

RESOLUTION NO.: 14—2024-25

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

2/3 MAJORITY – 24 VOTES

1 The Appleton International Airport and Milis Enterprise, LLC desire to enter into a hangar
2 land lease agreement for Lot #18 located at the Airport. The lease agreement will be for
3 approximately 6,015 square feet of land in the general aviation area. The rental rate will be
4 \$.17 per square foot or \$1,022.55 per year. The lease will commence on June 1, 2024 and
5 will continue for 30 years. The Airport is requesting a budget adjustment for the period of
6 June 1, 2024 through December 31, 2024.

7
8 NOW THEREFORE, the undersigned members of the Property, Airport, Recreation and
9 Economic Development Committee recommend adoption of the following resolution.

10 BE IT RESOLVED, that the Outagamie County Board of Supervisors does hereby and herewith
11 authorize and approve a Hangar Land Lease Agreement for Lot #18 at the Appleton International Airport
12 between Outagamie County and Milis Enterprise, LLC as noted on the attached Hangar Land Lease
13 Agreement Lot #18 Between Outagamie County and Milis Enterprise, LLC, which by reference is made
14 a part hereof, and

15 BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisors does approve
16 of increasing the Appleton Flight Center General Aviation Land Leases line item by \$596 and decreasing
17 the Airport Terminal Fund Balance Applied line item by \$596 as noted on the attached fiscal note, which
18 by reference is made a part hereof, and

19 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of
20 this resolution to the Appleton International Airport Director and the Outagamie County Finance Director.

21 Dated this ____ day of May 2024

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Respectfully submitted,

PROPERTY, AIRPORT, RECREATION &
ECONOMIC DEVELOPMENT COMMITTEE

Dean Culbertson

Lee W. Hammen

Ronald Klemp

Yvonne Monfils

Jayson Winterfeldt

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____
County Executive

OUTAGAMIE COUNTY FISCAL NOTE

INTRODUCTION: This form must be attached to any resolution or ordinance which contains a spending or revenue proposal. The form should be completed by an individual within the department initiating the resolution or ordinance with assistance from the Financial Services Department. Contact the Finance Director (1674), Controller (1675) or Staff Accountant (1681) for assistance. Once completed, forward a copy of the form to the Financial Services Department for their review. Financial Services will forward a reviewed copy of the fiscal note to Legislative Services.

1. Subject: Milis Enterprise, LLC Lease Agreements

2. Description: This section must be completed for all fiscal notes. Briefly and concisely describe the request. State assumptions used and discuss any current year and long-term fiscal impacts. (A separate attachment can be used)

The Appleton International Airport and Milis Enterprise, LLC desire to enter into a lease agreement for land (Lot 18). The lease agreement will be for approximately 6,015 square feet of land in the general aviation area. The rental rate will be \$.17 per square foot or \$1,022.55 per year. The lease will commence on June 1, 2024 and will continue for 30 years. The Airport is requested a budget adjustment for the period of June 1, 2024 through December 31, 2024.

Current Year Budget Impact (Check one or more of the following boxes)

Revenues Expenses (Cost) None

- 3. Is the specific cost or revenue included in the current year's budget? yes () no (X) partially () n/a ()
- 4. If the proposal requests additional spending, can the additional cost be absorbed within the current year's line item? yes () no () n/a (X)
- 5. Is the proposal to accept additional revenues only? yes (X) no ()
- 6. Does this request modify/adjust the current year budget? yes (X) no () To be determined
If no, skip to question 8 below.

7. Detail current year budget changes. Please list cost center name, line item, account number and either the increase or decrease amount. (Please note that all budget adjustments must balance. For example, an increase in an expenditure account must be offset by a decrease in another expenditure account or the contingency fund or an increase in a revenue account or other funding sources such as fund balance applied.)

<u>COST CENTER NAME</u>	<u>LINE ITEM</u> <small>(i.e. Salaries, Supplies, Etc.)</small>	<u>ACCOUNT NUMBER INCLUDING COST CENTER</u> <small>(i.e. 1004100.5100, 1004100.5400, etc.)</small>	<u>INCREASE (DECREASE) AMOUNT</u>
Appleton Flight Center	General Aviation Land Leases	5000119.4467.08	596
Airport Terminal	Fund Balance Applied	5000110.8955	(596)

Annual and Long-Term Impact

8. Is the above Increase/Decrease a nonrecurring one-time expense or revenue? yes () no (x) n/a ()

9. What is the anticipated annual and/or long-term cost or revenue impact? Annual Cost 0
Annual Revenue \$1,022.55

Fiscal Note Prepared by: Abe Weber/Katie Horan

For Financial Services purposes only	
Reviewed By: <i>Michelle Utterbraed</i>	If expenditures are recorded in the financial system at a level of detail lower than the level 6 as shown above, indicate the specific account numbers and amounts below: <u>Detail Expenditures Account Number</u> <u>Amount</u>
Date: <i>April 8, 2024</i>	
Comments:	

**HANGAR LAND LEASE AGREEMENT
LOT# 18**

BETWEEN

OUTAGAMIE COUNTY

AND

MILIS ENTERPRISE, LLC

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HANGAR LAND LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 4 day of April 2024, 2024 by and between OUTAGAMIE COUNTY, a municipal corporation, hereinafter referred to as "Lessor" and Milis Enterprise, LLC, a Land Lessee hereinafter referred to as "Lessee".

PRELIMINARY RECITALS

The Lessor is the owner and operator of Appleton International Airport, an airport situated in Outagamie County, Wisconsin (the "Airport").

The Lessee desires to lease from the Lessor a parcel of land at the Airport to be used for the construction of an aircraft storage facility (a hangar).

