



IDAHO FALLS REGIONAL AIRPORT
NON-COMMERCIAL LEASE AGREEMENT
(UNDEVELOPED LAND)

IDAHO FALLS REGIONAL AIRPORT NON-COMMERCIAL LEASE AGREEMENT (“AGREEMENT”), made and entered this ___ day of _____ by and between the CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, (“the City of Idaho Falls,” “IFRA,” or “Airport,”) and _____, whose address is _____ (“LESSEE”);

W I T N E S S E T H:

WHEREAS, the City of Idaho Falls has operated an airport since the Spring of 1940 at IFRA’s present location; and

WHEREAS, IFRA was recognized by the Federal Aeronautics Administration as a public use airport in 1947; and

WHEREAS, IFRA operates under FAA license number control as part of the FAA National Plan of Integrated Airport Systems (NPIAS) and must adhere to FAA regulations and agreements in order to continue to lawfully operate; and

WHEREAS, because IFRA has received numerous FAA grants, it must comply with the assurances in each grant or put at risk the monies received from the respective grant; and

WHEREAS, protection of ownership and operation of IFRA is of great importance to the City of Idaho Falls and IFRA supports and enhances the region economically and provides transportation to citizens and visitors in the City and Bonneville County and the region; and

WHEREAS, IFRA desires to lease its premises on a temporary basis in a fair and equitable and business-like manner, without unnecessarily jeopardizing airport operations or IFRA ownership or operations; and

WHEREAS, IFRA has drafted this AGREEMENT to address its needs and interests relative to undeveloped land available for aeronautic-related uses, including the construction of hangars.

For and in consideration of the mutual covenants, conditions and obligations set forth herein, the parties agree as follows:

1. Premises. IFRA agrees to lease to LESSEE, subject to the full and faithful performance of the terms, conditions and covenants contained in this AGREEMENT the Leased Premises located at IFRA, at _____, which Leased Premises are legally described in Exhibit "A" (a plot plan showing the location of the improvements on the Leased Premises) attached hereto and incorporated into this AGREEMENT by this reference and Exhibit "B" (a legal description of the Leased Premises) attached hereto and incorporated into this AGREEMENT by this reference.

2. Rental and Payment. LESSEE agrees to pay to IFRA as rental for the demised premises:
 - a. _____ per annum for _____ square feet hangar area at an initial rate of _____ per square foot per annum, and _____ per annum for _____ square feet of apron, ramp, parking lot or other area at an initial rate _____ per square foot, as described in Exhibit "A" and as depicted in Exhibit "B".

 - b. An infrastructure fee of _____ cents per square foot per-annum of the leased area in 2.A to reimburse CITY for the construction of water/sewer and other improvements, as applicable. as described in Exhibit "A" and as depicted in Exhibit "B"

The total amount owed under 2.A and 2.B above is _____ and is the total lease payment due per annum. However, the annual rent shall be adjusted for inflation in October of every year throughout the term of this AGREEMENT, or any extensions thereof, the amount of such rental shall be adjusted by multiplying the original rental by a fraction determined as follows: The U.S. Consumer Price Index of all Urban Consumers (CPI-U), U.S. City Average as determined by the U.S. Department of Labor, Bureau of Labor Statistics as denominator, and the most current CPI-U available at the time of such adjustment, as numerator. Rental shall be due and payable in advance on or before July 10th of each year. LESSEE shall be subject to a late payment penalty of one and a half percent (1.5%) per month or thirty dollars (\$30) per day for every day the payment is late, whichever is greater.

