

**RECORDATION REQUESTED BY:**

First Bank of Wyoming, Division of Glacier Bank  
Sheridan Branch  
1470 Sugarland Drive  
Sheridan, WY 82801

**WHEN RECORDED MAIL TO:**

First Bank of Wyoming, Division of Glacier Bank  
Sheridan Branch  
1470 Sugarland Drive  
Sheridan, WY 82801



**2022-780377** 7/27/2022 1:46 PM PAGE: 1 OF 14  
FEES: \$51.00 PK ASSIGN OF RENTS  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

**FOR RECORDER'S USE ONLY**



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**ASSIGNMENT OF RENTS**

**THIS ASSIGNMENT OF RENTS** dated July 12, 2022, is made and executed between **FLYING HAMMER HOLDINGS, LLC**, a Wyoming limited liability company (referred to below as "Grantor") and **First Bank of Wyoming, Division of Glacier Bank**, whose address is 1470 Sugarland Drive, Sheridan, WY 82801 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in SHERIDAN County, State of Wyoming:

See Exhibit A, which is attached to this Assignment and made a part of this Assignment as if fully set forth herein.

The Property or its address is commonly known as **772 AIRFIELD LN, SHERIDAN, WY 82801**. The Property tax identification number is **R0002685**. Grantor's interest in the Property is a leasehold interest as set forth in the Lease described below.

**COLLATERAL DESCRIPTION.** The word "Rents" as used in this Assignment means all of Grantor's present and future rights, title and interest in, to and under the following described specific Lease of all or a portion of the property described in the "Assignment" section herein.

The following is a general description of the specific lease:

<b>LEASE TYPE:</b>	Term
Lease Date:	May 1, 2019
Start Date:	May 1, 2019
End Date:	April 30, 2039
Lessee(s):	FLYING HAMMER HOLDINGS, LLC; 772 AIRFIELD LN; SHERIDAN, WY 82801-5837
Description of the Premises:	an office and shop located at 772 Airfield Lane, Sheridan, WY 82801
Rental Amount:	526.35
Deposit Amount:	
Lease Terms:	
Recording Data:	

**THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following

**ASSIGNMENT OF RENTS  
(Continued)**

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**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon the occurrence of any Event of Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Default in Favor of Third Parties.** Any guarantor or Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of any guarantor's or Grantor's property or ability to perform their respective obligations under this Assignment or any of the Related Documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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(Continued)**

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the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Wyoming without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of Wyoming.

**Choice of Venue.** If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Sheridan County, State of Wyoming.

**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Wyoming as to all Indebtedness secured by this Assignment.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS

**ASSIGNMENT OF RENTS  
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**Grantor.** The word "Grantor" means FLYING HAMMER HOLDINGS, LLC.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment.

**Lease.** The word "Lease" means the lease of the Property dated May 1, 2019, between Landlord, as defined in Related Documents, and Grantor.

**Lender.** The word "Lender" means First Bank of Wyoming, Division of Glacier Bank, its successors and assigns.

**Note.** The word "Note" means the promissory note dated July 12, 2022, in the original principal amount of \$352,289.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.

THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND NOT PERSONALLY BUT AS AN AUTHORIZED SIGNER, HAS CAUSED THIS ASSIGNMENT TO BE SIGNED AND EXECUTED ON BEHALF OF GRANTOR ON JULY 12, 2022.

GRANTOR:

FLYING HAMMER HOLDINGS, LLC

By:

ALEXANDER REGAN HASWELL, Member of FLYING HAMMER HOLDINGS, LLC

By:

TYLER R BALTZ, Member of FLYING HAMMER HOLDINGS, LLC

**LIMITED LIABILITY COMPANY ACKNOWLEDGMENT**

State of

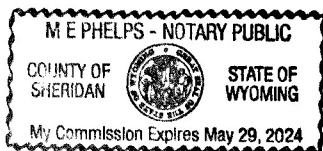
Wyoming

County of

Sheridan

This instrument was acknowledged before me on 7-12-2022 (date) by ALEXANDER REGAN HASWELL, Member of FLYING HAMMER HOLDINGS, LLC.

(Notarial Signature)



My commission expires:

May 29, 2024



ASSIGNMENT OF RENTS  
(Continued)

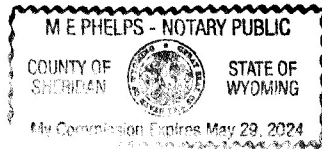
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LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

State of Wyoming  
County of Sheridan

This instrument was acknowledged before me on 7-12-2022 (date) by TYLER R BALTZ, Member of FLYING HAMMER HOLDINGS, LLC.

