

Martha's Vineyard Airport Commission

**Disposition of Real Property via Lease
Commercial Property known as:
17 Hangar Road North
West Tisbury, MA 02575**

Request for Proposal – MVA 2021-05

Issued: March 29, 2021

Pre-response meeting: April 14, 2021 - 10 am
Training Room
Martha's Vineyard Airport AARF Building
71 Airport Road
West Tisbury, MA 02575

RFP Due Date: April 30, 2021 – 12 Noon

Key Contact:
Airport Properties Manager
Martha's Vineyard Airport
71 Airport Road
USPS: Vineyard Haven, MA 02568
All other Services: West Tisbury, MA 02575
KBrennan@MVYAirport.com
Phone: 508-693-7022 X 220

The Martha's Vineyard Airport Commission accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document or documents obtained from a source other than the Airport. Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

MARTHA'S VINEYARD AIRPORT COMMISSION

REQUEST FOR PROPOSALS (RFP)

I. Introduction

The Martha's Vineyard Airport Commission (the "Airport") seeks proposals for the lease and renovation of the land and improvement known as Hangar "H" at the Martha's Vineyard Airport in West Tisbury, Massachusetts, as shown on the plan attached hereto as Exhibit A (the "Premises"). The Premises are comprised of approximately **22,420SF** of land and a **8,058+/- SF** hangar.

The purpose of this RFP is to lease the Premises in as-is condition and have the selected proposer make the necessary improvements to the structure or replace the structure with a hangar of equal or greater size.

II. Description of the Premises

The Premises is currently improved with a metal hangar. The successful proposer shall be responsible for obtaining all necessary permits and approvals for redevelopment of the Premises. The prospective proposer may undertake an independent review and analysis concerning physical conditions, environmental conditions, applicable zoning and other legal considerations. The successful proposer shall accept the property on a strictly "as is" basis, with all faults, and without any warranty or obligation whatsoever on the part of the Airport.

Reference is made to the Town of West Tisbury, Massachusetts, Zoning By-Law at: https://www.westtisbury-ma.gov/sites/g/files/vyhlf4036/f/uploads/west_tisbury_zoning_bylaws_as_of_10-20-20.pdf, as the same may be amended. Proposer may seek zoning relief for its project, subject to review and approval by the Airport.

This project will require review of the Martha's Vineyard Commission before any work can proceed. That approval process can be obtained at: <https://www.mvcommission.org/dris>

The proposer must comply with the Federal Aviation Administration ("FAA") and MassDOT Aeronautics height limitations, currently estimated at no higher than 79 feet Above Ground Level ("AGL") and other limitations associated with the physical proximity of the Premises to the Airport; the Proposer must complete airspace analyses required by both the Federal Aviation Administration (FAA) <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> and the Massachusetts Department of Transportation (MassDOT) Aeronautics Division <http://www.massdot.state.ma.us/aeronautics/AirspaceReview.aspx> to determine if proposed structures will be acceptable. For planning purposes, the FAA provides an airspace analysis tool on their website to help developers determine potential height and project impacts to the surrounding airspace. Proposers are encouraged to use the FAA tool: <https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm> to assist in determining potential airspace impacts associated with proposed development plans.

III. Objectives

The Airport's objectives in offering the Premises for lease are to:

- Lease the Premises in as-is condition and have the selected proposer make the necessary improvements to the structure or replace the structure with a hangar of equal or greater size.
- Allow the Airport to be as financially self-sustaining as possible in accordance with the Airport's FAA grant assurances.
- Promote thoughtful and aesthetically pleasing design of improvements (the "Design Objectives").
- Promote the Airport's green energy goals.
- Follow MEPA GHG Policy and Protocols:
<https://www.mass.gov/files/documents/2016/11/rl/mepa-ghf-policy-and-protocol.pdf>

IV. Terms and Conditions

The Airport intends to execute a lease the Premises for aeronautical use for up to a twenty (20) year term with one (1) 20-year renewal option. The total lease term shall not exceed 40 years including the renewal term. The Premises must be used for aviation purposes and in accordance with FAA Policy issued on June 9, 2016 regarding the storage of non-aeronautical items in airport facilities designated for aeronautical use.

The Airport is the awarding authority for the purposes of this RFP. This Request for Proposal is for an aeronautical use and accordingly is not subject to the provisions of Massachusetts General Laws Chapter 30B, Chapter 16.

If it becomes necessary to revise any part of the RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

TITLE VI SOLICITATION NOTICE. The Airport, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

FEDERAL FAIR LABOR STANDARDS ACT: All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers. The Proposer has full responsibility to monitor compliance to the

referenced statute or regulation. The Proposer must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

V. Schedule of Key Dates

The following is an anticipated RFP schedule, which dates the Airport may alter in its discretion to promote the purpose of this RFP:

March 29, 2021	RFP Issued/Available
March 29, 2021	Advertise in the Central Register
April 2, 2021	First Advertisement in Local Newspapers
April 9, 2021	Second Advertisement in Local Newspapers
April 14, 2021	Pre-Proposal Meeting and Site Visit 10 a.m.
April 15, 2021	Deadline for Written Questions due to Airport Properties Manager 1 p.m.
April 19, 2021	Deadline for Airport's Issuance of Responses and Addenda
April 30, 2021	Proposal Filing Deadline 12 Noon
April 30, 2021	Public Opening of Proposals 1 p.m.
May 6, 2021	Evaluation of Proposals by MVAC Land Use Subcommittee
May 6, 2021	Notice of Award Approved and Announced at Airport Meeting 3 p.m.
May 31, 2021	Execute Lease Agreement

VI. Evaluation Criteria

A. Minimum Threshold Criteria

Submissions must meet the following minimum threshold criteria:

1. The proposal must be complete and conform to all submission requirements set forth in this RFP and any addenda to this RFP.
2. The proposal must be submitted before the deadline.
3. The proposer must provide (i) a description of the proposed use of the property, (ii) proposed schedule with critical milestones associated with permitting, design, construction and operation of the Premises, (iii) a conceptual site plan, (iv) estimated project costs, including soft and hard costs, for development of the Premises, (v) evidence of proposer's financial ability to finance the project and fulfil its obligations under the lease, (vi) evidence of compliance with MEPA GHG Policy.
4. A minimum rent of **\$0.62 per square foot**.
5. A non-refundable review fee in the amount of \$300.00.

B. Competitive Evaluation Criteria

Each proposal meeting the minimum threshold criteria will then be judged on the following additional competitive evaluation criteria:

1. Proposal price.
2. Project team.
3. Feasibility of proposed project.
4. Proposed project development schedule.
5. Commitment to the Airport Design Objectives.
6. Commitment to the Airport's green energy goals.

The Airport intends to select the most advantageous proposal from a responsible and responsive proposer, taking into consideration a proposer's ability to satisfy the foregoing evaluation criteria.

VII. Instructions to Proposers

Each proposer shall submit one (1) original paper proposal, and one (1) electronic copy of the proposal on or before the Proposal Filing Deadline referenced in **Section V Schedule of Key Dates** above to:

USPS

Office of the Airport Properties Manager
Martha's Vineyard Airport
71 Airport Road
Vineyard Haven, MA 02568

Direct or via Delivery Service

Office of the Airport Properties Manager
Martha's Vineyard Airport
71 Airport Road
West Tisbury, MA 02575

Proposals must be submitted in writing in a sealed envelope clearly marked "**MVA RFP 2021-05, 17 Hangar Road North**".

The proposals will be opened and recorded at the time noted in Section **V- Schedule of Key Dates**. No proposals submitted after that time will be accepted. Responses to the RFP must include all required documents, completed, and signed per the instructions and attached forms included in this RFP package.

All inquiries should be made in writing no later than April 15, 2021 at 1pm to:

Office of the Airport Properties Manager
Martha's Vineyard Airport
71 Airport Road
Vineyard Haven, MA 02568
KBrennan@MVYAirport.com

If any changes are made to this RFP, an addendum will be issued. Each addendum will be mailed, faxed or emailed to all persons on record as having received the RFP.

VIII. Submittal Requirements

The following documents (fully completed and executed by the proposer, as applicable) must accompany the proposal. Failure to provide any of the required documents may result in the determination that the proposal is non-responsive and may not be further evaluated.

A complete RFP Response must include the following items in the following list, and they should appear in the order given:

1. Proposal Form in the form attached hereto as **Exhibit 1**;
2. Letter of Interest identifying the party submitting the proposal, summarizing the key elements of the proposed plan, and including a signed statement agreeing to all the terms and conditions identified in the RFP or a statement taking exception to certain conditions;
3. Proposal containing a clear and concise narrative describing any proposed project, and how it meets the Airport's stated objectives. Proposals must thoroughly address each of the items identified in **Section VI Evaluation Criteria**;
4. Price Proposal attached hereto as **Exhibit 2**;
5. Certificate of Non-Collusion in the form attached hereto as **Exhibit 3**;
6. Disclosure of Beneficial Interest Form as required by M.G.L. c.7C, §38 in the form attached hereto as **Exhibit 4**;
7. OFAC Certification in the form attached hereto as **Exhibit 5**;
8. Certification as to Payment of Taxes in the form attached hereto as **Exhibit 6**; and
9. Corporate Resolution (if a corporation) in the form attached hereto as **Exhibit 7**.

IX. General Provisions

The following General Provisions govern this RFP:

1. The Airport, at its sole discretion, reserves the right to accept proposals despite minor errors, omissions, or inconsistencies with the submission requirements of this RFP and to cancel this RFP at any time;
2. Pre-award negotiations may be conducted with the selected proposer;
3. The Airport may accept any proposal in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFP on the part of Airport;
4. No contract shall be created merely by the selection of the proposer's proposal; and
5. The selection of the successful proposal shall be made without regard to race, color, sex, age, religious creed, sexual orientation, ancestry, national origin, disability, marital status, genetic information, political affiliation and/or current or former membership in the armed forces.

X. Selection Process

All proposals submitted by the Proposal Filing Deadline will be opened in public and recorded. All information contained in the proposals is public record and subject to disclosure upon request as required by law.

The Airport Land Use Subcommittee will review and evaluate all proposals that have been received by the Airport by the Proposal Filing Deadline. The Airport Land Use Subcommittee will recommend the most advantageous proposal from a responsible and responsive proposer, taking into consideration the **Section VI Evaluation Criteria**. The Martha's Vineyard Airport Commission will make the final decision and will notify all proposers in writing of its decision, including any decision to reject all proposals.

