

AIRPORT AUTHORITY AGENDA

**October 18, 2021
12:00 P.M.**

**Manistee County Blacker Airport
Conference Room and via ZOOM
2323 Airport Road, Manistee, MI 49660**

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Public Comment
5. Approval of Minutes
 - a. September 20, 2021 Regular Meeting
6. Treasurer's Report
 - a. September 2021 Accounts Payable
 - b. September 2021 Financial Statement (Revenue & Expenses/Trial Balance Sheet)
7. Committee Reports & Discussion
 - a. Executive Committee
 - b. Budget Committee
 - c. Capital Projects Committee
8. Airport Director's Report
 - a. Accidents/Incidents
 - b. Current Air Fares
 - c. Construction Updates
 - d. Air Service Update
 - e. Other
9. Old Business/Unfinished Business
 - a. Airport Director's Contract (APPENDIX A)
 - b. Part 139 Services Agreement (APPENDIX B)
 - c. FBO Agreement (APPENDIX C)
10. New Business
11. Comments by Authority Members
12. Adjournment

[Is M: AIRPORT: Agendas: Airport Authority 101821]

AIRPORT DIRECTOR AGREEMENT

This Agreement, dated _____, 2021, by and between the **Manistee Blacker Airport Authority**, a body corporate, under the provisions of Act 206, Public Acts of 1957, as amended, of the State of Michigan, of 2323 Airport Road, Manistee, Michigan 49660, hereinafter referred to as the “Authority” and **Barry J. Lind**, of 2323 Airport Road, Manistee, Michigan 49660, hereinafter referred to as the “Airport Director”.

WITNESSETH:

That for and in consideration of the mutual promises and covenants of the parties hereto,

It Is Agreed, as follows, to-wit:

1. The parties agree that Airport Director is an independent contractor, and that neither Airport Director, nor Airport Director's employees and/or contract personnel, if any, shall be deemed employees of Airport. In his capacity as an Independent Contractor, Airport Director agrees to and represents the following:
 - a. Airport Director has the right to perform services for third parties during the term of this Agreement, subject to the restrictions contained within this Agreement;
 - b. Airport Director has the sole right to control and direct the means, manner, and method by which the services required by this Agreement will be performed.
 - c. Airport Director agrees that all actual or proposed agreement terms between Airport and any client or potential client of Airport, including, but not limited to, contractor rates, must be approved by Airport prior to Airport Director presenting, offering and/or proposing terms to the contractor or potential contractor, subject to the terms, conditions, authorization and policy set forth in this Agreement or in the Airport Rules and Regulations;

- d. The services required by this Agreement shall be performed by Airport Director. Should Airport Director hire employees or contract personnel, Airport Director shall be solely responsible for compensating those individuals, and Airport shall not hire, supervise or pay any assistants to help Airport Director. Airport Director shall not allow Airport Director's employees or contract personnel to represent Airport to third parties without obtaining prior written approval from Airport.
 - e. Neither Airport Director nor Airport Director's employees or contract personnel shall receive any training from Airport in the professional skills necessary to perform the services required by this Agreement.
 - f. Neither Airport Director nor Airport Director's employees or contract personnel shall be required by Airport to devote full time to the performance of the services required by this Agreement.
 - g. The parties acknowledge and agree that Airport is entering into this Agreement with reliance on the representations made by Airport Director relative to his Independent Contractor status.
 - h. Should the Airport Director employ persons in connection with the services to be rendered under this Agreement he shall submit to the Authority a memorandum showing maintenance by him of worker's compensation insurance coverage, with statutory limitations. If the Airport Director does not employ any person in connection with his service as Airport Director, and chooses to not maintain worker's compensation insurance coverage, he shall certify to the Authority that he has no employees and he is not subject to the Michigan Worker's Disability Compensation Act of 1969.
2. The Airport Director represents that he has had sufficient training in order to perform all services to be rendered under this Agreement and shall use his best efforts and skills in performing said services.
3. That the Airport Director shall assume the responsibility to operate and manage the Manistee County Blacker Airport and to do and perform all the duties in and about said airport which a Director would ordinarily do and perform and which may be delegated or

assigned to him by the Authority, during the term of this agreement. These duties and responsibilities include but are not limited to the following:

