exhibit "B", attached hereto and made a part hereof by reference. On each third anniversary of the commencement date of this agreement (i.e., October 1, 2003, 2006, 2009 ...etc.), rental rates shall be redetermined based on the change in the Consumer Price Index, all products, as published by the United States Department of Commerce. The index number to be used shall be the latest figure published closest to the anniversary date of each adjustment period. The base index shall be determined on the Commencement date of this agreement; PLUS

**C. FLOWAGE FEES.** Lessee shall pay to the County a flowage fee as shown in Exhibit B attached hereto. For the purposes of this part, fuel or propellants subject to the flowage fee shall be defined as including aviation gasoline, avgas, jet fuel, and any other propellant which is delivered into a supply tank of an aircraft on the Airport for the intended purpose of propelling an aircraft into motion. It is agreed between the parties that major changes which would substantially alter the nature of aviation fuel from those in use at the date of this lease shall entitle County to require the Lessee to reasonably negotiate and adjust the gallonage fee.

**D. PAYMENTS.** Immediately upon sale or dispensing of fuel, propellants or oil upon Lessee's premises, the portion of said monies payable to the County under the terms of this Agreement shall immediately be vested in and become the property of the County and Lessee shall be fully and solely responsible for said monies until same are delivered to the County.

1. Payment for Lease Space, as indicated in paragraph 3.B, shall be made in twelve (12) equal monthly installments due on the first (1st) calendar day of each month.

2. Payment for Flowage Fees, as indicated in Exhibit B, shall be due by the fifteenth (15th) calendar day of the month succeeding the month in which such gallons were sold or otherwise dispensed. Said payment shall be accompanied by a report of fuel or propellants sold or dispensed for the preceding month.

3. At the end of each term (twelve month period) of this agreement, the rental payments received by the County for the preceding twelve (12) months shall be totaled for each category. Lessee shall comply with the reasonable directions of Santa Rosa County with respect to forms and methods of reporting.

**E.** Without waiving any other right or action available to the County in the event of default in payments of amounts due hereunder, if Lessee is delinquent in payment to County for a period of fifteen (15) days or more Lessee shall pay to the County interest thereon at the rate of one and one-half percent (1 ½) per month from the date such payment was due until full payment plus interest is paid.

**F.** In the event that the termination of the terms with respect to any of the particular premises, facilities, rights, licenses, services or privileges as herein provided, falls on any date other than the first day or last day of any calendar month, the applicable rentals, fees and charges for said month shall be paid in on a pro rata basis according to the number of days in said month

during which the particular premises, facilities, rights, licenses, services or privileges were provided.

**G. OTHER RENTALS AND FEES.** If Lessee uses any other premises or services offered by the County at the Airport that are not expressly covered herein, Lessee shall pay any and all rentals and fees charged by the County for such premises or services. Such rentals and fees shall be nondiscriminatory and applicable to all users of such premises or services. Payment of such rentals and fees shall be due within ten (10) days after receipt of bill from the County.

**H. BOOKS AND RECORDS.** Lessee shall maintain full and accurate books of account and records from which gross revenues and fuel sales/prices, as defined herein, and the amount of percentage fees and fuel flow fees owed the County hereunder, can be determined, according to standard and accepted accounting practices. The books of account and records that Lessee must maintain must include, but not be limited to, sales slips, and cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursement journals, general ledgers, bank statements, bank books, bank deposit slips and annual federal income tax returns. In lieu of maintaining the books of account and records required herein, Lessee may maintain computer records instead, provided that the County determines, in its sole discretion, in advance, that said computer records are a reasonably equivalent alternative to the maintenance of books and records otherwise required herein. Lessee shall maintain said books of account and records for a period of thirty six (36) months from the end of each monthly period, or for longer periods of time as the County may request in writing.

The County reserves the right to audit Lessee's books and records of gross receipts, fuel sales and oil sales at any time upon reasonable notice and request to and during Lessee's normal weekday business hours for the purpose of verifying gross receipts, fuel sales and oil sales hereunder. If, as a result of such an audit, it is established that Lessee has understated gross

receipts received from it for all operations from the Leased Premises by one percent (1%) or more (after deductions and exclusions provided for herein), or that the amount of fuel flow fees that should have been collected on behalf of and paid to the County were understated or underpaid, Lessee shall pay the full amount underpaid, plus one and one-half percent (1 ½%) interest per month on said underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. The payment of the underpaid amount, plus interest, shall be made by Lessee within thirty (30) days of notice of any such deficiency. In addition, if the amount of the underpayment is two percent (2%) or more for the annual period involved, Lessee shall, within thirty (30) days notice of the deficiency also reimburse the County for the cost of the audit, up to but not to exceed five hundred dollars (\$500.00). If the audit discloses overpayment of percentage fees, fuel flow fees collected on behalf of the County, or oil sales fees paid to the County, the County shall refund the amount of the overpayment to Lessee within thirty (30) days of said audit.