[Signature]  
(Notarial Signature)



My commission expires: May 29, 2024



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FEES: \$51.00 PK ASSIGN OF RENTS

EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

# EXHIBIT A

**SHERIDAN COUNTY AIRPORT**  
**AIRPORT BUSINESS PARK LEASE AGREEMENT**

The County of Sheridan, State of Wyoming ("County"), and Flying Hammer Holdings, LLC, a Wyoming limited liability company ("Lessee") enter into this lease agreement ("Agreement"). In consideration of the mutual covenants contained herein, the parties agree as follows:

**I. LEASED PREMISES.**

County leases to Lessee, a tract of land situated in the SE1/4NW1/4, Section 3, Township 55 North, Range 84 West, 6<sup>th</sup> Principal Meridian, Sheridan County, Wyoming; and more particularly described as follows and shown on **Exhibit A**:

Commencing at the northwest corner of said Section 3; thence S43°02'08"E, 2166.26 feet to the POINT OF BEGINNING of the herein described tract; thence N89°20'15" 224.97 feet along the south right of way line of Airfield Lane to a point, said point being the northwest corner of a tract of land described in Book 364 of Deeds, Page 340; thence S02°03'45"E, 281.00 feet along the west line of said tract to the southwest corner of said tract, said point lying on the northeasterly right of way line of West Brundage Lane; thence N40°11'40"W, 364.22 feet along said northeasterly right of way line to the POINT OF BEGINNING of said tract.

Said tract contains 0.725 acres of land more or less.

Basis of Bearings is Wyoming State Plane (East Central Zone)

Physical Address is 772 Airfield Lane.

**II. USE OF PREMISES.**

Premises shall be used for the purpose of an Office and Shop.

**A. LESSEE'S RIGHTS AND OBLIGATIONS.**

1. Lessee shall, at its sole expense, maintain and repair the Premises and any improvements existing, installed, altered, or constructed in a reasonable appearance and state of repair with normal wear and tear excepted. In the event Lessee fails to so reasonably maintain or repair the Premises or improvements, County may, after providing written notice to Lessee, enter the Premises and perform the maintenance or repair. Lessee shall pay the costs of any such maintenance or repairs in addition to all other rental fees and other charges.
2. Lessee shall keep the Premises clean, safe, and orderly at all times and shall provide a proper arrangement for the sanitary handling and disposal of all rubbish, grass clippings, and other waste products.
3. Lessee shall maintain all landscaped areas and keep parking lots and access roads on the Premises reasonably clear of snow.

**B. COUNTY'S RIGHTS AND OBLIGATIONS.**

1. County, its employees, agents, and representatives shall have the right to enter upon the Premises to inspect the Premises at any reasonable hour with reasonable notification. This Agreement does not authorize County to inspect Lessee's records, files, or documents.
2. County reserves a right of flight for the passage of aircraft in the airspace above