NOW, THEREFORE, in consideration of the mutual promises of the Lessor and Lessee as set forth below, the Lessor and Lessee agree as follows:

ARTICLE I
TERM AND EXTENSION

1. Commencement: This Agreement shall commence on June 1, 2024, and shall terminate on May 31, 2054, for a thirty (30) year period unless terminated sooner as permitted by this Agreement.
2. Renewal Option: Lessee shall have two (2) five (5) year options to renew this lease subject to the terms and conditions hereof, including the provisions governing the renegotiations of rental fees, unless no later than 180 days prior to the expiration of the Lease, the Lessee or Lessor serves upon the other notice in writing by registered mail addressed to such person at the address herein set forth stating the intention not to renew this lease.

A. Notice to exercise the option to renew this lease shall be submitted to the Lessor in writing 90 days prior to the expiration date at the address herein set forth.

B. Upon receipt of notice to exercise option, the Lessor shall prepare an addendum to the Lease agreement, which shall reflect the Lessor's current terms and conditions for Hangar Land Leases. Any modifications to the lease terms and conditions shall commence with the start of the option period.

ARTICLE II
LEASED PREMISES-PURPOSE

The Lessor leases to the Lessee the following described portion of the Airport and unless specifically stated otherwise, is referred to in this Agreement as the “Leased Premises”.

A parcel of land approximately 85.93 feet wide by 70 feet long and containing approximately 6,015 square feet located south of Runway 3/21 hereinafter referred to as the “GA Area”, which is more specifically shown on Exhibit A which is attached to and made a part of this Agreement. The leased parcel is to be used for the construction of a hanger facility by Lessee that will be used for the following purposes:

- A. The inside storage of aircraft owned by Lessee and the storage of related materials and supplies and for no other purpose unless approved in writing by the Lessor.
- B. Construction of hangar for lease or for sale by Lessee requires the following:
 - 1. If for lease, requires a Hangar Keepers agreement with Lessor
 - 2. If for resale, requires approval from Lessor to assign lease

ARTICLE III
FEES AND RENTALS

- 1. **Rent:** From and after the commencement date, Lessee agrees to pay Lessor the amounts semi-annually specified in EXHIBIT B as amended as described herein, payable in advance of the first day of billing period, for the duration of this agreement. No demand for payment need at any time be given; it shall be the duty of the Lessee to pay all monies when due.
- 2. Calculations of rentals for Leased Premises shall be adjusted by 3% on the third (3rd) anniversary of the commencement date and every three years thereafter during the initial term and any extension term, if exercised.
- 3. Pro-ration of Rents: In the event that the commencement or termination of the term, with respect to any of the particular premises, facilities, rights, licenses, services, and privileges herein provided, fall on any other date than the first or last day of a calendar month, the applicable rentals, fees, and charges for that month shall be paid pro-rata according to the number of days in that month during which said privileges were enjoyed.
- 4. Lessee agrees to pay an assessment for the cost of installation of sewer and water utilities to the subject property. Such costs to be determined by the Airport Director and will be prorated to fairly apportion the total cost of such utility installation among potential users. Such assessment shall not exceed actual costs

incurred. Costs shall include, but not be limited to, costs of materials, engineering costs, costs of installation, and utility district assessments. The method of payment of the assessment shall be determined by the Airport Director.

ARTICLE IV
GENERAL AVIATION HANGAR BUILDING MINIMUM SPECIFICATIONS

The provisions set forth in Exhibit “C” entitled Appleton International Airport General Aviation Hangar Building Minimum Specifications and any subsequent amendments thereto, are incorporated by reference and are made a part of this. If this Agreement and the Appleton International Airport General Aviation Hangar Building Minimum Specifications are in conflict in what they require of the Lessee, or in what they obligate the Lessee to do or not to do, the Appleton International Airport General Aviation Hangar Building Minimum Specifications shall control.

ARTICLE V
RESTRICTIONS UPON USAGE AND CONSTRUCTION

The property, which is the subject of the Lease, shall be used only for aviation related purposes as the term is defined in FAA regulations. Any improvements, including all buildings and appurtenance thereto, which may be constructed upon the Leased Premises, shall abide by all FAA regulations. In addition to meeting FAA regulations, all such improvements and their proposed locations shall be in accord with any other federal, state, or local building codes and/or other restrictions.

ARTICLE VI
RIGHTS AND PRIVILEGES OF LESSEE

Subject to the terms and conditions hereinafter set forth, Lessee is hereby given the following rights and privileges.

1. Ingress and Egress – Subject to rules and regulations governing the use of the Airport as may be established by the Lessor, the Lessee, its employees, suppliers of materials, furnishers of service, sub-lessees, business visitors, and invitees shall have the right of ingress and egress to and from the Premises leased exclusively to Lessee.
2. Quiet Enjoyment – The Lessor covenants that upon paying the rent and performing the covenants and conditions herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Agreement. Lessee agrees that temporary inconveniences, such as noise, disturbances, traffic detours, temporary inaccessibility and the like, caused by or associated with the construction of Airport improvements or Airport events shall not constitute a breach of quiet enjoyment of the Leased Premises.