3. Term.

a. The initial term of this AGREEMENT is twenty (20) years and shall commence on _____, ___ 20___, and shall terminate on _____, 20___. LESSEE shall have the right to extend this AGREEMENT for one (1) additional term of fifteen (15) years. At the exercise of the renewal option, this AGREEMENT shall be brought into conformity with then-existing lease rates, insurance requirements, and other provisions which are required by federal or state law or regulation and all conditions included in Section 3.b of this AGREEMENT. LESSEE shall give IFRA at least sixty (60) days written notice prior to the expiration of the term hereof, or subsequent renewal term, of its intention to exercise such renewal option.

b. AGREEMENT RENEWAL CONDITIONS:

i. IFRA reserves the right to extend or not extend this AGREEMENT based on future plans for IFRA, including the current Airport Master Plan and/or other aviation uses which may be more desirable to IFRA. In order to maintain a high standard of hangar quality, improvements to bring hangar maintenance up to date will be an important consideration of AGREEMENT renewal.

ii. No renewal of this AGREEMENT shall be approved unless LESSEE, at LESSEE's expense, provides a Facility Condition Assessment Report (FCAR) prepared by an Idaho licensed structural engineer for fire and life safety, an International Code Conference (ICC) certified building inspector, and/or an ICC certified fire protection engineer, attesting to the condition of the leasehold improvements. The FCAR shall include a visual inspection and shall indicate what improvements and maintenance are needed to bring the condition of the leasehold improvement up to a standard that meets the International Property Maintenance Code, (IPMC), as adopted and amended by the City of Idaho Falls, and all applicable state and federal codes and regulations. LESSEE shall provide the FCAR to the City of Idaho Falls Building Official in order for the Building Official to determine what improvements, if any, are necessary to ensure that the hangar is structurally sound and meets life, safety, and fire standards contained in the IBMC that is in effect at the term renewal.

iii. One fifteen (15) year renewal will be added to the initial term of this AGREEMENT after all repairs, upgrades, and maintenance necessary to bring the facilities into compliance with all conditions of Section 3.a. and 3.b.i and ii. of this AGREEMENT have been met and after an updated Certificate of Occupancy is delivered to IFRA, all of which must occur prior to the expiration of the initial term of this AGREEMENT.

iv. Renewal under this Section 3.b. shall not be unreasonably withheld.

v. Every AGREEMENT renewal is subject to reversion at of the renewal term, as set out in Paragraph 19 of this AGREEMENT.

c. Nothing in this AGREEMENT shall preclude a LESSEE from negotiating and entering into a new lease agreement, in good faith, with IFRA following the expiration of this AGREEMENT or following a Renewal of this AGREEMENT, if the new lease meets the mutual interests of the Parties and complies with FAA and IFRA rules, regulations, plans, and interests.

3. Infrastructure Fee. An Infrastructure Fee for all new construction for public improvements, including but not limited to water, power, sewer that have been constructed and which LESSEE has the use and benefit of, and for construction and ongoing maintenance of taxi lanes serving LESSEE hangars. LESSEE agrees to pay _____ (\$) per square foot per annum, or a minimum fee of _____ () dollars per annum for its share of those improvements.
4. Airport Privileges. LESSEE is granted the privilege of using, in common with the public, all existing or future public aeronautical facilities at IFRA, including but not limited to the landing area, its extensions, additions, roadways, runways, ramps, aprons, taxiways, public air navigation facilities, radio aids, beacons, control towers, signals, floodlights, landing lights, and all other conveniences now or hereafter provided for flying, landing or taking off of aircraft, subject to such reasonable rules, regulations, charges, fees or other costs which may be generally promulgated or established by IFRA or its authorized agents, including the Airport Director; provided, however, that nothing herein shall be construed to grant an exclusive right to LESSEE, and IFRA expressly retains the privilege of entering into other agreements which authorize any lawful use of such IFRA facilities upon such terms and conditions as may be determined by IFRA.

