

**THEATRE AGREEMENT**

**by and between**

**THE CITY OF LAREDO,  
a Texas municipal corporation**

**as “Landlord”**

**and**

**LAREDO LITTLE THEATRE,  
a \_\_\_\_\_**

**as “Tenant”**

**Effective Date: \_\_\_\_\_, 2024**

NOTE: This agreement is subject to City Council approval and also constitutes a public document under the Texas Open Records Act, being subject to public inspection at any time hereafter

STATE OF TEXAS                   §

COUNTY OF WEBB               §

## **THEATRE AGREEMENT**

**THIS THEATRE AGREEMENT** (this "Lease") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024, between **THE CITY OF LAREDO**, a Texas municipal corporation ("Landlord") and **LAREDO LITTLE THEATRE**, a \_\_\_\_\_ ("Tenant").

### **BACKGROUND:**

A. Landlord owns and operates the Laredo International Airport located in Laredo, Webb County, Texas (which airport, together with all of the additions, improvements and changes thereto, being referred to collectively as the "Airport"). The Airport is administered by Landlord pursuant to Indenture from the United States of America to the City of Laredo, dated February 21, 1975, and consisting of all the area bounded by Saunders Avenue to the South, McPherson Avenue to the West, Lake Casa Blanca to the East and undeveloped land to the North, and being more particularly described in that certain Deed of Indenture filed in Volume 478 at page 471 of the Deed of Records of Webb County, Texas.

B. Landlord desires to lease to Tenant, who desires to lease from Landlord, certain of the space located within the Airport containing approximately 5,801 square feet located at 4802 Thomas Avenue, Laredo, Webb County, Texas (the "Premises") situated on property described as Block No. 10, of the subdivision plat of Laredo Airport according to the map or plat thereof recorded in Volume 5, Page 1, plat records of Webb County, Texas. The property on which the building is situated is more particularly described and depicted on the plan of the Airport attached hereto as "Exhibit A" and incorporated herein (the "Plan"), all hereinafter referred to as the leased area, all within the Airport.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Landlord and Tenant agree as set forth below.

### **AGREEMENT:**

#### **SECTION 1. PREMISES**

**1.1 Premises.** In consideration of the mutual agreements contained in this Lease, Landlord leases to Tenant, and Tenant rents from Landlord, the Premises, together with any buildings, structures or other improvements (the "Improvements") constructed thereon. The Premises and the Improvements are hereinafter collectively referred to as the "Property".

## SECTION 2. TERM AND USE

**2.1 Term.** The "Term" of this Lease shall commence on the date of execution and shall remain in effect for a period of five (5) years, unless earlier terminated as provided herein. Tenant is hereby granted two (2) options to extend this lease for an additional five (5) years per option upon mutual written agreement of the Parties."

**2.2 Permitted Use.** Subject to the provisions of Section 2.3 below, Tenant may and shall use the Premises as a theatre (the "Permitted Use"), and for no other purpose unless approved in writing by Landlord.

**2.3 Prohibited Uses.** Tenant agrees at all times to comply with the following:

- a. Tenant shall at no time use, or permit the use of, the Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration rules and regulations, and applicable regulations for the use of the Airport.
- b. Tenant shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties or operating aircraft;
- c. Tenant shall not cause or permit the burial or storage above ground on the Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- d. Tenant shall not cause or permit any use or activity on the Premises which would create a hazardous condition for aircraft operating at the Airport;
- e. Tenant shall not allow the Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than Tenant except as may be authorized by the Airport Director, with all such parking being limited to areas designated by Tenant and approved by Landlord within the Premises for such parking;
- f. Tenant shall not allow scheduled airline passenger operations to be conducted on the Premises.
- g. Tenant shall not store vehicles, equipment, supplies, or any other items outside of the Building without the written consent of the Airport Director.

**2.4 No Representation or Warranty.** Tenant confirms to Landlord that Tenant is aware Landlord is making no representation or warranty pertaining to whether the Permitted Use is compliant with any applicable zoning or land-use ordinance of any municipality or otherwise.

**2.5 Non-Exclusive Uses.** Tenant understands and acknowledges that, as to that part of the Airport not included within the Premises, the allowed uses permitted herein are on a nonexclusive basis with respect to other potential providers of aeronautical services at the Airport.

**2.6 Landlord's Warranty of Quiet Enjoyment.** Landlord covenants that as long as Tenant is not in default of any provision of this Agreement, Tenant shall and may peaceably and

quietly have, hold and enjoy the leased premises exclusively to it during the term hereof unless sooner terminated as provided in this Lease.

**2.7 No Billboards.** Tenant will not suffer or permit to be maintained upon the Premises, or upon any improvements thereon, any billboards or advertising signs except those which have prior written approval of the Landlord. It is specifically agreed, however, that Tenant may maintain, on the outside of any hangar or building erected on the Premises, its name in neatly painted, electric or neon sign or signs, subject to the written approval of the Landlord. Such approval shall not be unreasonably withheld.

**2.8 Aerial Approaches.**

**2.8.1** Landlord reserves the right to take any action that it considers necessary to protect the aerial approaches to the Airport against obstructions, together with the right to prevent any operator from erecting any buildings, signs or other structures on the Airport, which in the opinion of Landlord would limit the usefulness of the Airport or constitute a hazard to aircraft.

**2.8.2** Landlord also reserves the right to protect the aerial approaches from interference because of land use or activities which would hinder the safe control of aircraft approaching or departing from the Airport. This would include, for example, any glaring lights, excessive concentration of smoke or haze, blocking the sight of air traffic control, and electronic emanations that might deflect, block or aberrate the precise orientation of navigational guidance systems.

**2.9 Proper Obstruction Lights.** Tenant shall, at his own expense, install, maintain and operate proper obstruction lights on tops of all buildings and structures used by Tenant, and shall keep the same lighted from sunset to sunrise as required, and during periods of inclement weather conditions. The installation of the obstruction lights shall be in accordance with the construction standards required by Landlord.

**2.10 Personal Property Obstruction.** In the event that any personal property of Tenant shall obstruct the access of Landlord, its officers, employees, agents, or contractors to any of the existing or future utility, mechanical and other systems and this shall interfere with the inspection, maintenance or repair, and if Tenant shall fail to so remove such property after direction from Landlord to do so, Landlord may move it and Tenant hereby agrees to pay the cost of such moving upon demand.

**2.11 Operational Requirements.** In the performance of the Permitted Use, Tenant agrees that it shall be subject to and shall meet and exceed the following operating standards:

(a) Tenant shall be responsible for the payment of all expenses and payments in connection with the use of the Property, including all utilities and other expenses.

(b) Tenant shall comply with all Federal, State, and local laws, rules, and regulations which may apply to the conduct of Tenant's business pursuant to this Agreement, including the rules and regulations promulgated by Landlord, the Tenant shall maintain in effect and, if required, post in a prominent place, all necessary and/or required licenses and permits. Tenant shall obtain and maintain all required permits and approvals for the use of the Property.

(f) Tenant shall maintain full security at the Property pursuant to a security plan (the "Security Plan") which will be submitted to Landlord with five (5) days of the Effective Date. The Security Plan must be approved by Airport and Airport subsequently may require amendments thereto as circumstances arise, and the Security Plan shall meet all requirements of the Transportation Security Administration and of the Department of Homeland Security. If the Security Plan is not approved by Landlord within fifteen (15) days after the Effective Date (or within fifteen (15) days after Landlord notifies Tenant that an amendment is needed), Landlord may terminate this Lease.

### **SECTION 3. RENT/SECURITY DEPOSIT**

#### **3.1 Annual Fixed Rent.**

**3.1.1 Monthly Installments.** Commencing on the Effective Date and continuing for the Term, Tenant shall pay to Landlord Annual Fixed Rent in the amount equal to Ten Thousand Eight Hundred Dollars (\$10,800.00) per year, in equal monthly installments of Nine Hundred dollars (\$900.00) per calendar month, Annual Fixed Rent and other charges for such month shall be prorated based upon a per diem basis. The Annual Fixed Rent shall be payable without notice, setoff or counterclaim on the first business day of each month. For purposes of this Lease, the term "Rent" shall include Annual Fixed Rent and well as any additional rent due hereunder ("Additional Rent").