**I. UNPAID RENT.** Any payments required under this Agreement and which are not received when due shall accrue interest at the rate of one and one-half percent (1 ½%) per month from the due date until receipt of payment.

#### **ARTICLE 4 - CONSTRUCTION AND INSTALLATIONS BY LESSEE**

A. Lessee will construct and provide at its expense, on the land hereby leased, the following improvements: 1) general aviation terminal building (minimum 3,000 sq.f.); Size, location, orientation, and designs shall be subject to the reasonable approval of County before commencement of construction. The building shall at a minimum include pilot lounge, briefing rooms, flight planning area, rest rooms and showers. Plans for said terminal building shall be presented for approval to Santa Rosa County within sixty (60) days of execution of this

Agreement. Construction shall be completed within two hundred and seventy (270) days of approval of plans by Santa Rosa County.

B. Title to said improvements shall vest in the Lessee during the term of this Agreement and to the County at the expiration of this lease.

C. Lessee shall make no structural changes in the leased premises without the prior approval of Santa Rosa County. During the term of this Agreement, Lessee shall have the right to construct, at its own expense, improvements, alterations, or additions to the Leased Premises, or to any improvements presently located thereon in the furtherance of Lessee's authorized use of the Leased Premises, provided that:

(a) The improvements, alterations, and additions are performed by qualified and licensed contractors and subcontractors; and

(b) Prior to the construction of new buildings, major exterior changes to all buildings, and interior improvements, additions, or alterations affecting the structural integrity of buildings owned by the County (but not in the interiors of buildings owned by Lessee upon the Leased Premises at the time of the execution of this Agreement or thereafter constructed by Lessee upon the Leased Premises):

- i. Lessee submits the proposed plans to the County for its review; and
- ii. The County determines in its sole discretion that the proposed improvements, alterations, or additions are consistent with the County's master plan and land use plan, architectural design and quality of construction. This is in no way intended to mean or imply that the County approves such plans, building, structures, fixtures, or the like, for safe design, warranty of purpose or fitness of use. Such approval is for the County's overall planning purposes only.

In reviewing and approving a proposed construction of improvements, alterations and

additions submitted by Lessee to the County, the County's approval shall not be unreasonably withheld nor shall its discretion be unreasonably applied.

Lessee shall construct all improvements and additions to the Leased Premises at its own expense. Although the County has the right to review proposed improvement and alteration plans, and veto the plans if the plans are inconsistent with Airport development plans or construction quality and design control, if the County does not veto said improvement and alteration plans, and Lessee thereafter constructs the improvements or alterations, the improvements or alterations shall be commissioned and constructed at Lessee's sole initiative and behest, and nothing herein shall be construed as an authorization by County to Lessee to construct the improvements and alterations, or as an agreement by County to be responsible for paying for them, and neither the Leased Premises or any improvements or alterations constructed thereon, shall be subjected to a mechanic's lien for any improvements or alterations constructed by Lessee hereunder.

Lessee shall be responsible for assuring that all of the improvements, alterations and additions to the Leased Premises are constructed in accordance with applicable local, state and federal law. Lessee shall reimburse the County for all costs and expenses, including attorney's fees, County incurs (1) as a result of the fact that the construction, improvements, additions, or alterations do not comply with local, state and federal law, (2) in defending against, settling or satisfying any mechanic's lien claims, asserted as a result of unpaid for improvements commissioned by Lessee hereunder.

Lessee agrees that no obstruction to air navigation as such are defined from time to time by application of the criteria of Part 77 of the Federal Aviation Regulations or subsequent and additional regulations of the Federal Aviation Administration will be constructed on the Leased Premises. Lessee agrees not to install any structures, objects, machinery, or equipment that

would interfere with the safe and efficient operation of the Airport, or interfere with the operation of other tenants and users of the Airport

**ARTICLE 5 - CUSTODIAL SERVICES BY LESSEE**

Lessee shall be responsible for providing all janitorial services on the leased premises.

**ARTICLE 6 - DAMAGE OR DESTRUCTION OF PREMISES**

Lessee shall repair or rebuild as soon as practical all damage or destruction by fire, the elements, or any other cause on those facilities provided by Lessee under the terms of this agreement.