APPENDIX: LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Plan of the Premises
B	Form Lease
1	Proposal Form
2	Price Proposal
3	Certificate of Non-Conclusion
4	Disclosure of Beneficial Interest Form as required by M.G.L. c7C, §38
5	OFAC Certification
6	Certification as to Payment of Taxes
7	Corporate Resolution, if a Corporation
8	Proposal Evaluation Form

EXHIBIT A

Plan of Premises

A certain parcel of land and the improvements thereon, located in West Tisbury, County of Dukes County, Commonwealth of Massachusetts, more commonly known as 17 Hangar Road North, West Tisbury, MA and Hangar 5 on the Jacobs 07/05/2016 Ultimate Airport Layout Plan, Sheet Reference Number: 04.

Relevant Portions of 2016 Jacobs Plan mentioned above

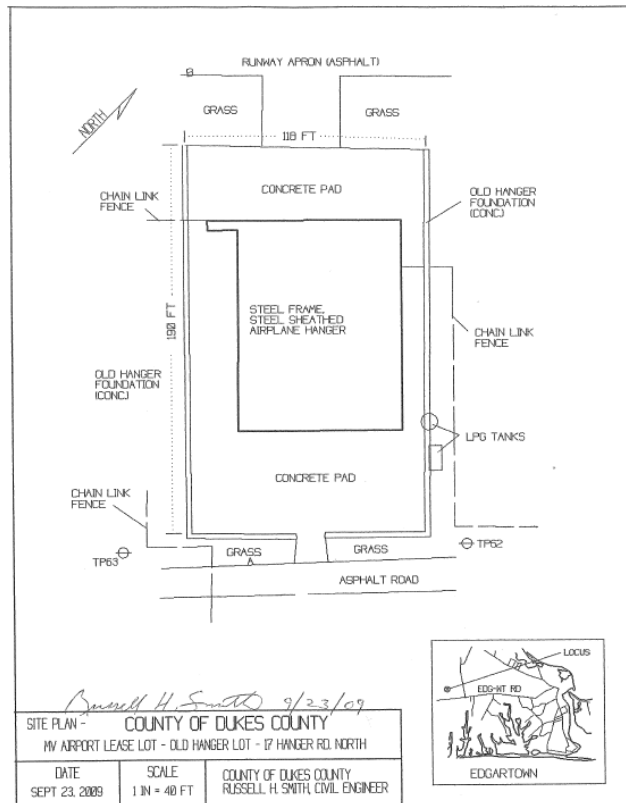
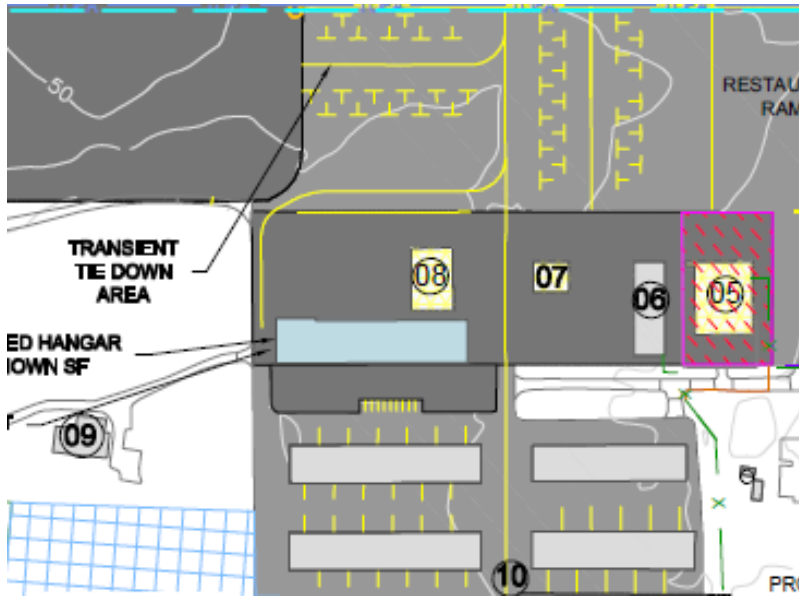


EXHIBIT B
Form Lease

MARTHA’S VINEYARD AIRPORT COMMISSION
SAMPLE HANGAR LEASE

This HANGAR LEASE (“Lease”) made as of this day, _____ of May, 2021, by and between the Martha’s Vineyard Airport Commission (“Commission”), and _____, a _____ [form of entity], with its principal place of business at _____ (“Tenant”).

WITNESSETH:

WHEREAS, Chapter 90, Sections 39G and 51E of the General Laws authorize the Commission to exercise the custody, care and management of the Martha’s Vineyard Airport (“Airport”), in Edgartown and West Tisbury, Massachusetts; and,

WHEREAS, Chapter 90, Sections 39G, 51F and 51H of the General Laws authorize the Commission to enter into leases and to determine the charges or rentals for the use of any properties, facilities, installations, landing fees, concessions, uses and services and to determine the terms and conditions under which contracts may be executed by the Commission on behalf of the County of Dukes County;

WHEREAS, Tenant desires to provide a number of aviation services at the Airport; and

WHEREAS, the Commission desires to lease and Tenant desires to take certain Premises for the conduct of Tenant’s business;

NOW, THEREFORE, in consideration of the above and of the covenants and conditions herein set forth, the Commission and Tenant agree as follows:

ARTICLE 1 - TERM

1.1 Term. The term (“Term”) of this Lease shall commence on May ____, 2021 (“Commencement Date”) and shall expire at midnight on April 30, 2041 (“Expiration Date”), unless extended or earlier terminated as provided herein.

1.2 Option to Renew. Provided that Tenant has at all times faithfully and punctually performed all of the covenants and conditions of this Lease on the part of Tenant to be performed, the Commission grants to Tenant the one-time option to renew this Lease for an additional term of twenty (20) years on the same covenants and conditions contained in this Lease, except as modified by this provision. Tenant shall notify the Commission in writing no later than twelve (12) months prior to termination of the then-current Term that it desires to extend the Term of this Lease. The Rent for the renewal term shall be adjusted to then current fair market rental rate as reasonably determined by the Commission, subject to annual adjustment as provided in Article 3, but in no event shall the Rent be less than the Rent charged during the last year of the initial Term.

ARTICLE 2 - PREMISES

2.1 Grant of Premises. The Commission leases to Tenant and the Tenant hires from the Commission, the premises described in **Exhibit A** attached hereto and incorporated herein by reference (the "Premises") solely for the Permitted Use set forth in Section 4.1.

2.2 Condition of Premises. Notwithstanding anything to the contrary in this Lease, the Premises are hereby leased in an "as is" condition without any representations or warranties whatsoever, express or implied, it also being expressly understood and agreed that the Commission is not obligated to install any new services or facilities in the Premises.

2.3 Grant of Appurtenant Rights. The Commission grants to Tenant and the Tenant takes from the Commission, the following appurtenant rights:

- A. Tenant, its employees, agents, guests, invitees, suppliers and furnishers of service, may use, in common with others, the Airport taxiways and public roadway systems, walkways and sidewalks open to the public, for moving to and from the Premises.
- B. In the exercise of the appurtenant rights set forth above, Tenant, its employees, agents, passengers, invitees, suppliers and furnishers of service shall conform to reasonable conditions imposed from time to time by the Commission to secure public safety and convenience or to assure efficient operation of the Airport, and shall be subject to the requirements imposed by the Commission, including fees, charges and penalties, as the Commission may from time-to-time establish, rules and regulations of the Commission and other governmental entities of proper jurisdiction.
- C. Tenant shall have the right to make use of the taxi lanes and airport-owned apron leading from the Premises to the runways of the Martha's Vineyard Airport. Snow and ice removal on the taxi lane and taxi ways between the premises and the runways will be accomplished by the airport in the normal sequence priority as indicated in the Airport Operations Manual.

2.4 Minimum Standards For Commercial Aeronautical Service Providers – The Tenant is required to abide by The Commissions Minimum Standards (to be provided with the final lease):

2.5 Airport Rules and Regulations – The tenant is required to abide by the Martha's Vineyard Airport Commission's Airport Rules and Regulations (to be provided with the final lease)

2.6 Easements - Tenant shall not grant any easements or rights of way to anyone without the prior written approval of the Commission, which approval may be withheld in its sole discretion.

ARTICLE 3 - RENT

3.1 **Rent.** Tenant shall pay to the Commission, without notice or demand and without deduction or set -off, an amount equal to the total of the Base Rent Rate multiplied by the number of square feet of the Premises (“Rent”). Rent shall be payable in equal monthly installments on the first day of each calendar month during the Term to the Commission at the office of the Commission’s Airport Manager or such other address as specified in writing from time to time by the Commission.

3.2 **Base Rent Rate.** The initial Base Rent Rate for the Premises is as follows:

Aviation Lot #HRN17
22,240 Square feet* @ \$XXX
\$XXXX annually; \$XXXX monthly.

*Square footage of the Premises shall be adjusted pursuant to the survey required under Section 24.25 of this Lease.

3.3 **Additional Rent.** Tenant and all subtenants shall pay to the Commission as Additional Rent on the first day of each calendar month during the Term such rate, fees, commissions and charges as may be adopted by the Airport from time to time. In addition, Tenant shall pay as Additional Rent within (10) days of receipt of an appropriate invoice, for any additional services provided by the Commission at the request of the Tenant or under the terms of this Lease, including but not limited to, charges for maintenance and repairs not included under the Commission’s responsibilities, construction and repair supervision fees, improvements requested by the Tenant and performed by the Commission, additional locks and keys, sewer and water charges, and service charges connected therewith.

3.4 **Rent Rate Adjustment.** The Base Rent Rate set forth in Section 3.2 above is subject to escalation by increase only on each anniversary of the Commencement Date by the change in the Consumer Price Index (CPI). In addition, the Base Rent Rate shall be adjusted (increase only) each fifth year anniversary of the Commencement Date to the fair market rental rate as reasonably determined by the Commission. In the event of an adjustment in the Base Rent Rate, the monthly installment of Rent payable under Section 3.2 hereof, shall be adjusted to reflect such change in the Base Rent Rate, effective retroactively to the anniversary of the Commencement Date upon Tenant’s receipt of notice of such change. In no event shall the Base Rent Rate be adjusted to less than the prior year’s Base Rent Rate.

3.5 Consumer Price Index Adjustment.

- A. As used in this Lease, the term “CPI” shall be the Consumer Price Index for All Urban Consumers (CPI-U), Boston-Cambridge-Newton, MA, all items (1982-84 = 100), as published by the U.S. Department of Labor, Bureau of Labor Statistics (the “Index”).
- B. The index number indicated in the column for the Boston-Cambridge-Newton, MA for the month in which the Commencement Date occurs, or of the next succeeding month if no figure is given for such month, shall be the “Base Index Number”.