**3.1.2 CPI Adjustment.** Commencing on the first anniversary of the Effective Date, and continuing thereafter every Lease Year, Annual Fixed Rent shall be increased, but never decreased, based on the change in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor, All Urban Consumers (the "CPI Index"), during the previous Lease Year.

#### **3.2 Net-Net-Net Lease.**

**3.2.1 Tenant's Obligations.** This Lease is a "net-net-net" Lease. The parties acknowledge and agree that Landlord would not enter into this Lease if the Rent described in this Lease were not absolutely net to Landlord or if Landlord were to incur any liability whatsoever, foreseen or unforeseen, with respect to the Property or any portion thereof, including the Premises and Improvements, or Tenant's exercise of any other of its rights under this Lease. Accordingly, anything herein to the contrary notwithstanding, from and after the Effective Date, Tenant shall pay all expenses, costs, taxes, fees and charges of any nature whatsoever arising in connection with or attributable to the Property, including without limitation, the Premises and the Improvements, and in maintaining and performing the Security Plan. All fire prevention and suppression systems shall be maintained, repaired and replaced as needed or as required by law or ordinance by Tenant. This includes but is not limited to any changes required pertaining to the use or storage of Aqueous Film Forming Foam ("AFFF") as well as general fire panels and other equipment related to fire prevention and suppression.

The term "Rent" as used herein shall mean the Annual Fixed Rent set forth above and any other amounts payable to Landlord under this Lease, including all Additional Rent.

**3.3 Late Payments.** In the event Tenant fails to pay any payment or installment of Fixed Rent or other sum due Landlord within five (5) days after Landlord provides written notice to Tenant that such installment or payment is due, such delinquent amount shall bear interest at the Interest Rate (as defined in Section 27 of this Lease) until such time as payment thereof is made to Landlord.

**3.4 Electronic Payments.** At Tenant's option with Landlord's approval, Tenant shall have the right to make payments of Fixed Rent and other amounts due under the terms of the Lease by electronic funds transfer into an account specified by Landlord. In the event Tenant elects to make payments to Landlord by electronic funds transfer, Landlord shall, upon request, provide all necessary information and complete all forms required by Tenant to process and effectuate such electronic payments. Nothing herein shall obligate Tenant to make electronic payments, and, in the event Tenant has elected to process payments to Landlord electronically, Tenant shall have the right, at any time, to discontinue such electronic payments provided that Tenant continues making such payments in accordance with the terms of the Lease.

**3.5 Additional Rent.** In addition to the Fixed Rent payable hereunder, all other payments required of Tenant hereunder shall constitute "Additional Rent" hereunder and shall be due within thirty (30) days after written notice is delivered by Landlord to Tenant with regard to all other items of Additional Rent.

#### **SECTION 4. UTILITIES AND TAXES AND RIGHT TO CONTEST**

**41 Utilities.** From and after the Effective Date, Tenant, at its sole cost and expense, shall cause to be put in its own name and shall promptly pay for all utility, communication and other services furnished to or consumed on the Property, including, but not limited to, electricity, cable, gas, water, sewer, heat, telephone, janitorial, garbage collection, and all charges related to any of these services.

**42 Taxes.** From and after the Effective Date, Tenant shall pay, prior to delinquency, all taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are during the Term hereof, imposed or levied upon or assessed against the Property (collectively, "Taxes"). All Taxes shall be prorated as of the Effective Date and the date of expiration of the Term, on the basis of the fiscal year with respect to which such taxes or assessments are assessed. Tenant shall be responsible for and shall pay the portion of such Taxes relating to the period beginning with the Effective Date through and including the expiration of the Term of this Lease. To the extent that Landlord has paid Taxes which would otherwise be Tenant's obligation hereunder, then Tenant shall reimburse the amount of Tenant's obligation to Landlord within thirty (30) days after demand therefor by Landlord, accompanied by copies of receipted bills showing the payment of such Taxes.

Tenant shall have the right to contest or review all Taxes by legal proceedings, or in such other manner as it may deem suitable (which, if instituted, Tenant shall conduct promptly at its own cost and expense, and free of any expense to Landlord, and, if necessary, in the name of and with the cooperation of Landlord, and Landlord shall execute all documents necessary to accomplish the foregoing). Notwithstanding the foregoing, Tenant shall promptly pay all Taxes if at any time the Property or any part thereof shall then be immediately subject to forfeiture, or if Landlord shall be subject to any criminal liability, arising out of the nonpayment thereof. The legal proceedings referred to in this subparagraph shall include appropriate proceedings and appeals from orders

therein and appeals from any judgments, decrees or orders. In the event of any reduction, cancellation or discharge, Tenant shall pay the amount finally levied or assessed against the Property or adjudicated to be due and payable on any such contested Taxes.

Tenant shall pay to the appropriate agency all sales and excise taxes levied, imposed or assessed by any applicable taxing authority upon any rentals payable hereunder.

## **SECTION 5. REPRESENTATIONS AND WARRANTIES**

**5.1 Landlord's Representations and Warranties.** In order to induce Tenant to enter into this Lease, Landlord hereby makes the following warranties and representations, which warranties and representations shall be true and correct as of the Effective Date and shall survive the Effective Date:

**5.1.1 Authority to Enter into and Consummate the Offer.** Landlord has all requisite power and authority to execute, deliver and perform this Lease. The execution, delivery and performance of this Lease by Landlord and all required consents and approvals have been duly obtained.

**5.1.2 Compliance with the Law and Restrictions.** Landlord has received no written notice of any violation by the Premises of any laws, statutes, regulations or governmental requirements or encumbrances, restrictive easements, easements or other restrictions affecting the Premises, including, without limitation, the zoning, land use, and building laws and regulations affecting the Premises, and, to the Landlord's actual knowledge, the Premises is in compliance with all the same.

**5.1.3 Litigation.** There are no pending or, to the Landlord's actual knowledge, threatened matters of litigation, administrative action or arbitration pending against Landlord or the Premises, or any pending or, to Landlord's actual knowledge, threatened eminent domain, expropriation, condemnation or other governmental proceedings involving a taking of the Premises or any part thereof or contesting or seeking to restrain or prevent the consummation of the transactions contemplated hereby. No attachments, execution proceedings, assignments, insolvency, bankruptcy or reorganization proceedings are pending or, to the actual knowledge of Landlord, threatened or available against or contemplated by Landlord.

**5.2 Tenant's Representations and Warranties.** In order to induce Landlord to enter into this Lease, Tenant hereby makes the following warranties and representations, which warranties and representations shall be true and correct as of the Effective Date and shall survive the Effective Date:

**5.2.1 Authority to Enter into and Consummate the Offer.** Tenant has all requisite power and authority to execute, deliver and perform this Lease and has delivered to Landlord corporate resolutions or other evidence of same reasonably acceptable to Landlord. The execution, delivery and performance of this Lease by Tenant and all required consents and approvals have been duly obtained. This Lease constitutes a legal, valid and binding obligation of the Tenant, which is enforceable against the Tenant in accordance with its terms,

subject as to enforceability, to bankruptcy, insolvency, and other laws of general applicability relating to or affecting creditors' rights generally and to general equity principles. Neither the execution nor delivery of this Lease, nor the consummation of the transaction contemplated hereby, will conflict with or result in a breach under any agreement or instrument by which the Tenant or the Premises is bound, and, to the actual knowledge of Tenant, will not constitute a violation of any applicable law, rule, regulation, judgment, writ, order or decree of any governmental entity or court to which the Tenant or the Premises is subject.