3. Storage – Lessee has the right to store aircraft on Lessee’s Leased Premises; however, Lessee shall not engage in any other business or operation without the written consent of the Lessor. Lessee understands that a violation of this paragraph is a material default and breach of the Agreement, which gives the Lessor the rights set forth in Article XII.
4. Aeronautical Facility Use – Lessee shall be permitted to use, in common with others, existing and future aeronautical facilities at the Airport as they may exist or be modified, augmented, or deleted from time to time. These facilities include, but are not limited to the landing areas, their extensions and additions, roadways, aprons, and any air navigation facilities or other conveniences for the flying, landing, and taking-off of aircraft. Nothing herein shall prohibit the Lessor from modifying, augmenting, or deleting any such facilities.
5. Nonexclusive Use – This agreement shall not be construed in any manner to grant Lessee or those claiming under it the exclusive right to the use of the premises and facilities of the Airport other than those premises leased exclusively to the Lessee hereunder. Lessor reserves and retains the right for the use of the Airport by others who may desire to use the same pursuant to applicable laws, ordinances, codes, and rules and regulations pertaining to such use.
6. Sub-lease of hangar (requires Hangar Keepers Agreement) or lease assignment if so approved by Lessor. The Lessee shall not be allowed to sub-lease or re-lease land only.

ARTICLE VII
OBLIGATIONS OF LESSEE

Except as otherwise specifically provided herein, Lessee shall have the following obligations.

1. Conditions of Premises – Lessee accepts the Leased Premises in its present condition and, without expense to the Lessor, will maintain any installation thereon.
2. Construction – Lessee shall construct an aircraft storage unit (hangar) on the Leased Premises. A final set of construction plans that have been approved and stamped by a registered, professional engineer shall be submitted to and approved by the Airport Director before any construction begins. The construction plans shall include a site plan. The site plan shall include the location of utilities and utility connections, existing and proposed grades, site drainage information, paving details and all other items on the “Development Checklist.” Lessee acknowledges having received a copy of the

“Development Checklist.” Lessee is prohibited from deviating from the Lessor approved construction plans without written permission from the Lessor. Construction must begin within six (6) months from the execution of this Agreement and must be completed within six (6) months from the time construction begins. Construction scheduling and operations shall be coordinated with, and approved by the Airport Director before construction shall begin, such approval not to be unreasonably withheld. Lessee shall restore any and all portions of the Airport that are disturbed by Lessee or its contractors during construction at its expense, to the same condition as before construction began.

3. Maintenance, Exterior Storage, and Housekeeping – Lessee shall at its expense, keep, maintain, and repair the Leased Premises, any improvements thereto, and all equipment and buildings in a presentable and operable condition, consistent with good business practices, and in a manner preserve and protect the general appearance and value of other premises in the immediate vicinity. This shall include, but not be limited to roof, exterior painting, all doors, paved areas, lighting, grass, and landscaped areas within lease lines.

Lessee further agrees that there will be no outside storage of equipment, materials, supplies, or damaged or partially dismantled aircraft on the Leased Premises, and will remove at its expense all trash, garbage, and drain oil, and not deposit the same on any part of the Airport except temporarily in conjunction with collection or removal.

In the event Lessee does not keep the Leased Premises in a presentable condition, the Lessor has the right to issue a written notice to remedy the condition forthwith. Should Lessee fail to perform satisfactorily within ten (10) days of such notification, or show cause for extension of said time period, the Lessor shall have the right to perform, or have performed by an outside contractor the necessary work without liability, and Lessee agrees to pay the Lessor one hundred twenty five percent (125%) of such expenses within fifteen (15) days upon invoice receipt.

In the event of fire or any other casualty to buildings or other structures owned by Lessee, Lessee shall either repair or replace the building or remove the damaged building and restore the Leased Premises to its original condition; such action must be accomplished within one hundred twenty (120) days of the date the damage occurred. Upon petition by Lessee, the Lessor may grant, at its sole discretion, an extension of time if warranted.

4. Commercial Operations – Lessee warrants that no commercial operations of any kind, including maintenance of aircraft for payment, or flight instruction for payment are permitted within or near the Leased Premises.
5. Additions of Alterations – Lessee shall have the right during the term of this Lease to make alterations, attach fixtures, or make other changes to the

structure in or upon the Leased Premises upon advance written approval of plans by the Airport Director.

6. Signage and Illumination – Lessee will not paint upon, attach, exhibit or display in or about the said Leased Premises any sign without the written consent of the Airport Director first being obtained regarding the nature and construction of said sign, such approval not to be unreasonable withheld.
7. Locks and Gate Access – Lessee agrees that all walk doors will be equipped with a heavy-duty lockset sufficient to meet all security requirements. One key shall be provided to Lessor. In the event Lessor needs to access Lessee's hangar and Lessor has not been issued a key, Lessor reserves the right to remove the lock. Lessee shall be responsible for charges associated with removal of the lock and cost of the new lock. Lessee shall pay a \$10.00 as a deposit for each gate key. Gate keys shall not be duplicated. When a gate key is lost, stolen or unaccountable, it must be immediately reported to the Airport Public Safety at (920) 832-1633. The fee for a replacement gate access key is \$10.00. Lessee agrees that the above-mentioned gate will remain locked in accordance with the Airport Security Plan (Article XXI). If the gate is inoperable or incapable of being fully closed, Public Safety must be notified.
8. Utilities – Lessee agrees to provide its own connections with utilities and to make separate arrangements with the agencies responsible for these utilities. Lessee shall pay for all utility service supplied to the Leased Premises, and if required by the utility agencies as a condition of providing the services, Lessee will install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make utility service or facility changes, Lessee will either make such changes and installations, at its expense, as directed and required by the utility organizations, or pay the utility organization for such changes made. The Lessor shall have the right, without cost to the Lessee, to install and maintain in, on or across the Leased Premises, sewer, water, gas, electric, and telephone lines, electric substations, or other installations necessary to the operation of the Airport, or to service other tenants of the Lessor; provided, however, that the Lessor shall carry out such work and locate any above ground structures in a manner so as not to unreasonably interfere with the Lessee's use of the Leased Premises.
9. Discrimination – Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree that: a) no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or 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 furnishings of services, thereon, no person on the grounds of race, sex color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be

subjected to discrimination, and c) that the Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

