

**LEASE TO
DEPARTMENT OF THE AIR FORCE

FROM
CITY OF BURLINGTON
FOR

AIR NATIONAL GUARD BASE

VERMONT AIR NATIONAL GUARD**

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THIS LEASE is made as of the 1 day of May, 2017, by and between (the “Lessor”) and The United States of America, on behalf of the Air National Guard, having accountability and jurisdiction over the property listed herein, acting through the Secretary of the Air Force (the “Government” or the “Air Force and the Air National Guard”). The Lessor and the Government may sometimes be referred to jointly as the “Parties,” and each separately as a “Party.” The term “Lessor” includes its successors and assigns, if any. Lessee includes its assigns, if any.

The Government is entering into the Lease under the authority contained in 10 U.S.C. § 2661.

NOW, THEREFORE, the Lessor, for the consideration set forth below, hereby leases to the Government the Leased Premises (identified below), subject to the following conditions:

Leased Premises includes the real property described on **Exhibit A** and depicted on **Exhibit B** together with the right of the Government and its officers, employees, invitees, licensees, agents and contractors to use the streets, common driving areas, sidewalks, and walkways around the real property for access to and from public streets and highways (the “Leased Premises”), and certain personal property, if any, identified in **Exhibit A** (the “Personal Property”). The Personal Property is an integral part of the Leased Premises and may be used by the Government in connection with its use of the real property included in the Leased Premises.

BASIC TERMS

1. TERM

1.0 Term. 1 year, beginning on 1 May, 2017, with the option for 2 renewals, which may be automatically exercised subject to the availability of funds.

2. RENT

2.1. Rent. \$ 85,866.00 per year, payable in monthly installments of \$ 7,155.00, commencing on the Term Beginning Date.

2.2. If rent commences on a day other than the first day of a calendar month, that portion of the rent which is payable for the period shall be prorated based on the number of days in that month.

3. CORRESPONDENCE

3.0 Whenever the Government or the Lessor shall desire to give or serve upon the other a notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication with respect to this Lease or with respect to the Leased Premises and any improvements located thereon, each such notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication shall be in writing and shall not be effective for any purpose unless same shall be given or served by personal delivery to the Party or Parties to whom such notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication is directed or by mailing the same, in duplicate, to such Party or Parties through a nationally recognized and reputable overnight delivery service at the regular delivery address for the parties specified below. In the latter case, delivery shall be effective on the date confirmed by the records of such service. All correspondence that must be sent, and all notices required or desired to be given under this Lease, must be addressed, to:

Base Civil Engineer
158th Civil Engineering
30 Falcon Street
South Burlington, VT 05403

with a copy to: ATTN : NGB/A7AR
National Guard Bureau
3501 Fetchet Ave
Joint Base Andrews, MD 20762-5157

and, if to the Lessor, to:
Burlington International Airport
1200 Airport Drive, Suite 1
South Burlington, Vermont 05403
Attn: Gene Richards
Director of Aviation

or to another address that the Parties may from time to time otherwise direct. Notice shall be given in writing and enclosed in a sealed envelope to the address of the receiving Party, and either hand-delivered, or sent by United States Postal Service, or by recognized overnight courier. The communication will be deemed delivered when received by the addressee.

4. ACCESS AND INSPECTION

4.0. Lessor shall have the right to access the Leased Premises for purposes of inspection at any reasonable time with reasonable prior notice to the Government.

5. DEFAULT AND TERMINATION

5.1. The failure of the Lessor or the Government to comply with any provision of this Lease, where such failure to comply continues for thirty (30) days after delivery of written notice, shall constitute a default or breach of this Lease. If, however, the time required to return to compliance exceeds the thirty (30) day period, the defaulting Party shall not be deemed to be in default if within such period the actions necessary to bring the Lease into compliance have begun and are diligently and continuously pursued to until the default has been cured.

5.1.1. In the event of any default and breach of this Lease, the non-defaulting Party may terminate this Lease at any time after expiration of the cure period provided for in Condition 5.1 upon written notice of the termination. The termination notice shall be effective as of a date to be specified in the notice, which shall be at least seven (7) but not more than thirty (30) days after receipt of the notice.

5.2. The Government may terminate this Lease at any time by giving the Lessor at least thirty (30) days prior written notice.