**5.2.2 Licenses and Permits.** Tenant has received all necessary licenses, permits, approvals and consents, including without limitation any of same required by the Federal Aviation Administration ("FAA") and/or the Texas Department of Transportation, necessary to perform all services provided hereunder and in connection therewith.

**5.2.3 Litigation.** There are no pending or, to the Tenant's actual knowledge, threatened matters of litigation, administrative action or arbitration pending against Tenant, or any pending for the location at the Airport. No attachments, execution proceedings, assignments, insolvency, bankruptcy or reorganization proceedings are pending or, to the actual knowledge of Tenant, threatened or available against or contemplated by Tenant.

Tenant agrees to indemnify and hold Landlord harmless from and against any and all liabilities, claims, demands and expenses, of any kind or nature (including, without limitation, reasonable attorneys' and paralegals' fees incidental thereto, whether incurred out of court, at trial, or in any bankruptcy or administrative proceeding) related to, resulting from or in any way arising out of a breach of any representation or warranty of Tenant hereunder.

## **SECTION 6. AS IS CONDITION**

Tenant hereby affirms that Tenant has inspected the Property and agrees to accept the same "AS IS, WITH ALL FAULTS" at its current grade, free of all debris, but otherwise in its present condition and without any representation or warranty, express or implied by or from Landlord as to the condition of the Property or the fitness of the Property for Tenant's use.

## **SECTION 7. FEDERAL AIRPORT AID**

Landlord has applied for and received a grant or grants of money from the Administrator of the FAA pursuant to the Airport and Airways Development Act of 1970, as the same has been amended and supplemented, and under prior federal statutes which said Act superseded and Landlord may in the future apply for and receive such grants. In connection therewith, Landlord has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, Tenants, and permittees thereon. The performance by Tenant of the promises and obligations contained in this Agreement is, therefore, a special consideration and inducement to the execution of this Agreement by Landlord, and Tenant further agrees that if the Administrator of the FAA or any other governmental officer or body having jurisdiction over the enforcement of the obligations of Landlord in connection with the Federal Airport Aid, shall make any orders, recommendations, or suggestions respecting the performance by Tenant of its obligations under this Agreement, Tenant will promptly comply therewith at the time or times, when and to the extent that Landlord may direct.



## SECTION 8. REPAIR AND MAINTENANCE OF PROPERTY

**8.1 Maintenance.** Tenant shall, throughout the term of this lease, take good care of the leased area and the fixtures and appurtenances therein and at its sole cost and expense make all non-structural repairs thereto as and when needed to preserve them in good working order and condition, damage from the maintenance and repair at tenant's sole cost and expense of all windows, doors, light fixtures, plumbing fixtures, painting of interior and exterior walls when needed, floor covering and other non-structural repairs and all necessary modifications to the demised premises to comply with the Americans with Disabilities Act.

**8.1.1** Landlord shall throughout the term of this lease maintain the structural components of the leased premises to include the air conditioning system, major electrical systems, major plumbing lines, roof and foundation.

**8.1.2** Damage or injury to the premises, fixtures, appurtenances whether requiring structural or non-structural repairs, caused by or resulting from carelessness, omission, neglect or improper conduct of tenant, its servants, employees, or licensees, shall be repaired promptly by Tenant at Tenant's sole cost and expense, to the satisfaction of Landlord.

**8.1.3** Tenant herein agrees to promptly notify Landlord of any accident to or any defects in the utility system or structure including, but not limited to, water pipes, drainage pipes, and air conditioning ducts.

**8.1.4** The Landlord or its designee is expressly granted the right of access to any such utility or structure and the right to enter the leased area to inspect and repair, if necessary any such system(s) or structure(s) for its work or repair, the cost of same shall be apportioned among the tenant or tenants, if used in common, and served by such system (s) or structure(s). The reasonable cost of such repair shall be determined by the Landlord.

**8.2 Landlord's Right to Effect Temporary Closures.** Tenant acknowledges that, in performing its general maintenance obligations regarding the Airport, and in the exercise of Landlord's police power, Landlord shall have the right to shut down and/or suspend operations over taxiways, runways and roadways on a temporary basis, but never for an unreasonable time. Landlord shall endeavor to give Tenant reasonable prior notice (considering all of the facts and circumstances of all such temporary closures and the extent of same, and shall handle all such closure and maintenance on a non-discriminatory basis to all tenants at the Airport who are similarly situated.

## SECTION 9. COMPLIANCE WITH LAWS AND AGREEMENTS; HAZARDOUS WASTE

**9.1 Compliance with Laws.** During the Term of this Lease, Tenant shall comply with and cause the Property to be in compliance with all laws, rules, regulations, permits and approvals, whether or not presently contemplated (collectively "Legal Requirements") applicable to the Property or the uses conducted on the Premises; provided, however, in no event shall Tenant be responsible for any Hazardous Materials (as defined below) which were not introduced to the Premises by Tenant or its sub-tenants or their respective officers, directors, employees, guests, invitees, licensees, agents or contractors.

## **9.2     Hazardous Materials.**

**921     Definitions.** “Hazardous Materials” shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems and those materials, substances and/or wastes, including infectious waste, medical waste, and potentially infectious biomedical waste, which are or later become regulated by any local governmental authority, the State of Texas or the United States Government, including, but not limited to, substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901, et seq.; all corresponding and related State of Texas and local statutes, ordinances and regulations, including, without limitation, any dealing with underground storage tanks; and any other environmental law, regulation or ordinance now existing or hereinafter enacted (collectively, “Hazardous Materials Laws”). Notwithstanding anything herein to the contrary, the term “Hazardous Materials” shall also expressly include any product, material, or substance capable of release or discharge to the environment, including but not limited to firefighting foams and other fire suppressants, which contains in any measurable quantity any compound within that category of chemicals known collectively as Per- and polyfluoroalkyl substances (also known as PFAS), including but not limited to Perfluorooctanoic acid (also known as PFOA); Perfluorooctanesulfonic acid (also known as PFOS); Perfluorononanoic acid (also known as PFNA); Hexafluoropropylene Oxide Dimer Acid and its Ammonium Salt (also known as GenX Chemicals); Perfluorobutane Sulfonic acid (also known as PFBS, and including its related compound Potassium Perfluorobutane Sulfonate); and any other PFAS compounds presently or in the future under study by the United States Government, the State of Texas, or any other State government for inclusion on a list of substances subject to the setting of any Maximum Contaminant Level for purposes of human drinking water consumption under authority of the Safe Drinking Water Act, as amended, 42 U.S.C. §300f, et seq., or any Texas or other State analogues to that statute.

**922     Use of Premises by Tenant. Remediation of Contamination Caused by Tenant.** Tenant shall not use, generate, manufacture, refine, produce, spill, process, store or dispose of, on, under or about the Premises or transport to or from the Premises in the future for the purpose of generating, manufacturing, refining, producing, storing, handling, transferring, processing or transporting Hazardous Materials, except in compliance with all applicable Hazardous Materials Laws. If at any time during the Term any contamination of the Property by Hazardous Materials shall occur where such contamination is caused by the act, commission or omission of Tenant or its sub-tenants on the Improvements or otherwise on or about the Premises, or with their respective officers, director, employees, guests, invitees, licensees, agents, and contractors (“Tenant Contamination”), then Tenant, at its sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the Property; provided however, in no event shall Tenant be responsible for the removal of any Hazardous Materials located on, under or about the Premises as of the Commencement Date (“Existing Contamination”) of any Hazardous Materials which were subsequently introduced to the Premises and not caused by Tenant Contamination.