10. Costs of Enforcement – Lessee covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the Lessor in the enforcing the covenants and agreements of this Lease.
11. Taxes, Licenses, and Permits – Lessee shall obtain and keep current all municipal, county, state and federal licenses and permits that may be required in its operation. Also, the Lessee will bear, pay, and discharge all taxes, assessments and levies of every nature and kind which may be taxed, charged or assessed lawfully against the Leased Premises and improvements thereon, or which may be lawfully levied or imposed upon the leasehold by a governmental agency.
12. Liens – Lessee agrees to promptly pay all sums legally due and payable on account of any labor performed on, or materials furnished for the Leased Premises. Lessee shall not permit any liens to be placed against the Leased Premises on account of labor performed or material furnished, and in the event such a lien is placed against the Leased Premises, Lessee agrees to save the Lessor harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.
13. Parking – Lessee agrees to prohibit vehicle parking on the Airport premises other than those vehicles specifically associated with the use of the Leased Premises, and no other. Lessee, its employees, sub-lessees, guests and invitees shall park only on Lessee's Leased Premises. Lessee, its agents or guests, are expressly prohibited from operating any vehicle on any area of the Airport considered a "movement area" by the Federal Aviation Administration, and agrees to hold Lessor indemnified from any such incursions. Lessee shall at all times comply with posted signs regulating the movement of vehicles.
14. Laws, Ordinances, Rules and Regulations – Lessee shall comply with, at its own expense, all applicable federal, state, or local laws, ordinances, rules or regulations of the Airport now in effect or hereafter promulgated. Any violation of this paragraph shall be construed as a material breach of this Lease Agreement authorizing the termination thereof at the election of the Airport Director, unless Lessee, upon receipt of written notice, takes immediate remedial measures acceptable to the Airport Director.

15. Storage of Flammable Fluids – Lessee agrees that the storage of gasoline or other flammable fluids in bulk quantities shall be limited to the Airport Fuel Farm or to such area as designated by the Airport Director. Lessee agrees that the storage of all other gasoline or flammable fluids shall be in an approved steel locker labeled “FLAMMABLE”. The Airport Director may, in his discretion, prohibit or impose restrictions on the storage of said materials if, in the Director’s opinion, the storage is determined as a safety hazard. The disposal of any hazardous chemicals or fluids on the Airport premises is prohibited. The Lessee further agrees not to transport, or cause to be transported, onto airport premises, gasoline or other flammable fluids for the purpose of self-fueling aircraft. The Lessee further agrees that fueling of aircraft on airport premises will be done only at airport approved locations or facilities.

16. Snow Plowing – Lessor agrees to be responsible for the plowing of snow on runways and taxiways, consistent with priorities established and specified in the Airport Snow and Ice Control Plan. It shall be the Lessee’s responsibility to remove any snow on pavement areas from taxiway to their hangar. Lessee shall also be responsible for removing snow in vehicle parking stalls.

ARTICLE VIII
LESSOR’S RIGHT TO MORTGAGE LEASEHOLD INTEREST

1. Lessee shall at all times have the right to encumber by mortgage or other instruments, as security for an actual indebtedness, all of Lessee’s right, title and interest in this Ground Lease including without limiting the generality of the foregoing, its right to use and occupy the Leased Premises together with its rights and interests in and to all Lessee’s improvements now or hereafter placed on the Leased Premises; in all respects, however, subordinate and inferior to Lessee’s fee interest or estate and its rights, title, privileges, liens or interests as provided in this Ground Lease and subject to all the covenants, terms and conditions of this Ground Lease and all the rights and remedies of Lessor hereunder. It is expressly understood and agreed that Lessee in no event shall have the right to encumber Lessor’s fee interest or reversionary estate in any way. In the issuance of any mortgage or other instrument by Lessee, as security for an actual indebtedness, Lessee shall specifically exclude all the right, title interest and estate of Lessor.

2. Upon the written request of any such Mortgagee, or other secured person (hereinafter referred to as the Mortgagee) giving its address, Lessor shall mail to such Mortgagee at such address a duplicate copy of any and all written notices which Lessor may, from time to time, give to or serve upon Lessee under the terms of this Ground Lease.

3. To the extent that Lessee may grant the right to such Mortgagee under this Ground Lease, the Mortgagee may at its option at any time before termination of this Ground Lease pay any amount or do any act or thing required of Lessee by

the terms of this Ground Lease; and all payments so made and all acts or things so done and performed by such Mortgagee shall be as effective to prevent a termination of the Ground Lease or forfeiture of Lessee hereunder as the same would have been if done and performed by Lessee. Any such mortgage or other instrument given as security for an actual indebtedness of Lessee may provide, if Lessee so desires, that as between such Mortgagee and Lessee, said Mortgagee, on making good any default or debits of Lessee, shall thereby be subrogated to any and all of the rights of Lessee under the terms and provisions of this Ground Lease.