- a. To police the Manistee County Blacker Airport and enforce the approved and published Rules and Regulations of said airport and further at all times, during the continuance of this Agreement to keep said airport property cared for and supervised.
 - b. The Airport Director shall secure and maintain all necessary licenses, and shall be responsible for the maintenance of said airport and the equipment thereon. All such licenses shall be filed with the Authority.
 - c. The Airport Director or his designee shall attend all regular and special meetings of the Authority and will report on airport operations as well as the general condition of the airport. The Airport Director will make recommendations to the Authority regarding any needed changes in airport policy and procedures, major repairs or major improvements at the airport. Following such report, the Authority's representatives will act on the Airport Director's recommendations. In the event that an unusual circumstance should arise that would prevent the Airport Director from attending the meeting, the Airport Director will communicate his report to the Authority Chairperson. The Chairperson will present the Airport Director's report to the Authority at the Board Meeting.
 - d. Maintain such airport records as may be required by the Authority.
 - e. Operate and properly inspect the airport lighting system.
 - f. Perform such other duties as may, from time to time, be assigned by the Authority which may reasonably be required for the proper and safe operation and maintenance of said airport.
4. The Authority agrees that when the Airport Director is required to obtain services for the normal operation, maintenance, and/or repair of airport facilities, which are over and above the ordinary and usual duties of the Airport Director, such services will be obtained from an independent entity that has appropriately trained and qualified personnel to perform the services required. Payment for such services will be at a rate agreed upon by the Authority

and the company concerned. Maintenance or repair services required which are beyond the capability available at the airport will be obtained by the Airport Director from an appropriate outside source, with prior approval by the Authority if the amount involved exceeds \$3,000.00 or exceeds line item budget allocations. If less than \$3,000 and less than the line item budget allocation, the Airport Director may contract for the service or equipment/inventory, without prior approval of the Authority. In the event an emergency exists, the Airport Director may exceed the \$3,000.00 limitation in the preceding sentence for a charge not to exceed \$10,000.00, but subject to the Airport Director's prior communication to the Authority Board Members of his intent to incur the charge. Charges for such services will be billed to the Authority by the company or individual concerned with verification by the Airport Director.

5. The Airport Director shall have all the duties, as well as the privileges which are necessary and proper, for him to manage and operate the airport in an efficient and effective manner.
6. The Airport Director shall keep the facility open based on a schedule approved by the Airport Authority and in accordance with State and Federal regulations and the Airport Rules and Regulations.
7. The parties hereto agree that this Agreement shall be subordinate to the provisions of any existing or future agreement between the County of Manistee and the Authority, (acting as agent for said municipal entity) and the State of Michigan and/or the United States relative to the improvement, operation, or maintenance of the Manistee County Blacker Airport, the execution of which has been or may be required as a condition precedent to the

expenditure of state or federal funds for the development of said airport.

8. The Airport Director herewith agrees, notwithstanding any other term or provisions, in this Agreement, that insofar as his respective public and private interests are concerned, the said airport will be operated for the use and benefit of the public on a fair and reasonable basis and without discrimination and in furtherance thereof, the Airport Director specifically agrees with the Authority as follows:

- a. That the airport and all of its facilities as well as the proprietary activities conducted on the airport will be operated without discrimination against any persons or organization occupying space or facilities on said airport and without discrimination against any class of person or persons by reason of sex, race, color, creed, or national origin.
- b. That the Airport Director will furnish services on a fair, equal, and non-discriminatory basis to all users thereof, and will charge only fair and reasonable prices for each unit of service.
- c. That the Airport Director will not on the grounds of sex, race, color, creed or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title VI of the Civil Rights Act of 1964, as amended, or by Part 21 of the Regulations of the Office of the Secretary of Transportation (D.O.T.), as amended, and it is agreed that the Authority shall have the right to take such action as the Federal Government may direct to enforce this obligation.
- d. That the Airport Director is familiar with Title VI of the Civil Rights Act of 1964, as amended, and with Part 21 of the Regulations of the Office of the Secretary of Transportation (D.O.T.), as amended, and that these shall be embodied and incorporated into this Agreement by reference and are hereby made a part and portion of the same as if they were included herein verbatim.
- e. That in case the Airport Director breaches any of the terms, conditions and covenants of this Agreement, that the Authority will take appropriate action to enforce compliance and/or may terminate this Agreement with the Airport Director and also secure judicial enforcement if in its judgment such

action is necessary or advisable.