**923 Notice of Hazardous Materials Matters.** Each party hereto (for purposes of this Section, "Notifying Party") shall immediately notify the other party (the "Notice Recipient") in writing of: (a) any enforcement, clean-up, removal or other governmental or regulatory action instituted, contemplated or threatened concerning the Property pursuant to any Hazardous Materials Laws; (b) any claim made or threatened by any person against the Notifying Party or the Property relating to damage contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials on or about the Premises; and (c) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Property including any complaints, notices, warnings or asserted violations in connection therewith, all upon receipt by the Notifying Party of actual knowledge of any of the foregoing matters. Notifying Party shall also supply to Notice Recipient as promptly as possible, and in any event within ten (10) business days after Notifying Party first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to Hazardous Materials on or under the Premises.

**924 Indemnification by Tenant of Landlord.** Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord), protect, and hold Landlord, its employees, agents, attorneys, officers, successors and assigns, free and harmless from and against any and all claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses or expenses (including, without limitation, attorneys' fees and costs through litigation and all appeals) or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly by any Tenant Contamination. Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs required to repair, clean-up or detoxification or decontamination of the Property, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith; provided, however, only to the extent required on account of Tenant Contamination and then only to the extent required by Hazardous Materials Laws.

**925 Survival and Duration of Obligations.** All representations, warranties, obligations and indemnities made or given under this Section 9 shall survive the expiration or earlier termination of this Lease.

## **SECTION 10. MECHANICS' LIENS.**

**10.1 No Liens.** Tenant will not create or permit to be created or to remain, and will promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Property, any part thereof or upon Tenant's leasehold interest, which arises out of the use or occupancy of the Property by Tenant or by reason of any labor or materials furnished or claimed to have been furnished to Tenant or by reason of any construction, addition, alteration or repair of any part of the Property. If any such lien is filed against the Property, within thirty (30) days after Tenant's notice of the filing thereof, Tenant shall cause such lien or claim to be released or discharged with respect to the Property by payment or bonding. Notwithstanding anything to the contrary set forth in this Lease, in no event shall the interest of Landlord in all or any part of the Property be subject to any construction, mechanics', materialmen's, laborers' or other statutory or common law lien for improvements or work made or done by or at the instance of Tenant, whether or not the same shall be made or done with the consent of Landlord or by agreement between Tenant and Landlord.

**10.2     Contests.** Tenant shall not be required to pay, discharge, or remove any charges, liens, encumbrances, Taxes, utility charges or to comply with any Legal Requirements applicable to the Property or any portion thereof, including the Premises and Improvements, so long as Tenant contests the existence, amount or validity of the matter in question by appropriate proceedings. This right of Tenant to withhold performances while proceedings are pending shall apply only if Tenant's proceedings effectively prevent any sale, forfeiture or loss of the Property or Landlord's rights under this Lease. In addition, Landlord shall have the right to pay, discharge or remove any such charges, liens, encumbrances, Taxes or utility charges should Landlord, in its sole good faith discretion, determines that it is in Landlord's best interest to do so. Landlord shall not be required to join in any contest by Tenant pursuant to this Section unless the law or regulations then in effect require that the proceeding be brought by or in the name of the Landlord. In such event, Landlord shall join the proceedings or permit them to be brought in its name; however, Landlord will not be subjected to any liability for the payment of any costs or expenses (including attorneys' fees and costs) in connection with any contest or proceedings.

## **SECTION 11. INDEMNIFICATION**

**11.1     Tenant's General Indemnification.** Tenant shall indemnify and hold harmless Landlord from and against any and all liability, damage, penalties or judgments, actions, suits, proceedings, claims, demands, assessments, costs and expenses (collectively, the "Costs"), including, without limitation, reasonable legal fees and expenses, incurred in enforcing this indemnity (but only if Landlord is the prevailing party in such enforcement action), resulting from any breach of any of Tenant's obligations hereunder or otherwise arising from injury to person or property sustained by anyone in and about the Premises during the Lease Term, except with respect to any Costs (a) directly caused by the negligence or willful misconduct of Landlord or (b) suffered by any trespassers onto the Premises whose entrance thereon also did not violate any of Tenant's obligations hereunder or under the Security Plan. Tenant shall, at its own cost and expense, defend, with counsel acceptable to Landlord, any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims.

**11.2     Survival.** The terms and provisions of this Section 11 shall survive the termination or expiration of this Lease for any accident, injury or damage occurring prior to the termination or expiration of this Lease.

## **SECTION 12. INSURANCE REQUIREMENTS**

**12.1     Commercial General Liability Insurance.** Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall maintain commercial general liability insurance against liability occasioned by any accident, injury (including death) or damage suffered or occurring on or about the Premises or any appurtenance thereto. The liability policy shall be for the minimum of \$1,000,000.00 combined single limit coverage for property damage and bodily injury to any one person and general aggregate limits of \$3,000,000.00 per accident (which insurance can be satisfied by an umbrella policy maintained by Tenant), and shall list Landlord as an additional insured. These amounts may be increased by Landlord, at its own reasonable discretion, every five (5) years during the Lease Term.

**12.2 Casualty Insurance.** Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall keep special form property insurance and all other coverage necessary to insure against losses to all Improvements located on the Property caused by damage or destruction by flood, fire, windstorm, vandalism, malicious mischief and other risks typically insured in an amount equal to at least 90% of the replacement cost of the Improvements.

**12.3 Hangarkeeper's Insurance.** . [INTENTIONALLY OMITTED]

**12.4 Worker's Compensation.** Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall maintain worker's compensation insurance in such amounts and in such forms as are required by Texas state statute and/or local ordinance.

**12.5 Requirements.** All insurance maintained by Tenant pursuant to this Section shall provide that (i) no cancellation, material change or reduction thereof shall be effective until at least thirty (30) days after written notice thereof is given to Landlord (except in the event of nonpayment, in which event the notice period shall be a minimum of ten (10) days), (ii) the rights of the insured(s) to receive and collect the proceeds thereof shall not be diminished because of any additional insurance carried by Landlord on its own account, (iii) all losses shall be payable notwithstanding any act or negligence of Landlord or Tenant which might, absent such agreement, result in a forfeiture of all or part of such insurance payment; and (iv) be written with insurance companies authorized to do business in Texas and having a general policy holder rating of A- or better and financial rating of VIII or better in "Best's Insurance Guide" (unless Tenant elects to self-insure such insurance). The liability policy required hereunder shall be endorsed to name Landlord and Landlord's Mortgagee, if any, as additional insured's. If Tenant fails to carry any insurance required to be maintained by Tenant hereunder after thirty (30) days written notice from Landlord of such failure, Landlord may obtain such insurance and the cost incurred by Landlord in obtaining such insurance shall be deemed additional Rent due to Landlord under this Lease. Tenant may elect to self-insure the insurance requirements pursuant to this Lease.

**12.6 Certificates.** On or before the Effective Date, Tenant shall deliver to Landlord certificates of insurance evidencing the insurance required to be maintained under this Section. Tenant also shall deliver to Landlord at least thirty (30) days prior to the expiration date of any such policy or policies or any other policies required to be maintained under this Section (or of any renewal policy or policies), certificates for the renewal policies of such insurance. Tenant covenants to furnish Landlord promptly upon Landlord's request copies of insurance policies required to be maintained by Tenant hereunder.

**12.7 Waiver.** Anything in this Lease to the contrary notwithstanding, to the extent permissible by law Landlord and Tenant hereby waive any and all rights of subrogation for themselves and any insurer against each other, their respective agents, officers and employees for any loss or damage that may occur to the Premises or the Airport and to all property, whether real, personal or mixed, located in or at the Premises or the Airport, by reason of any peril to be insured under this Lease regardless of cause or origin, including negligence of the parties hereto, their respective agents, officers and employees. Since the above mutual waiver will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), if applicable each party hereto agrees immediately to give each insurance company which had issued to it property insurance policies, written notice of the terms of said mutual waivers,

and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of such coverage by reason of said waivers.