**ARTICLE 7 - SERVICES TO BE PROVIDED BY LESSEE**

Lessee shall:

1. Within ninety (90) days of execution of this lease, AMS, Inc., will make available 24 hour self service fuel pumps at Peter Prince Field.
2. Operate and provide efficient ramp service, fueling activities and pilot services from 8:00 a.m. to local dusk seven days per week.
3. Maintain a computer based satellite linked real time weather information system available to all pilots during working hours.
4. Within ninety (90) days of execution of this lease, AMS, Inc., will if FAA permits, establish a computerized testing center for applicants to take their pilot rating written examinations.
5. Maintain the grounds and mow the grass surrounding the existing and proposed FBO building structures, hangar facilities, and aircraft operations areas at Peter Prince Field.
6. Provide a courtesy car for use by visiting pilots.
7. Provide retail pilot supplies, snack and drink machines, and pilot lounge facilities.

8. Provide major and minor airframe and powerplant maintenance with adequately trained and certified personnel able to perform maintenance and repair on a representative group of general aviation aircraft. AMS, Inc., will provide maintenance services to hangar tenants of Peter Prince Airport at a rate discounted ten percent (10%) from the standard shop fee.

9. Engage in the sale of aircraft parts and supplies for the general aviation public. AMS, Inc., will maintain a credit rating that will assure expeditious and prompt shipment and delivery of parts.

10. Respond to Unicom radio calls when practical on a continuing basis during working hours.

11. On a regular basis, inspect all the aircraft operations areas (AOA), including taxiways, ramp areas, and runways for structural integrity, cleanliness, and security.

12. Oversee and inspect the operation of all airport lighting and equipment on daily basis, and make timely reports to the County authorities or contractors concerning any malfunction or other problems.

13. Operate a comprehensive curriculum flight school with ground and flight instruction provided by qualified flight instructors.

14. Provide aircraft rentals to qualified pilots, as well as operate and provide sightseeing pleasure orientation flights to the general public.

15. Provide twenty four (24) hour telephone access for pilot and customer use.

16. Within thirty (30) days of the opening of the new facility building, one of the principals of AMS, Inc., (who is a physician and former United States Naval Flight Surgeon) will seek FAA designation as an Aviation Medical Examiner, and upon obtaining such certification, AMS, Inc., proposes to furnish a physician's office properly equipped for the purpose of providing Class II and III flight physicals for the flying public at a nominal cost.

17. Maintain a used oil collection site for the use of the hangar tenants at Peter Prince Field, and will arrange for proper disposal of the waste oil.

18. Provide any and all on-site managerial duties at Peter Prince Field (as may be required by lease agreement) in order to assure that all operators engage in safe aeronautical practices, or any other functions as may be deemed appropriate by Santa Rosa County, at no cost to the County.

#### **ARTICLE 8 - INDEMNITY AND INSURANCE**

Lessee does hereby covenant and agree to indemnify, save and hold harmless County from any and all fines, suits, claims, demands, actions and/or causes of actions of any kind and nature for personal injury or death or property damage in any way arising out of or resulting from any activity or operation of Lessee on the premises or in connection with its use of the premises; provided, however, that Lessee shall not be liable for any injury, damage or loss occasioned by the negligence or willful misconduct of County, its agents or employees. County shall give to Lessee prompt and timely notice of any claim made or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect Lessee and Lessee shall have the right to compromise and defend the same to the extent of its own interest. Lessee shall maintain in force with a financially responsible insurance company authorized to do business in the State of Florida the following insurance: Commercial General Liability (Bodily Injury and Property Damage) \$2,000,000; Single Limit Hangars Keeper Liability \$1,000,000 per incident; Property Owners/Occupiers Liability US\$ \$1,000,000 any one occurrence; Completed Operations and Products Liability US\$ \$250,000 in respect of Bodily Injury and US\$ \$1,000,000 in respect of property damage; Hangar Keepers Liability US\$ \$100,000 any one aircraft and US\$ \$500,000 any one occurrence.