6. Improvements/Building Requirements.

- a. All structures erected on IFRA premises shall meet the requirements of Idaho Falls City Code, either pursuant to Section 3.b of this AGREEMENT or where hangar modifications or alterations require improvements to then-current standards. All structures shall be of a design harmonious with its surrounding structures. All structures shall be located in the areas specified for their particular use on IFRA's Airport Layout Plan.
- b. All buildings, leased areas, and privately owned facilities shall be maintained in accordance with pertinent City of Idaho Falls ordinances, rules, and regulations.
- c. Access shall be provided the City of Idaho Falls to all buildings for periodic inspection purposes.
- d. Prior approval by City of Idaho Falls shall be obtained before any structural alterations, repair, or additional equipment installation.
- e. All refueling and fuel storage installations shall be located only in the areas so designated on IFRA's Airport Layout Plan and shall require a separate authorized Airport Self-Fueling Permit from the Airport Director.
- f. All facilities and areas at IFRA shall be used only for purposes directly connected with, or in incident to, aviation (excepting those areas designated by Idaho Falls City Code for Industrial Park, agriculture, or recreation zones).
- g. All new construction or alteration requires an FAA form 7460 to be filed and approved by Federal Aviation Administration (FAA) prior to approval of improvements by City of Idaho Falls.
- h. Any storm water swales and ponds related to LESSEE's improvements shall be maintained by LESSEE.
- i. All construction shall be completed within two (2) years from the execution of this AGREEMENT.

7. Limitation on Use.

- a. This AGREEMENT shall be subject to Federal Aviation Administration's (FAA) Policy on Non-Aeronautical Use of Airport Hangars, which defines acceptable uses of hangars and requires that IFRA receives FAA approval for non-aeronautical use of a hangar, and includes charging to LESSEE off-Airport fair market rent for hangars not being utilized for aeronautical purposes. These fees will be set by Idaho Falls City Council from time to time by Resolution.

- b. Residential use of a hangar is not permitted.
 - c. Small or incidental non-aeronautical property of the hangar owner or LESSEE may be allowed, so long as airplanes can easily be accessed and at least the number of aircraft the hangar was built for can access and be parked in the hangar.
 - d. Temporary use of the hangar to park a personally owned vehicle while the aircraft is away from the IFRA is permitted.
 - e. The N number of all aircraft stored in the hangar shall be reported to the Airport Director annually on October 1st of each year.
 - f. Other than as allowed by 7.c or 7.d of this AGREEMENT or as approved by IFRA, non-aeronautical use of a hangar is prohibited.
 - g. Upon the exercise of reasonable discretion by the Airport Director, and upon five (5) day prior notice to LESSEE, LESSEE agrees to allow IFRA access to the property for the purpose of inspection to ensure compliance with terms of this AGREEMENT.
 - h. Failure to use a hangar in compliance with FAA's Policy on Non-Aeronautical Use of Airport Hangars shall result in a presumption that these AGREEMENT terms have been violated and that this AGREEMENT can be cancelled at the option of IFRA.
8. Utilities. LESSEE shall pay for specific utility extension fees required and shall pay all utility fees billed.
9. Maintenance of Leased Premises. LESSEE agrees to keep the Leased Premises clear of any debris, trash, weeds, clutter or other unattractive items of personal property. LESSEE shall also keep the Leases Premises in good state of repair and shall maintain the same in neat and attractive conditions. Should LESSEE fail to maintain its Leased Premises within thirty (30) days of written notification from the Airport Director, then IFRA can arrange for the cleanup of the leasehold and bill LESSEE for all costs incurred, including required IFRA personnel and equipment.
10. Waste. LESSEE agrees not to commit nor permit any waste, or destruction of the Leased Premises or the improvements thereon, and shall upon the expiration of the term hereof, return the premises to IFRA in as good a condition as the same now exists.
11. Compliance With Applicable Law. LESSEE agrees at all times herein to comply with all applicable rules, regulations, ordinances, statutes and administrative laws of the City of Idaho Falls, the State of Idaho, the United

States of America and any agency or political subdivisions thereof having jurisdiction over the Leased Premises. LESSEE further agrees to comply with all reasonable rules and regulations, Minimum Standards for Commercial Aviation Activity, and to provide proof of insurance in the amount generally promulgated by the Airport Director, which said rules and regulations pertain to the use, operation or maintenance of IFRA.