## **SECTION 13. CONDEMNATION AND CASUALTY**

### **13.1 Casualty.**

**13.1.1** If the Improvements shall be damaged or rendered wholly or partially tenantable by fire or other casualty during the Term of this Lease, Rent shall not abate during such period, whether the Property is tenantable or not, subject, however, to the Tenant's right to terminate this Lease as provided in Section 13.1.2 below. Unless this Lease is so terminated, Tenant shall either promptly rebuild or repair the Improvements so as to make the rebuilt or repaired Improvements at least equal in value to the fair market value of the Improvements existing immediately prior to such occurrence and as nearly similar to such prior Improvements in character as is practical and reasonable or promptly remove the Improvements and continue to pay the Rent hereunder.

**13.1.2** If during the last year of any Term of the Lease, there is any damage or destruction to the extent of 75% or more of the replacement cost of the Improvements, Tenant may by notice to Landlord within sixty (60) days after the occurrence of such damage or destruction, elect to terminate this Lease. This Lease shall then terminate on the date specified in the notice, except with respect to obligations and liabilities of Landlord and Tenant under this Lease that have arisen on or before such date of termination. In the event of termination, the insurance proceeds payable in connection with the damage or destruction of the Improvements shall be paid to Landlord.

### **13.2 Condemnation.**

**13.2.1** If the use, occupancy, or title of the Premises or any part thereof or access thereto is taken, requisitioned or sold in, by or on account of any actual or threatened eminent domain proceeding or other action by any person having the power of eminent domain (a "Condemnation"), the award or compensation shall belong to Landlord, subject to Tenant's right to make a separate claim for compensation allocable to its leasehold estate. All amounts paid in connection with any Condemnation of the Premises shall be applied pursuant to this Section, and all such amounts (minus the expense of collecting such amounts as hereinafter provided) are herein called the "Net Proceeds." Landlord and Tenant shall each pay all of its reasonable costs and expenses in connection with each such proceeding, action, negotiation, prosecution and adjustment for which costs and expenses Landlord and Tenant shall be reimbursed out of any award, compensation or insurance payment to which it is entitled.

**13.2.2** If the entire Premises, or the use or possession thereof, is taken by Condemnation, then this Lease shall terminate on the date when possession shall be taken by the condemnor, and Rent and all other charges payable hereunder shall be apportioned and paid in full up to that date, and all prepaid unearned rent, and all other charges payable hereunder, shall promptly be repaid by Landlord to Tenant.

**13.2.3** If less than the entire Premises is taken by Condemnation, and Tenant reasonably believes that such taking shall render the Premises unsuitable for Tenant's

continued use and occupancy, then Tenant may, not later than one hundred fifty (150) days after such occurrence, deliver to Landlord (i) notice of Tenant's intention to terminate this Lease on a business day specified in such notice (the "Lease Termination Date"), which occurs not less than thirty (30) days after the delivery of such notice, and (ii) a statement of Tenant describing the event giving rise to such termination. This Lease shall terminate on the Lease Termination Date, except with respect to obligations and liabilities which have arisen on or prior to the Lease Termination Date.

**13.2.4** If a Condemnation of the Premises or any part thereof shall occur but Tenant does not give notice of its intention to terminate this Lease as provided in this Section, then this Lease shall continue in full force and effect. Any Net Proceeds payable with respect to such Condemnation shall be allocated between Landlord and Tenant in accordance with Section 13.2.1 above and Tenant shall either promptly repair and restore the Property to the same condition (as nearly as practicable) as existed immediately before the Condemnation (assuming for this purpose that the Property were in compliance with the terms of this Lease) or demolish the Improvements and remove all debris in connection therewith. In the event of any temporary requisition, this Lease shall remain in full effect and Tenant shall be entitled to receive the Net Proceeds allocable to such temporary requisition; except that such portion of the Net Proceeds allocable to the period after the expiration or termination of the Term of this Lease shall be paid to Landlord.

#### **SECTION 14. ASSIGNMENT AND SUBLETTING; SALE AND LEASING OF PREMISES**

**141** **No Assignment without Landlord Consent/Subletting in Ordinary Course of Business.** Tenant shall not assign this Lease or to sublet all or any portion of the Property, without first obtaining Landlord's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the aforesaid, Tenant shall have the right to sublet certain parts of the Premises to third parties in the normal course of business. However, Landlord shall remain primarily responsible for all obligations under this Lease notwithstanding such subletting. The consent of Landlord to any such assignment shall not be deemed a consent to any other or future assignment. Landlord's consent to any assignment shall not operate to release Tenant from any of its obligations under this Lease unless Landlord in writing has consented to such release. The acceptance of Rent or any additional rent by Landlord following any sublease or assignment prohibited by this Section shall be deemed to be only an acceptance of rent from Tenant and shall not be deemed to be a consent by Landlord to any such assignment or other transfer nor shall acceptance thereof be deemed to be a waiver of any existing default or any right or remedy of Landlord hereunder.

**142** **Notice.** In the event of an assignment or subletting of all or a portion of the Property that requires Landlord's consent under Section 14.1 above, Tenant shall provide to Landlord notice of the proposed Assignee or Subtenant ("Notice of Assignee or Subtenant"), which shall include the name of the proposed Assignee or Subtenant and a current financial statement of the proposed Assignee or Subtenant. Landlord, not later than fifteen (15) days after receiving Notice of Assignee or Subtenant, shall notify Tenant in writing whether it approves or disapproves of the proposed Assignee or Subtenant, which Landlord may do in its sole and absolute discretion, for any reason or for no reason.

## SECTION 15. OBLIGATIONS IN CONNECTION WITH THE CONDUCT OF TENANT'S BUSINESS

### 15.1 Requirements of Tenant.

Tenant shall:

- (a) [INTENTIONALLY OMITTED];
- (b) [INTENTIONALLY OMITTED];
- (c) Comply, at Tenant's sole cost and expense, with all rules and regulations of Landlord and the Airport, as they may be modified or amended from time to time, including but not limited to all rules and regulations of the FAA, the Texas Department of Transportation and other federal, state, and local laws, rules, regulations, ordinances and obligations, including without limitation all Union Labor and prevailing wage laws and all future ordinances adopted by the City of Laredo (or any subsequent sponsor of the Airport) pertaining to Airport Rates and Charges, Collection of Landing Fees and/or Fuel Flowage Fees (or similar fees relating to electric aircraft), and other similar matters, all of which shall be enforced uniformly in a non-discriminatory manner to all similarly situated parties (to the extent permitted by existing contractual arrangements); and
- (d) Provide Landlord with a copy of any notice, warning, summons or other legal process for the enforcement of any laws, ordinances, rules, regulations, decisions or orders materially affecting Tenant's aviation operations at the Airport within five (5) business days of receipt.

## SECTION 16. DEFAULTS

### 16.1 Defaults of Tenant.

16.1.1 Tenant shall be in "Default" if (i) Tenant shall not have paid Rent or any other amount payable by Tenant pursuant to this Lease when due (a "Monetary Default"); or (ii) Tenant shall not have performed any of its obligations under the Security Plan within two (2) days after notice from Landlord, or (iii) Tenant shall not have performed any of the other covenants, terms, conditions or provisions of this Lease within thirty (10) days after Tenant's receipt of written notice specifying such failure; provided, however, that with respect to those failures that cannot with due diligence be cured within such thirty (10) day period, Tenant shall not be deemed to be in default hereunder if Tenant commences to cure such default within such thirty (10) day period and thereafter continues the curing of such default with all due diligence (a "Non-Monetary Default"), but in no event longer than sixty (60) days; or (iv) Tenant files, or there is filed against Tenant, a petition (which is not dismissed within one hundred sixty (60) days) in bankruptcy or a petition or answer seeking reorganization under the Federal Bankruptcy Code or any other applicable statute; or (v) an order is entered adjudicating Tenant bankrupt or approving an involuntary petition seeking a reorganization of Tenant under the Federal Bankruptcy Code or any other applicable statute or appointing a receiver, trustee or conservator for all or any substantial part of the property of Tenant, and the order is not vacated or stayed within one hundred sixty (60) days of entry; or (vi) Tenant makes a general assignment for the benefit of creditors; or (vii) this Lease or the Property or any part of the Property is taken upon execution or by other process of law directed against Tenant, or



is taken upon or subjected to any attachments by any creditor of Tenant or claimant against Tenant, and the attachment is not discharged within sixty (60) days after its levy. Upon the occurrence of a Default, then Landlord shall have the remedies set forth below.