The liability insurance required hereunder shall include Santa Rosa County, its officers, officials, agents and employees as named additional insureds. Such insurance policies shall include contractual liability coverage for the indemnification obligation contained in this Article, products hazard coverage, broad form property coverage, and adequate fire insurance to replace all structures constructed by Lessee under this Agreement. A certificate or certificates evidencing such insurance coverage shall be filed with the County at least thirty (30) days prior to the commencement date or at such other time as may be required by the County, and said certificate or certificates shall provide that such insurance coverage will not be canceled, reduced or the coverage materially changed without at least thirty (30) days prior written notice to the County. At least thirty (30) days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed or extended shall be filed with the County. If such coverage is canceled, reduced or materially changed, Lessee shall, within fifteen (15) days after receipt of written notice from the County of such cancellation, reduction or adverse material change or coverage, file with the County a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

To keep the buildings, now or hereafter on said land, insured against fire and windstorm and extended coverage in a sum not less than their full insurable value, including a "standard" Lessee clause designating County as an additional insured, as its interest may appear. Lessee shall cause an original or memorandum copy or certificate of such policy or policies to be delivered to the County. If there is an event of default by the Lessee continuing hereunder beyond any applicable grace, cure or notice period, the County is empowered to adjust, compromise, submit to arbitration and appraisal and collect, and apply to the reduction of said indebtedness, and claim for loss arising under any insurance policy covering said premises; and to that end the County is irrevocably appointed the attorney in fact of the Lessee to execute

and deliver such receipts, releases and other writings as shall be requisite to accomplish such adjustments, compromise, arbitration appraisal and collection. Unless County and Lessee otherwise agree in writing, any application of insurance proceeds to principal shall not extend or postpone the due date of the payments referred to or change the amount of such payments.

#### **ARTICLE 9 - QUIET ENJOYMENT AND POSSESSION**

County agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably have and enjoy the leased premises and all the rights and privileges of the leased premises. Consistent with the nature of Lessee's business, Lessee agrees that its occupancy of the premises let hereunder will be lawful and that it will not use or permit the use of the premises in any way that will tend to create a nuisance or tend to disturb other tenants or the general public. Lessee shall be responsible for the activity of its agents and employees with respect to this restriction and further that the officers, agents and employees of Lessee shall not loiter or congregate in the public areas of the Airport that are designed primarily for the use of the traveling public.

#### **ARTICLE 10 - PERFORMANCE GUARANTEE**

Before any revocations or modifications to existing facility and/or construction of new facility(s) of a cost of greater than \$200,000.00, can be commenced by Lessee, a one hundred percent (100%) Performance and Material Bond for Construction must be delivered to the County. Such Performance and Material Bond shall ensure the payment of all subcontractors, laborers, suppliers of equipment or material. Such bond shall be furnished in an acceptable form to the County. All guarantees and bonds prescribed herein shall be furnished in a form acceptable to the County and issued by a surety acceptable to the County.

#### **ARTICLE 11 - RULES AND REGULATIONS**

A. The Lessee shall observe and obey all the laws, ordinances, regulations and rules of the federal, state, and county governments which may be applicable to its operations at the Airport. Lessee further agrees that he will comply with the minimum standards for aeronautical Fixed Base Operators as adopted by County.

B. Santa Rosa County may, from time to time, adopt, amend or revise reasonable rules and regulations for the conduct and operations of the Airport, terminal building, airfield, adjacent buildings, parking areas, and other Airport property, for reasons of safety, health, preservation of the property or for the maintenance of the good and orderly appearance of the Airport, and the property in general. The Lessee, its employees, agents and representatives shall faithfully comply with and observe such rules and regulations of which it receives notice, except as they may conflict with regulations of another appropriate governmental authority or as such rule or regulation would deprive the Lessee of any of the rights hereunder.

#### **ARTICLE 12 - INSPECTION**

Upon reasonable notice and in a manner consistent with operational safety, the Lessee shall allow the County's authorized representative access to the premises leased to the Lessee at all reasonable hours, for the purpose of examining and inspecting said premises, for purposes necessary, incidental to or connected with the performance of its obligations under the Agreement, or in the exercise of its governmental functions.

#### **ARTICLE 13 - ASSIGNMENT AND SUBLETTING**

Except as provided herein, the Lessee shall not sublet, assign or transfer all or any portion of its interest under this Agreement without first obtaining the written consent of Santa Rosa County. Said consent shall be at County's sole discretion. Lessee may assign the lease as security to a lending institution without the consent of Santa Rosa County. The lending institution may foreclose its security in the lease without the consent of Santa Rosa County. In the event the

lending institution takes possession of the leased premises through foreclosure and the County declines to exercise its option to assume the lease, permission will be granted by Santa Rosa County to the lending institution to further assign the lease, whether or not subject to the security interest of the lending institution in the lease. An assignment by a lending institution will be approved if the new tenant agrees to conduct business on the premises which is, in the reasonable judgment of Santa Rosa County, consistent with the business activities allowed by this Agreement.