5.3. The Government shall vacate and surrender the Leased Premises to the Lessor on or before the date of expiration of the Lease, or its earlier termination. The Government will remove all of its property from the Leased Premises and restore them to as good order and condition, reasonable wear and tear and damage beyond the control of the Government excepted, as that existing on the Term Beginning Date, subject to Condition 7 below. In the alternative and at the Government's discretion, the Government may convey any remaining improvements to lessor and/or compensate the Lessor for the diminution in value of the promises in lieu of removal and/or restoration.

OPERATION OF THE PREMISES

6. CONDITION OF LEASED PREMISES

6.1. Prior to the Term Beginning Date, the following reports will be prepared and signed by the Parties and attached as exhibits:

6.1.1. A physical condition report (PCR) is attached to this Lease as **Exhibit C**. The PCR sets forth the agreed physical appearance and condition of the Leased Premises on the Term Beginning Date as determined from a joint inspection by the Parties. Any

failure on the part of the Lessor to fully disclose any known latent defect on the Leased Premises shall be grounds for termination of this Lease by the Government.

6.1.2. An Environmental Baseline Survey (EBS) is attached to this Lease as **Exhibit D**. The EBS sets forth those environmental conditions and matters on and affecting the Leased Premises on the Term Beginning Date, as determined from the records and analyses reflected in the EBS. Any failure on the part of the Lessor to fully disclose any known environmental condition or hazard on the Leased Premises shall be grounds for termination of this Lease by the Government.

6.2. At the expiration or earlier termination or revocation of this Lease, the following reports will be signed by representatives of the Parties and attached as exhibits and made a part of this Lease within ten (10) business days after it vacates the Leased Premises:

6.2.1. An update of the PCR signed by representatives of the Lessor and the Government, which shall be attached as **Exhibit D-1** to this Lease, shall be completed on the termination of this Lease. The update of the PCR will set forth the agreed physical appearance and condition of the Leased Premises on the ending date of this Lease as determined from a joint inspection by the Parties.

6.2.2. An update of the EBS signed by representatives of the Lessor and the Government, which shall be attached as **Exhibit E-1** to this Lease, shall be completed on the termination of this Lease. The update of the EBS will set forth those environmental conditions and matters on and affecting the Leased Premises on the ending date of this Lease as determined from the records and analyses reflected in the EBS.

7. CONSTRUCTION AND ALTERATIONS

7.0. The Parties have entered into a Military Construction Cooperative Agreement (MCCA) contemporaneous to and in conjunction with this Lease Agreement. The MCCA provides that the Government will be placing, constructing, and/or make substantial improvements to the leased premises ("Alterations"). Pursuant to the MCCA and this Lease, ALL said Alterations shall become the property of the Lessor upon the termination of this Lease.

8. MAINTENANCE OF LEASED PREMISES

8.0. The Government shall keep the Leased Premises in good order and repair during the term of this Lease.

9. UTILITIES AND SERVICES

9.0. The Government shall be responsible for all utilities, janitorial services, building maintenance, and grounds maintenance for the Leased Premises.

10. USE OF LEASED PREMISES

10.0. Use: National Guard purposes subject, however, to all applicable provisions of this Lease. The Government may use the Leased Premises for any use not otherwise prohibited by this Lease.

ENVIRONMENT

11. ENVIRONMENTAL PROTECTION

11.1. Compliance with Law. The Government shall comply, at its sole cost and expense, with the Federal, state, and local laws, regulations, and standards that are or may become applicable to its activities on the Leased Premises, including, without limitation, obtaining any environmental permits required for its operations under this Lease. The Government, however, shall not be responsible for any act or omission of the Lessor that contaminates the Leased Premises, and the Lessor agrees to comply with all applicable environmental laws and regulations as a result of any such act or omission, and to the extent permitted by law, the Lessor agrees to hold the Government harmless from, and indemnify and defend the Government against, any action arising from contamination on, and migrating upon, the Leased Premises by the Lessor.

11.2. Wetlands. The Government shall protect any wetlands found or identified on the Leased Premises from destruction, loss, or degradation, consistent with the requirements of applicable law.