**16.1.2** If Tenant is in Default, Landlord shall have the right to pursue any one or more of the following remedies:

(i) Terminate this Lease and recover actual and reasonable consequential or special damages.

(ii) Terminate Tenant's right to possess the Premises by re-entering the Premises after due legal process and court order, without terminating this Lease and recover actual (but not consequential or special) damages.

(iii) Perform any of Tenant's obligations under this Lease, and Tenant shall reimburse Landlord within ten (10) days after written demand for all out of pocket, documented costs incurred by Landlord in doing so. *Notwithstanding the aforesaid, should Landlord determine in its sole judgment that Tenant is not in compliance with any aspect of the Security Plan, Landlord shall have the right immediately to perform any of the obligations thereunder and receive reimbursement as provided herein.*

(iv) Obtain injunctive or other equitable relief, or exercise any other remedy provided herein (provided Landlord shall in no event be entitled to consequential, special or punitive damages).

**16.1.3** No notice from Landlord under this Lease will constitute an election by Landlord to terminate this Lease unless the notice specifically says so. Landlord may elect to terminate this Lease, reenter the Property and take possession thereof, without prejudice to any other remedy which Landlord may have under this Lease. In such event, Tenant shall surrender and deliver up the Property to Landlord and upon any default by Tenant in so doing, Landlord shall have the right to recover possession by summary proceedings, and to apply for the appointment of a receiver or for other ancillary relief in such action. In the event of any termination of this Lease in accordance with the provisions of this Section, Tenant shall pay to Landlord all Rent, and other sums required to be paid by Tenant to and including the date of such termination. In addition, if Landlord terminates this Lease, Tenant shall be liable to Landlord for, and shall pay to Landlord, as damages, an amount equal to (i) the Rent required herein during the period from the date of such expiration, termination, reentry or repossession to and including the end of what would have been the Term of this Lease in the absence of such termination, discounted at the current Prime Rate minus (ii) the then fair market rental value of the Property for the same period, also discounted at the said Prime Rate. "Prime Rate" shall mean the rate (or the average of rates, if more than one rate appears) inserted in the blank of the "Money Rate" section of the Wall Street Journal (Eastern Edition), or any successor publication or index.

**16.1.4** Landlord may elect to not terminate this Lease, but rather reenter the Property and take possession thereof and relet the Property or any part thereof. In such event,

Landlord shall have no legal obligation to mitigate its damages resulting from the occurrence of such Default.

**16.1.5** In recovering its damages hereunder, Landlord need not commence separate actions to enforce Tenant's obligations under this Section or wait until the days on which Rent would be payable under this Lease but may recover its damages in one legal action, provided that any lump sum payment shall be discounted at the current Prime Rate, as set forth in Paragraph 27.

**16.1.6** If Tenant commits a Default hereunder and Landlord places the enforcement of the terms of this Lease or any part thereof, or the collection of any Rent due, or to become due hereunder, or recovery or possession of leased premises, in the hands of an attorney, or files suit upon same, LESSEE agrees to pay LESSOR reasonable attorney's fees and payment of same shall be secured in a like manner as herein provided as to lien for rent

**16.1.7** No right or remedy conferred upon or reserved to Landlord in this Lease is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Lease or existing at law or in equity. No waiver or assent, express or implied, to any breach of Tenant's covenants hereunder shall be deemed a waiver of any breach of any other covenants under this Lease or a waiver of any succeeding breach of the same covenants. No waiver shall be deemed to have been given by Landlord's failure to enforce the terms of this Lease strictly, including, without limitation, Landlord's failure to collect any Fixed Rent or other sums due under this Lease, unless such waiver shall be in writing and shall state the specific act or failure which Landlord has agreed not to treat as a Default.

**16.2 Rights to Cure.** Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of the Default of Tenant, to perform any of the provisions of this Lease. In the event of the exercise of any such right by Landlord, Tenant agrees to pay to Landlord forthwith upon demand all such sums, as additional rent, as well as interest on such sums at the Interest Rate (as defined in Section 27) from the date incurred by Landlord until the date paid by Tenant. If Tenant exercises its cure rights, Landlord agrees to pay to Tenant upon demand all such sums, as well as interest on such sums at the Interest Rate from the date incurred by Tenant until the date paid by Landlord.

## **SECTION 17. HOLDING OVER**

**17.1 Month-to-Month Extension.** A holding over beyond the expiration of the Term of this Lease, without the Landlord's consent, shall operate as an extension of this Lease on a month to month basis on the same terms and conditions in effect immediately prior to the expiration, except that Rent shall be one hundred fifty percent (150%) of the then Rent. If Tenant holds over with the written consent of Landlord, then the extended term may be terminated either by Landlord or Tenant by giving thirty (30) days written notice to the other. Nothing contained in this Section 20, however, be construed as a consent by Landlord to any hold over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Property to Landlord upon expiration or other termination of this Lease, and the provisions of this Section 17 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provides herein or at law if Tenant holdovers without Landlord's written consent.

## SECTION 18. SURRENDER

At the expiration or earlier termination of the term of this Lease, Tenant shall yield the Property to Landlord and the Improvements and any other leasehold improvements shall become the sole property of Landlord at the expiration of the Term without any compensation to Tenant and free and clear of any right, title, interest, claim or demand of Tenant or of anyone claiming through or under Tenant. Tenant shall deliver the Property to Landlord vacant, broom clean and in the same condition as on the Commencement Date, normal wear and tear excluded. Further, Tenant shall assign to Landlord any subleases of the Improvements requested by Landlord. Tenant agrees to execute such documents and instruments of conveyance as may be required by Landlord to confirm such ownership in the Landlord. Upon expiration or earlier termination of this Lease, Tenant may remove any of Tenant's trade fixtures, furniture, furnishings, and other personal property from the Premises and Tenant shall repair any damage which may result to the Property from such removal. In the event Tenant fails to remove those items, the items shall be deemed abandoned and shall be the property of Landlord. On or before the expiration or termination of this Lease, Tenant shall cause any mortgages, deeds of trust, liens or encumbrances created by, through or under Tenant to be fully released and discharged.

## SECTION 19. FINANCING

[INTENTIONALLY OMITTED]

## SECTION 20. PERSONNEL

**201     Tenant to Supply Personnel.** Tenant shall furnish sufficient trained personnel to perform the services required of Tenant under this Agreement. If any of such personnel do not perform the services to be furnished hereunder in a manner satisfactory to Landlord, Tenant shall remove any such personnel and replace them with personnel who can and shall perform satisfactorily.

**202     No Likely Interference.** Tenant shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Airport which interfere or are likely to interfere with the operation of the Airport by Landlord or with the operations of lessees, permittees, licensees or other users of the Airport or with aviation operations of Tenant under this Agreement. It shall be the obligation of the Tenant to ascertain if any such persons employed or used will be in contravention of any labor agreements pertaining to the County or the Airport and if any equipment shall violate any Airport or FAA rules or regulations concerning height restrictions, use restrictions or other requirements that pertain to the Airport.

**203     Notice of Issues.** Tenant shall immediately give oral notice to Landlord (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. Tenant shall use its best efforts to resolve any such complaint, trouble, dispute or controversy.