4. Such Mortgagee of Lessee's leasehold estate under a leasehold mortgage given pursuant to the provisions of this paragraph, shall not become personally liable for the obligations of Lessee under this Ground Lease unless and until it becomes the owner of Lessee's leasehold estate by foreclosure, assignment in lieu of foreclosure or otherwise, and thereafter shall remain liable for such obligations only so long as it remains the owner of such leasehold estate. In the event such Mortgagee becomes the owner of Lessee's leasehold estate as aforesaid, it may assign this Ground Lease provided all other requirements of this Ground Lease regarding assignment are satisfied. Lessor consent will not be unreasonably withheld.
5. The mortgage shall provide that, notwithstanding any other provisions of the mortgage, in the event of any default in the performance or observance of any of the terms and conditions of the mortgage, or the note or other indebtedness secured thereby (which such default shall not have been cured within the grace periods therefore accorded to Lessee, as Mortgagor, in the Mortgage), the Mortgagee shall give written notice to Lessor of the continuance of such default and shall grant to Lessor an additional period (over and above any such grace periods) of ten (10) days from the date of Lessor's receipt of such notice within which to cure such default, and shall provide that any payment made by Lessor pursuant to such provision shall be recognized by the Mortgagee as fully as if made by Lessee; provided, however, that neither such provision nor any other provision of the mortgage shall be construed so as to impose any liability whatsoever on Lessor to make any payment or to perform or observe any covenant or condition of the mortgage or note or other indebtedness secured thereby.
6. The mortgage may provide for the assignment to the Mortgagee of any rents due and payable to Lessee with respect to any sublease or occupancy of portions of the property by parties other than Lessee. Said assignment of rents will be effective only upon default in the payment or performance of any obligations imposed by the terms of the mortgage or note or other indebtedness secured thereby; and the Lessee's right to collect rents from the subtenants shall be subordinate to the right of mortgage, in the event of a default under the mortgage, to collect such rents.

ARTICLE IX
RIGHTS AND PRIVILEGES OF THE LESSOR

Lessor, in addition to any rights herein retained by it, reserves the following privileges:

1. Lessor Representative – The Airport Director is hereby designated as the official representative for the enforcement of all provisions in this Agreement with full power to represent the Lessor in dealings with the Lessee in connection with the rights and obligations herein provided, actions relating to policy determination, modification of this Agreement, subsequent permissive authorization under this Agreement, termination of this Agreement, and any similar matters affecting the terms of this Agreement.
2. Airport Development – The Lessor has the right, but shall not be obligated to Lessee, to develop or improve the landing areas and other portions of the Airport as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance. If the development of the Airport requires it, the Lessor has the right to either:
 - a. Substitute another parcel of land for the Leased Premises and relocate Lessee’s improvement(s) to that new parcel at no cost to the Lessee, or
 - b. Purchase Lessee’s improvements at fair market value, established by appraisal by a registered appraiser selected by mutual agreement, and terminate this Agreement. In the event of a substitution and relocation or a purchase and Agreement termination as permitted by this section, the Lessor shall have no liability to the Lessee for any loss, expense, damage or cost of any nature whatsoever that results from or is occasioned by the substitution and relocation or the purchase and Agreement termination.
3. Access to Leased Premises – To the extent necessary to protect the rights and interests of the Lessor, or to investigate compliance with the terms of this agreement, the Airport Director or his designee shall at any and all times have the right to inspect the Leased Premises, including all buildings, structures, and improvements erected thereon, subject to reasonable notice given to Lessee.
4. War, National Emergency, Riot, or Natural Disaster – During time of war, national emergency, riot, or natural disaster, the Lessor shall have the right to lease the entire airport or any part thereof to the United States Government or State of Wisconsin for military or National Guard use; and, if any such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.
5. Aerial Approaches – The Lessor reserves the right to take any action it considers necessary to protect the aerial approaches and transition surfaces of the Airport against obstructions, together with the right to prevent Lessee or sub-lessee from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of the Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

6. Unrestricted Right of Flight – There is hereby reserved to the County of Outagamie, Wisconsin, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

ARTICLE X
OBLIGATIONS OF THE LESSOR

Except as otherwise specifically provided herein, Lessor, during the term of this Lease, shall, within its financial ability, operate, maintain, and keep in good repair all appurtenances, facilities, and services now or hereafter connected with the Airport including, without limiting the generality hereof, all field lighting and other appurtenances, facilities, and services which Lessor has agreed to furnish and supply herein; provided, however, that Lessor shall not be required to perform maintenance and make repairs occasioned by the negligence of Lessee or guests. However, Lessor may perform such maintenance or make such repairs and charge the cost of same to Lessee, and Lessee agrees to reimburse Lessor for all costs incurred by Lessor in performing such maintenance and repair work. Lessor shall keep the Airport free from obstructions, including the clearing and removal of snow, grass, stones, or other foreign objects, as reasonably necessary and with reasonable promptness in accordance with established priorities, from the runways and taxiways, for the safe, convenient and proper use of the Airport by Lessee, and shall maintain and operate the Airport in all respects in a manner at least equal to the standards or ratings issued by the Federal Aviation Administration (FAA) for airports of substantially similar size and character.

ARTICLE XI
INSURANCE

1. Lessee shall comply with all Federal, State and local codes, laws regulations, standards, and ordinances, including those of the Occupational Safety and Health Administration (OSHA), the Wisconsin Department of Industry, Labor and Human Relations (DILHR) and all County rules and orders governing the performance of the work.
2. In order to protect itself and the County, its Officers, Boards, Employees or Representatives under the indemnity provisions of the paragraph above, Lessee will at all times during this Agreement keep in force as insurance as described in Exhibit D.

3. Limits established herein shall be subject to five (5) year review and may be increased by the Lessor due to general inflationary conditions provided at least sixty (60) days notice of such increased requirements shall be given to the Lessee.
4. Policies shall be issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department. Coverage afforded shall apply as primary, with the County, its Boards, Officers, Employees and Representatives as additional insured's. The Lessor shall be given thirty (30) days advance notice of cancellation or non-renewal during the term of this Agreement. Upon execution of this Agreement, Lessee shall furnish Lessor with a certificate of insurance and, upon request, certified copies of the required insurance policies, which said certificate policy copies shall be filed with the Office of the County Clerk of Outagamie County. In the event any action, suit or other proceedings is brought against the Lessee upon any matter herein indemnified against, the Lessee shall, within five (5) working days, give notice thereof to the Lessor and shall cooperate with their attorneys in the defense of the action, suit or other proceedings.