12. Compliance with Environmental Laws. LESSEE agrees not to store, dispose, use or allow the use of any “hazardous substance” or “hazardous waste” upon the Leased Premises, as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”, 42 U.S.C. § 9601, et seq.) the Clean Water Act (“CWA”, 33 U.S.C. § 1251, et seq.), the Clean Air Act (“CAA”, 42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (“TSCA”, 15 U.S.C. § 2601, et seq. the Resource Conservation and Recovery Act of 1976 (“RCRA”, 42 U.S.C. § 6901, et seq.), the Idaho Environmental Protection and Health Act of 1972 (“IEPHA”, Title 39, Chapter 1, Idaho Code), the Idaho Hazardous Waste Management Act of 1983 (“IHWMA”, Title 39, Chapter 44, Idaho Code), or any other similar state or federal law or regulation regulating the use, storage, transport or manufacture of a hazardous substance (such laws and regulations are hereafter referred to as “Environmental Laws”), without first sending written notice of such intended use to IFRA at least sixty (60) days prior to the commencement of such use. Such notice shall specifically describe the hazardous substance involved the reason for such use and all methods, precautions and procedures to be employed by LESSEE to ensure such hazardous substance is not released into the environment. IFRA also agrees to strictly comply with all terms and provisions of such acts, statutes and laws, and any other similar environmental law or any rule or regulations, enacted or promulgated after the date hereof, and to design and construct all facilities in a manner which reasonably ensures hazardous substances will not be released into the environment. IFRA may prohibit the use, storage, or deposit of such substances until LESSEE demonstrates to IFRA complete satisfaction that such proposed use will comply in every respect with such laws and that such use will be conducted in a proper and safe manner. IFRA, and its agents, attorneys, employees, consultants and contractors, hereby reserve the right to enter upon and inspect the real property and facilities leased hereby at any time for the purpose of determining LESSEE’s compliance with the provisions of this paragraph, including without limitation the right to perform such inspections, examinations, subsurface

testing, soils and ground water testing and other tests necessary to protect IFRA interest in the property and ensure LESSEE's compliance with the term's and provisions of this paragraph.

If LESSEE gives notice of an intent to use such hazardous substances, IFRA may require that Lessee annually submit a written site assessment and environmental audit to IFRA, in scope, form and substance satisfactory to IFRA and prepared by an independent, competent and qualified licensed engineer showing that the engineer has conducted an environmental audit of the Leased Premises, consistent with good commercial and customary practice and certifying that no evidence or indication came to light which would suggest there has been a release of hazardous substances on the demised Leased Premises or which would necessitate an environmental response action by the United States government or the State of Idaho, or any agency thereof. Such assessment shall further certify that LESSEE's use of the Leased Premises and the condition of the Leased Premises complies with and does not deviate from all applicable environmental statutes, laws, ordinances, rules and regulations, including any licenses, permits or certificates required thereunder. If any environmental response action is initiated by any federal or state agency as a result of LESSEE's use, storage, generation, disposal or transport of hazardous substances upon the demised Leased Premises, IFRA may require such environmental audit and inquiry be conducted more frequently than annually and as frequently as necessary to ensure LESSEE's compliance with the terms and provisions hereof. If any environmental response action is initiated or taken by any state or federal regulatory agency as a result of such use by LESSEE, IFRA may require LESSEE to post and deliver a performance bond or policy of insurance indemnifying and holding IFRA and the City of Idaho Falls harmless from any and all reasonable foreseeable costs, penalties, fines or response costs of any kind which may be assessed by such agency on account of LESSEE's failure to comply with the provisions of such environmental laws and regulations, as a condition for LESSEE's continued use of the Leased Premises pending determination by court of law of LESSEE's compliance with such statutes. If LESSEE fails to strictly comply with the Environmental Laws, IFRA may immediately and without prior notice enter upon the Leased Premises and take such response action as reasonably necessary to bring the property into compliance with such laws and comply with any response action taken by any agency charged with the enforcement thereof. In such event, all costs, expenses and consultants' fees incurred by IFRA for such response or remediation effort shall be promptly

and immediately paid by LESSEE, and together with interest at a rate of twelve percent (12%) per annum until paid, from the date such costs were incurred by IFRA.