- C. The corresponding index number indicated in the column for the Boston-Cambridge-Newton, MA for the month in which the Current Month occurs, or of the next succeeding month if no figure is given for such month, shall be the “Current Index Number”.
- D. The Base Index Number shall be subtracted from the Current Index Number and the resulting number shall be divided by the Base Index Number to obtain the percentage increase (“the CPI Adjustment”).
- E. The CPI Adjustment shall be multiplied by the initial Base Rent Rate in order to calculate the increase which will then be added to the Base Rent Rate in order to determine the new Rent effective for the year in question.
- F. The Commission shall, within a reasonable time after obtaining the appropriate data necessary for computing the increase, give the Tenant notice of any increase. The Commission’s computation shall be conclusive and binding but shall not preclude any adjustment that may be required in the event of an arithmetic error or of a published amendment of the index figure upon which the computation was based.
- G. If at the time required for the adjustment of rentals hereunder the CIP is no longer based upon the 1982-84 =100 average, then the parties hereto shall reasonably agree to the conversion factor, if any, as designated by the Bureau of Labor Statistics. If the CIP is no longer published or issued or if the method of calculating the increase for “all items” is significantly amended to the extent that such index no longer accurately reflects the change in purchasing power of the dollar between the Commencement Date and the date established for any adjustment of rentals, the Commission and Tenant shall then agree upon such other index or statistics on the cost of living for the U.S. City Average as shall be computed or published by an agency of the United States Government or by a reasonable financial periodical of recognized Commission which accurately reflects any change in purchasing power of the dollar between the Commencement Date and date established for adjustment of the Base Rate Rent. This substitute index or statistical source shall then be used by the Commission to compute the increase, if any, in the rentals in a manner consistent with that set forth in Section 3.3. In the event that the parties are unable to agree on a substitute index within thirty (30) days, then the matter shall be submitted to arbitration consistent with the rules of the American Arbitration Association then applicable, with one arbitrator being chosen by the Commission, one by Tenant, and a third by the first two arbitrators. All arbitrators shall be possessed of recognized skill and experience in real estate valuation and related matters. The Commission shall pay the cost of the arbitrator it selects, the Tenant shall share equal the cost of the third arbitrator selected by their respective arbitrators.

3.6 Late Payments. Without prejudice to any other rights and remedies of the Commission as to default by Tenant, interest at the rate of eighteen percent (18 %) per year, (1.5%) per month shall become due from Tenant on any arrearage of more than thirty (30) days in payment for Rent or commissions provided for in this Lease which continue unpaid after the expiration of any grace periods set forth herein. Said interest rate shall be effective as of the date when the Rent was due.

3.7 No Abatement. Tenant, shall pay Base Rent, Additional Rent and all other amounts charged under this Lease without set-off, deduction, demand or abatement, except as otherwise specifically provided herein.

3.8 Security Deposit. On or before the Commencement Date, the Tenant shall pay to the Commission \$_____ [3 months' rent] (the "Security Deposit"), which shall be held by the Commission, without obligation for interest, as security for the performance of the Tenant's covenants and obligations under this Lease. If the Commission draws upon the Security Deposit, the Tenant shall, within fifteen (15) days after receipt of written notice, replenish the amount of the Security Deposit held by the Commission. Within thirty (30) days after the expiration or earlier termination of this Lease, provided that Tenant has vacated the Premises and has paid and performed all of its obligations under this Lease, the Commission shall return the Security Deposit to Tenant.

ARTICLE 4 - USE OF PREMISES

4.1 Permitted Uses. Tenant is authorized to use the Premises solely for the following aeronautical purposes: Parking (temporary), storage, servicing, major repair and maintenance of active aircraft owned or operated by the Tenant. Tenant's use of the Premises is restricted to the specific uses authorized under this Lease; non-aeronautical uses are prohibited. Any use of the Premises shall be in strict compliance with all laws, fire and safety codes, rules, regulations and directives, as they may apply to the Premises, including FAA Policy issued on June 9, 2016 regarding the storage of non-aeronautical items in airport facilities designated for aeronautical use.

4.2 Prohibited Uses. Tenant is prohibited from any use of the Premises not specifically granted herein. Any use of any part of the Premises as a residence, either temporary or permanently, is specifically prohibited.

4.3 Aeronautics Restrictions. Tenant shall comply with all applicable proper governmental authority and agencies in its use of the Premises, and shall be subject to the following restrictions:

(a) The Commission reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the real property as described in this Lease, together with the right to cause in said airspace such sound as may be inherent in the operation of aircraft, now known or hereafter used for the navigation of or flight in said airspace, together with the emission of fumes or particles incidental to aircraft navigation, and for the use of said airspace for the landing on, taking off from or operating on Martha's Vineyard Airport.

(b) The Tenant expressly agrees for itself, its successors and assigns to prevent the use of the Premises for purposes which will create or result in hazards to flight such as, but not limited to, purposes which will (i) produce electrical interference with radio communications, (ii) make it difficult for pilots to distinguish between airport lights and others, (iii) project glare in

the eyes of the pilots, (iv) impair visibility in the vicinity of the airport, or (v) otherwise endanger the landing, take-off or maneuvering of aircraft.

(c) The Commission retains the continuing right in the Premises to prevent the erection or growth of any building, structure, tree, or other objects extending in to the airspace (above 45 feet Mean Ground Level) and, at the Tenant's expense, to remove from said airspace or, as an alternative and at the sole option of the Commission, to mark and light as obstructions to air navigation, any such building, structure, tree, or other object now upon, or which in the future may be upon the property together with the right of ingress to, passage over, and egress from Tenant's property for the above purposes.

(d) The Tenant expressly agrees for itself, its successors and assigns, that the reservations and restrictions set forth in this instrument shall run with the land which shall be the servient tenement, it being intended that the lands now and hereafter comprising the Airport shall be the dominant tenement; excepting, however, that such reservations and restrictions shall become void and of no force and effect on such date as the lands comprised in the aforesaid Airport shall cease to be used for Airport purposes.

4.4 Conduct of Services. Tenant shall observe, obey and require all of its officers, employees, agents, suppliers and invitees to obey and observe the rules, regulations and directives of the Commission and the laws, rules and regulations of other local, state or federal entities of competent jurisdiction that may apply to its operations or permitted uses. Tenant agrees to indemnify and hold the Commission harmless for any loss, claim or suit against the Commission from Tenant's failure of compliance.

4.5 Required Certificates. Tenant warrants that it holds all certificates, permits, licenses or other entitlements required by federal, state or local laws, rules, or regulations in order to enable Tenant to conduct its operations and to engage in its permitted uses and that said certificates, permits, licenses or other entitlements are and will be kept current, valid and complete. Tenant shall provide the Commission with a copy of each such certificate, permit, license or entitlement. Tenant warrants that, at all times, it shall abide by and conform with all the terms of said laws, rules and regulations and certificates, permits, licenses and other entitlements and that it shall give immediate notice to the Commission of any additional, renewals, amendments, renovations or suspensions.

4.6 Laws, Rules and Regulations. Tenant covenants and agrees to cause its employees, agents, guests, licensees, subcontractors to observe and obey all applicable laws, rules, regulations, requirements, orders and directives now in existence or hereafter promulgated by the Commission or any local, state or federal agency of competent jurisdiction which may pertain or apply to the operations of Tenant, its employees, agents, guests, licensees, subcontractors at the Premises. In addition, Tenant, its employees, agents, guests, licensees, subcontractors shall submit to the enforcement of the Commission's rules and regulations by administrative procedures conducted by the Commission's management to the extent that the same are in customary usage at the Airport, or by enforcement on complaint of the Commission or appropriate prosecuting officers in the courts of the Commonwealth of Massachusetts. The Commission shall enforce its rules, regulations, requirements in a non-discriminatory manner.

4.7 Vendors, Suppliers and Contractors. Tenant shall have the right to obtain supplies or services from suppliers, vendors or contractors of its own choice at the Premises, provided that the Commission reserves the right to prohibit persons from engaging in aeronautical activities or any other activities at the Airport except in accordance with concession contracts, permits or operating agreements, if any, entered into between the Commission and said persons.

4.8 Aircraft Noise Mitigation. It shall be a condition of this Lease and all subordinate agreements that in an effort to reduce noise from aircraft that:

- A. No aircraft perform preflight “run-ups” in the hangar area and that all aircraft use the appropriate “run-up” areas at the runway ends.
- B. Engine warm-up and cool down shall not be performed in the hangar area.

4.9 Covenant Against Waste and Nuisance. Tenant shall not use the Premises in any manner that will constitute waste, and Tenant it shall not cause or permit any unlawful conduct, unreasonable annoyance or nuisance to exist or arise in the course of or as a result of its use of the Premises, nor permit any activity or omission which constitutes or results in unlawful conduct, unreasonable annoyance or nuisance. Tenant, its employees, guests, invitees, licensees, suppliers and furnishers of service shall conduct themselves in an orderly and proper manner so as not to unreasonably disturb other’s use of the Airport.

ARTICLE 5 - IMPROVEMENTS, ALTERATIONS AND MODIFICATIONS

5.1 Improvements.

- A. Tenant shall not place or construct any improvements, structures, alterations, modifications, signs or additions (“Improvements”) in, to, or upon the Premises without the prior written approval of the Commission.
- B. Tenant shall obtain the Commission’s prior written approval of Improvements in accordance with the Property Improvement Process as it may be amended by the Commission from time to time. Tenant shall accompany any request for the Commission’s Property Improvement approval by preliminary engineering, architectural plans or other information in accordance with the Commission’s Property Improvement Process requirements, which may be amended from time to time. Tenant shall furnish copies of all such engineering, architectural plans or other applicable information to the Massachusetts Aeronautics Commission (“MAC”) and, if so directed by the Commission, to the Federal Aviation Administration (“FAA”). The Commission’s approvals for the Improvement, as required above, may be withheld, granted or conditioned upon factors which the Commission determines has or may have an impact upon the Commission, the Airport, its procedure or efficient operation. The Commission shall not consent to any improvements, alterations, additions, remodeling, rebuilding, relocation or demolition that would result in the Commission or the Tenant violating any of their respective obligations to the FAA or the MAC or that would be incompatible with existing and planned aeronautic uses of the Airport.

C. Upon completion of any Improvements, Tenant, at its own cost, shall make or have made as-built plans of such Improvements and submit said plans to the Commission within ninety (90) days of completion of such Improvements.