### III. LEASEHOLD IMPROVEMENTS.

#### A. GENERAL CONDITIONS.

1. Lessee shall, at its sole expense, pay all costs and expenses associated with the construction of any additional building(s) and/or improvements on the Premises.
2. Lessee shall submit to Airport Manager for approval a complete set of plans and specifications of all proposed construction. Plans may or may not need to include the following:  
**Building plan** – showing the type of building construction desired, type of building foundations proposed, type of exterior coverings facade and colors, roof materials etc., exterior building elevations, and floor plan including all dimensions. The building plan shall include an architectural streetscape view of all four sides of the building.  
**Site plan**- a graphic representation of the proposed development showing the boundary of the site, all building locations, landscaped areas, site access, parking, drive and loading areas. The site plan shall be drawn to an appropriate scale (1"=30', 1"= 40', etc.) and shall include the dimension of all lots, and include a complete land development summary which includes gross site area, floor area, landscape area, lot coverage by principal and accessory structures, and number of parking and loading areas proposed.  
**Landscape plan**- concept level landscape plan to include locations and general description (deciduous, conifer, shrub, ground cover, turf, etc.). Any special use areas such as common areas and snow storage should be shown. Names of planting materials, sizes, quantities and a planting and maintenance plans for all proposed plant materials should be provided.  
**Grading and drainage plan**- conceptual plan showing existing and proposed contours with drainage depicted by flow arrows.  
**Utility plan**- horizontal utility layout showing service lines and how they will be routed from mains. Any easements should be shown on this plan.  
These plans and specifications once approved shall be attached to this Agreement as **Exhibit B**.
3. All submittals for additional construction shall bear the seal of a Professional Engineer or Architect, registered in the State of Wyoming.
4. Lessee shall file FAA Form 7460-1 with the Federal Aviation Administration ("FAA") and obtain approval from the FAA prior to commencing any construction or alteration; Airport Manager shall be copied on all correspondence to FAA.
5. Lessee shall diligently pursue construction of any building(s) / improvements so that they will be completed within six (6) months from the date of commencement. Lessee shall not be responsible if the completion is delayed by virtue of strike, catastrophes, shortage of material, delays occasioned by actions of local, state, or federal agencies, or acts of God, or other causes beyond the control of Lessee.
6. No structural changes may be made by Lessee to any building(s) or improvements constructed without having first secured written approval of County, which approval shall not be unreasonably withheld.
7. All access roads and parking areas on the Premises shall be paved.
8. Lessee shall obtain prior written approval of the Airport Manager to install signs

10. Lessee shall at the end of the term of this Agreement, convey good and merchantable title to all building(s), fixtures, and leasehold improvements in favor of County.
11. Should the Agreement be terminated prior to the expiration of the term because of Lessee's default, all building(s) and leasehold improvements become the property of County, subject to paragraph 12.
12. Notwithstanding any provision of this Agreement to the contrary Lessee may, to secure financing of the building, assign this Agreement and the rights to all improvements located upon the property, as security to Lessee's building financier.

#### **IV. TERM.**

This Agreement is for a term of twenty years, commencing May 1, 2019 and ending April 30, 2039 (the "termination date"), inclusive, unless sooner terminated in accordance with the provisions herein. On the termination date, Lessee shall have the first right of refusal to lease the Premises under new terms and conditions. Lessee shall request a copy of the proposed new terms within six months of the termination date and County shall within six weeks of receipt of the request provide same. Such terms shall be reasonable and more favorable terms shall not be given to a third party for a period of six months if such terms are rejected by Lessee. However, if Lessee materially breached the initial Agreement, and failed to reasonably cure the breach within 30 days of receiving notice of any breach, more than once during the term of this Agreement, then the foregoing six- month restriction is void.

#### **V. RENTAL FEE.**

- A. Lessee shall pay to County \$526.35 per month, beginning May 10, 2019. Lessee shall pay this rental fee monthly in advance, on or before the 10th day of each month during the term of this Agreement.
- B. The rental fee shall be increased by the amount of increase in the Wyoming Comparative Cost of Living Index (WCLI) Northeast All Items, for the immediately preceding two-year period. The increase will become effective on May 1 of each two-year period during this Agreement. No increase shall exceed 15% of the rental fee last paid by Lessee.
- C. A delinquency charge of 1.5% per month shall be added to any rental fee that is more than thirty days delinquent.
- D. Lessee shall deliver all fees due County to the Office of the Airport Manager, Sheridan County Airport, 908 W. Brundage Lane, Sheridan, Wyoming 82801.

#### **VI. INSURANCE.**

##### **A. LESSEE'S REQUIREMENTS.**

- I. Lessee shall obtain and maintain continuously in effect at all times during the term of this Agreement, at Lessee's sole expense, comprehensive general liability and property damage insurance of not less than \$1,000,000 per occurrence protecting County against any and all liability from Lessee's use of the Premises or this Agreement. Lessee shall obtain and maintain fire insurance in an amount approved by County, but not in excess of the current value of the improvements. The insurance policy(s) specified above shall name County as an additional insured. Lessee shall furnish a certificate from the insurance carrier(s) showing insurance to be in full force and effect during the term of this Agreement. All policies shall provide for a minimum of ten working days notice to County in the event of cancellation, non-renewal, or material change in the terms.