- f. That the Airport Director will abide by and that he will comply with any further applicable Michigan Aeronautics Commission rules and regulations, FAA regulations and/or Acts of Congress which may hereafter become effective and as the same relate to the airport and its operation and maintenance and the Manistee County Blacker Airport Rules and Regulations.
9. The Authority, in return for the services listed in Paragraph 3 of this Agreement, agrees to pay the Airport Director the sum of Four Thousand One Hundred Twenty (\$4,120) Dollars per month. This Agreement shall have an effective date of the 1st day of October, 2021, and shall terminate on the 30th day of September, 2022, provided, however, that this Agreement may be terminated by the Authority at any time if the Airport Director, through his actions, is derelict or negligent in performance of the duties required to be performed by him under this Agreement, is convicted of a felony or other serious crime, is habitually intoxicated, fails, neglects or refuses to carry out directions of the Authority, or otherwise demonstrates by actions of similar magnitude that he is unsuitable to retain the Directorship of the airport. In such event, the Authority shall give the Airport Director thirty (30) days' notice in writing of its intention to terminate this Agreement and the specific reasons therefore. If not terminated prior to the end date of the initial term of this Agreement, the provisions of this Agreement, including the monthly compensation, shall continue on a month to month basis until renegotiated or terminated as provided herein..
10. It is agreed and understood that this Agreement is between the person of the Airport Director and the Authority, the body corporate empowered to supervise and administer the

operation of the Manistee County Blacker Airport, and any change in the persons constituting that entity or in the reassignment of the responsibility for such supervision and administration currently administered by the Airport Authority, will not be deemed cause of itself to terminate this Agreement and since said Agreement is between the person of the Airport Director and the Authority, the Airport Director shall not assign or transfer this Agreement to any other person, firm or corporation without the Authority's prior written consent.

- 11. Notwithstanding anything contained herein to the contrary, either party may terminate this agreement, for any reason, or no reason at all, by providing ninety (90) days written notice to the other party, said notice to be considered delivered by mailing the same by U.S. mail to the party at the address stated in this Agreement.

The parties have hereunto set their hands and seals on the day and year indicated.

Manistee Blacker Airport Authority

Dated: _____, 2021.

By: _____
_____, Chairperson

Dated: _____, 2021.

By: _____
Barry J. Lind

APPENDIX B

PART 139 ADMINISTRATIVE AND SERVICE AGREEMENT

NOW COME THE PARTIES HERETO, Manistee Blacker Airport Authority, organized as a body corporate pursuant to the provisions of Act 206, Public Acts of 1957, as amended, of the State of Michigan, of 2323 Airport Road, Manistee, MI 49660 (hereafter "Airport"), and **Orchard Beach Aviation, Inc.**, a Michigan corporation, of 2323 Airport Road, Manistee, MI 49660 (hereafter "Orchard Beach Aviation") and have entered into this agreement on the dates set forth below.

WHEREAS, the Airport owns and operates the Manistee County Blacker Airport (MBL) which is a Class I Airport having been certified as such by the Department of Transportation, Federal Aviation Administration, under Title 14 of the Code of Federal Regulations, Sub-Part A. § 139 (hereafter Part 139);

WHEREAS, the Airport, as a Class I airport, is required to comply with certain regulations and meet certain requirements imposed upon it by federal law;

WHEREAS, the Airport desires to engage the services of Orchard Beach Aviation to be responsible for all compliance and obligations of the Airport relating to Part 139 from October 1, 2021 through September 30, 2022, and on a month-to-month basis, thereafter;

NOW, THEREFORE, IT IS HEREBY AGREED by the undersigned as follows:

1. Term of Agreement. This Agreement shall be effective once signed by both parties and shall have an effective date of October 1, 2021 with an end date of September 30, 2022, and on a month-to-month basis thereafter, unless terminated after providing thirty (30) days' written notice to the other party.
2. Termination of Agreement. This Agreement is subject to and contingent upon the existence of Alternative Essential Air Service (AEAS) or Essential Air Service (EAS) being provided to the Manistee County Blacker Airport and that such service is provided to the Airport under the terms of a contract in similar form to the contract existing between the Manistee County Blacker Airport and the United States Department of Transportation (DOT). If, for any reason, the aforementioned contract between the Airport and the DOT shall be terminated, then the Airport shall have the option of terminating this Agreement upon one (1) month's notice to Orchard Beach Aviation. Further, should the Airport lose or be cut in funding or income such that payment of the obligations under this Agreement is no longer financially feasible, the Airport, upon one (1) month's notice to Orchard Beach Aviation, may terminate this Agreement, including all financial obligations.

3. Services To Be Performed. Orchard Beach Aviation agrees to perform the following services for the Airport:
 - a. Insure the full compliance of the Manistee Blacker Airport Authority with Part 139, as the same may be amended;
 - b. Application, maintenance and renewal of the certification of the airport under Part 139, including, but not limited to, the following:
 - i. Creation and maintenance of an Airport Certification Manual;
 - ii. Create and maintain a record keeping system and new personnel training as required by §139.303, including, but not limited to, providing qualified personnel to comply with the requirements of the Airport Certification Manual, insuring that personnel are equipped with sufficient resources needed to comply with the requirements of the Manual, training all personnel who access movement and safety areas to perform their duties in compliance with the requirements of the Airport Certification Manual and law, creating a record of all individual training;
 - iii. Inspect and insure the proper maintenance and repair of paved and unpaved surfaces of the Airport (per §139.305 and .307);
 - iv. Inspect and insure the proper maintenance and repair of all safety areas (per §139.309);
 - v. Inspect and insure the proper maintenance and repair of all marking, lighting and signs (per §139.311);
 - vi. Prepare, maintain and insure that a snow and ice control plan is followed (per §139.313);
 - vii. Insure that all aircraft rescue and fire fighting response equipment, agents and documentation is compliant with the Airport Certification Manual and law (per §139.315, .317 and .319);
 - viii. Insure that proper procedures are maintained and training provided for the handling and storing of any material regulated by the Hazardous Materials Regulations (49 CFR 171 through 180) (per §139.321);
 - ix. Insure that proper traffic and wind indicators are provided and maintained (per §139.323);
 - x. Develop and maintain an Airport Emergency Plan (per §139.325);
 - xi. Inspect the Airport to assure compliance with Part 139 requirements in accordance with required schedule (per §139.327);

- xii. Insure the proper access and procedures for pedestrian and ground vehicle traffic (per §139.329);
 - xiii. Insure that any object determined to be an obstruction by the FAA or FAA regulation is removed, marked or lighted, unless determined to be unnecessary by the FAA (per §139.331);
 - xiv. Insure all construction is consistent with NAVAIDS requirement and assist in the protection of all NAVAIDS are protected (per §139.333);
 - xv. Insure there is no inadvertent entry to the movement area by unauthorized persons or vehicles, reasonable protection of persons and property from aircraft blast and fencing that meets the applicable FAA and TSA security regulations (per §139.335);
 - xvi. Determine wildlife hazards and in accordance with Part 139, federal and state law and the terms of the Airport Certification Manual and insure the proper management of said wildlife (per §139.337);
 - xvii. Provide for the collection and dissemination of airport condition information to all proper individuals and entities (per §139.339);
 - xviii. Insure the proper marking and, if appropriate, lighting of all construction and unserviceable areas (per §139.341);
 - xix. Whenever requirements of this Section 4 cannot be met, limit air carrier operations to the portion of the airport not rendered unsafe (per §139.343); and
 - xx. Otherwise insure the Airports full compliance with all other requirements of Part 139.
4. Payment. In consideration for the services performed by Orchard Beach Aviation, the Airport shall pay to Orchard Beach Aviation the following sums:
- a. Fourteen Thousand Four Hundred Thirty Dollars (\$14,430) per month, for each month services are provided under this Agreement, with an effective date of October 1, 2022. The Airport shall make payment at the time of execution of this Agreement in an amount required to bring the monthly compensation current through the date of this Agreement.
5. Independent Contractor Status. The parties agree that Orchard Beach Aviation is an independent contractor and that neither the officers, representatives, nor employees of Orchard Beach Aviation shall be deemed to be employees of the Airport. In its capacity as independent contractor, Orchard Beach Aviation agrees to and represents the following:

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- a. Orchard Beach Aviation has the right and does fully intend to perform the services for other parties during the terms of this Agreement;
 - b. Orchard Beach Aviation has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed, other than insuring that the services are performed in compliance with all federal, state and local law;
 - c. Orchard Beach Aviation has the right to hire assistance, employees, and other individuals to provide the services required by this Agreement;
 - d. Orchard Beach Aviation or Orchard Beach Aviation's employees or contractors shall perform the services required for in this Agreement, and the Airport shall not hire, supervise, or pay for any assistance to help Orchard Beach Aviation, other than payments required by this Agreement.
6. Permits and Licenses. Orchard Beach Aviation declares that it has complied with all federal, state and local laws requiring business permits, certificates, and licenses required to carry out the services to be performed under this Agreement.
 7. State and Federal Taxes. The airport will not withhold FICA or any state or federal employment compensation contributions on behalf of Orchard Beach Aviation from any payments made to it under the terms of this Agreement. Orchard Beach Aviation shall pay all taxes incurred while performing services under this Agreement including applicable income taxes, fringe benefits and employment related taxes for its employees, if any, and workers' compensation insurance.
 8. Workers' Compensation. Orchard Beach Aviation shall obtain workers' compensation insurance on its employees as required by law.
 9. Insurance. Orchard Beach Aviation, as an independent contractor, agrees to indemnify, defend and hold harmless the Airport from any and all liability arising out of or in any way related to Orchard Beach Aviation's performance of services during the term of this Agreement, including any liability resulting from intentional or reckless acts of the employees or agents of Orchard Beach Aviation.
 10. Exclusive Agreement. This Agreement is the complete agreement of the parties as relating to the performance of the duties imposed by Part 139.
 11. Modifying Agreement. This Agreement may be modified only in writing and only by an agreement signed by the parties.

- 12. Applicable Law. This Agreement will be governed by the laws of the State of Michigan.
- 13. No Partnership. This Agreement does not create a partnership relationship.
- 14. Assignment and Delegation. Orchard Beach Aviation shall not assign nor subcontract any rights or obligations under this Agreement without the Airport's prior written approval.
- 15. Authority. The individuals signing this Agreement represent and warrant that they have the authorization of their respective body to sign the same.

Dated: _____, 2021. Manistee Blacker Airport Authority

By _____

Its Chairperson

Dated: _____, 2021. Orchard Beach Aviation, Inc.

By _____
Barry J. Lind, President

FIXED BASED OPERATOR AGREEMENT

This Agreement Made and Entered Into This _____ day of _____, 2021, with an effective date of October 1, 2021, by and between the **Manistee Blacker Airport Authority**, a body corporate, under the provisions of Act 206, Public Acts of 1957, as amended, of the State of Michigan, of 2323 Airport Road, Manistee, Michigan 49660, hereinafter referred to as the “Lessor” and **Orchard Beach Aviation, Inc.**, a Michigan corporation of 2323 Airport Road, Manistee, Michigan 49660, hereinafter referred to as the “Lessee”.

W I T N E S S E T H:

That in consideration of the mutual promises and covenants of the parties hereto, **It Is Agreed**, as follows, to-wit:

1. The Lessor herein lets and leases and the Lessee leases from the Lessor, a fixed based operation at Manistee County Blacker Airport at Manistee, Michigan, for a period of 1 year. This Agreement shall have an effective date of the 1st day of October, 2021 and termination date of the 30th day of September, 2022, upon the following terms and conditions. After September 30, 2022 the terms and conditions of this Agreement shall continue in full force and effect on a month to month basis until terminated by either party by providing 30 days’ written notice to the other party.

2. That Lessee is an independent contractor and not an employee of the Lessor or of the County of Manistee, Michigan, and in providing the services specified hereunder, Lessee represents that it has had sufficient training in order to perform all services to be rendered and shall use its best efforts and skills in performing said services.

3. The Lessee assumes the responsibility for the fixed based operation at the airport

and shall defend and hold the Lessor and the County of Manistee, Michigan, harmless from all damages or injuries to persons or property resulting from its operation, under this Lease, and the Lessee agrees to carry sufficient premises liability, property damages, comprehensive and products liability insurance to guarantee its responsibility, with limits of bodily injury in the amount of \$1,000,000.00, and in companies approved by Lessor, and the Lessor and the County of Manistee, Michigan, shall be named as additional insureds under all policies of insurance, copies of which policies shall be submitted to Lessor, and Lessee shall notify Lessor, at least thirty (30) days prior thereto, of any material change or cancellation of any insurance policy. Insurance limits shall be reviewed annually to assure adequate coverage.

4. That Lessee shall employ such persons as may be required in order for Lessee to furnish good, prompt and efficient services, under the terms of this Lease, and Lessee shall be solely responsible for the payment of all wages and fringe benefits to its employees, and all persons so employed by Lessee shall be employees of Lessee and shall not be employees of Lessor or the County of Manistee. Lessee shall be solely responsible for deducting, reporting and depositing all Federal and State taxes in a timely manner as required by law. Lessee shall maintain accurate records of all payroll accounts.

5. That Lessee shall carry Workers' Compensation insurance, with statutory limitations, upon all of its employees and furnish proper certificates of insurance to Lessor.

6. That Lessor leases to Lessee, and Lessee leases from Lessor, during the term of this Lease, for the usage of Lessee, in the conduction and operation of the services and concessions hereinafter described, the following facilities located at the Manistee County Blacker Airport, to-wit:

- A. Suitable space in the terminal building for vending machine operation;
- B. Suitable space in the terminal building for a car rental and customer service counter (7'x16', 112 sq. feet);
- C. Terminal office space (approximately 7'x16', 112 sq. feet);
- D. Fuel Storage Tanks, Pumps and related Equipment.

together with the non-exclusive right and privilege, to operate the following services and concessions, at the Manistee County Blacker Airport, in compliance with the minimum standard provisions of the Approved Rules and Regulations of the Airport, with which Lessee acknowledges it is familiar, or as same may be amended during the term of this Lease, to-wit:

- 1. Aircraft Charter - Air Taxi Service
- 2. Flight Training Service and Ground School
- 3. Aircraft Rental Service
- 4. Aircraft Sales Service (new and/or used)
- 5. Aircraft Refueling Service
- 6. Specialized Flight Services (including but not limited to aerial applications, photography, advertising and fire patrol)
- 7. Vending Machine Concession

and, in consideration for the right and privileges to occupy and use the above facilities and to operate the above services and concessions, Lessee shall pay, in advance, to Lessor on the 1st day of each and every month the following schedule of fees, to-wit:

- a) Terminal office and counter space (to be designated by Lessor) at the following amounts:
 - Office Space at \$28.03/sq ft; \$3,139.36 annually or \$261.61 monthly
 - Counter Space at \$23.88/sq ft; \$2,674.56 annually or \$222.88 monthly

during the continuance of the agreement.

- b) A fuel flowage fee as defined by the Airport Authority's fee

structure, including those sold to or used by Lessee, the amount to be determined by meter readings taken at the start and ending of business each month (see attachment - for required forms).

- c) Landing Fees at the rate provided by the Airport Authority's Landing Fee Policy.

7. That Lessee shall operate fuel storage tanks and pumps, located on the airport premises, and Lessee, in the day-to-day maintenance and operation of this equipment will comply with all rules, regulations and requirements of the Michigan Department of Environment, Great Lakes, and Energy, and other governmental entities. The Lessor shall be responsible for all associated licensing and registration fees. Lessee will be responsible to purchase and maintain adequate inventories of aircraft fuel and will pay Lessor a flow fee as described in paragraph 6(b) above.

8. That Lessee will not erect any buildings on the airport premises nor will it alter, change or remodel any buildings without the written consent and approval of Lessor, and, any such consent shall be included as an addendum to this Lease and shall provide rental rate adjustments and other provisions and conditions necessary to reflect a mutually agreed upon change to this Lease.

9. That Lessee will file with Lessor its schedule of fees for airplane services and shall also display its schedule of fees at the leased premises and Lessee will notify Lessor immediately if any changes are made in its schedule of fees for services at said airport.

10. That Lessee will conduct and operate the services and concessions at the airport for the use and benefit of the public on a fair and reasonable basis and without discrimination, and in furtherance thereof Lessee specifically agrees with Lessor, as follows, to-wit:

- a) That all concessions operated on the airport premises will be

operated and conducted without discrimination against any person or class of persons by reason of sex, race, color, creed or national origin.

- b) That all services rendered by Lessee will be furnished in a fair, equal and not in an unjust or discriminatory manner to all users thereof and will not, by reason of sex, race, color, creed or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title 49, Code of Federal Regulations, (D.O.T.), Part 21.
- c) That Lessee will charge fair, reasonable and not unjust or discriminatory prices for each unit of sale or service, provided, however, that Lessee is allowed to make reasonable and non-discriminatory discounts, rebates and other similar types of price reductions to volume purchases.
- d) That Lessee will operate the services and concessions granted herein with its own capital and at its own risk and expenses, and will take out a sales tax license and any other licenses necessary to make full and complete use of the facilities leased.
- e) That Lessee is familiar with Title VI of the Civil Rights Act of 1964, as amended, and with Part 21, of the Regulations of the Office of Secretary of Transportation (D.O.T.) and that Lessee will not by reason of sex, race, color, creed or natural origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by said Title VI of the Civil Rights Act of 1964 or by said Part 21 of the Regulations of the Office of Secretary of Transportation (D.O.T.)
- f) That the Lessee will abide by and that it will comply with all applicable rules and regulations of the Michigan Aeronautics Commission, the Federal Aviation Administration, Michigan Department of Environmental Quality (DEQ), and/or Acts of Congress which are presently in effect or which may hereafter become effective, as the same relate to the airport and maintenance.
- g) That Lessee will use due care and caution in the use of all facilities leased herein.
- h) That Lessee does hereby covenant and agree that (1) no person by reason of sex, race, color, creed or national origin shall be excluded from participation in, denied the benefits of, or be

otherwise subjected to discrimination in the use of the leased facilities (2) that in the construction of any improvements on, over, or under such land, the furnishings of services thereon, no person by reason of sex, race, color, creed or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

11. That Lessor, at its option, may terminate this Lease upon the happening of one or more of the following, to-wit:

- a) If the rentals, fees, charges or other money payments which the Lessee herein agrees to pay are not paid within fifteen (15) days from the date due, or if Lessee fails to pay creditors with whom Lessee does business.
- b) If the Lessee files a voluntary petition of bankruptcy, makes a general assignment for the benefit of creditors, or is adjudicated a bankrupt.
- c) If any act occurs which operates to deprive the Lessee permanently of the rights, powers and privileges necessary for the proper conduct and operation of its business.
- d) If the Lessee abandons and ceases to use the premises for a period of thirty (30) days at any one time, except when such abandonment is due to fire, earthquake, governmental action, default of the Lessor, or other cause beyond the control of the Lessee.
- e) If Lessee shall use or permit the use of the premises for any purpose that is not authorized by this Lease or is in violation of any law, rule, regulation to which the Lessee has agreed.
- f) If Lessee is derelict or negligent in furnishing the services and/or operating the concessions which are the subject of this Lease.
- g) If the principal owner of Lessee is convicted of a felony or other serious crime, is habitually intoxicated, fails, neglects or refuses to carry out any lawful directive of Lessor or otherwise demonstrates

by actions of similar magnitude that it is unsuitable to retain the operation of a fixed based operation.

12. That Lessee, at its option, may terminate this Lease upon the happening of one or more of the following, to-wit:

- a) If a court of competent jurisdiction issues an injunction against the Lessor or any successor body preventing or restraining the use of the airport, or the use of any part thereof which may be used by the Lessee and which is substantially necessary to the Lessee for its operation, and such injunction remains in force for a period of ninety (90) days or more.
- b) If the leased premises become untenable, in whole or in substantial part, and the Lessor does not proceed as promptly and as reasonably practical with the repairs and rebuilding necessary to restore the premises to its condition prior to the occurrence of the damage.
- c) If the Lessor fails to provide and maintain means for free and unobstructed access to and from the premises so that Lessee cannot perform its obligations under this lease.
- d) If the principal owner of Lessee becomes disabled or in the event it is unable to comply with the terms, conditions and covenants herein set forth or is unable to make full use of the facilities leased.

13. That termination of this Lease, by either party, shall not be effective until thirty (30) days' written notice of the election to terminate and the specific reason therefor has been provided in writing to the other party. If the reason for termination is a default under this agreement for which termination is authorized, no such termination shall be effective if such cause is cured or remedied during the thirty (30) day period, or if, by its nature, the cause cannot be cured within the thirty (30) days, such termination shall not be effective if the party at fault commences to correct the fault within the thirty (30) days, and proceeds as promptly as reasonably practical to complete the remedy. After the initial term of this Lease either party may

terminate this Agreement for any reason upon thirty (30) days' written notice.

14. That notwithstanding restrictions and limitations set forth in the above Paragraph 13, or anything to the contrary contained in this Lease, the Lessor shall have the right, in the event of a breach of any of the non-discrimination covenants by Lessee, to take appropriate action to enforce compliance and/or to terminate this Lease immediately and to repossess said premises and the facilities thereon, and hold the same as if said lease had never been made or issued.

15. That Lessor will provide and pay for heat, water, sewage, and electric service to the terminal building, and the Lessee will provide and pay for its internet and telephone services.

16. That Lessor will maintain and repair the facilities leased herein, (Lessee to provide normal operational cleaning and maintenance) in a condition suitable and compatible with the purposes and services to be operated therefor.

17. That when employees of Lessee perform maintenance, repair, operation and air carrier services in connection with Federal Aviation Administration (FAA) required facility inspections, grass cutting, snow removal, building maintenance and like services, agreed to by the parties hereto, which are necessary and required in the operation of the airport, Lessee may invoice Lessor for said services, at the rate of \$19.52 per hour for the term of this agreement. The rate charged for services described in this paragraph shall increase three (3%) percent every twelve (12) months this Agreement is in effect. Lessee shall invoice Lessor for the above services in which it shall describe what services were performed, when said services were performed, and by whom said services were performed. The foregoing rate for such services may be further adjusted and services reviewed from time to time, during the term of this lease, as may be mutually agreed upon, by the parties hereto, and any adjustment shall have no effect

upon the other provisions of this lease.

18. That Lessor reserves the right to further develop or improve the airport and all airport facilities as it deems to be in the best interest of the airport, regardless of the desires and view of the Lessee, and without interference or hindrance from the Lessee.

19. That this Lease shall be subordinated to the provisions of any existing or future agreement between the Lessor and the United States of America (acting through any governmental agency or commission) and/or the State of Michigan (acting through any governmental agency or commission) relative to the fixed based operation, or any other operation at the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal and/or state funds for the development and improvement of the airport.

20. That nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Lessor reserves the right to grant to others the privilege and right of conducting any one or all activities of any aeronautical nature.

21. That in the event any of the provisions, herein set forth, are contrary to the Rules and Regulations of the Federal Aviation Administration, the Michigan Aeronautics Commission or the Manistee County Blacker Airport, such covenants, provisions and agreements shall be null and void, and in the event there are any provisions, which are not included herein, but which are required by the Federal Aviation Administration, the Michigan Aeronautics Commission or the Manistee Blacker Airport Authority, for this type of lease, this Lease shall be renegotiated by the parties and amended to include those provisions which may be required to be contained in such

type of lease. Further, if any provision of this Agreement is found to be contrary to the law, invalid or unenforceable, that provision shall be considered independent of the remaining terms of the Agreement and shall not invalidate the remaining portions of the Agreement.

22. That in addition to the specific rights and privileges leased, that as long as the Lessee abides by the covenants and agreements set forth herein it shall be entitled to quiet and undisturbed occupancy of the leased premises and pursuit of its business interests, and shall also be entitled, without further charge, to the general use in common with others of all the public facilities and improvements of a public nature now provided or hereinafter provided at the Manistee County Blacker Airport.

23. It is agreed and understood that this agreement is between the person of the Lessee and the Lessor, the body corporate empowered to supervise and administer the operation of the Manistee County Blacker Airport, and any change in the persons constituting the entity or in the reassignment of the responsibility for such supervision and administration will not be deemed cause of itself to terminate this agreement and since said agreement is between the person of the Lessee and the Lessor, the Lessee shall not assign or transfer this Lease Agreement to any other person, firm or corporation without the written consent of the Lessor.

24. That the term Lessor, as used in this Lease, shall be read as the Manistee Blacker Airport Authority or the County of Manistee as empowered to supervise and administer the operations of the Manistee County Blacker Airport.

The parties have hereunto set their hands and seals on the day and year indicated.

Manistee Blacker Airport Authority

Dated: _____, 2021.

By: _____
_____, Chairperson

**Orchard Beach Aviation, Inc.
a Michigan Corporation**

Dated: _____, 2021.

By: _____
Barry J. Lind, President