#### **ARTICLE 14 - NONDISCRIMINATION**

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, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that 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, national origin or sex shall be excluded from participation in, denied benefits of, or be otherwise subjected to discrimination; (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and' as said regulations may be amended.

#### **ARTICLE 15 - ATTORNEY'S FEES**

In the event any action or suit or proceeding is brought by either party to collect the rent due or to become due under this Agreement, or any portion thereof or to take possession of said premises or to enforce compliance with this Agreement or for failure to observe any of the

covenants of this Agreement, the prevailing party agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed in said suit, action or proceeding.

#### **ARTICLE 16 - FEES AND TAXES**

Lessee shall pay the required fees for all permits and licenses necessary for the conduct of its business at the Airport. Lessee shall also pay all taxes and assessments, which during the term of this Agreement may become a lien or which may be levied by the state, County or any other tax levying body, upon any taxable interest acquired by the Lessee in this Agreement, or any taxable possessory right which the Lessee may have in or to the premises or facilities thereby leased, or the improvements thereon, by reason of its occupancy thereof, or otherwise, as well as all taxes on taxable property, real or personal, owned by the Lessee in or about said premises. Upon any termination of tenancy, all taxes then levied or a lien on any of said property, or taxable interest therein, shall be paid in full and without proration by the Lessee, forthwith, or as soon as a statement thereof has been issued by the Tax Collector, if termination occurs during the interval between attachment of the lien and issuance of statement; provided, however, that the Lessee shall not be deemed to be in default under this Agreement for failure to pay taxes pending the outcome of any proceedings instituted to determine the validity or the amount of such taxes.

#### **ARTICLE 17 - DEFAULT AND REMEDIES**

**A. EVENTS OF DEFAULT.** The following shall constitute defaults by Lessee:

(1) Failure to any monies owed hereunder, or under any other agreements between the parties, when such monies are due, and failure to cure said defaults within a period of thirty (30) days following written notice of said defaults;

(2) Any other failure in the performance of any covenant or obligation required herein, or under any other agreement between Lessee and the County, and failure to cure said defaults within a period of thirty (30) days following written notice of said defaults;

(3) The acquisition at Lessee's interest in this Lease Agreement by execution or other process of law when said process of law is not discharged within fifteen (15) days thereafter;

(4) Lessee's general assignment of its rights, title and interest hereunder for the benefit of creditors; or the appointment of a receiver for Lessee's property if the appointment is not vacated within ninety (90) days;

(5) Abandonment of Lessee's operations, which shall be defined as Lessee's failure to conduct regular and continuing operations on the Leased Premises in accordance with the requirements hereof for thirty (30) days.

**B. REMEDIES UPON DEFAULT.** Upon the occurrence of any of the events of default set forth in subparagraph A. above, the County may exercise any one or more of the following remedies. These remedies shall be cumulative and not alternative:

(1) The County may sue for specific performance;

(2) The County may sue for recovery of all damages incurred by the County, including incidental damages, consequential damages, if any, and reasonable attorney's fees;

(3) Upon a material breach of this Lease Agreement, the County may terminate this Lease Agreement. The termination of this agreement, however, shall only be effective upon written notice of same provided by the County to Lessee. In no event shall this Agreement be construed to be terminated unless and until such notice is provided. The termination may be effective immediately upon provision of said notice, or at any other time specified in the notice. If this Agreement is terminated, Lessee shall continue to be liable for: (a) the performance of all terms and conditions and the payment of all monies due hereunder prior to the effective date of said termination; (b) all damages, including attorney's fees and other expenses of collection, incurred as a result of any default; and (c) all conditions, terms and obligations in Article entitled Insurance and Indemnification of this Agreement. For purposes of this subparagraph,

Lessee's failure to timely pay ground rent, fuel flow fees, oil sales fees and percentage fees owed hereunder (subject to Lessee's rights to cure set forth in subparagraphs A(1) and (2) above shall be deemed a material breach of this Lease Agreement.