VII. GENERAL COVENANTS.

- A. AGREEMENT CONSTRUCTION. This Agreement has been negotiated between the parties and no preference shall be given to any party should the construction of any term of this Agreement be required by a Court.
- B. AMENDMENTS/MODIFICATION. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- C. AMERICANS WITH DISABILITIES ACT (ADA). The parties shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act P.L. 101-336, 42 U.S.C. 12101, et seq., and/or any properly promulgated rules and regulations related thereto.
- D. APPLICABLE LAW/VENUE. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the Fourth Judicial District, Sheridan County, Wyoming.
- E. ASSIGNMENT/SUBLEASE. Lessee may not transfer, assign or otherwise alienate its interest in the Premises or sublet any part of the Premises without first obtaining County's written consent. County shall not unreasonably withhold, delay, or condition consent to any such assignment or subletting to any responsible corporation, individual or other business entity capable of receiving such assignment. Neither this Agreement nor any interest herein shall pass to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or in any other way by operation of law.
- F. BEYOND TERM. This Agreement provides a definable benefit to Sheridan County and its citizens and the County desires to enter into this agreement beyond the term of this Board of County Commissioners so that the full benefit to Sheridan County might be realized.
- G. BUILDING PERMITS. Lessee shall obtain all permits required for construction of improvements. Lessee shall, at its sole expense, pay all costs and expenses associated with obtaining said building permits.
- H. COMPLIANCE WITH LAWS. Lessee shall comply with all requirements of local, state or federal building codes and with all applicable municipal, state and federal ordinances, laws, rules, and regulations that are applicable to its use of the Premises during the Term as they are now or as they are enacted insofar as they relate to (i) any improvements or alterations that Lessee constructs within the Premises or that Landlord constructs after the Commencement Date at Lessee's request or (ii) any change occurring during the term of this Agreement in the business operations that Lessee conducts on the Premises.
- I. CONDITION OF PREMISES. Lessee acknowledges that it has physically examined the Premises prior to execution of this Agreement and acknowledges that at the time of the execution of the Agreement the Premises are in satisfactory condition for the intended uses. County had made no representations to Lessee relating to the condition of the Premises except as are specifically provided in this Agreement.
- J. DEFAULT AND TERMINATION.
1. If Lessee defaults in performance of any material term of this Agreement and that default remains for a period of sixty days after written notice of default, County

property from the Premises. Any remaining property is deemed abandoned by Lessee and belongs to County.

3. All covenants of this Agreement that should, by their nature, survive the termination of this Agreement shall so survive.
4. Lessee agrees that at the expiration or termination of the Agreement, it will cease to utilize the Premises for the purpose herein stated. Should Lessee hold over the use after thirty days after the expiration of the Agreement, such holding over will be as a user at sufferance for which use it shall pay rental fees at double the amount herein provided and in addition be liable for any and all damages, costs and expenses resulting from such use including all costs of collection and reasonable attorney fees.
- K. **ENTIRE AGREEMENT.** This eight-page document and all Exhibits constitute the entire agreement between the parties and supersedes all prior agreements between the parties covering the subject matter hereof.
- L. **FORCE MAJEURE.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to acts of the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. However, this shall not apply to failure by Lessee to pay rental fees or other charges due pursuant to this Agreement.
- M. **GOVERNMENTAL IMMUNITY.** Nothing in this Agreement shall in any way be deemed a waiver of any of the requirements or immunities provided by the Wyoming Governmental Claims Act.
- N. **HEADINGS.** The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.
- O. **HIPPA.** If under the Health Insurance Portability and Accountability Act, LESSEE / CONTRACTOR is a "business associate", LESSEE / CONTRACTOR shall appropriately safeguard any protected health information.
- P. **INDEMNIFICATION.**
  1. Lessee shall indemnify, defend, and save County, its agents, officers, representatives and employees, harmless from and against all penalties, liability or loss, including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, arising directly or indirectly out of acts or omissions of Lessee or its agents or employees or through any injury or casualty occurring on the Premises as a result thereof unless due to the negligence or willful misconduct by County, its agents, officers, representatives or employees was the proximate cause.
  2. County shall indemnify, defend, and save Lessee, its agents, officers, representatives, employees and guests, harmless from and against all penalties, liability or loss, including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, arising directly or indirectly out of acts or omissions of County or its agents or employees or through any injury or

R. NON-DISCRIMINATION.

1. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.
2. In all use and operation of the Premises, Lessee shall not discriminate or permit discrimination against any person or class of persons by reason of disability, age, sex, race, creed, color, national origin, ancestry, or religion in any manner prohibited by any federal or state laws, rules or regulations existing now, or any amendments thereto.
3. County reserves the right to take such action as the United States Government may direct to enforce nondiscrimination. Noncompliance with this subsection shall constitute a material breach of this Agreement.