ARTICLE XII
INDEMNIFICATION AND HOLD HARMLESS

Lessee agrees at all times during the term of this agreement to indemnify, hold harmless and defend the County, its Boards, Officers, Employees and Representatives against any and all liability, including claims, demands, losses, damages, costs or expenses, including attorney fees, which the County, its Boards, Officers, Employees and Representatives may sustain, incur or be required to pay by reason of bodily injury, personal injury or property damage of whatsoever nature or kind arising from the lease, Lessee's conduct under the lease, or Lessee's conduct or action on airport grounds, unless such liability arises out of the sole negligence of the County.

Lessee further agrees to indemnify, hold harmless and defend the County, its Boards, Officers, Employees and Representatives against any and all claims, demands, losses, damages, costs or expenses, including attorney fees, which the County, its Boards, Officers, Employees and Representatives may sustain, incur or be required to pay resulting from the spill, discharge, dispersal, seepage, migration, release or escape of any pollutants being utilized by the Lessee or in the custody or control of the Lessee.

Nothing contained in this agreement is intended to be a waiver or estoppels of the County to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including, but not limited to, those contained within Wisconsin Statutes 893.80, 895.52 and 345.05. To the extent that indemnification is available and enforceable, neither the municipality nor its insurer shall not be liable in indemnity and

contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law.

ARTICLE XIII
SUBLEASE or ASSIGNMENT

The Lessee shall not sublease the Leased Premises, or any part of the Leased Premises without the express written consent of the Lessor, such consent not to be unreasonably withheld. However the Lessee shall have the specific right to assign the Lease and all of its rights and duties hereunder to a bona-fide lending institution, and the Lessor hereby permits the Lessee to encumber and grant a security interest in any property or property rights, real or personal, it may have in the Leased Premises or property located thereon. Further, the Lessor will not unreasonably withhold its consent to the use of the Leased Premises by any person, persons or company obtained by any of Lessee's lenders in the event any lender forecloses on any of the above mentioned property. This lease may be so assigned and the Leased Premises so sublet for another air-oriented purpose other than that described in this lease if the Lessor approves such purpose. Any assumption of this lease under these or other provisions, shall obligate the person or persons to pay any and all past due rent before approval of transfer will be given. At a minimum, the Lessor will require that any sublease agreement be in writing and that it include: that the agreement be subject to the terms and conditions of this Agreement; that sub-lessees maintain aircraft liability insurance in the amounts and in the manner prescribed in this agreement.

ARTICLE XIV
DEFAULTS AND REMEDIES

The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by the Lessee.

1. The filing by Lessee of a voluntary petition in bankruptcy.
2. The institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as bankrupt to such proceedings.
3. The taking by a court of jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
4. The appointment of a receiver of Lessee's assets, or any general assignment for the benefit to Lessee's creditors.
5. The divestiture of Lessee's estate herein by other operation of law.
6. If the Lessee shall abandon the building(s) and improvements or vacate the Leased Premises and not desire to sell or remove the building(s) before the expiration of this Agreement, the Airport Director shall be at liberty, at his option, to re-let the same. Abandonment, for this Agreement, shall be defined as the non-use of the Leased Premises from its specified purpose during a consecutive six (6) month time period. Any proceeds received by Lessor under this paragraph shall be applied first to the payment of rent under article three (3) of this Agreement; second to the reduction of any debt incurred by the

Lessee to finance construction of any building(s) on the Leased Premises or the acquisition of any equipment of the Leased Premises abandoned by the Lessee; and third to the benefit of the Lessee.

7. The filing of any lien against the Airport or any of its property as the result of any act or omission of Lessee, if the lien is not discharged or contested in good faith by Lessee (as determined by the Lessor) within fifteen (15) days of Lessee's receipt of notice of the lien, unless Lessee posts a bond within this time period equal to the amount of the lien.
8. The transfer of Lessee's interest herein by other operation of the law.
9. Lessee becomes in arrears in the payment of the whole or any part of the amount(s) agreed upon hereafter for a period of sixty (60) days after such a payment becomes due.
10. The nonpayment of any real estate and/or personal property taxes levied by Outagamie County against Lessee's property after such taxes become due.
11. The falsification by the Lessee of any of its records or figures so as to deprive the Lessor of any of its rights under this Agreement.
12. The failure by Lessee to perform any of the covenants, conditions, or obligations imposed on it by this Agreement where the failure continues for a period of fifteen (15) days after written notice by the Lessor.
13. Notification of the Lessor by the Federal Aviation Administration (FAA) that Lessee's building(s) violates Federal Aviation Regulations (FARs), including obstacle clearance criteria, and requires the building(s) and appurtenances to be removed prior to continued federal funding for Airport Improvement Projects (AIP) or other projects at the Airport.
14. The transfer or assignment, or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of the Lessor, such approval not to be unreasonably withheld. It shall be understood for the purpose of this part that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer".