D. If Tenant does not obtain the prior written approval of the Commission, or, if the Tenant does not comply with the provisions and conditions of said approval, or does not submit as-built plans as required herein, the Commission may, upon reasonable prior notice, enter the Premises and restore the condition of the Premises, complete the Improvements proposed on the approved TAA and/or have as-built plans made, as appropriate, and Tenant shall reimburse the Commission for any and all costs incurred in so doing plus 15% thereof additionally as an administrative surcharge.

5.2 Construction. Tenant shall construct or install any Improvement in conformance with all applicable statutes, ordinances, building codes, rules, regulations and directives of any local, state or federal entity and shall perform such construction or installation in a good and workmanlike manner in accordance with the drawings and specifications approved by the Commission. Tenant shall bear any and all costs of compliance with the requirements of this Section.

5.3 Tenant's Fixtures/Alterations. Tenant may install in the Premises such fixtures (trade or otherwise) and equipment as Tenant deems desirable and all of said items shall remain Tenant's property and Tenant may remove, and/or replace, said fixtures and equipment, in the Premises, at any time and from time to time during the term or any extension period hereof. The Commission shall not mortgage, pledge or encumber said fixtures or equipment. Tenant shall make all repairs or replacement at Tenant's expense in connection with the removal of any fixtures or equipment installed as provided in this paragraph. All signs, counters, shelving, trade and light fixtures, contents, and other equipment, which may at any time be installed or placed in or upon the Premises, by or at the expense of Tenant, are and shall remain the property of Tenant, and Tenant shall remove the same and repair all damage to the Premises caused by such installation and removal prior to or at the expiration date of the term or the extension period of this Lease, unless the Commission consents to certain or all of such personal property remaining on the Premises.

5.5 Contracts for Improvements. All contracts for Improvements shall include provisions of insurance and suretyship reasonably satisfactory to the Commission for the protection of the Commission's laborers, suppliers, contractors, subcontractors and the public, and shall also include all contractors and subcontractors to comply with all applicable provisions of this Lease.

5.6 Liens. Tenant agrees to pay, when due, all sums that may become due for any labor, services, materials, supplies, furnishings, machinery or equipment furnished to or for Tenant in, upon, or about the Premises which may be secured by any lien against Tenant's interest therein, and will cause each such lien and any other liens to be fully discharged and released at the time the performance of any obligation secured by any such lien matures and becomes due.

ARTICLE 6 - MAINTENANCE AND REPAIR

6.1 “As Is” Condition. Tenant has inspected the Premises and accepts them “as is”, in the condition in which they are at the commencement of the Term, and assumes all risks in connection therewith, without any representation or warranty express or implied in fact or by law, on the part of the Commission.

6.2 Maintenance. Tenant shall, at its own expense, maintain the Premises, and shall maintain in good condition the interior and exterior structure, the utility systems, any Improvements made or constructed by Tenant, and all of Tenant’s facilities, fixtures, furniture and other equipment, in good and safe repair and in a neat, clean, safe and orderly condition.

6.3 Repair of Damage. Tenant shall repair any damage to the Premises caused by or resulting from acts of or negligence by Tenant, its employees, guests, invitees, suppliers, contractors, subcontractors or furnishers of service. Tenant shall make any repairs in accordance with plans and specifications approved by the Commission or, if applicable, in accordance with the Commission’s Tenant Alteration Application process, as it may be amended from time-to-time. The Commission shall not be liable for any damage to Tenant or Tenant’s property from any cause unless and to the extent caused by the sole fault or gross negligence of the Commission, and Tenant waives all claims against the Commission for damage to persons or property arising for any reason unless and to the extent caused by the sole fault or gross negligence of the Commission.

6.4 Snow Management. The Commission shall move snow and ice from the access roadways to the Premises consistent with the Airport Snow and Ice Control Plan, latest revision thereof. Tenant acknowledges that the timing of snow removal is dependent on overall public safety and operational concerns at the Airport.

6.5 Commission Approval. Tenant shall make all repairs and conduct all maintenance in compliance with all applicable provisions of the Commission’s Property Improvement Process, as it may be amended from time to time. Tenant shall accompany any request for the Commission’s approval with information in accordance with the Commission’s Property Improvement Process, as set forth in Section 5.1 and as it may be amended from time-to-time.

6.6 Performance of Maintenance and Repair. Tenant shall perform all maintenance and repair in conformance with all applicable statutes, ordinances, building codes, rules, regulations and directives of any local, state or federal entity and in a good and workmanlike manner in accordance with the drawings and specifications as may be approved by the Commission pursuant to the Property Improvement Process. Tenant shall bear any and all costs of compliance with the requirements of this Section.

6.8 Liens. Tenant agrees to pay, when due, all sums that may become due for any labor, services, materials, supplies, furnishings machinery or equipment furnished to or for Tenant in, upon, or about the Premises which may be secured by any lien against Tenant’s interest therein, and will cause each such lien and any other liens to be fully discharged and released at the time the performance of any obligation secured by any such lien matures and becomes due.

ARTICLE 7 - UTILITIES

7.1 Existing Capacities. The Commission will provide utilities in existing capacities to the Premises.

7.2 Costs and Charges. Tenant shall pay for all utilities used or consumed on the Premises. Tenant shall pay all such costs directly to the proper authorities, including the Commission, as the case may be, charged with the collection thereof.

7.3 Sewage and Wastewater.

- A. Tenant shall not deposit or permit to be deposited in the sewage collection system any substance that would be injurious to the sewage collection, treatment or disposal system.
- B. Wastewater allocations shall be based on MVA Water and Wastewater Department's Chief Operator's approval.
- C. Water, wastewater and storm water plans must be approved by the Martha's Vineyard Airport Water and Wastewater Department prior to any work commencing.
- D. Backflow device testing, if needed, and the Cross Connection survey shall be performed by a licensed surveyor and such certification must be filed with the Airport Water and Wastewater Department before connecting to the public water supply.
- E. Tenant shall install and maintain at Tenant's expense, and with prior approval of the Martha's Vineyard Airport Water and Wastewater Department Chief Operator, water metering devices that accurately measure the consumption and use of water at the Premises. The Tenant shall grant access to said devices to Airport Staff or its designees during normal business hours. Tenant shall install a street water "shutoff" and if necessary for Tenant's use replace water line(s) from the street to the Premises.
- F. Tenant shall pay as Additional Rent a fee customarily charged to tenants for the use of the Commission's Wastewater Treatment Plant. Said fee shall be established from time to time by the Commission for the purpose of recovering the capital and operating expenses of the Wastewater Treatment Plant and common sewage collection and disposal facilities.

ARTICLE 8 - ENVIRONMENTAL

8.1 Environmental Requirements. Tenant shall observe, obey and comply with and shall cause its officers, employees, agents, invitees, suppliers, contractors, subcontractors, and licensees to observe, obey and comply with all applicable laws, statutes, ordinances, policies, rules and

regulations and standards of any and all federal, state and local government agencies, authorities, department and boards, and the rules, regulations, bylaws, standards and plans of the Commission relating to environmental controls and pollution of the natural environment in its operations and the conduct of the Permitted Use at the Airport, including, without limitation, laws relating to ground water and surface water pollution, air pollution, transportation storage and disposal of oil and hazardous substances, wastes and materials, storm water drainage, employee health and safety, underground and above-ground storage tanks and the provisions of M.G.L., c. 21E, (collectively referred to as the “Environmental Laws”) and shall refrain from any and all acts, uses or processes on or at the Airport which are not in full conformity with said Environmental Laws.

8.2 Environmental Audit.

- A. The Commission, reserves the right to conduct an environmental audit of Tenant’s activities at the Airport and of any of its premises, equipment, vehicles, storage tanks or facilities, training programs or reporting systems to confirm Tenant’s compliance with the Environmental Laws (the “Environmental Audit”). The Commission may, at its discretion, retain an experienced environmental consulting firm to conduct the Environmental Audit and issue a report.
- B. If the Environmental Audit report indicates any non-compliance with the Environmental Laws, the Commission shall submit such report to Tenant and Tenant shall submit a report (the “Remediation Report”), with an explanation, remediation action plan and schedule for resolving any issues of non-compliance to the Commission for the Commission’s review within sixty (60) days of receipt of the Commission’s Environmental Audit report. The Commission shall approve or disapprove the Remediation Report within (30) days of receipt thereof. The Commission may condition its approval upon terms and conditions which it deems prudent and necessary to address fully any non-compliance with the Environmental Laws. In the event Tenant does not submit a Remediation Report satisfactory to the Commission, the Commission, at its sole option, may prepare such Remediation Report and the Tenant shall be bound by such report upon receipt thereof.
- C. Tenant shall commence within thirty (30) days of receipt of the Commission’s approval of Tenant’s Remediation Report or of receipt of Commission’s Remediation Report and shall expeditiously proceed to completion, any remediation recommended thereunder, subject to the requirements of any appropriate governmental agency.
- D. Tenant shall bear the responsibility, at its sole cost and expense, for any remedial action, whether identified in the Tenant’s or the Commission’s Remediation Report or required by any governmental agency. In the event Tenant does not complete such remedial actions in the time period set forth above, the Commission may implement any remediation actions which it deems necessary or prudent to address the non-compliance with the Environmental Laws. In the event the Commission implements any such remediation action, the Tenant shall reimburse the Commission for any and all costs

incurred in so doing plus 15 % thereof additionally as an administrative surcharge without limitation of other claims or damages that the Commission may have against Tenant arising under the terms of this Lease, the Environmental Laws or otherwise.

8.3 Hazardous Waste Disclosure. The Tenant, upon execution of this Lease, shall furnish the Commission with a copy of any Safety Data Sheets (“SDS”) and any updates thereto or any list of substances listed on the so-called Massachusetts Substance List, established pursuant to M.G.L. Chapter 111F which the Tenant is required to prepare, file or maintain pursuant to said c.111F for any substances used or stored at the Airport. If such SDSs or lists should be changed or updated during the Term, the Tenant shall promptly furnish a copy of such updated or changed SDS or list to the Commission.

8.4 Environmental Indemnification.

- A. Tenant shall indemnify and hold harmless the Commission from and against any and all costs, damages and expenses incurred and/or loss sustained (including reasonable attorneys’ and experts’ fees and other expenses), or penalties imposed by agencies by law authorized to do so, arising out of the failure of Tenant, its agents, employees, invitees, or licensees to observe, obey and comply with the Environmental Laws.
- B. Without limiting the generality of this Section, Tenant shall indemnify and hold harmless the Commission from and against any and all costs, damages and expenses incurred and/or loss sustained (including reasonable attorneys’ and experts’ fees and other expenses), or penalties imposed by agencies by law authorized to do so, arising out of the Commission’s performance of any activity pursuant to Article 8 of the Lease.
- C. As used in this Section, “expense incurred” shall, without limitation, include all loss or expense directly associated with remedying the condition or conditions not in conformity with the Environmental Laws, including, but not limited to the costs of remediating any real property and any personal injury resulting from or arising out of the release of oil or hazardous materials into the natural environment, together with all loss sustained by reason of business interruptions occasioned by executive, administrative or judicial order consequent upon the Environmental Laws, or business interruption directly consequent upon the remedying of the condition not in conformity with the Environmental laws.
- D. This indemnification shall survive the expiration or earlier termination of this Lease.