If LESSEE has used, stored or transported a hazardous substance or waste upon the Leased Premises, IFRA may, at the termination of this AGREEMENT, perform an environmental audit of such scope and extent determined necessary by IFRA, in order to determine LESSEE's compliance with the terms and provisions of this paragraph. Such audit shall be performed at the sole expense of LESSEE.

LESSEE agrees to indemnify and save IFRA harmless from any and all damages, remedial orders, judgments, decrees, costs and expenses, including but not limited to attorney's fees, consultants' fees, clean-up costs, removal and response costs arising from LESSEE's failure to strictly comply with the terms and provisions of this paragraph. The terms and provisions of this paragraph shall survive the termination of this AGREEMENT and shall remain in effect for the full period of any statute of limitations with respect to the enforcement of the Environmental Laws or the terms and conditions of this AGREEMENT, whichever is longer. Nothing herein shall be deemed to impose upon LESSEE any obligation or duty to indemnify IFRA on account of any violation of the Environmental Laws by IFRA or by any leaseholder who was in possession of the demised premises prior to the commencement of the term of this Lease.

13. Subordination to Agreements With United States Government. This agreement shall be subordinate to any existing or future agreement which may be made between IFRA and the United States Government for military or national emergency use of part or all of IFRA, the landing area, publicly-owned air navigation facilities or other aeronautical facilities or areas of the AIRPORT. This AGREEMENT also shall be subordinate to any existing or future agreements between IFRA and the United States of America, the FAA, or the State of Idaho, the execution of which has been or may be required as a condition precedent to the expenditure of funds, allocations or grants for the development of IFRA.

14. Discrimination. LESSEE shall not, on the grounds of race, color or national origin, age, sexual orientation, veterans status, religion, or gender identity/expression discriminate or permit discrimination against any

person or group of persons in any manner prohibited by Part 21 of the Federal Aviation Regulations or other applicable City, state, or federal law.

15. Interference With Operation of Airport. IFRA reserves the right to take any action it considers necessary to protect the aerial approaches of IFRA against any obstruction which would limit the usefulness of IFRA or constitute a hazard to aircraft or which would otherwise interface with the safe or efficient operation of IFRA.
16. Indemnification. LESSEE agrees to indemnify, defend and hold IFRA and the City of Idaho Falls, its agents, officers, elected officials, representatives, and employees harmless from any and all costs, expenses, fees, penalties, liability or loss resulting from any claim or claims, of any kind or nature, arising directly or indirectly from the acts of LESSEE, its agents, servants, guests, employees or invitees, under this Lease Agreement or by reason of any act or omission of Lessee.
17. Assignment and Subletting. LESSEE shall not assign, mortgage, encumber, sublease or transfer this AGREEMENT or any part thereof, or improvements thereon or any privileges arising hereunder, without the consent of IFRA, which consent shall not be unreasonably withheld.
 - a. Any financing proposed for the leasehold Leased Premises shall be subordinate to the interests of IFRA and the lien holder shall be responsible to cure lease violations, including but not limited to, delinquent lease fees, violation of Airport Rules and Regulations, failure to provide insurance, and Violation of Airport Minimum Standards.
 - b. Subleasing for the storage of aircraft may be permitted if LESSEE provides proof of adequate insurance, including hangarkeepers insurance if required and a written agreement with the sublease party to provide adequate insurance and follow airport rules and regulations.
 - c. Sale of the leasehold shall require approval of a separate Lease Agreement transfer/assignment along with payment of lease transfer fees.
 - d. Any request by LESSEE for a Consent to Assignment or a modification of this AGREEMENT shall be accompanied by a fifty dollar (\$50) fee to be paid by LESSEE to LESSOR.
18. Termination of Lease. LESSEE agrees to surrender and quit the Leased Premises immediately upon the termination of this AGREEMENT.