In the event of a breach of this Agreement by Lessee, the Lessor shall be entitled to any and all legal and equitable remedies available to it under applicable law. Without limitation, these remedies shall include the following, which are cumulative and not exclusive:

1. Specific performance of any obligation of Lessee.
2. Declaratory and injunctive relief.
3. The recovery of all damages of any nature that result from the Lessee's breach, which damage include unpaid rent, fees and other payments, and the loss of future rent.
4. Reasonable attorney fees for services related to Lessee's breach of this Agreement, including fees for attorneys who are County employees
5. The termination of this Agreement and repossession of the Leased Premises by the Lessor. If this Agreement is terminated, the Lessee shall remove all property owned by it from the Leased Premises and restore and surrender the Leased Premises to the Lessor in the same condition as when originally received. If the Lessee fails to remove its property and to restore and

surrender the Leased Premises as required, the Lessor may do so and the Lessee shall be liable to the Lessor for all expenses of removing the property (including storage fees, if any) and restoring the Leased Premises.

The failure of the Lessor to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the Lessor to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the Lessor for any period after a default by Lessee shall not be deemed a waiver of any right on the part of the Lessor to terminate this Agreement.

**ARTICLE XV
CANCELLATION BY LESSEE**

Lessee may cancel this Agreement at any time it is not in default in its obligations by giving the Airport Director thirty (30) days written notice to be severed as hereinafter provided after the happening of any of the following events, if such event materially impairs the conduct of Lessee's normal business on the Airport:

1. The issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining normal use of the Airport or any substantial part of it, and the remaining in force of such injunction for a period of sixty (60) consecutive days, such injunction not being the result of any fault of Lessee;
2. The inability of Lessee to use, for a period of six (6) consecutive months, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake, or similar casualty of Acts of God or the public enemy; or
3. The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least sixty (60) days.

However, should Lessee choose not to cancel this Agreement, all fees and charges payable by Lessee under this Agreement shall abate until such time that operations return and the term of this Agreement shall be extended for the time of such suspension.

Failure of Lessee to declare this Agreement canceled for any of the reasons set out above shall not operate to bar or destroy the right of Lessee to cancel this Agreement by reason of any subsequent occurrence of the described events.

**ARTICLE XVI
REMEDIES CUMULATIVE; NO WAIVER**

All of the rights and remedies given to the Lessor in this Agreement are cumulative and no one is exclusive of any other. The Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether

stated in this Agreement or not. The failure of the Lessor to take action with respect to any breach by Lessee of any covenant, condition, or obligation in this Agreement shall not be waiver of such covenant, condition, or obligation. The acceptance by the Lessor of any rent or other payment shall not be a waiver by it of any breach by Lessee of any covenant, condition or obligation.

ARTICLE XVII
INDEPENDENCE OF CONTRACT

It is further mutually understood and agreed that nothing herein contained is intended or shall be construed as in any way creating or establishing the relationship of co-partners between parties hereto or as constituting the Lessee as the agent or representative or employee of the Lessor for any purpose or in any manner whatsoever.

ARTICLE XVIII
WAIVER OF SUBROGATION

The Lessor and Lessee hereby release each other from any and all responsibility to the other for any loss of damage to property caused by fire or other peril if the property is insured for such loss or damage in any policy of insurance, even if such loss or damage is caused by the fault or negligence of the other party or anyone for whom such party is responsible. The Lessor and the Lessee agree that to the extent any such policy of insurance provides a right of subrogation in the insurer, or to the extent a right of subrogation exists independent of such policy, each will indemnify and hold the other harmless for any loss, claim or expense suffered as the result of any action taken pursuant to the right of subrogation. Both Lessor and Lessee shall have their property and aircraft physical damage insurance carriers add the “waiver of subrogation” to their respective insurance policies.

ARTICLE XIX
SEVERABILITY

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

ARTICLE XX
SECURITY PLAN

The Lessor has implemented an Airport Security Plan in a form acceptable to the Transportation Security Administration (TSA) pursuant to 14 Code of Federal Regulations Part 1542. The Lessor reserves the right to modify that plan from time to time, as it deems necessary to accomplish its purposes. Lessee shall at all times comply

with the Security Plan and indemnify and hold harmless the Lessor from any violations of said Security Plan committed by the Lessee, its agents, guests, invites, or persons admitted by the Lessee to the Leased Premises. Any violation of this paragraph is considered a material breach of this Agreement, which gives the Lessor the rights set forth in Article XII.

1. Lessee acknowledges Lessor's responsibility to maintain the integrity of the airfield security perimeter and agrees to comply with all Airport rules and regulations, security procedures and Federal Aviation rules, regulations and guidelines pertaining to the security and safety of the Leased Premises and adjacent area and the airfield operations area, including the ingress and egress thereto.
2. Lessee shall read the attached Air Operations Training Program (Exhibit D), in accordance with 49 CFR 1542.213(c), and shall certify, by signing the certification form, that this has been completed and Lessee fully understands the obligations of having access to the Air Operations Area. Furthermore, Lessee shall ensure that any members or guests of the hangar are informed of this training.
3. Should the Transportation Security Administration determine that security has been breached due to the negligence of Lessee and fine the Airport, Lessee agrees to reimburse Airport for the fine.
4. Lessee acknowledges the Airports has established an ID Badge System for the entire Airport and agrees to cooperate in the badging of it employees or agents. Lessee agrees to pay the fees as established by the Airport for such purpose.

ARTICLE XXI
RULES AND REGULATIONS

County shall adopt and enforce reasonable rules, regulations and ordinances which Lessee agrees to observe and obey, with respect to the use of the Airport, which shall provide for the safety of those using the same; provided that such rules, regulations and ordinances shall be consistent with safety and with rules, regulations and orders of the FAA with respect to aircraft operations safety and security at the Airport; and provided further, that such rules and regulations shall not be inconsistent with the provisions of this Agreement or the procedures prescribed or approved from time to time by the FAA. Lessee shall not violate, or knowingly permit its agents, contractors or employees acting on behalf of Lessee to violate any such Rules and Regulations.