ARTICLE 9 - INSURANCE AND INDEMNIFICATION

9.1 Insurance. Tenant at its expense shall maintain the following insurance coverage:

- A. Comprehensive General Liability insurance, including products and completed operations for claims for property damage, bodily injury or death, arising out of or in connection with Tenant’s use, occupancy and activities under this Lease, in the minimum single limit or equivalent split limits of one million dollars (\$1,000,000.00) per occurrence and naming the Commission as an additional insured.

- B. Worker's Compensation Insurance as required by law.
- C. Standard fire and extended coverage insurance covering the Premises to the extent of one hundred percent of the full replacement cost as set forth in annual report of the Commission's Consulting Engineering, including improvements and alterations and naming the Commission as an additional named insured. Tenant shall use proceeds from any such policy for the replacement of any such property unless the Commission gives written consent to the contrary in accordance with Article 10.
- D. Each policy of insurance required herein shall be in a form and with a company satisfactory to the Commission. Each insurer shall be authorized to do business in Massachusetts. Within five days of occupancy of the Premises, Tenant shall submit a certificate of each policy of insurance. Each policy shall provide that it shall not be altered or canceled by the insurer during its term without first giving at least (30) days prior written notice to the Commission. The comprehensive general liability policy shall be endorsed specifically to recognize and insure the indemnification provision appearing in Section 9.3 of this Lease. Tenant acknowledges that the minimum insurance limits and types established herein may become inadequate during the Term, and Tenant agrees that it shall provide such increased limits or types of insurance to commercially reasonable levels that the Commission may reasonably require during the Term. In addition to the foregoing specified minimum amounts of insurance, Tenant shall carry additional general liability insurance in such amounts as are generally regarded as prudent in connection with the operation of the business of Tenant and shall furnish to the Commission a certificate of insurance evidencing such additional insurance.

9.2 Increase in Insurance Premiums. Tenant shall not do anything or keep anything in or about the Premises that may invalidate or conflict with or increase the premium for any policy of insurance carried by the Commission. In the event the Commission's insurance premiums are increased as a result of Tenant's activity, the amount of such increase shall, at the Commission's sole election, be paid by Tenant to the Commission as Additional Rent, provided, that the Commission first shall have notified Tenant to enable Tenant to discontinue said activity.

9.3 Indemnification. Tenant at its expense shall defend and shall indemnify and hold harmless the Commission, its members, officers and employees from and against all claims, causes of action, suits, losses, damages and expenses (including attorney's fees and costs of investigation and litigation) based upon or arising out of the occupancy of the Premises and/or the operation of Tenant under this Lease, provided that Tenant shall not be liable for any loss to the extent caused by the sole willful misconduct or gross negligence of the Commission. The foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the Commission which would exist at common law or under provisions of this Lease, and the extent of the obligation of indemnification shall not be limited by any provision of insurance undertaken in accordance with this Lease. The Commission shall give Tenant prompt written notice of any claims threatened or made or suit instituted against it which could result in a claim of indemnification hereunder. This provision of indemnification shall survive the termination or expiration of this Lease.

ARTICLE 10 - CASUALTY AND TAKING

10.1 Casualty.

- A. If, at any time during the Term, the whole or any part of the Premises or access thereto is damaged by fire or other casualty not caused by the Tenant, to the extent that the same are untenable for a period in excess of six (6) months, the Commission shall have the right to terminate this Lease, by giving written notice thereof to Tenant within thirty (30) days after the date of such fire or casualty, specifying the effective date of the termination. If such damage can be repaired within six (6) months and provided the damage was not caused by Tenant, this Lease shall remain in effect.
- B. Upon termination, Tenant shall have no further obligation to pay any base Rent or Additional Rent under this Lease which accrue after the date of such termination. In no event, however, shall such termination be deemed to modify or limit Tenant's obligations and agreements pursuant to Article 9 hereof.
- C. If the Premises or any part thereof or all reasonable access thereto are damaged by fire or other casualty, and such damage, in the Commission's sole discretion, materially interferes with Tenant's use of the Premises as contemplated by this Lease, and this Lease is not terminated in accordance with Section 10.1 A., then:
 - (1) The Tenant shall repair any and all casualty damage to its property and to any and all of the Tenant's Improvements and fixtures located on the Premises, and shall return such property and fixtures to the condition existing immediately prior to said casualty. All such repairs shall comply with the TAA process. The Tenant shall make all reasonable efforts to cause repairs and restoration to be made as expeditiously as possible, but in the event that any portion of the Premises remain untenable after three (3) months of the date of the casualty, the Commission shall have the option to terminate this Lease upon (30) days prior written notice. In the event the Tenant completes all repairs and restoration within the thirty days notice period, this Lease will not terminate.
 - (2) The Commission shall use reasonable diligence to restore the Premises to substantially the same condition as existed immediately prior to such fire or other casualty within a reasonable time, subject to any delays beyond the Commission's control; provided, however, that the Commission shall have no obligation to expend for such repairs and restoration any amount in excess of any net insurance proceeds received; that the Commission's obligation to repair and restore shall not include those repairs required of the Tenant pursuant to Section 10.1 C. (1).
 - (3) A just proportion of the Base Rent and Additional Rent as determined by the Commission shall abate proportionately for the period in which, by reason of such damage, there is such interference with the Tenant's use of the Premises.
- D. In the event the Premises shall be damaged by fire or other casualty resulting from the act of neglect of Tenant, its agents, contractors, employees or invitees, and this Lease shall

not be terminated by the Commission as a result of such damage, Tenant shall not be released from any of its obligations hereunder including without limitation its duty to pay the Base Rent and the Additional Rent without abatement or reduction.

10.2 Taking.

- A. If the Premises, all reasonable access thereto, or such portion of the Premises which renders the balance unsuitable for Tenant's purposes in the Commission's sole determination, shall be taken by condemnation or right of eminent domain or conveyed under threat thereof ("taking"), this Lease shall terminate as of the date title to the Premises vests in the taking authority. Tenant shall have no claim against the Commission for the value of the unexpired Term.
- B. If any portion of the Premises or access thereto shall be taken and this Lease is not terminated as set forth in Section 10.2 A. above, the Commission shall have the right to terminate this Lease, by giving written notice thereof to Tenant no later than thirty (30) days after the date title vests in the taking authority, specifying the date of such termination. From the date of the vesting to the date of the termination, the amount of Base Rent and Additional Rent owing hereunder shall be equitably abated, according to the nature and extent of the loss of use of the Premises suffered by Tenant, as reasonably determined by the Commission. Upon such termination, Tenant shall have no further obligation to pay any Base Rent or Additional Rent under this Lease which accrue after the date of such termination.
- C. If any portion of the Premises shall be taken and this Lease is not terminated under this Section, the Base Rent and Additional Rent shall be equitably abated, according to the nature and extent of the loss of use of the Premises suffered by Tenant as reasonably determined by the Commission, for the term of such taking, if temporary, or for the remainder of the Term, if permanent.

10.3 **Award.** Tenant grants and assigns to the Commission a lien on and rights to recover from any award of damages to which the Tenant may be entitled by virtue of an eminent domain taking of any or all of its leasehold interests up to the amount of monies owing to the Commission; provided, however, Tenant shall have the right to pursue a separate award for the taking of its Improvements and for relocation expenses.

ARTICLE 11 - COMMISSION RIGHTS AND OBLIGATIONS

11.1 **Maintenance of Structure and Utility Systems.** The Commission shall have no maintenance and repair responsibilities for the Premises.

11.2 **Improvement of Utility System.** In the event existing sources of utility supply hereunder are subsequently deemed inadequate for Tenant's needs as a result of Tenant's additional utility demands, expansion or improvement, Tenant, at its own cost and expense, may improve such systems but only in conformance with the provisions of this Lease and upon written approval of the Commission.

11.3 Right to Enter, Inspect and Repair. The Commission, its authorized employees, agents, contractors, subcontractors and other representatives shall have the right at all reasonable times to enter upon the Premises, without abatement of rent, for the following purposes:

- A. To inspect the Premises during regular business hours (or at any time in the case of emergency) to ascertain the condition of the Premises and to determine Tenant's compliance with the terms of this Lease. The right of inspection shall impose on the Commission no duty to inspect and shall impart no liability upon the Commission for failure to inspect.
- B. To perform maintenance and make repairs and replacements in any event where Tenant is obligated to do so under the Lease and has failed to do so or to have initiated such repairs and maintenance within the time period set forth in the Lease, if applicable, or, otherwise, within thirty (30) days after written notice from the Commission, and thereafter to expeditiously complete such repairs or replacements, or at any time with or without written notice, in the event that the Commission in its sole discretion deems that it is necessary or prudent to do so to preserve all or any part of the Premises from damage or to correct any condition likely to lead to injury or damage. In the event the Commission performs maintenance, repairs or replacements, Tenant shall pay the Commission's entire cost of performing such work plus an administrative charges of 15% of the cost of work as Additional Rent upon written demand, without limitation of other claims or damages that the Commission may have against Tenant arising out of the terms of this Lease or otherwise. The Commission reserves the right to bill Tenant for the above costs as Additional Rent.
- C. To perform any obligation of the Commission under this Lease and to make additions, alterations, maintenance and repairs to the Premises, including its utility system.

11.4 No Constructive Eviction. The Commission's failure to maintain or repair as specified shall not constitute a constructive eviction, and Tenant's sole and exclusive remedy for the Commission's failure to perform its obligations shall be a suit against the Commission for specific performance.

11.5 Airport Alterations and Improvements. Tenant acknowledges that from time to time the Commission may undertake construction, repair or other activities related to the operation, maintenance and repair of the Premises or the Airport that will require temporary accommodation by Tenant. The Commission agrees to provide to Tenant reasonable notice of such activities and the potential impacts of such activities on Tenant's operations. Tenant agrees to accommodate the Commission in such activities even though Tenant's own operations may be inconvenienced or partially impaired. Tenant further agrees that no liability shall attach to the Commission, its members, employees, agents or contractors by reason of such inconvenience or impairment, provided that the Commission uses reasonable efforts in such alteration or improvement activities not to unreasonably interfere with Tenant's operations at the Airport.