S. NO THIRD PARTY BENEFICIARY INTENDED. This Agreement is for the benefit of the parties hereto and is not intended for the benefit of any third party.

T. NOTICE. Any notice given by one party to the other in conjunction with this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, with postage and certification fees prepaid or by FedEx Express overnight:

If to County, addressed to: Office of the Airport Manager  
Sheridan County Airport  
908 W. Brundage Lane  
Sheridan, WY 82801

If to Lessee, addressed to: Flying Hammer Holdings, LLC.  
772 Airfield Lane  
Sheridan, WY 82801

U. NONWAIVER. Any waiver by County of any breach of any covenant herein to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to prevent County from declaring a forfeiture for any succeeding breach, either of the same or other covenant.

V. REQUIREMENTS OF THE UNITED STATES.

1. The parties hereto acknowledge that this Agreement is subject to the lawful emergency demands of one or more governmental agencies of the United States of America. Lessee shall comply with all lawful demands of the United States, including a lawful demand to deliver possession of all of the Premises as promptly as possible. In the event of any loss of use of the Premises by Lessee, Lessee shall retain its independent rights and claims for damages and compensation against the government agency responsible therefore, or, at its election, it may share on an equitable basis in any award which may be made for the taking of all the Airport property of which the Premises is a part. In the event such taking by one or more governmental agencies at any time shall constitute less than a termination of all the rights to be enjoyed by Lessee hereunder, then during such time of suspension Lessee shall be excused from paying rent and the term of this Agreement shall be extended on the same terms expressed herein for a time equivalent to such suspension.

4. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.
5. Lessee shall observe faithfully all rules and regulations affecting use of the Airport, whether established by the Airport Manager, by Sheridan County, by the State of Wyoming or the United States, or agencies thereof, including, but not limited to rules affecting the operation of motor vehicles upon, to, and from the Airport, provided that such rules shall apply to all users of the Airport and shall not be made specific to Lessee alone.
- W. **SEVERABILITY.** If a provision of this Agreement shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.
- X. **TAXES.** Lessee shall pay such *ad valorem* taxes as may be levied upon all improvements by the County of Sheridan during the term of this Agreement. It is the understanding that any improvements placed on the Premises shall be considered property of Lessee for the purpose of assessing taxes.
- Y. **UTILITIES.** Lessee shall, at its sole expense, pay all costs and expenses required to extend any utility lines from their current location to the Lessee's improvements and to bury all utilities and be responsible for the payment of all utilities service hookups, including plant investment and tap fees payable to the City of Sheridan for water and sewer hookups on the Premises and promptly pay for all utilities including, but not limited to trash removal, water, gas, sewer, electric, cable, fiber optics and telephone.

By signing below the parties agree to the above-terms. Additionally, any person signing certifies that he or she has been properly authorized to enter into this Agreement by his or her respective party.

**SHERIDAN COUNTY AIRPORT**

BY: John W. Stopka 4-17-19  
John W. Stopka Date  
Airport Manager

**BOARD OF COUNTY COMMISSIONERS**

Sheridan County, Wyoming

BY: Tom Ringley 4/16/19  
Tom Ringley, Chairman Date

**ATTEST:**

Eda Schunk Thompson 4/16/19  
Eda Schunk Thompson, Date  
County Clerk

**Approved as to Form:**

Clinton D. Beaver 4-16-19  
Clinton D. Beaver, Date  
Deputy County Attorney

STATE OF WYOMING )  
 ) ss.  
COUNTY OF SHERIDAN )

On this 16th day of April, 20 19, before me personally appeared, Tom Ringley being first duly sworn, did say that she/he is the Chairman of the Board of County Commissioners, Sheridan County, Wyoming and that this instrument was signed and sealed on behalf of the said County by authority of said Board and she/he acknowledged said instrument to be the free act and deed of said Board.

FLYING HAMMER HOLDINGS, LLC

BY: A. Howell

4/30/19.  
Date

STATE OF WYOMING )

) ss.

COUNTY OF SHERIDAN )

The foregoing instrument was acknowledged before me by Alexander R. Howell  
as Member of Flying Hammer Holdings, LLC, a Wyoming limited liability company on 4/30/19,  
2019.

WITNESS my hand and official seal.

[Signature]  
Notary Public

My Commission Expires: 4/10/20