(5) Without terminating the Agreement by so doing, and without further notice to Lessee, the county may reenter the Leased Premises with ~~or without~~ process of law, repossess the Leased Premises and all fixtures and improvements thereon, and remove Lessee and any, third parties who may be occupying or within the Leased Premises and all of their respective personal property, by using either such reasonable force as may be necessary, summary proceedings, ejectment, or any other means the County, in its sole discretion, deems appropriate without being deemed guilty of trespass, eviction, or forcible entry and detainer by so doing. In such case, the County shall be obligated to attempt, in good faith, to negotiate the reletting of the Leased Premises, and any improvements thereon, or any portion thereof, on behalf of Lessee, for such period of time and upon such terms and conditions as the County deems appropriate. The County shall in no way be obligated under the terms of this subparagraph to relet all or any portion of the Leased premises, or any improvement thereon, to any third party, or upon terms and conditions that are not acceptable to the County, or which the County, in its sole discretion, does not feel to be in the best interests of the Airport; nor shall the County be responsible for any failure of the sublessee or new tenant to pay rent or to perform any other conditions due upon such reletting. Lessee hereby expressly authorizes the County to make any reasonable repairs necessary to relet the Leased Premises, or any improvements thereon, on Lessee's behalf. Assuming the County attempts to relet the Leased Premises in good faith, whether or not the County is able to relet the Leased Premises, Lessee shall remain liable for the performance of all terms and conditions of the Lease Agreement and the payment of all rentals due under the terms of the Lease Agreement for the remainder of the Leasehold term, although Lessee shall receive credit for any rentals paid

or conditions performed as a result of subletting. Lessee shall also be responsible for reimbursing the County for all costs and expenses the County incurs in reletting or attempting to relet the Leased Premises, including commission/broker fees and reasonable repair costs. Finally, if, as a result of such reletting, the County becomes entitled to receive excess rentals or other benefits over and above what the County would have been entitled to receive under this Lease Agreement, the County shall be entitled to retain all such surplus rentals and other benefits, and Lessee shall have no rights or interest therein.

(6) The County may utilize any other remedy provided by law or equity as a result of any events of default.

**C. FORCE MAGIEURE.** Subject to the provisions herein concerning the payment of rentals and other monies by Lessee to the County, and except and otherwise expressly provided herein, neither the County nor Lessee shall be liable for any failure, delay, or interruption in performing its obligations hereunder due to causes or conditions beyond their control; by which is meant acts of God, the elements weather conditions, earthquakes, tire, acts of governmental authority (other than the County or agency thereof), war, shortage of labor or materials, acts of third parties for which neither the County nor Lessee is responsible, injunctions, labor troubles or disputes of every kind (including those affecting the County, Lessee, their contractors, suppliers, or subcontractors), or any other condition or circumstance, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances), which is beyond the control of the County or Lessee or which could not be prevented or remedied by reasonable effort and at reasonable expense.

In the event of breach of any provision of this Agreement by Lessee, the County, in addition to any other right of cancellation herein given by Lessee or any other rights to which County may be entitled by law or otherwise, may cancel this Agreement if after giving Lessee

and its lender (provided County has written notice of a security assignment), thirty (30) days advance written notice of the breach and such breach continues existing or uncured at the end of thirty (30) days following Lessee's receipt of such notice, except where the curing thereof requires continuing action, Lessee shall have failed within the said period to commence such action and be continuing to prosecute the same.

#### **ARTICLE 18 - CANCELLATION BY LESSEE**

Lessee, in addition to any other right of cancellation herein given to Lessee by County or any other rights to which Lessee may be entitled by law or otherwise, may cancel this Agreement in whole or only insofar as it relates to the leased premises and terminate all or any of its obligations hereunder at any time that Lessee is not in default in its payments to County hereunder, by giving County thirty (30) days advance written notice to be served as hereinafter provided, upon or after the happening of anyone of the following events:

A. The failure or refusal of the Federal Aviation Administration or any other governmental agency having jurisdiction at any time during the term of this Agreement or any renewal hereof, to permit Lessee to operate into or from the Airport with any type of aircraft which Lessee may reasonably desire to operate into and from the Airport, including, without limiting the generality of the foregoing, the failure or refusal of the Federal Aviation Administration at any such time to permit Lessee to operate into or from the Airport with any type of aircraft licensed to operate into or from other airports of like size and character.

B. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and the remaining in force of such injunction for a period of at least sixty (60) days, which injunction materially affects Lessee's operations at the Airport;

C. The inability of Lessee to use, for a period in excess of sixty (60) days, the Airport or any of the premises, facilities, rights, licenses, services, or privileges leased to Lessee hereunder because of any law or any order, rule, regulation, or other action or any non-action of the Federal Aviation Administration or any other governmental authority, or because of fire, earthquake, other casualty or acts of God, or the public enemy, which materially affects Lessee's operations at the airport;

D. The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of thirty (30) days after receipt from Lessee of written notice to remedy the same; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if County shall have remedied the default prior to receipt of Lessee's notice of cancellation.

E. The assumption by the United States Government or any authorized agency thereof of the operation, control, or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as substantially to restrict Lessee, for a period of at least ninety (90) days, from operating thereon.