19. Reversion. The Leased Property under this AGREEMENT is subject to reversion at termination. LESSEE or Operator agrees that, upon termination of this AGREEMENT, all improvements to IFRA property made by LESSEE or Operator, as well as the Leased Premises, shall, without compensation from IFRA, become the property of IFRA unless removed by LESSEE or Operator within thirty (30) days following such termination at LESSEE's or Operator's sole expense. Under no circumstances shall the party to this AGREEMENT be entitled to any payment by reason of the value of its business or franchise.

20. Default. In the event LESSEE shall file or have filed against it a petition under the Bankruptcy Act, or shall make an assignment for the benefit of creditors, become insolvent, or fail to fully and faithfully comply with the terms and provisions hereof, then in such event, LESSEE shall be deemed to be in default of this AGREEMENT, and in the event LESSEE shall fail to cure such default within thirty (30) days after written notice shall have been given to them by IFRA in a manner provided here in below, IFRA may elect to terminate this AGREEMENT or alternately or in addition thereto, IFRA may pursue any other remedies at law or in equity to enforce the performance of this AGREEMENT or to recover damages for the breach thereof. Such notice shall generally set forth the nature of the default claimed by LESSOR.

21. Notices. All notices required under the terms of this AGREEMENT shall be given by depositing a copy of such notice in the United States mail, postage prepaid, certified mail, returned receipt requested, addressed to the receiving party at the address set forth below, or such other addresses as may be given in writing delivered to the sending party. All notices shall be deemed to be received upon their deposit in the United States mail in the manner provided above. For the purposes of this paragraph, the parties' addresses are as follows:

IFRA:
Idaho Falls Regional Airport
Airport Director
2140 N Skyline Drive #12
Idaho Falls, Idaho 83402
Email:
Phone: (208) 612-8224
Fax: (208) 612-8517

LESSEE:

Name

Address

Email

Phone

Fax

22. **Venue and Applicable Laws.** This AGREEMENT is governed by the laws of the State of Idaho. The venue for any action or suit arising from the terms and conditions of this AGREEMENT shall be in the District Court of the Seventh Judicial District, Bonneville County, State of Idaho.
23. **Attorney's Fee.** In the event either party is required to commence legal action to enforce the terms and provisions hereof, the prevailing party shall be entitled to recover from the defaulting party a reasonable attorney's fee and court costs as determined by the court.
24. **Waiver/Invalidity.** If either waives a breach of this AGREEMENT, such waiver shall not be construed as a waiver of any other simultaneous or subsequent breach of this AGREEMENT. If any provision of this AGREEMENT is found invalid, such invalidity shall not affect the enforcement of any other tremor provision of this AGREEMENT.
25. **Binding Effect.** This AGREEMENT shall be binding upon the heirs, successors, personal representatives or assigns of the parties hereto.
26. **Complete Agreement.** The parties acknowledge and agree that this writing shall constitute the complete and final AGREEMENT of the parties hereto, that all prior negotiations, representations or understandings of the parties shall be deemed to merge into and are superseded by this AGREEMENT. The parties further agree that any prior written agreements regarding the demised Leased Premises, between the parties or between IFRA and LESSEE'S predecessor, shall be superseded by this AGREEMENT. This AGREEMENT may be amended only by written agreement duly and regularly executed by the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

LESSOR:
CITY OF IDAHO FALLS

City Clerk

By: _____
Rebecca L. Noah Casper
Mayor

LESSEE:

By: _____

APPROVED AS TO FORM:

Randall D. Fife
City Attorney

Rick Cloutier
Airport Director

STATE OF IDAHO)
)ss.
County of Bonneville)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public for Idaho, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____