ARTICLE XXII
NOISE ABATEMENT

1. Lessor and Lessee agree that Lessor does not, in any manner, either expressly or impliedly, covenant or represent that the Leased Premises may be used free from any noise restrictions that may now or hereafter be in force with regard thereto and that Lessee shall bear sole responsibility for the extent of noise created by its use of the Leased Premises.

2. Lessee shall abide with all standards established for engine run-up and noise abatement rules, regulations and procedures as specifically set forth by Federal and State regulation, Outagamie County Ordinances, and/or Airport Policies lawfully developed for aircraft operations at Appleton International Airport, provided Lessee shall have an opportunity to participate in the development of such policies.

ARTICLE XXIII
EPA STANDARDS

Lessee shall abide with all standards established for Environmental Protection of storm water runoff as per the approved plan for Outagamie County.

ARTICLE XXIV
ENVIRONMENTAL MATTERS

1. Lessee represents and warrants that any handling, transportation, storage, treatment or usage of toxic or hazardous substances by Lessee that will occur on the Leased Premises during the term of the Lease or any renewals thereof shall be in compliance with all applicable federal, state and local laws, regulations and ordinances.
2. Lessee hereby agrees to indemnify, defend, protect and hold harmless Lessor and Lessor’s agents, and their respective successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses (including, without limitation, loss, or restriction on use of rentable space or of any amenity of the premises and sums paid in settlement of claims, attorneys’ fees, consultant’s fees, and expert’s fees) that arise during or after the leased term directly or indirectly from the presence of hazardous materials on, in, or about the Leased Premises which is caused by Lessee or Lessee’s agents. This indemnification by Lessee of Lessor and Lessor’s representatives includes, without limitation, any and all costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of the presence of such hazardous material in, on, or about the Leased Premises or the soil or ground water on or under the building or any portion thereof. Lessee shall promptly notify Lessor of any release of hazardous materials in, on, or about the Leased Premises that Lessee or Lessee’s agent becomes aware of during the leased term of this Lease, whether caused by Lessee, Lessee’s agent, or other persons or entities.

ARTICLE XXV
DELINQUENT CHARGES

Late payment of all rents, fees and charges outlined in this Agreement are subject to the following interest charges; unless waived by the County Board of Supervisors, Lessee

shall be responsible for payment of interest on amounts not remitted in accordance with the requirements of this Agreement. The rate of interest shall be equivalent to the statutory rate in effect for delinquent County property taxes (presently 1 percent per month or fraction of a month) as described in Subsection 74.80(1), Wisconsin Statutes. The obligation for payment and calculation thereof shall commence thirty (30) days after the due date(s) established within this Agreement for the various rents, fees and charges.

ARTICLE XXVI
SUCCESSORS AND ASSIGNS BOUND

All of the provisions of this Agreement shall bind the legal representatives, successors, and assigns of the respective parties.

ARTICLE XXVII
GOVERNING LAW; VENUE FOR DISPUTES

This agreement shall be deemed to have been made in, and shall be construed in accordance with the laws of the State of Wisconsin. Any lawsuit related to or arising out of disputes under this Agreement, shall be commenced and tried in the circuit court of Outagamie County, Wisconsin, and Lessor and Lessee submit to the exclusive jurisdiction of the circuit court for such violation.

ARTICLE XXVIII
ENTIRE AGREEMENT

This agreement contains and embodies the entire Agreement between the Lessor and the Lessee and supersedes and replaces any and all prior agreements, understandings, and promises on the same subject, whether they are written or oral.

ARTICLE XXIX
HOLDOVER POSSESSION OF PREMISES BY LESSEE

In the event that the Lessee should hold over and remain in possession of the Leased Premises after the expiration of this Agreement or termination for any other cause, such holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Lessor or Lessee.

ARTICLE XXX
RIGHTS UPON TERMINATION

Upon expiration of this Agreement or upon termination of this Agreement, the Lessor may, in its sole discretion, do any of the following:

1. Negotiate a new agreement with Lessee;

- 2. Take title to all structures located on the Leased Premises; or
- 3. Order and require Lessee to remove all structures located on the Leased Premises and restore the site to its original condition within sixty (60) days.

Lessee has the right, upon termination, to remove all structures and improvements from the Leased Premises and restore the Leased Premises to its original condition.

ARTICLE XXXI
PARAGRAPH HEADINGS

All paragraph headings contained in this Agreement are for convenience in reference only, and are not intended to define or limit the scope of any provision.

ARTICLE XXXII
NOTICES

All fees due under this Agreement shall be made payable to Outagamie County Treasurer, and shall be remitted to the Outagamie County Courthouse, 320 South Walnut Street, Appleton, Wisconsin 54911.

Notices shall be sufficient if hand delivered or sent by certified mail, postage prepaid, addressed to:

<u>Lessor</u> Airport Director Appleton International Airport W6390 Challenger Drive, Suite 201 Appleton, WI 54914-9119	<u>Lessee</u> Dylan Milis Milis Enterprise, LLC W4567 County Road KK Kaukauna, WI 54130
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Or to such other addresses as the parties may designate to each other in writing from time to time.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this

day of April, 2024.

OUTAGAMIE COUNTY

APPROVED AS TO FORM:


By: _____
Thomas Nelson
County Executive

By: _____
Kyle Sargent
Corporation Counsel

By: _____
Jeff Nooyen
Board Chairperson

By: _____
Jeffrey King
County Clerk

LESSEE

By: 
Name: Dylan Mills
Title: CEO
Date: 4/4/24