11.6 Inspection of Records. The Commission may inspect and Tenant shall provide to the Commission such information, books, records, documents and other records on Tenant's

operations at the Premises as the Commission may from time to time request, pertaining to Tenant's use of the Premises, its operations at the Premises, the Airport and its performance of the terms and conditions of this Lease.

ARTICLE 12 - ASSIGNMENT, SUBLETTING AND ENCUMBERING

12.1 Assignment and Subletting. Tenant shall not, directly or indirectly, assign, mortgage, pledge, or otherwise transfer or encumber this Lease, or Tenant's legal or beneficial interest in this Lease, or sublet the whole or any part of the Premises (collectively referred to as a "transfer") without the Commission's prior written approval in each instance, which approval may be withheld in the Commission's sole discretion. Any transfer under and notwithstanding such consent shall be void unless the assignee or subtenant acknowledges in writing that it will be bound by and subject to the terms of this Lease. No permitted assignment or subletting shall in any way impair the continuing primary liability of the Tenant hereunder and no consent by the Commission in a particular instance shall be deemed to be a waiver of the obligation to obtain the Commission's consent in a subsequent instance. As used herein, the term "assign" or "assignment" shall be deemed to include, without limitation, any transfer of Tenant's interest in the Lease by operation of law. Tenant shall pay the Commission's cost of review of any request to transfer including Commission's reasonable attorney's fees. Tenant shall pay the Commission as Additional Rent ten percent (10%) of the Tenant's gross revenue from any sublease of the Premises to a non-affiliated party.

Upon the request of a leasehold mortgagee or other lender to Tenant, and at no cost or expense to the Commission, the Commission agrees to execute and deliver such commercially reasonable documents and agreements as are reasonably required by such mortgagee or lender to give the mortgagee or lender notice of a default by Tenant hereunder and accept cure of such default by such mortgagee or lender within the applicable cure period.

12.2 Definition of Transfer. If Tenant is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership shall be deemed a transfer of this Lease. If Tenant is a corporation, unless Tenant is a public corporation whose stock is regularly traded on a national stock exchange, or is regularly traded in the over the counter market and quoted on NASDAQ, any dissolution, merger, consolidation, or other reorganization of Tenant or sale or other transfer of a percentage of capital stock of Tenant which results in a change of controlling persons, or the sale or other transfer of substantially all of the assets of Tenant, shall be deemed a transfer of this Lease.

ARTICLE 13 - DEFAULT AND TERMINATION

13.1 Tenant's Default. If at any time subsequent to the date of this Lease any one or more of the following events (herein referred to as a "Default") shall happen, the Commission may, in addition to any other rights and remedies available to it, terminate this Lease upon ten (10) days' notice to Tenant and Tenant will then quit and surrender the Premises to the Commission, and Tenant shall remain liable as herein provided (Tenant hereby waiving any rights of redemption under Massachusetts General Laws c. 186 §11):

- (a) Tenant shall fail to pay the Base Rent, payment of Additional Rent when due and such failure shall continue for ten (10) days after written notice thereof;
- (b) Tenant shall fail to pay any other charges hereunder when due and such failure shall continue for ten (10) days after written notice to Tenant;
- (c) Tenant shall neglect or fail to perform or observe any other covenant herein contained on Tenant's part to be performed or observed and Tenant shall fail to remedy the same as soon as practicable and in any event within thirty (30) days after written notice to Tenant specifying such neglect or failure, or if such failure is of such a nature that Tenant cannot reasonably remedy the same within such thirty (30) day period, Tenant shall fail to commence promptly (and in any event within such thirty (30) day period) to remedy the same and to prosecute such remedy to completion diligently and continuously;
- (d) Tenant abandons the Premises for a period of thirty (30) days or more; or
- (e) Tenant's leasehold interest in the Premises shall be taken on execution or by other process of law directed against Tenant;
- (f) Tenant shall make an assignment for the benefit of creditors or shall file a voluntary petition in bankruptcy or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future Federal, State or other statute, law or regulation for the relief of debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any part of its properties, or shall admit in writing its inability to pay its debts generally as they become due;
- (g) A petition shall be filed against Tenant in bankruptcy or under any other law seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future Federal, State or other statute, law or regulation and shall remain undismissed or unstayed for an aggregate of sixty (60) days (whether or not consecutive), or if any debtor in possession (whether or not Tenant) trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties or of the Premises shall be appointed without the consent or acquiescence of Tenant and such appointment shall remain unvacated or unstayed for an aggregate of ninety (90) days (whether or not consecutive);
- (h) If a Default of Tenant of the kind set forth in clauses (i) and (ii) above shall occur and Tenant shall cure such Default within the applicable grace period and an event which would constitute a similar Default after the applicable grace period shall occur again within the next 365 days, whether or not such similar Default is cured within the applicable grace period; then, in any such case, the Commission may terminate this Lease by notice to Tenant along with written notice to Tenant specifying a date not less than five (5) days after the giving of such notice on which this Lease shall terminate and this Lease shall come to an end on the date specified therein as fully and completely as if such date were the date herein originally fixed for the expiration of the Term of this Lease (Tenant hereby waiving any rights of redemption under Massachusetts General Laws c. 186 §11), and Tenant will then quit and surrender the Premises to the Commission, but Tenant shall remain liable as hereinafter provided.

13.2 Re-entry by Commission. If an Event of Default occurs or if any execution or attachment shall be issued against Tenant or any Tenant's property whereupon the Premises shall be taken or occupied by someone other than Tenant, then the Commission may, at its sole discretion and without notice, re-enter the Premises, either by force, summary proceedings, ejectment or otherwise, and remove and dispossess Tenant and all other persons and any and all property from the same, as if this Lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end.

13.3 Damages. In the event of any termination as provided in this Article, Tenant shall pay the Base Rent and other sums payable hereunder up to the time of such termination, and thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such termination, and whether or not the Premises shall have been relet, shall be liable to the Commission for, and shall pay to the Commission, as liquidated current damages, the Base Rent and other sums which would be payable hereunder if such termination had not occurred, less the net proceeds, if any, of any reletting of the Premises, after deducting all reasonable expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, costs to restore the Premises to its original condition (reasonable wear and tear excepted) including a 15% administrative overhead fee, advertising, expenses of employees, alteration costs and expenses of preparation for such reletting. Tenant shall pay such current damages to the Commission monthly on the dates which the Base Rent would have been payable hereunder if this Lease had not been terminated.

At any time after such termination, whether or not the Commission shall have collected any current damages as set forth in Section 13.3, as liquidated final damages and in lieu of all such current damages beyond the date of such demand, at the Commission's election Tenant shall pay to the Commission an amount equal to the excess, if any, of the Base Rent and other sums as hereinbefore provided which would be payable hereunder from the date of election through what would be the then unexpired Term of this Lease if the same remained in effect, discounted to present value at a rate of 8% per year, over the then fair net rental value of the Premises for the same period, also discounted to present value at a rate of 8% per year.

13.4 Reletting of Premises. In case of any Default by Tenant, re-entry, expiration and dispossession by summary proceedings or otherwise, the Commission may (i) relet the Premises or any part or parts thereof, either in the name of the Commission or otherwise, for a term or terms which may at the Commission's option be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and may grant concessions or free rent to the extent that the Commission considers reasonably advisable and necessary for the purpose of reletting the Premises; and such actions and the making of any alterations, repairs and decorations to the Premises in connection therewith shall not operate or be construed to release Tenant from liability hereunder as aforesaid. The Commission shall in no event be liable in any way whatsoever for failure to relet the Premises, or, in the event that the Premises are re-let, for failure to collect the rent under such reletting. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed, or in the event of the Commission obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease.

13.5 **No Limitation of Remedies.** The specified remedies to which the Commission may resort hereunder are not intended to be exclusive of any remedies or means of redress to which the Commission may at any time be entitled lawfully, but each such remedy shall be cumulative and the Commission may invoke any remedy (including the remedy of specific performance) allowed at law or in equity as if specific remedies were not herein provided for.

13.6 **Costs.** All reasonable costs and expenses incurred by or on behalf of the Commission (including, without limitation, reasonable attorneys' fees and expenses at both the trial and appellate levels) in enforcing its rights hereunder in connection with any Default of Tenant shall be paid by Tenant.

ARTICLE 14 - GENERAL PROVISIONS

14.1 **Notices.** All notices required to be given shall be deemed duly given if mailed certified mail or hand delivered to the following addresses any change in which shall be given to the other party in writing:

If intended for the Commission, addressed via USPS delivery to:

Martha's Vineyard Airport Commission
Martha's Vineyard Airport
71 Airport Road
Vineyard Haven, MA 02568

If intended for the Tenant, addressed to:

NAME
NAME OF COMPANY
ADDRESS 1
ADDRESS 2

14.2 **Taxes.** Tenant shall pay to the appropriate taxing Commission in the manner provided by law any personal property taxes or excises, assessed to and levied on the personal property of Tenant or its operations without right of reimbursement in whole or in part from the Commission. Any such tax or charge assessed against Tenant shall give rise to a right in the Commission to require Tenant to pay such tax or charge to the taxing Commission or in the event of Tenant's failure to make such payment to require Tenant to reimburse the Commission for the payment thereof by the Commission as Additional Rent. Tenant may contest, in its own name or the name of the Commission, the validity or amount of any tax it shall hereunder be required to pay to a taxing entity; provided, however, that Tenant shall indemnify and hold the Commission harmless from all liability and expense arising from such contest and shall provide security satisfactory to the Commission with respect to its performance of such indemnification obligation. Tenant shall not permit a lien or encumbrance to attach to the Premises by reason of any failure of tax payment.

14.3 **Quiet Enjoyment.** The Commission covenants that it has lawful authority to execute this Lease and that upon payment of the Rent and charges provided herein and upon the performance of the covenants and agreements on the part of Tenant to be performed hereunder, Tenant shall peacefully have and enjoy the Premises and the rights and privileges granted by this Lease

without hindrance or molestation by any person or persons lawfully claiming by, through or under, the Commission, subject, however, to the terms of this Lease.

14.4 Surrender of Premises. The Lessee agrees and covenants to yield and peaceably deliver to the Commission possession of the Premises on the expiration of earlier termination of this Lease, promptly and in good condition, reasonable wear and tear arising from the use of the Premises to the extent permitted elsewhere in the Lease excepted. Tenant agrees to pay the Commission's expenses, including reasonable attorney's fees, incurred in enforcing any obligations of Tenant which are not complied with.