**204     Landlord's Right to Suspend Tenant's Operations.** If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant at the Airport or against any Tenants of Tenant under this Agreement, whether or not the same is due to the fault of

Tenant and whether or not caused by the employees of Tenant, and if any of the foregoing, in the opinion of Landlord, results or is likely to result in any curtailment or diminution of the services to be performed hereunder or to interfere with or affect the aviation operations of Tenants, permittees, licensees, or other users of the Airport, or if as a result of any other cessation or stoppage of aviation operations by Tenant hereunder for any reason whatsoever, or in the event of Tenant's non-compliance with this Section 20, Landlord shall have the right at any time during the continuance thereof to suspend the operations of Tenant under this Agreement, and during the period of the suspension Tenant shall not perform all operations hereunder. The period of suspension shall end not more than twenty-four (24) hours after the cause thereof has ceased or been cured. Prior to the exercise of such right by Landlord, it shall give Tenant notice thereof, which notice may be oral. No exercise by Landlord of the rights granted to it in this Section 20 shall be deemed to be a waiver of any rights of termination contained in this Agreement or a waiver of any rights or remedies which may be available to Landlord under this Agreement or otherwise

**205     Information on Employees.** From time to time upon request therefor Tenant shall furnish to Landlord information showing the number of persons employed by Tenant at the Airport, the scheduling of such employees and such other information as Landlord may require.

## **SECTION 21. QUIET ENJOYMENT AND TITLE**

So long as Tenant pays the Rent and other sums payable under this Lease as and when due and performs Tenant's covenants and complies with all of the material terms and provisions of this Lease, Tenant shall peacefully and quietly hold the Property throughout the Term of this Lease free from hindrance or molestation by Landlord and others claiming by, through, or under the Landlord, but subject, however, to the terms of this Lease.

## **SECTION 22. NOTICES**

### **22.1     Notices.**

**22.1.1** All notices, demands and other communications hereunder shall be in writing and shall be addressed as follows:

- (i)     If to Tenant, to it at:  
  
Laredo Little Theatre  
P.O. Box 2266  
Laredo, Texas 78044

(ii) If to Landlord, to it at:

Laredo International Airport  
5210 Bob Bullock Loop  
Laredo, TX 78041

with a copy to:

Flaster Greenberg, P.C.  
210 Lake Drive East, Suite 200  
Cherry Hill, NJ 08002  
Attention: Daniel B. Markind, Esq.

or to such other address or facsimile number as either party may designate by notice to the other party hereto.

**22.1.2** A notice or other communication which may be or is required to be given under this Lease shall be deemed to be duly delivered (i) three (3) business days after deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested; (ii) when received (or when receipt is refused) if delivered personally; (iii) one (1) business day after deposit with a nationally recognized courier (e.g. UPS, Federal Express) all charged prepaid, or (iv) on the same day when sent by receipted .pdf, to the address of the recipient as set forth in this Section. Such addresses may be changed by written notice to the other party in accordance with this Section. The parties acknowledge that copies of any notice sent by facsimile or e-mail are for convenience only, and shall not be deemed to be proper notice required hereunder.

## **SECTION 23. ENTRY/MAINTENANCE OF AIRFIELD.**

**23.1 Inspection of Premises.** Landlord shall have the right, upon three (3) business days' prior written notice and at a time reasonably acceptable to Tenant (except in the case of emergencies (including any potential violation of the Security Plan), for which no prior notice shall be required), to enter the Property for the purpose of (a) examinations or inspections of the same, (b) showing the Property to prospective mortgagee of Landlord's fee simple interest in the Property; and (c) showing the Property to prospective tenants or purchasers; and Tenant shall not be entitled to any abatement of rent by reason thereof, nor shall such entry be deemed to be an actual or constructive eviction. In exercising its rights hereunder, Landlord shall exercise such rights in a manner so as to minimize any interference with the aviation operations of Tenant or any subtenants of the Improvements or the Premises.

**23.2 Inspection of Airfield.** Landlord shall have the right at all times to conduct inspections and perform maintenance on or about the airfield. Landlord shall endeavor in good faith to give Tenant prior notice of any such inspection or maintenance, but failure to provide same shall not constitute a Default by Landlord hereunder, nor shall it entitle Tenant to any rental abatement or revenue loss supplement of any kind.

## **SECTION 24. ANTI-DISCRIMINATION CLAUSES MANDATED BY THE FEDERAL GOVERNMENT.**

**24.1 Airport and Airway Development Act of 1970.** Tenant assures that it will undertake an affirmative action program as required by 14 Code of Federal Regulations Part 152, Subpart E, to ensure that no person shall on the grounds of race, color, creed, national origin, or sex be excluded from participating in any employment activities covered by 14 Code of Federal Regulations Part 152, Subpart E. Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Tenant assures that it will require that its covered suborganizations provide assurances to Tenant that they similarly undertake affirmative action programs and that they will require assurance from their suborganizations, as required by 14 Code of Federal Regulations Part 152, Subpart E, to the same effect.

**24.2 Race or National Origin.** Tenant, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agrees as a covenant running with the land that: (a) no person on the grounds of race, color, or national origin shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participating in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

**24.3 Right to Terminate.** Tenant confirms that in the event of breach of any of the proceeding nondiscrimination covenants, Landlord shall have the right to terminate the license, lease, permit, etc., and to reenter and repossess said land and the facilities thereon and hold the same as if said Lease had never been made or issued.

## **SECTION 25. ESTOPPEL CERTIFICATE**

Within fifteen (15) business days after request by Landlord to Tenant, Tenant shall execute an Estoppel Certificate to evidence (a) Tenant's knowledge of the existence or non-existence of any Default under this Lease, any amendment to this Lease, or any prepayment of rentals and (b) such other facts with respect to this Lease as may be reasonably required.

## **SECTION 26. FORCE MAJEURE**

In the event that Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, the act, failure to act or default of the other party, war or other reason beyond their control (an event of "Force Majeure"), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 25 shall not be applicable with respect to payment of rent or any obligation to pay money. In order to claim a delay for an event of Force Majeure, the party claiming a delay for Force Majeure shall notify the other party in

writing of the same within fifteen (15) business days of occurrence of the event and provide a description of the event constituting Force Majeure.

## **SECTION 27. INTEREST**

Whenever this Lease requires or permits the payment of interest, such interest (the "Interest Rate") shall be determined as the lesser of the Prime Rate plus five percent (5%) per annum, or (b) the highest nonusurious rate permitted by applicable law. Landlord and Tenant intend to conform strictly to the applicable laws governing maximum interest rates permitted. In no event, whether by reason of demand for payment, or otherwise, shall the interest contracted for, charged or received by Landlord exceed the maximum amount contracted for, charged or received by Landlord hereunder or otherwise exceed the maximum amount permitted under applicable law. If from any circumstance whatsoever interest would otherwise be payable to Landlord in excess of the maximum lawful amount, the interest payable to Landlord shall be reduced automatically to the maximum amount permitted by applicable law. If Landlord shall ever receive anything of value deemed interest under applicable law which would, apart from this provision, be in excess of the maximum lawful amount, an amount equal to the amount which would have been excessive interest shall be applied to the reduction of scheduled Rent and not to the payment of interest, or if such amount which would have been excessive interest exceeds the unpaid amount of Rent, such excess shall be refunded to Tenant. All interest paid or agreed to be paid to Landlord shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of this Lease so that the amount of interest charged or paid does not exceed the maximum permitted by applicable law. The provisions of this Section shall control all existing and future agreements between Tenant and Landlord. In determining whether interest of any kind paid or payable hereunder exceeds the highest rate, Tenant and Landlord shall, to the maximum extent permitted under applicable law amortize, prorate, allocate and spread, in equal parts, the total amount of interest throughout the entire contemplated Term of this Lease in order to render the interest rate uniform throughout such term. Without limiting the generality of the foregoing, the amount of any late payment fee or charge provided for herein (whether or not the same are construed as interest under applicable laws) are limited to and shall never exceed an amount which, when added to all items called or deemed to be interest in connection with the transactions contemplated herein, does not exceed the maximum amount of interest payable under applicable law.