#### **ARTICLE 19 - NON-WAIVER**

A. No waiver of default by the County of any of the terms, covenants, or conditions of this Agreement to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants and conditions to be performed, kept and observed by the Lessee.

The acceptance of rental by the County for any period or periods after a default of any of the terms, covenants and conditions to be performed, kept and observed by the Lessee, shall not be

deemed a waiver of any right on the part of the County to cancel this Agreement for failure by the Lessee to do, perform, keep or observe any of the terms and conditions of this Agreement.

B. The Lessee's performance of all or any part of this Agreement or during any period or periods after a default of any of the terms, covenants, and conditions to be performed, kept and observed by the County, shall not be deemed a waiver of any right on the part of the Lessee to cancel this Agreement for failure by the County to so perform, keep or observe any of the terms, covenants or conditions. No waiver of default by the Lessee of any of the terms, covenants or conditions to be performed, kept and observed by the County shall be construed to be or act as a waiver by the Lessee of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by the County.

#### **ARTICLE 20 - SUSPENSION AND ABATEMENT**

In the event that County's operation of the Airport or the Lessee's operation at the Airport, through no fault of the Lessee, should be restricted substantially by action of the federal government, or any agency thereof, or by action of the State of Florida, or any agency thereof, then either party hereto shall have the right, upon written notice to the other, to a suspension of this Agreement and an abatement of a just proportion of the services and facilities to be afforded hereunder, from the time of such notice until such restriction shall have been remedied and normal operations restored.

#### **ARTICLE 21 - SURRENDER OF POSSESSION**

A. Upon the expiration or sooner termination of this Lease Agreement, for any reason whatsoever, Lessee shall peaceably surrender to the County possession of the Leased Premises, together with any improvements, fixtures, or personal property of the County located thereon, in as good a condition as the Leased Premises and improvements, fixtures and personal property of the County were at the time the Leased Premises were entered upon pursuant to this Agreement,

or when such improvements, fixtures, or personal property are first provided to Lessee by the County in the future, ordinary wear and tear excepted, without any compensation whatsoever, and free and clear of any claims or interests of Lessee or of any mortgages or any other third party whose position was derived from or through Lessee.

B. Upon expiration or sooner termination of the Lease Agreement, Lessee shall have sixty (60) days from such date of expiration or termination to remove from the Leased Premises all personal property, improvements and fixtures belonging to Lessee, including, but not limited to, the hangars, buildings, offices, tee hangars and the fuel farm. Following the exercise of its right to remove any improvement from the Leased Premises, Lessee shall restore the Leased Premises upon which such removed improvements were located to a flat and level condition, and if paved, then repaved to the same depth as those portions of the Leased Premises were initially provided to Lessee by the County. Title to all personal property, fixtures and improvements not removed by Lessee from the Leased Premises within sixty (60) days of the expiration or sooner termination of this Agreement shall be subject to the County taking ownership of such personal property, fixtures, or improvements without payment by the County to Lessee of any compensation whatsoever, and said personal property, fixtures and improvements shall thereafter be owned by the County free and clear of any claim or interest by Lessee or of any mortgagee or any third party whose position was derived from or through Lessee. The County shall notify Lessee of its decision to take ownership or not to take ownership of said improvements, fixtures, or personal property within fifteen (15) days following the running of the sixty (60) days from the expiration or sooner termination of the Lease Agreement and, should the County not take ownership of said improvements, fixtures, or personal property then Lessee shall be responsible for the removal of said improvements, fixtures, or personal property. The County also shall be entitled to a reasonable rental from Lessee for the use of the Leased Premises for Lessee's

personal property, fixtures and improvements until such time as Lessee removes said personal property, fixtures and improvements from the Leased Premises. Furthermore, the County may remove Lessee's fixtures or personal property and place them into storage on Lessee's behalf and at Lessee's cost and expense, until such time as Lessee notifies the County in writing that it does not desire said fixtures and personal property, or upon the running of sixty (60) days from the expiration or sooner termination of the Lease Agreement, whichever event occurs first.

Furthermore, the County may cause to have removed from the Leased Premises any improvements remaining upon the running of the sixty (60) days from the expiration or sooner termination of, the Lease Agreement, whichever occurs first, at Lessee's sole cost and expense. For purposes of this paragraph and the determination of or proration of a reasonable rental from Lessee for the use of the Leased Premises, or any portion thereof, for Lessee's improvements, fixtures and personal property thereon until such time as Lessee removes the same or the County takes ownership of same, the County shall indicate to Lessee the tracts comprising the Leased Premises set forth in Article I above, upon which Lessee's improvements, fixtures and personal property remain. After providing such notice Lessee shall be liable for the adjusted ground rents in effect at that time for those tracts upon which its fixtures and personal property remain until the running of the sixty (60) days expiration or sooner termination of the Lease Agreement, whichever occurs first, or until its improvements (including but not limited to hangars, buildings, offices, tee hangars and fuel farm) have been removed from the Leased Premises.