14.5 Holding Over. If Tenant, with the consent of the Commission, holds over after the expiration or earlier termination of the Term of this Lease, the resulting tenancy, unless otherwise mutually agreed, shall be on a month-to-month tenancy at will. During such month-to-month tenancy, Tenant shall be bound by all the provisions of this Lease except Base Rent shall be 200% of the Base Rent in effect for the last lease year of the Term.

14.6 Subordination to Sponsor's Assurance Agreement. This Lease is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the Commission and the United States or the Commonwealth of Massachusetts, including without limitation the terms of any "Sponsor's Grant Assurances" or like agreement, the execution of which is required to enable or permit the transfer of rights or property to the Commission for airport purposes, or the expenditure of federal or state grant funds for Airport improvement, maintenance or development. Tenant shall reasonably abide by the requirements of agreements entered into between the Commission and the United States and the Commission and the Commonwealth of Massachusetts, and shall consent to amendments and modifications of this License if required by such agreements or if required as a condition of the Commission's entry into such agreements. This Lease is subject to and Tenant shall abide by the FAA Required Contract Provisions, attached as **Exhibit B** hereto.

14.7 No Exclusive Rights. Nothing contained in this Lease shall be deemed to grant to Tenant any exclusive right or privilege within the meaning of 49 U.S.C. § 40103(e) with respect to activity on the Airport, except that, subject to the terms and provisions of this Lease, Tenant shall have the right to exclusive possession of the Premises made available to Tenant under this Lease.

14.8 No Personal Liability. No member, director, or officer or employee of the Commission shall be charged personally or held contractually liable by Tenant under any term or provision of this Lease or because of any breach thereof or because of its execution or attempted execution.

14.9 Non-Waiver. No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach.

14.10 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution constitutes the entire agreement between the parties hereto, and all prior agreements covering the rights and privileges set out herein are superseded by and merged into this Lease.

14.11 Amendment. Only a written instrument executed by both the Commission and Tenant may amend this Lease provided that each such amendment shall not be effective until approved by the Massachusetts Aeronautics Commission.

14.12 Governing Law. This Lease shall be deemed to be made in and construed in accordance with the laws of the Commonwealth of Massachusetts.

14.13 No Advertisement. Tenant shall not, without the Commission's prior written approval, refer to the Commission in any advertising, letterheads, bills, invoices, or in other printed matter.

14.14 Security. Tenant shall be required during the term of this Lease to take such security precautions, with respect to the Premises and Tenant's operations and service personnel, related thereto, as the Commission in its discretion might from time to time require. Tenant further stipulates that it shall be solely responsible for providing security to and within the Premises with no right of reimbursement from the Commission. Tenant shall be responsible for insuring that no unauthorized access to the Aircraft Operations Area ("AOA") occurs as a result of its use of the Premises.

14.15 Vending Machines. Tenant shall not install or operate or cause to be installed or operated vending machines or other coin operated devices of any nature on the Premises without the prior written approval of the Commission. The Commission may condition its approval upon the payment of all net revenue derived by Tenant from the operation of vending machines or, in the absence of net revenue, a reasonable minimum payment as determined by the Commission.

14.16 Consequential Damages. The Commission and all of its commissioners, officers, agents and employees, shall not be liable to Tenant for any loss of business or any indirect, incidental, special or consequential damages or lost profits arising out of or relating to this Lease or from whatever other cause.

14.17 Force Majeure. No default in the performance of the terms, covenants or conditions of this Lease on the part of Tenant or the Commission (other than in rental payments to the Commission) shall be deemed to continue if and so long as the Commission or Tenant, as the case may be, shall be delayed in or prevented from remedying the same by (i) strikes or other labor disputes, (ii) acts of God or the public enemy, (iii) any other cause reasonably beyond the control of the Commission or Tenant, as the case may be, but, if and when the occurrence or condition which delayed or prevented the remedying of such default shall cease or be removed, it shall be the obligation of the Commission or Tenant as the case may be, without further delay, to commence the correction of such default or to continue the correction thereof. This Section shall not excuse Tenant from payment of all Rent, Additional Rentals, fees or charges established in this Lease.

14.18 **Headings.** The captions and headings throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any of the provisions or the scope of intent of this Lease.

14.19 **Invalid Provisions.** If any provision of this Lease shall to any extent be held invalid or unenforceable, the remainder of this Lease shall not be deemed affected thereby, unless one or both parties would be substantially and materially prejudiced.

14.20 **Commission Employees.** Tenant shall not during the term of this Lease, hire or employ, on either a full-time or part-time basis, person or persons so long as tenant knows or has reason to know that such person is employed by Commission.

14.21 **Disclosure of Beneficial Interests.** Upon execution of this Lease, Tenant shall furnish to the Commission a Disclosure of Beneficial Interest Form as required by M.G.L. c7C, §38 signed under the penalties of perjury.

14.22 **Signs.** Tenant shall obtain written consent from the Commission before erecting or placing any sign on the Premises. In no event shall the Tenant erect or install signs that penetrate airspace protected by state or federal laws and regulations or that otherwise pose a threat to air safety.

14.23 **Estoppel Certificate.** Upon not less than thirty (30) days prior written notice from the Tenant to the Commission, the Commission agrees to deliver a written statement as to: (i) whether this Lease is unmodified and in full force and effect, or, if there have been any modifications, that said Lease is in full force and effect as modified; (ii) the modifications that have been made; and, (iii) the dates to which the rent, additional rent, commissions and other charges due hereunder have been paid.

The Commission shall not subordinate its obligations to the Federal Aviation Administration and the Massachusetts Aeronautics Commission to any financing secured by the Tenant.

14.24 Rules, Regulations and Standards of Operation.

- A. The Commission reserves for itself the right to adopt from time to time Rules and Regulations governing the use, protection and welfare of the Airport including, but not limited to the aeronautical facilities, the Business Park and the Wastewater Treatment Plant located thereon and the Tenant agrees to comply with said Rules, Regulations and Standards of Operation.
- B. Without limiting the generality of the foregoing, Tenant shall not use or occupy the Premises in any manner contrary to or inconsistent with the laws, rules, regulations, standards of operation, advisories or orders of the Federal Aviation Administration or the Massachusetts Aeronautics Commission pertaining to uses or activities at airports.

14.25 **Survey.** The leased Premises shall be surveyed at the expenses of the Tenant in a manner consistent with acceptable surveying practices by a firm licensed to perform such survey services

in the Commonwealth of Massachusetts and Tenant shall provide the Commission with a certified copy of said survey not later than sixty (60) days following the Commencement Date of this Lease.

14.26 **Time.** Time is of the essence of this Lease and all of its provisions.

IN WITNESS WHEREOF, the Commission and Tenant have duly executed this Lease on the dates set forth below.

Tenant:

Martha's Vineyard Airport Commission

By:

By: Geoffrey Freeman

Title:

Title: Airport Director

Date:

Date:

EXHIBIT A

PREMISES

A certain parcel of land and the improvements thereon, located in West Tisbury, County of Dukes County, Commonwealth of Massachusetts, more commonly known as 17 Hangar Road North, West Tisbury, MA and Hangar 5 on the Jacobs 07/05/2016 Ultimate Airport Layout Plan, Sheet Reference Number: 04.

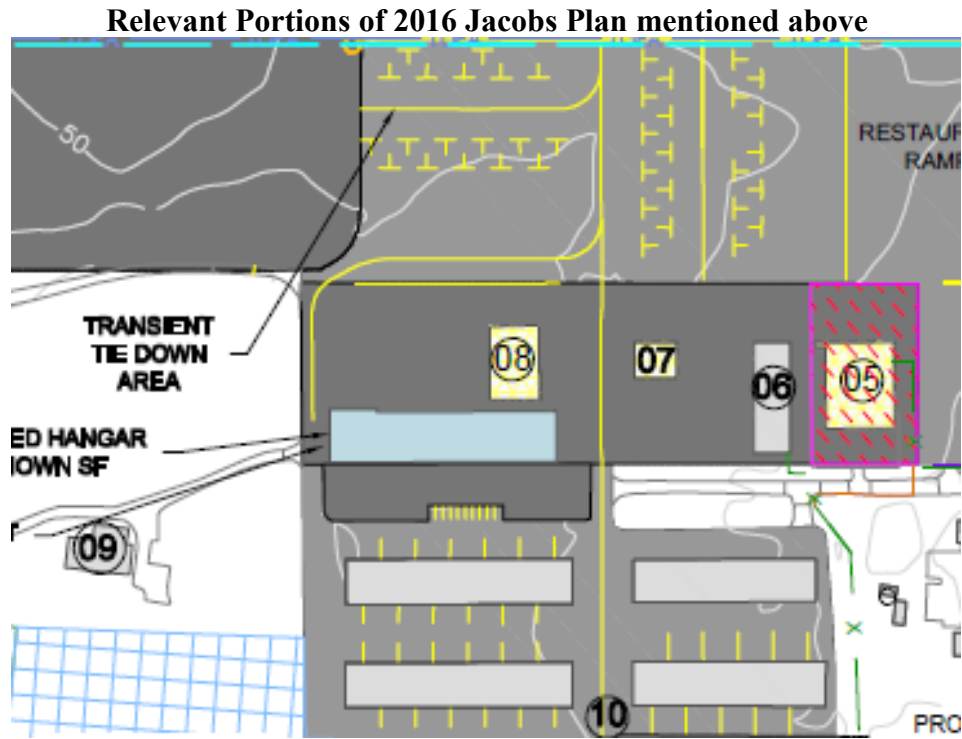


EXHIBIT A (continued)