## **SECTION 28. TRANSFER OF LANDLORD'S INTEREST**

All references to the "Landlord" herein mean the owner of the fee simple title to the Premises so that in the event of any sale or transfer of the fee title to the Property, the former Landlord shall be entirely released and discharged from any and all further liability and obligations of Landlord.

## **SECTION 29. OTHER MANDATED FAA CLAUSES**

Landlord and Tenant agree that in all agreements there are certain clauses that are required to be included by the Federal Aviation Administration. They are listed on Exhibit "B" attached hereto and made a part hereof and are included in this Agreement.

## SECTION 30. FIXED BASE OPERATOR PROVISIONS

[INTENTIONALLY OMITTED]

## SECTION 31. MISCELLANEOUS

**31.1 Entire Agreement.** This Lease and the Exhibits attached hereto and thereto contain all the agreements of the parties with respect to the subject matter herein. There have been no representations made by either party or understandings made between the parties with respect to the subject matter hereof other than those set forth in this Lease and the Exhibits attached hereto and thereto. This Lease may not be modified except by a written instrument duly executed by the parties hereto.

**31.2 Waiver.** Failure by either party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Lease. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver.

**31.3 Severability.** If any covenant or provision of this Lease is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity of the remaining covenants and provisions, it being the intention of the parties that this Lease be so construed as to render enforceable that portion of this Lease unaffected by such holding. The contractual provisions shall be deemed severable.

**31.4 Counterparts and Electronic Transmission.** This Lease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Each counterpart may be delivered by facsimile or electronic transmission, and will have the same force and effect as an original signature page. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

**31.5 Binding Agreement.** This Lease shall bind and inure to the benefit of the parties hereto and their successors and assigns; provided, however, that this Lease shall not inure to the benefit of any assignee of Tenant pursuant to an assignment which is not in compliance with the terms of this Lease.

**31.6 Business Day.** Should any due date hereunder fall on a Saturday, Sunday or legal holiday, then such date shall be deemed timely if given on the first business day following such Saturday, Sunday or legal holiday.

**31.7 Waiver of Jury Trial.** Each party hereto hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to his lease or the relationship of the parties be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the Constitution of any state, common law or any applicable statute or regulation. Each party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.



**31.8 Governing Law and Venue.** This Lease shall be governed by the laws of the State of Texas, including its conflict of laws provision. Exclusive venue for any actions arising in connection with this Lease shall be Webb County, Texas.

**31.9 OFAC: Prohibited Transactions and Persons.** Landlord represents and warrants that it is not listed, nor is it owned or controlled by, or acting for or on behalf of any person or entity, on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, or any other list of persons or entities with whom Tenant is restricted from doing business ("OFAC List"). Landlord shall provide such documentary and other evidence of Landlord's identity and ownership as may be reasonably requested by Tenant at any time to enable Tenant to verify Landlord's identity or to comply with any legal request. Landlord shall indemnify Tenant against, and hold Tenant harmless from and against, all losses, damages, liabilities, costs and expenses (including, without limitation, court costs and reasonable attorneys' fees) that are incurred by Tenant and/or its affiliates that derive from a claim made by a third party against Tenant, its affiliates or any combination thereof which arises or is alleged to arise from a misrepresentation made by Landlord hereunder or a breach of any covenant to be performed by Landlord hereunder.

**31.10 Landlord's Lien.** Landlord shall have a statutory landlord's lien on all merchandise, goods, chattels, implements, fixtures, tools, furniture, machinery and any other personal property which Tenant now or at any time hereafter may place in or upon the premises, all exemption of said property, or any part of it being herein expressly waived by Tenant. **LANDLORD IS HEREBY GRANTED AN EXPRESS CONTRACTUAL LESSOR'S LIEN ON THE ABOVE GOODS, ALL OR ANY EXEMPTION BEING HEREBY WAIVED BY TENANT, BUT WITHOUT LIMITING TENANT'S RIGHT TO SELL, EXCHANGE, OR REPLACE SUCH GOODS FROM TIME TO TIME IN ORDER OR COURSE OF BUSINESS OR TRADE.** Upon the occurrence of any Default, Landlord, at its option, shall be entitled to take whatever lawful action reasonably necessary to protect Landlord's interest in said property, including the storing of liened goods for payment for a reasonable time, as well as the selling of such goods at public or private auction for rent due, without waiving Landlord's right to the total amount owed.

**31.11 Consents and Approvals.** Notwithstanding anything to the contrary contained in this Lease, except as otherwise provided, in all cases where consent or approval shall be required pursuant to this Lease, the giving of such consent or approval shall not be unreasonably withheld or delayed by the party from whom such consent is required or requested.

**31.12 Limitation of Liability.** Anything to the contrary elsewhere in this Lease notwithstanding, Tenant, and any person claiming under or through Tenant, shall look solely to the estate and property of the then Landlord in the Premises for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed and/or performed by Landlord, and no other property or assets of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies.

**31.13 Waiver of Certain Damages.** Notwithstanding anything herein to the contrary, each party hereby waives the right to recover consequential (including lost profits and business interruption), punitive, exemplary and similar damages against the other party.

**31.14 Gender.** Feminine, neuter and masculine pronouns, and the plural and the singular, shall be construed to be and shall be interchangeable in any place or places in which the context may require such interchange.

**31.15 Authority.** The execution and performance of this Lease by each party has been duly authorized by all applicable laws and regulations and all necessary corporate action, and this Lease constitutes the valid and binding obligation of such party, enforceable in accordance with its terms.

**31.16 Captions.** The captions of this Lease are for convenience only, are not a part of this Lease, and do not in any way limit or amplify the terms and provisions hereof.

**31.17 Commission.** Landlord and Tenant represent and warrant to the other that it has neither engaged, nor employed nor dealt with any broker in connection with this Lease.

**31.18 Attorney's Fees.** In the event any litigation ensues with respect to the rights, duties and obligations of the parties under this Lease, the unsuccessful party in any such action or proceeding shall pay for all costs, expenses and reasonable attorney's fees and paralegal's fees incurred by the prevailing party in enforcing the covenants and agreements of this Lease, whether incurred out of court, at trial, on appeal or in any bankruptcy or administrative proceeding. The term "prevailing party," as used herein, shall include, without limitation, a party who obtains legal counsel and brings action against the other party by reason of the other party's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

**31.19 Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Texas. Additional information regarding radon and radon testing may be obtained from your county public health unit.

**31.20 Survival of Obligations.** All obligations of a party hereunder not fully performed as of the expiration or earlier termination of the Term shall survive the expiration or earlier termination of the Term, including without limitation, all obligations concerning indemnities and the payment of Rent and other expenses and charges required to be paid hereunder for the period prior to the expiration or earlier termination of the Term of this Lease.

**31.21 Prevailing Wage Law.** Tenant, in the performance of all other matters pertaining to this Lease, shall abide by the provision of any Texas Prevailing Wage Act, currently existing or subsequently enacted.

**SIGNED** as of the day and year first written above.

Signed, Sealed and delivered in the presence of: **TENANT:**

**LAREDO LITTLE THEATRE**



Print Name: OSCAR D. PEÑA

By: OSCAR D. PEÑA  
Name: OSCAR D. PEÑA  
Title: PRESIDENT  
Date: 11/5/2024

**LANDLORD:**

**CITY OF LAREDO**

**A MUNICIPAL CORPORATION**

BY: \_\_\_\_\_  
JOSEPH NEEB  
CITY MANAGER

ATTEST:

BY: \_\_\_\_\_  
JOSE A. VALDEZ  
CITY SECRETARY

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
DOANH "ZONE" T. NGUYEN  
CITY ATTORNEY

**EXHIBIT "A"**  
**PLAN SHOWING THE PREMISES**

## **EXHIBIT “B”**

### **FAA MANDATED CLAUSES**

All clauses listed in the FAA Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects except clauses A22 and A23.