#### **ARTICLE 22 - HOLDING OVER**

In the event the Lessee shall hold over and remain in possession of the premises after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a tenancy from month to month which may be terminated at any time by the County.

### **ARTICLE 23 - INVALID PROVISIONS**

In the event any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the County or the Lessee in their respective rights and obligations contained in the valid covenants, conditions or provisions in this Agreement.

### **ARTICLE 24 - FEDERAL GOVERNMENT AGREEMENTS**

This agreement shall be subordinate to the provisions of any existing or future Federal rule, regulation, statute or agreement between County and the United States of America relative to the operation and maintenance of the Airport.

### **ARTICLE 25 - FEDERAL GOVERNMENT'S EMERGENCY CLAUSE**

All provisions of this Agreement shall be subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency, and such rights shall supersede any provisions of this Agreement inconsistent with the operations of this Airport by the United States of America.

### **ARTICLE 26 - NOTICE**

All notices, requests, consents, and approvals under this Agreement shall be served or given only by certified or registered mail, except in cases of emergency, in which case they shall be confirmed by certified or registered mail; and, if intended for the County, shall be addressed to Santa Rosa County, 6495 Caroline Street, Milton, Florida 32570, or to such other address as may be designated, by the County by written notice to the Lessee; and, if intended for Lessee shall be addressed to Aircraft Management Services, Inc., 5550 North Airport Road, Milton,

Florida 32583, or to such other address as may be designated by the Lessee by written notice to the County.

**ARTICLE 27 - TITLES**

Paragraph titles are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or extent of any provision of this Agreement. To be executed by their duly authorized representatives effective the day and year first written above.

**BOARD OF COUNTY COMMISSIONERS  
SANTA ROSA COUNTY, FLORIDA**

By: H. Royal Magallon  
Chairman

**ATTEST:**

Jimmy Simmons  
Deputy Clerk

BCC Approved 3/8/2001

**AIRCRAFT MANAGEMENT SERVICES, INC.**

By: Paul H. Glass  
President

**WITNESSES:**

Paul D. [Signature]  
[Signature]

### **LEGAL DESCRIPTION**

Commence at the intersection of the Northerly Right of Way line of the L.& N Railroad (100 foot right of way) and the East right of way line of a State Road running North along the West line of Section 31, Township 2 North, Range 27 West, Santa Rosa County, Florida; thence go Northerly along the Easterly Right of Way line of the State Road a distance of 62,89 feet to the Point of Beginning; thence continue Northerly along said right of way line a distance of 168.69 feet; thence go at an angle to the right of 90 degrees 00 minutes along said Right of Way line, a distance of 17.00 feet; thence go at an angle to the left along said Right of Way line a distance of 1,927.01 feet; thence go at an angle to the right of 90 degrees 00 minutes a distance of 150.00 feet; thence go at an angle to the left of 90 degrees 00 minutes a distance of 50.00 feet; thence go at an angle to the right of 90 degrees 00 minutes a distance of 200.00 feet; thence go at an angle to the right of 90 degrees 00 minutes a distance of 2,030.35 feet; thence go at an angle to the right of 72 degrees 34 minutes a distance of 384.67 feet to the Point of Beginning.

**EXHIBIT A**

<u>Product</u>	<u>Flowage</u> (RETAIL)	<u>Dollars/Gallon</u>
100LL	Up to 20,000 gallons per year	0.01
	Over 20,000 gallons per year	0.06
Jet-A w/add	Up to 5,000 gallons per year	0.01
	Over 5,000 gallons per year	0.04
Auto Fuel (If Available)		0.02
Aircraft Lubricating Oil		0.20

Annual Lease Fee: AMS, Inc., will pay Santa Rosa County the following annual lease fees:

<u>Area</u>	<u>\$ per Square Foot per Year</u>
Office Spaces	1.00
Aircraft Maintenance/Supply Spaces	0.45

Flowage fees and annual lease fees will be reviewed yearly by the County and AMS, Inc., and may be adjusted upward, the increase tied to the consumer price index, cost index, or other cost of living measure. After the first five years of the lease term, the flowage fees will in any event be automatically increased at a minimum of .5% yearly.

**EXHIBIT B**