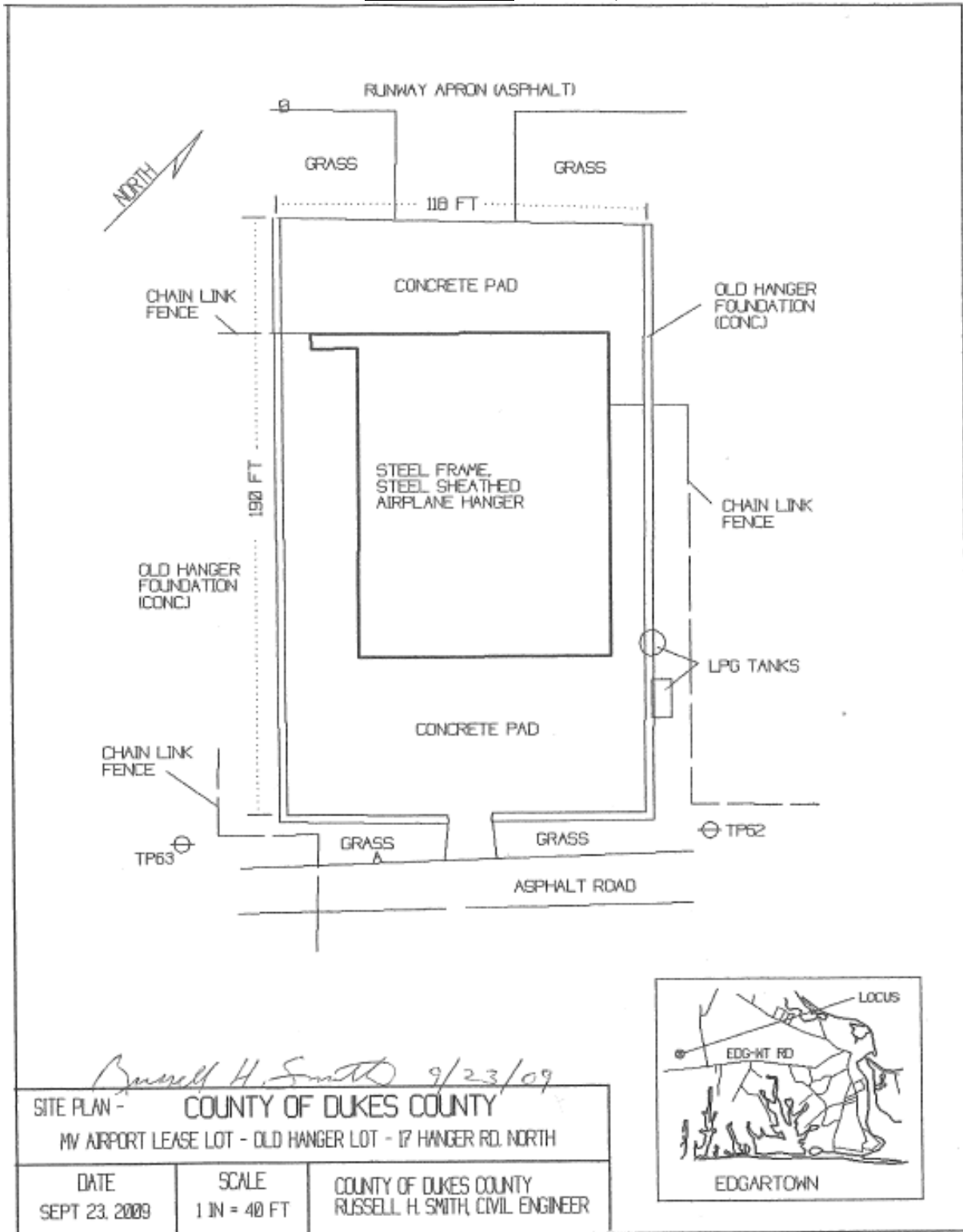


EXHIBIT B

FEDERAL AVIATION ADMINISTRATION REQUIRED CONTRACT PROVISIONS

For purposes of the foregoing sections, Tenant may also be referred to as “tenant”, the Airport/Commission may also be referred to as “sponsor” or “owner,” and this Lease may also be referred to as the “contract.”

1.01 **General Civil Rights Provisions**

Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Tenant transfers its obligation to another, the transferee is obligated in the same manner as Tenant. This provision obligates Tenant for the period during which the property is owned, used or possessed by Tenant and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

1.02 **Compliance with Nondiscrimination Requirements**

During the performance of this contract, Tenant, for itself, its assignees, and successors in interest (hereinafter referred to as the “Tenant”), agrees as follows:

1.02.1 **Compliance with Regulations:** Tenant (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

1.02.2 **Nondiscrimination:** Tenant, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

1.02.3 **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by Tenant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Tenant of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

1.02.4 **Information and Reports:** Tenant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any

information required of Tenant is in the exclusive possession of another who fails or refuses to furnish the information, Tenant will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

1.02.5 Sanctions for Noncompliance: In the event of Tenant's noncompliance with the non-discrimination provisions of this contract, sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to Tenant under the Agreement until the Tenant complies;
- and/or
- (b) Cancelling, terminating, or suspending the Agreement, in whole or in part.

1.02.6 Incorporation of Provisions: Tenant will include the provisions of Sections 1.02.1 through 1.02.5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Tenant will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Tenant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Tenant may request The sponsor to enter into any litigation to protect the interests of The sponsor. In addition, Tenant may request the United States to enter into the litigation to protect the interests of the United States.

1.03 Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Airport Improvement Program

1.03.1 Tenant, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (a) In the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

1.03.2 With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, The sponsor will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

1.04 Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

1.04.1 Tenant, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will 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 ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the lessee will use the premises in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts and Authorities.

1.04.2 With respect to this Agreement, in the event of breach of any of the above nondiscrimination covenants, the sponsor will have the right to terminate the lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

1.05 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Agreement, Tenant, for itself, its assignees, and successors in interest (hereinafter referred to as the “Tenant”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq.).

1.06 Occupational Safety and Health Act of 1970

This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Tenant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The tenant retains full responsibility to monitor its compliance and its subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The tenant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

1.07 Federal Fair Labor Standards Act (Federal Minimum Wage)

This Agreement incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The tenant has full responsibility to monitor compliance to the referenced statutes or regulations.

The tenant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

EXHIBIT 1

Proposal Form:

**Lease of Airport Real Estate
Martha's Vineyard Airport
17 Hangar Road North
West Tisbury, MA 02575**

1. Name of Person or Business Submitting Proposal:

Street

Town

State

Zip Code

2. Please check off one of the following:

If a corporation, State of Incorporation: _____

If a partnership, names of partners: _____

If a trust, name of trust, names of trustees, and Registry book and page for recorded trust instrument: _____

Individual

Other: _____

3. Attach Letter of Interest identifying the party submitting the proposal, summarizing the key elements of the proposed plan, and including a signed statement agreeing to all the terms and conditions identified in the RFP or a statement taking exception to certain conditions.

4. Attach Proposal containing a clear and concise narrative describing any proposed project, and how it meets the Airport's stated objectives. Proposals must thoroughly address each of the items identified in **Section VI Evaluation Criteria**.

I represent and agree that the enclosed proposal will remain subject to acceptance by the **Martha's Vineyard Airport** for 90 days after the date of submission of proposals, and that the RFP Respondent will execute a Hangar Lease satisfactory to Airport within 30 days from selection of the proposal, or such further time as the Airport may agree in writing.

Signature

Signature

Name(s) of Person (s) Signing [types or clearly legible]

Title

Name of Business

Address

EXHIBIT 2

Price Proposal

In consideration of the rights and privileges to be granted to the selected Proposer by the Airport, the selected Proposers will pay to the Airport, on a monthly basis, the following Monthly/Annual Base Rent. **Minimum acceptable Base Rent for the Premises is \$0.62 per square foot.**

1. Base Rent.

	Monthly Base Rent		Annual Base Rent	
Year 1				
5 year appraisal-based adjustment				
Proposed Rent Increases				

2. Additional Rent. Tenant to pay utilities and real estate taxes.

3. Rent Commencement. Rent to commence upon execution of the Lease.

Signature

Name(s) of Person (s) Signing [Spell Out]

Title

Date

EXHIBIT 3

Certificate of Non-Collusion

The undersigned certifies under penalties of perjury that the bid or proposal submitted relative to this project is in all respects bona fide, fair and made without collusion or fraud with any other person, joint venture, partnership, corporation or other business or legal entity.

ORGANIZATION _____

SIGNATURE _____

ADDRESS _____

NAME (print) _____

TITLE _____

TELEPHONE _____

DATE _____

EXHIBIT 4

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) REAL PROPERTY: **Martha’s Vineyard Airport, 17 Hangar Road North, HRN27, West Tisbury, MA 02575**

(2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT: **Lease**

(3) PUBLIC AGENCY PARTICIPATING in TRANSACTION: **Martha’s Vineyard Airport Commission**

(4) DISCLOSING PARTY’S NAME AND TYPE OF ENTITY (IF NOT AN INDIVIDUAL):

(5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ Lessor/Landlord	_____ x Lessee/Tenant
_____ Seller/Grantor	_____ Buyer/Grantee
_____ Other (Please describe): _____	

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

(7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert “none” if none):

(8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

- *No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten percent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time- shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.*
- *Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.*
- *The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.*

(9) This Disclosure Statement is hereby signed under penalties of perjury.

PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM/ DD/ YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGNER

EXHIBIT 5

OFAC Certification

Proposer, and to proposer's knowledge, all beneficial owners of proposer, if any, are currently (i) in compliance with and shall, if selected as the selected proposer, at all times during the lease of the conveyance of the premises located at 27 Hangar Road North, West Tisbury, Massachusetts (“Premises”) remain in compliance with the regulations of the Office of Foreign Assets Control (“OFAC”) of the U.S. Department of Treasury and any statute, executive order, or regulation relating thereto (collectively, the “OFAC Rules”), (ii) not listed on, and shall, if selected as the selected proposer, at all times during the completion of the conveyance of the Premises not be listed on, the Specially Designated Nationals and Blocked Persons List maintained by OFAC and/or on any other similar list maintained by OFAC or other governmental authority pursuant to any authorizing statute, executive order, or regulation, (iii) not a person or entity with whom a U.S. person is prohibited from conducting business under the OFAC Rules, and (iv) not an “Embargoed Person” (as defined below) nor do the funds or other assets of proposer and all beneficial owners of proposer, if any, constitute property of an Embargoed Person. The term “Embargoed Person” means any person, entity or government subject to trade restrictions under United States law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any executive orders or regulations promulgated thereunder.

* Signature of individual or
Corporate Name

By: _____
Corporate Officer

Date: _____

EXHIBIT 6

Certification as to Payment of Taxes

Pursuant to G.L. c.62C, §49A, I certify under the pains and penalties of perjury that the undersigned (RFP Respondent) has complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes and has filed all state tax returns and paid all State taxes required under law.

* Signature of individual or
Corporate Name (Mandatory)

By: _____
Corporate Officer
(Mandatory, if applicable)

**Social Security # or Federal Identification #

* Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

** Your Social Security Number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of Mass. G.L. 62C s. 49A.

EXHIBIT 8

PROPOSAL EVALUATION FORM

**Martha's Vineyard Airport – 27 Hangar Road North
Real Property Disposition via Lease**

NAME OF EVALUATOR: _____

DATE OF EVALUATION: _____

Compliance with Submittal Requirements

Contents	Exhibit
Proposal Form	1
Price Proposal	2
Certificate of Non-Collusion	3
Disclosure of Beneficial Interest Form as required by M.G.L. c.7C, §38	4
OFAC Certification	5
Certification as to Payment of Taxes	6
Corporate Resolution, if a Corporation	7

COMMENTS: