

MEMORANDUM

TO: Real Estate & Transportation Committee
Commissioner Don Selvage, Chairman
Commissioner Justin Troller
Commissioner Phillip Walker

FROM: City Attorney's Office

DATE: July 5, 2016

RE: Land Lease Agreement with Ferrera Tooling, Inc.

Attached hereto for your consideration is a proposed Land Lease with Ferrera Tooling, Inc. (Ferrera) for approximately 2.5 acres located just north of the regional pond, outside the Airport's aviation fence line.

Ferrera is a skilled precision machine and tool & die business that offers complete manufacturing solutions to its customers by specializing in providing machined precision components, as well as replacement parts when original equipment manufacturers discontinue making replacement parts for older model machines. Ferrera has over 40 years of combined machining and metallurgical knowledge. Ferrera presently leases a facility on the north side of Lakeland outside the City limits.

The term of the Land Lease is for a period of 50 years. The Airport has agreed to waive the first year base rent in the Lease. Commencing July 1, 2017, Ferrera will pay an annual base rent of \$18,516.00 (\$0.17 per square foot) payable in monthly installments of \$1,543.00 for unimproved land subject to City Commission approval. Thereafter, rent is subject to an annual increase based on the net change in the Consumer Price Index (CPI). In year 40 of the Lease, the base rent will be adjusted to 10% of an appraisal conducted by a certified Member of the Appraisal Institute (MAI) or the annual CPI adjustment, whichever is greater. This base rent would then be subject to annual CPI increases for the remaining term of the Lease.

Pursuant to the Lease, Ferrera will develop the lease site and be responsible for all costs associated with the improvements and related work. The Airport will provide a rent credit of \$4,800.00 for years 2 through 5 of the Lease to assist Ferrera in offsetting the cost associated with the development of the property. Ferrera intends to construct a manufacturing facility with 17,500 square feet and employ 15 people. It is anticipated that Ferrera will spend approximately \$1,000,000 on improvements to the property.

It is recommended that the appropriate City officials authorize this Land Lease with Ferrera Tooling Inc. consistent with the terms and conditions specified above.

LAND LEASE AGREEMENT

THIS AGREEMENT made this 5th day of July 2016, by and between the **City of Lakeland**, a Florida municipal corporation (hereinafter referred to as "**Lessor**"), whose address is 228 S. Massachusetts Avenue, Lakeland, Florida 33801 and **Ferrera Tooling, Inc.** (hereinafter referred to as "**Lessee**"), whose mailing address is P.O. Box 426 Highlands City, Florida 33846.

WHEREAS, Lessor desires to let and Lessee desires to lease certain non-aviation real property located adjacent to the Airport terminal, more particularly described on **Exhibit "A"** (hereinafter referred to as the "**Premises**") for the purpose of developing and constructing a facility for manufacturing; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

WITNESSETH:

The parties hereto do hereby mutually covenant, agree and promise as follows:

SECTION 1.

1.1 The Lessor, for and in consideration of the mutual promises, agreements, and covenants herein contained, does hereby lease, let, and rent unto the Lessee for its exclusive use (hereinafter referred to as the "Leased Premises" or "Premises"), land consisting of approximately two and one half (2.5) acres located in and comprising a part of the Lakeland Linder Regional Airport ("hereinafter referred to as the "Airport") as more particularly described in **Exhibit "A"**, attached hereto and made a part hereof.

Substantial and expensive preparation, including civil engineering work, is required before the Premises are buildable and ready for construction ("**Preparation Work**"). This

Preparation Work, which Lessee will undertake, includes creating a storm water conveyance system into the Airport's Regional Pond and performing grading and associated site work and various other tasks required to make the Premises buildable.

In consideration for the Preparation Work of the Premises, Lessor shall waive rent for the first year of the Lease. In addition, Lessor shall apply a rent credit of Four Thousand Eight Hundred dollars and 00/100 (\$4,800.00) for years two (2) through five (5) of the Lease to reimburse the Lessee for Preparation Work incurred related to making the Premises buildable. Lessee shall provide documentation related to all Preparation Work expenses for purposes of obtaining a rent credit. Upon review and approval by the Lessor, the rent credit will be applied as a lump sum each June for years 2017 through 2020 of the Lease term.

1.2 The obligations of the parties hereunder shall commence on July 1, 2016 (the "Effective Date"). The initial term of this Lease shall be for a period of fifty (50) years from the Effective Date unless otherwise cancelled or terminated as set forth in the Lease Agreement.

SECTION 2.

2.1. The Lessee shall pay to the Lessor as Base Rent for the Leased Premises monthly installments, commencing on July 1, 2017, in the amount of One Thousand Five Hundred Forty-Three dollars and 00/100 (\$1,543.00) for the twelve (12) month period. Thereafter, annual Base Rent shall be adjusted in accordance with Sections 2.5 and 2.6.

2.2 In addition to the payment of Base Rent, the Lessee shall be responsible for paying for all utilities and taxes, including but not limited to, ad valorem, electric, water, wastewater services, storm water, refuse collection and heating/air conditioning for the Leased Premises.

2.3 Each monthly payment shall be paid, together with sales taxes, pass through expenses, and all other applicable taxes and charges, in advance on or before the first day of each month. Late payments, which shall be any payment received more than fifteen (15) days after the due date, shall bear a late payment charge of five percent (5%) per month of the late payment for any month or any portion of any month until paid.

2.4 Lessee is hereby granted a right of first refusal to develop the property adjacent to the existing Leased Premises (hereinafter "Parcel") as more specifically identified in **Exhibit "A"**, attached hereto and incorporated herein by reference. Lessee's right of first refusal shall be based on the same terms and conditions as Lessor is prepared to accept from a third party at any time from execution of this Lease until June 1, 2021, when such right shall expire. Lessor shall notify Lessee, in writing, of the receipt of any offer to develop said Parcel by a third party during the above-specified period and Lessee shall have thirty (30) days upon receipt of such written offer to notify Lessor of its intent to exercise its right of first refusal to develop the Parcel. Lessee's right of first refusal shall be non-transferrable in the event the Lease is assigned. If Lessee decides to develop the property prior to July 1, 2020 and before any other development offers are made, then said Parcel shall be added to this Lease subject to the same terms and conditions contained herein.

2.5 All rents to be paid hereunder shall be subject to an increase at the expiration of each one (1) year period the Lease is in effect in the amount to be determined by the percentile change in the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items, as published by the Bureau of Labor Statistics, United States Department of Labor (the "CPI-U"), using the date of commencement of this Lease as the base period for such determination.

2.6 The CPI-U for the month of April 1, 2016 is hereby established as the "Base Index". Thirty (30) days prior to the beginning of each one (1) year period for the first thirty-nine (39) years of the Agreement as defined in subsection 2.1 hereof, the CPI-U shall be ascertained, and the annual Base Rent and other fees to be paid during the next one (1) year period shall be adjusted by increasing the initial amount set forth herein by a percentage equal to the percentage of change in the CPI-U as compared with the base index. At no times will an adjustment be made in the event of a negative change in the index. In the event the CPI-U, or an equivalent or successor thereof, is not published at the time such adjustments are made, the amount of rent and other fees shall be governed by subsection 2.7 hereof, provided that if the CPI-U subsequently becomes available the Lessor shall be entitled to receive forthwith, the greater of the percent change in the CPI-U or the adjustment required under subsection 2.7 hereof.

Prior to the commencement of year forty (40) of the Lease Agreement, rent shall be adjusted to ten percent (10%) of an appraisal of the unimproved Premises conducted by a certified Member of the Appraisal Institute (MAI) or the annual CPI adjustment as calculated in accordance with Section 2.6 of the Lease, whichever is greater. Such rental adjustment shall then become the new Base Rent for all future CPI adjustments for the remaining term of the Lease. The MAI certified appraiser shall be selected upon mutual written agreement of the parties.

2.7 If at any time during the initial term or any renewal terms, the United States Department of Labor, Statistics, or its successor or equivalent, shall discontinue issuance of the CPI-U, the parties agree to use other nationally recognized standard cost-of-living indices issued and published by the United States Government.

2.8 The Leased Premises will be subject to ad valorem property tax as of January 1, 2017 pursuant to the policy of the Polk County Tax Assessor's Office. The Lessee shall pay to Lessor any ad valorem taxes or other taxes assessed. The Lessor shall provide proof of the assessment as soon as is practical following receipt of the tax bill which shall then be payable by the Lessee on the date the next rental payment would be due. Subsequent to any such initial assessment, Lessor reserves the right to provide for periodic payments of the tax. Lessor will pass through to the Lessee any ad valorem or other taxes or any other governmental charges or special assessments levied after the Effective Date pertaining to the Leased Premises.

2.9 The Leased Premises are located within the Lessor's "Aerobatic Box", which is more particularly described in **Exhibit "C"**, attached hereto and made a part hereof. For purposes of this Lease Agreement, the term "Aerobatic Box" shall be defined as an area of the Premises utilized during the Airport's annual Sun n' Fun event for jet performances. Such performances and related practices are generally limited to late afternoon hours and conducted up to a maximum of five (5) days per year to minimize business interruption. During such times when the Aerobatic Box is in use, the Lessee shall not be permitted to use or occupy the Leased Premises pursuant to Federal Aviation Administration guidelines for safety reasons. Lessor shall be required to notify Lessee, in writing, on an annual basis, when the Aerobatic Box will be in use. Such notice shall be provided to Lessee no less than fourteen (14) days prior to the occurrence of such scheduled use.

SECTION 3.

Upon the expiration or termination of the initial term of this Lease, or the term of any renewal, any and all improvements, including structures upon the Premises, shall

become the property of the Lessor absolutely if not removed by the Lessee within one hundred twenty (120) days after such expiration.

SECTION 4.

4.1. The Premises, and any improvements thereon, whether in existence or constructed in the future pursuant to the terms and conditions contained herein, shall be used for non-aeronautical purposes as further required by all applicable building codes and regulations. The Premises shall not be used for purposes which are detrimental to aviation, which shall include, but may not be limited to, excessive light, glare or electromagnetic interference on the Premises that might interfere with the operation of aircraft to, from or at the airport facility. Any other non-aeronautical use, including without limitation, residential use shall be prohibited on the Premises. For purposes of this Agreement, non-aeronautical use is defined by the Federal Aviation Administration Published Guidelines.

4.2. The Lessee shall conduct no self-fueling activities on the Premises as defined in A/C 150/6190-7. For purposes of this section, self-fueling is defined to mean the fueling of an aircraft by the aircraft owner or operator with his or her own employees and using his or her own equipment.

4.3. Lessor hereby consents to a leasehold mortgage of the Premises for Lessee to obtain financing ("Leasehold Mortgage"). In providing such consent, Lessor agrees to make certain certifications as to Lessee's standing under the Lease (e.g., payment of rents, lack of notice of violations, etc.) which are reasonable and customary in light of industry practices. Lessor also agrees that in the event any financial institution, lender or investor (collectively, a "Lender") shall, for the purpose of perfecting its security interest or in connection with a refinancing or securitization, reasonably

request modifications to this Lease Agreement and/or execution of a ground lease estoppel agreement, Lessor shall labor in good faith to negotiate with such Lender to make such modifications and/or execute such ground lease estoppel agreement.

4.4 Copies of the plans for the construction of any improvements upon the Leased Premises, including the site plan therefore, are to be filed with the Lessor prior to the commencement of construction. The Lessor shall approve or disapprove any such plans and/or specifications no later than thirty (30) days after receiving construction approval by the Federal Aviation Administration, or other appropriate governmental authority. Lessor's approval shall not be unreasonably withheld. Any reasons for disapproval must be stated in writing and provided promptly to Lessee, and the Lessee shall have a reasonable period of time as determined by Lessor, to revise the plans to be responsive to the Lessor's reasonable requests.

4.5 All buildings, structures, and other improvements, including any machinery, equipment and other fixtures or personal property located on the Premises shall be the property of the Lessee, and the Lessor shall have no interest therein for the Initial Term of this Lease, and any extensions thereto, except as provided herein or as may be provided by law. Lessee has no authority to obligate the Premises for the costs of any improvements and shall not permit any lien to be filed upon said Premises. Notwithstanding the foregoing sentence, Lessor hereby consents to a leasehold mortgage of the Premises by Lessee to Lessee's Lender, provided that in the event of foreclosure, the mortgagee shall agree to be bound to the obligations of Lessee as set forth herein.

4.6 All improvements located on the Premises shall become property of the Lessor upon the expiration of this Agreement and any renewals or extensions, subject to the Lessee's rights set forth below.

4.7 Lessee's Right Upon Termination. At the termination of this Lease and any subsequent renewals or extensions, Lessee so long as it is not in default, shall be entitled to elect one of the following options:

(a) Lessee shall return the Leased Premises to Lessor clear of all or any specifically designated improvements to include foundations and footings which have been purchased or constructed by Lessee, its agents, employees, assigns or successors; provided, however, that Lessee shall have ninety (90) days after termination in which to remove all such improvements or those specifically designated by Lessor. In the event that demolition by Lessee exceeds the ninety (90) day period, Lessee shall pay rent at the then current rate for any excess days, or

(b) The Lessee may negotiate the sale of the improvements existing on Airport property to the Lessor or a third party. Lessor shall have a thirty (30) day right of first refusal to purchase the improvements if such proposed sale is to a third party. Lessor maintains the right to approve such a sale and negotiate a new land lease, said approval not to be unreasonably withheld, or

(c) The Lessee may, with mutual written consent of the Lessor, transfer title to said improvement in lieu of removal of the said improvements of Lessee's and Lessee hereby agrees to execute all appropriate documents to vest title to said improvements in Lessor free and clear of any and all liens and encumbrances.

SECTION 5.

The Lessee may not sublet or assign all or any portion of the Premises without the prior written approval of the Lessor. In reviewing a request by the Lessee to sublet or assign all or any portion of the Leased Premises, the Lessor will consider, *inter alia*, the permitted and intended uses of the Leased Premises. If the Lessor approves the sublease

or assignment of any portion of the Leased Premises, the Lessee shall remain liable for any and all obligations under this Lease, unless the Lessor determines in writing, on the basis of evidence presented, that the sub-lessee or assignee has the requisite financial capacity, resources and business plan to satisfy any and all obligations hereunder. The requirement to obtain Lessor's approval applies, without limitation, to any assignment or sublease which would occur by operation of law; assignment or sublease to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; and the sale, assignment or transfer of all or substantially all of Lessee's assets. Under no circumstances shall the Lessee sublet or assign all or any portion of the Premises for residential use or other uses not set forth and approved in this Lease.

SECTION 6.

6.1. No building or other structure may be constructed or placed upon the Premises without the prior written approval of the Lessor. Buildings, structures and other improvements made by the Lessee on the Premises shall be fully consistent with the currently approved Airport Layout Plan maintained by the Lessor and adhere to all local building codes and regulations. If Lessee erects an approved new building or structure and decides to sell said building or structure during the first five (5) year term of this Lease Agreement, Lessor shall retain a right of first refusal to purchase said structure. Lessee shall notify Lessor, in writing, of its intent to sell the building or structure and Lessor shall have thirty (30) days after receipt of such written notice to exercise its first right of refusal to purchase the building or structure based on the Fair Market Value (FMV) of such building or structure. For purposes of this Agreement the FMV will be determined by averaging two (2) independent appraisals performed by Appraisers that have been mutually agreed to, in writing, by the parties. If the parties are unable to agree as to a FMV

for the building or structure within ninety (90) days of completion of the appraisal then Lessee shall have the ability to market and sell to a third party subject to the conditions set forth in Section 5 of this Lease Agreement.

6.2. The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures and objects or natural growth determined by the Federal Aviation Administration to constitute an obstruction or hazard pursuant to 14 C.F.R. Part 77, as the same may be amended from time to time. The Lessee agrees to comply with the notification and review requirements of said Regulations in the event any future structure or building is planned for the leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises .

6.3. Lessee agrees to comply with all applicable codes, ordinances, statutes, or regulations of any governmental authority having jurisdiction in the design and construction of improvements made upon the premises. Lessee shall provide Lessor with any as-built plans for any authorized improvements on said Premises.

6.4. The Lessor shall have the right to install all navigation aids at the Airport as may be identified on the current Airport Layout Plan (ALP) and any future ALP approved by the Federal Aviation Administration. The Lessor may furnish portions of the Airport to the Federal Government in connection with air traffic control and navigation facilities. No structure, sign, appurtenance, projection, or modification shall be installed or kept in place by Lessee on the Premises without the prior written approval from the Lessor and any applicable federal, state, county, or other governmental agency.

SECTION 7.

7.1. Lessee shall pay, defend, indemnify and save harmless the Lessor, its agents, guests, invitees and employees from all suits, actions, claims, demands,

damages, losses and other reasonable expenses, including attorney's fees, and costs of every kind and description to which the Lessor, its agents, guests, invitees or employees may be subjected to by reason of injury to persons or death or property damage, resulting from the negligence of the Lessee, its agents or employees, arising from and/or in connection with this Lease or any operations necessary and incidental to the occupancy, maintenance, repair or improvement by the Lessee of the Premises.

7.2. The Lessee shall defend, indemnify and save harmless the Lessor, its agents, guests, invitees or employees, against any claim or liability, including attorney's fees, arising from or based upon the violation of any federal, state, county or city law, by-law, ordinance, or regulation by such Lessee, its agents, trainees, invitees, servants or employees.

7.3 It is the intention of the parties that Lessor shall be responsible for any environmental contamination contained on the Premises leased by the Lessee prior to Lessee occupying said Premises. Lessee shall be responsible for any environmental contamination that occurs on the Effective Date of this Lease or thereafter if due to activities occurring on the Premises after Lessee takes possession.

7.4. The Lessee covenants and agrees to comply with all provisions of the Insurance Requirements, attached hereto as **Exhibit "B"** and incorporated by reference herein. The amounts of insurance coverage set forth in **Exhibit "B"** are set in contemplation of Lessee's use of the Leased Premises as defined in Section 4 herein. In the event of any change, alteration or expansion of the use of the Leased Premises, the minimum limits of such coverage shall be subject to reasonable adjustments by the Lessor so as to reflect any increase in risk or exposure.

7.5 Each policy required pursuant to **Exhibit "B"** shall name the Lessor, City of Lakeland, as an additional insured and carry a provision that it will not be canceled without a thirty (30) day notice to the Lessor, to the extent permitted under state law and regulation. The Lessee shall provide to the Lessor evidence satisfactory to the Lessor demonstrating that the required insurance will be in effect as of the Effective Date and remains in effect throughout the term hereof. The Lessee shall cause to be inserted in any policy or policies of insurance acquired by the Lessee with regard to this Lease a so-called "waiver of subrogation" clause. The Lessee hereby waives, releases and discharges the Lessor, its agents and employees from all claims whatsoever arising out of loss, claim, expense or damage to or destruction covered by the Lessee's insurance arising out of this Lease notwithstanding that such loss, claim, expense or damage may have been caused by Lessor, its agents or employees, and Lessee agrees to seek compensation only through its insurance coverage in the event of such loss.

7.6. During the term of this Lease and any extension or renewal hereof, the Lessee shall keep each building constructed upon the leased land insured against fire or other casualty by a reputable insurance company doing business in the State of Florida, in an amount not less than one hundred percent (100%) of replacement cost and the cost of demolition and the removal of debris as reasonably established from time to time by the Lessor. If at any time during the term of this Lease or any renewal the Leased Premises and its related facilities should be damaged or destroyed by any casualty, the Lessor, at its sole discretion, may elect not to permit Lessee to rebuild. If Lessor makes such a determination, this Lease shall be terminated as of the date of the casualty. Should the Lessee rebuild with Lessor's approval, then Lessee shall forthwith remove resulting debris and repair or rebuild the damaged or destroyed structures or other improvements to the

condition in which such structures and improvements existed prior to such casualty, or to such other condition as the parties may agree, and return such structures and improvements to working order, whether or not any insurance proceeds shall be awarded to Lessee as a result of such damage or destruction. In either case the Lessee shall be responsible to forthwith remove resulting debris and restore the leased Premises to a neat and presentable condition.

SECTION 8.

The Lessor reserves the right for the Airport Director ("Director") or his duly authorized representative, to enter the Leased Premises during normal business hours for the purpose of performing such inspections considered necessary by the Director, including without limitation compliance with the terms of this Lease, the Airport Minimum Standards and the Airport Rules and Regulations, and Lessee does hereby consent to such entry and waive any right to require a warrant for such inspection, provided that such entry and inspections shall not interfere with the Lessee's operations or the conduct of its business. The Lessee, after written notice, shall promptly correct any condition which is a hazard to life or property. The Lessee agrees that the transportation, storage, management and use of any explosives, gasoline or other highly flammable materials, in, on or about the Leased Premises shall be in strict compliance with the Airport Minimum Standards, Airport Rules and Regulations and any other standards or compliance requirements imposed by any governmental agency with jurisdiction.

SECTION 9.

9.1. The Lessee shall, at its expense, perform all maintenance and repairs associated with the Leased Premises in a timely and prompt fashion including the painting of the exterior of the facility so as to maintain a neat and orderly condition of the facility.

9.2. The Lessee shall at its expense maintain the Leased Premises, including any structures thereon, in a neat and orderly condition at all times. The Lessee shall maintain the grounds and exterior signage of the building so as to present a neat and attractive exterior appearance at all times during the term of this Lease.

9.3 The Lessee shall not have the authority to make any modifications or alterations to the Leased Premises without prior written consent of the Airport Director. The primary consideration in the approval process shall be the best interest of the Airport and the public.

9.4 The Lessee shall be responsible for removing trash from the Leased Premises to an area at a designated location agreed to by the Lessor for collection by the municipal sanitation service and shall remove trash on not less than a weekly basis.

SECTION 10.

Should the Lessee default in the payment of the rent or the performance of any of the promises, covenants or agreements herein made, the Lessor may, at its option, if such default continues after giving the Lessee fifteen (15) days written notice in the case of a default in the payment of the rent and thirty (30) days' written notice in the case of any other default, declare all future payments hereunder immediately due and payable. The Lessor may, at its option, draw upon a deposit hereunder in full or partial satisfaction of the Lessee's failure to pay the rent or other fees required hereunder. The Lessor shall have a lien upon any and all buildings and other property of the Lessee located upon the Premises at the time of default for any amount due the Lessor by the Lessee. If Lessee's default requires for its cure a period longer than that allocated in this Section, the Lessee shall not be in default if, in Lessor's sole opinion, the Lessee proceeds diligently to effectuate the cure and same is accomplished within a reasonable period of time.

SECTION 11.

Upon the occurrence of an event of default, as set forth in Section 10, Lessor may at its option exercise any one or more of the following remedies:

(a) The Lessor may terminate this Lease by giving to the Lessee written notice of Lessor's intention to do so, in which event the term of this Lease shall end and all right, title and interest of the Lessee hereunder shall expire on the date stated in such notice, which shall not be less than five (5) days after the date of the notice by the Lessor of its intention to so terminate;
or

(b) The Lessor may terminate the right of the Lessee to possession of the Premises or any portion thereof by giving written notice to the Lessee that the Lessee's right of possession shall end on the date stated in such notice, which shall not be less than five (5) days after the date of the notice by the Lessor of its intention to so terminate the right of possession;
or

(c) The Lessor may enforce the provisions of this lease and may enforce and protect the right of the Lessor hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy.

(d) If the Lessor exercises either of the remedies provided for in sub-paragraphs (a) or (b), the Lessor may then or at any time re-enter the Premises in accordance with Florida law.

(e) If the Lessor terminates the Lessee's right of possession pursuant to sub-paragraph (b), the Lessor may re-enter the Premises or any portion thereof and take possession of all or any portion of the real property, may move any portion of the Lessee's property thereon which the Lessor elects so to do, and may sub-let or re-let the Premises or any part thereof from time to time for all or any part of the unexpired part of the then term hereof, or for a longer period, and the Lessor may collect the rents from re-letting or sub-letting and apply same, first to the payment of the rents payable hereunder and in the event that the proceeds from such re-letting or sub-letting are not sufficient to pay in full the foregoing, the Lessee shall remain and be liable therefore. Lessee reserves the right to remove any personal property which shall not include building or fixtures. The Lessee promises and agrees to pay the amount of any such deficiency and the Lessor may at any time sue and recover judgment for any such deficiency or deficiencies or draw upon any deposit provided by the Lessee or both.

SECTION 12.

No remedy herein conferred upon or reserved by the Lessor is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and so often as may be deemed expedient. In order to entitle

the Lessor to exercise any remedy reserved to it in this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 13.

13.1. This Lease, and all provisions hereof, shall be subordinate to all the covenants and restrictions of the deeds under which the Lessor acquired the property known as the Lakeland Linder Regional Airport from the United States of America, insofar as such covenants and restrictions remain in effect from time to time and after the date hereof, such deeds being identified as follows:

(a) Quitclaim Deed and Surrender of Lease dated September 26, 1947, between the United States of America and City of Lakeland, recorded in Deed Book 816, page 571, Public Records of Polk County, Florida; and

(b) Supplemental Quitclaim Deed dated April 20, 1948, between the United States of America and the City of Lakeland, recorded in Deed Book 832, page 311, Public Records of Polk County, Florida;

except however, any such covenants and restrictions may hereafter become ineffective or as shall have been or may hereafter be extinguished or released, whether by statute, rule or regulations, interpretation, judicial decision, or deed or other instrument, including but not limited to the release of the "National Emergency Use Provisions" by the Deed of Release dated December 17, 1959, recorded in Official Records Book 389, page 338, current public records of Polk County, Florida, and the extinguishment of the restrictions on use for industrial or manufacturing purposes by the Act of Congress on July 30, 1947 (61 Stat. 678).

13.2. This Lease shall be subordinate to the provisions of any existing or future agreement entered into between the Lessor and the United States of America for the

improvement or operation and maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the planning, improvement or expansion of the Airport.

13.3 Should the Department of Transportation, FAA or any successor department or agency issue an order determining that any provision herein is inconsistent with any covenant or restriction of the deeds under which the Lessor acquired the Airport, or the provisions of any existing or future agreement entered into between the Lessor and the United States of America, the parties shall amend this Lease as necessary to resolve the inconsistency. If the parties cannot agree on the manner in which to resolve the inconsistency, the Lessor shall have the unilateral right to amend the Lease to resolve the inconsistency.

13.4. This Lease and all the provisions hereof shall be subject to whatever right the Government of the United States of America now has or in the future may have or acquire, affecting the control, operation, regulation and reacquisition of said Airport or the exclusive or nonexclusive use of the Airport by the United States of America during the time of war or national emergency.

SECTION 14.

Notwithstanding anything herein contained that may be or appear to the contrary, it is expressly understood and agreed that nothing herein shall be understood to confer an exclusive right upon the Lessee to conduct any aeronautical activity at the Airport in violation of 40 U.S.C. Section 40103(e) or 49 U.S.C. Section 47107(a)(4) or any grant assurance thereunder.

SECTION 15.

15.1. The Lessee, on behalf of itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, hereby covenants and agrees as a covenant running with the land that:

(a) no person on the grounds of race, color, creed, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the facilities;

(b) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, creed, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) 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, entitled *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation* - Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

15.2. In the event of a breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease and to re-enter and repossess the leased land and the facilities thereon, and hold the same as if the lease had never been made or issued. This provision shall be subject to the procedures of Title 49, Code of Federal Regulations, Part 21, including exercise or expiration of appeal rights.

SECTION 16.

The Lessor reserves the right to take whatever actions necessary for the operation, maintenance, and improvement of the airport and its appurtenances, without interference or hindrance, with appropriate consideration for the continuity and profitability of the Lessee's operations and the payment of the obligations to the Lessor herein. The Lessor may order the temporary closure of the Airport in the interest of safety or for other special events as approved by the FAA. The Lessee agrees to abide by any such order issued by the Lessor. Lessor shall not be liable to the Lessee for monetary damages that may result from any temporary closure of the Airport.

SECTION 17.

The Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the leased land, together with the right to cause in the airspace such noise, fumes, dust and vibration as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the airspace for landing on, taking off from or operating on the Airport.

SECTION 18.

The Lessee, its officers, employees, guests, invitees and suppliers of materials and services, shall have the right of ingress and egress over public right-of-way to the Leased Premises for the purpose of permitting Lessee to enjoy the rights, uses, and privileges granted by the Lessor.

SECTION 19.

The Lessee covenants and agrees to promptly repair or remove any disabled vehicles located on the Premises or any joint use areas of the Airport.

SECTION 20.

The Lessee specifically covenants and agrees to observe and obey Lakeland Linder Regional Airport's Rules and Regulations, as the same may be amended from time to time, as adopted and promulgated by the Lessor for operation at the Airport. Lessee shall remain in full compliance with the Airport Rules and Regulations, as the same may be amended from time to time, any Notice to Airmen issued by the Lessor and published by the Federal Aviation Administration, and any regulations or orders issued by the Federal Aviation Administration, including without limitation, 14 C.F.R. Part 91, as the same may be amended from time to time.

The Lessee specifically covenants and agrees to observe and obey all applicable federal laws on the subject of airport and aviation security, all applicable regulations and directives issued by the Department of Homeland Security, Transportation Security Administration or any successor department or agency, and all ordinances and rules issued by the Lessor related to security, including without limitation rules issued in furtherance of the Lessor's security program. The Lessee further covenants and agrees to alter and improve the Premises as required to comply with any such law, regulation, directive, ordinance or rule.

SECTION 21.

21.1. The Lessor hereby designates the Airport Director as its official representative with the full power to represent the Lessor in all dealings with the Lessee in

connection with this Lease or the Leased Premises, subject to approval by the Lakeland City Commission. The Lessee hereby designates Brian Herrera, as its official representative with the full power to represent the Lessee in all dealings with the Lessor in connection with this Lease or the Leased Premises. The parties may designate by written notice other representatives from time to time, and such representatives may exercise those rights and duties of the parties as may be necessary to effectuate the purposes of this Lease.

21.2. Notice to the Lessor shall be sufficient if either mailed by first class mail, postage prepaid, addressed to Airport Director, Lakeland Linder Regional Airport, City of Lakeland, 3900 Don Emerson Drive, Suite 210, Lakeland, Florida 33811, or delivered at such address, and notice to the Lessee named herein shall be sufficient if either mailed by first class mail, to Lessee at P.O. Box 426 Highlands City, Florida 33846 or delivered at such address. Either party may change its address at which notice is to be mailed or delivered, by giving written notice of such change of address to the other party in the manner provided in this section.

SECTION 22.

This Lease shall be binding upon and inure to the benefit of the parties and their respective successors and assigns to the extent assignment and subletting are permitted. This Lease shall not confer any rights or remedies upon any third-party not a party to this Lease.

SECTION 23.

The Lessee shall be responsible for and pay any and all ad valorem property taxes or such other taxes which are assessed on the Premises or this Lease, all sales taxes and

all utility charges. The Lessor will provide to the taxing authority whatever information is required so that the Lessee's taxable interests shall be separated from the Lessor's.

SECTION 24.

Should it become necessary for the Lessor to bring any action at law or equity to enforce or interpret this agreement or to remove the Lessee from the Leased Premises, the prevailing party shall be entitled to all costs, including reasonable attorney's fee at both trial and appellate levels.

SECTION 25.

This Lease shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action brought to enforce or interpret this Lease or to remove Lessee from the Premises shall be Polk County, Florida.

SECTION 26.

The terms and provisions of this Lease, and each sentence and paragraph hereof, are severable, and if any such term or provision shall be held invalid or unenforceable, all other terms and provisions hereof shall continue in full force and effect.

SECTION 27.

This Lease and the Exhibits attached hereto contain the entire agreement of the parties with respect to the subject matter of this Lease, and supersede all prior negotiations, agreements and understandings with respect thereto. This Lease may only be amended by a written document duly approved and executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed and their respective seals to be hereunto affixed, the day and year first above written.

LESSOR:

ATTEST:

CITY OF LAKELAND, FLORIDA
a municipal corporation

BY: _____

Kelly S. Koos
City Clerk

(Seal)

BY: _____

R. Howard Wiggs
Mayor

APPROVED AS TO FORM AND CORRECTNESS

BY: _____

Timothy J. McCausland
City Attorney

Signed in the presence of:

Ferrera Tooling, Inc.

By: _____

Its _____

Witness

Printed Name

Witness

EXHIBIT A



2.5 Acres—DRAFT

EXHIBIT "B"
INSURANCE REQUIREMENTS
LEASING AGREEMENTS

Special Insurance Provisions: Lessee shall maintain and pay the premium on the Comprehensive General Liability, Business Auto Liability, Workers' Compensation, and Fire Legal Liability policies. With the exception of Workers' Compensation, the City of Lakeland shall be listed as an "additional named insured" as their interest may appear. The City shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies. A renewal certificate shall be issued 30 days prior to expiration of coverage.

These insurance requirements shall in no way limit the liability of the Lessee. The City does not represent these minimum insurance requirements to be sufficient or adequate to protect the Lessee's interest or liabilities, but are merely minimums. Where available, all policies shall be of an occurrence type and provide a 30 day notice of cancellation or modification of coverages. Prior to commencement of work, the proper insurance certificates shall be provided to, and approved by the City.

Except for Workers' Compensation, the Lessee waives its rights of recovery against the City, to the extent permitted by its insurance policies.

Deductibles: Given that the indemnification agreement is intended to be supported by first dollars insurance policies which require full disclosure of any and all deductible for all coverages required by this specification or contract, the only exception will be the area of Workers' Compensation. The City reserves the right to determine acceptable limits of such deductibles.

First Dollar Coverage: To the extent that the Lessee may elect to purchase insurance which provide a deductible or self insured retention (SIR), the lessee will assume liability to personally indemnify the City to the same level of coverage required of their insurance carrier.

Comprehensive General Liability: This insurance shall be an "occurrence" type policy written in comprehensive form and shall protect the lessee and the additional insureds against all claims arising from bodily injury, sickness, disease, or death of any person other than the lessee's employees or damage to property of the City or others arising out of any act or omission of the lessee or his agents, employees, or contractors. This policy shall also include protection against claims insured by usual personal injury liability coverage, and to insure the contractual liability assumed by the lessee under the article entitled INDEMNIFICATION.

The liability limits shall not be less than:

Bodily Injury and	\$1,000,000
Property Damage	Single limit per occurrence

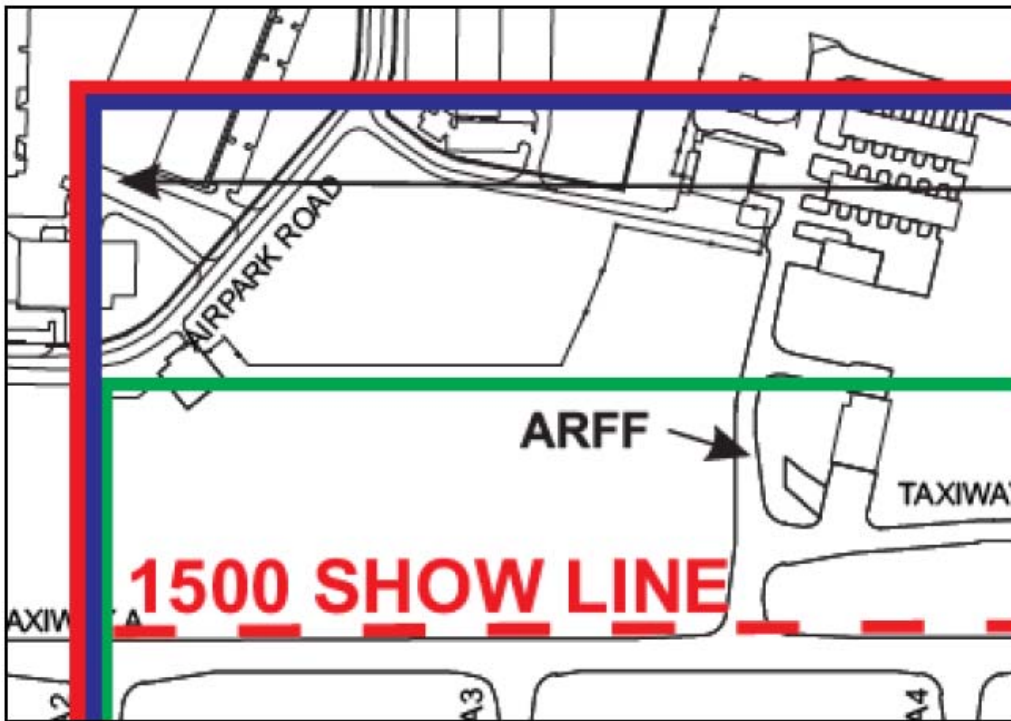
Business Auto Liability: This insurance shall cover any auto for bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

The liability limits shall not be less than:

Bodily Injury and	\$500,000
Property Damage	Single limit per occurrence

Workers' Compensation: Workers' Compensation coverage to apply for all employees for statutory limits and shall include employer's liability with a limit of \$100,000 each accident, \$500,000 disease policy limits, \$100,000 disease limit each employee. ("All States" endorsement is required where applicable). If exempt from Workers' Compensation coverage, as defined in Florida Statute 440, the Tenant will provide a copy of the State Workers' Compensation exemption.

Exhibit C



Northwest Corner of Aerobatic Box