12. HISTORIC PROPERTY

12.0. The Government will comply with all laws applicable to historical property located on the Leased Premises, if any.

CHANGES IN OWNERSHIP OR CONTROL

13. ASSIGNMENTS, SUBLEASES, AND LICENSES

13.1. The Government may not assign this Lease or sublet the Leased Premises for any purpose not provided in this agreement without the prior written consent of the Lessor, which shall not be unreasonably withheld, delayed, or qualified.

13.1.1. Any assignment or sublease granted by the Government shall be consistent with all of the terms and Conditions of this Lease and shall terminate immediately upon the expiration or any earlier termination of this Lease. Under any assignment made, with or without consent, the assignee shall be deemed to have assumed all of the obligations of the Government under this Lease.

13.1.2. The Government shall deliver to the Lessor, for its prior written consent, a copy of each agreement of sublease or assignment it proposes to execute. Consent or rejection by the Lessor shall be given within ten (10) business days of receipt of the proposed agreement.

13.1.3. Any agreement of sublease or assignment must expressly provide that: (a) the sublease or assignment, as the case may be, is subject to all of the terms and Conditions of the Lease; (b) the sublease shall terminate on the expiration or earlier termination of this Lease; (c) the sublessee or assignee, as the case may be, shall assume all of the obligations of the Government; and (d) in case of any conflict between any provisions of this Lease and any provisions of the agreement of sublease or assignment, this Lease will control. A copy of this Lease must be attached to the agreement of sublease or assignment.

13.2. The Lessor shall not engage in any financing or other transactions creating any mortgage lien upon the Leased Premises; place or suffer to be placed upon the Leased Premises any other lien or other encumbrances; or suffer any levy or attachment to be made on the Lessee's interest in the Leased Premises. Any mortgage, encumbrance, or lien shall be deemed to be a violation of this condition and constitute a failure to comply with the terms of this Lease on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

14. EASEMENTS AND RIGHTS OF WAY

14.1. This Lease is subject to all existing easements, rights-of-way, and rights in the nature of an easement or right-of-way (collectively "Outgrants") related to the Leased Premises.

14.2. The Lessor has identified all Outgrants.

14.3. The holders of such Outgrants shall have reasonable rights of ingress and egress over the Leased Premises in order to carry out the purpose of the Outgrants.

GENERAL PROVISIONS

15. HEADINGS OR TITLES

15.0. The brief headings or titles preceding each condition are merely for purposes of identification, convenience, and ease of reference, and will be completely disregarded in the construction of this Lease.

16. COUNTERPARTS

16.0. This Lease is executed in two (2) counterparts each of which is deemed an original of equal dignity with the other, and which is deemed one and the same instrument as the other.

17. ENTIRE AGREEMENT

17.0. It is expressly agreed that this written instrument embodies the entire agreement between the Parties regarding the use of the Leased Premises by the Government, and there are no understandings or agreements, verbal or otherwise, between the Parties except as expressly set forth in this Lease. This instrument may only be modified or amended by mutual agreement of the Parties in one writing signed by each Party.

18. TIME OF THE ESSENCE

18.0. Time shall be of the essence with this Lease.

19. TAXES

19.0. The Lessor shall pay to the proper authority, when and as the same become due and payable, all taxes, assessments, and similar charges that, at any time during the term of this Lease, may be imposed upon the Lessor with respect to the Leased Premises.

20. GENERAL INDEMNIFICATION BY LESSEE

20.0. The Government cannot indemnify the Lessor for any purpose.

21. INSURANCE

21.0. The Government is self-insured.

22. DISPUTES

22.0. The Parties shall at all times try to resolve disputes in an amicable manner. However, the Parties reserve all rights afforded them under law to resolve any such dispute by any lawful means.

23. AMENDMENTS

23.0. This Lease may be amended at any time by mutual agreement of the Parties in one writing and signed by a duly authorized representative of each Party.

24. REPORT TO CONGRESS

24.0. This Lease is (is not) reportable under 10 U.S.C. § 2662.

25. DAMAGE TO GOVERNMENT PROPERTY

25.0. The Lessor shall not be responsible for damage to government property pursuant to any grants provided under this agreement, except those of gross negligence or willful misconduct on the part of lessor, lessor's agents, and lessor's assigns.

26. COMPLIANCE WITH APPLICABLE LAWS

26.0. The Government will comply with all applicable laws in its use and occupancy of the Leased Premises. Nothing in this Lease shall be construed to constitute a waiver of Federal Supremacy or Federal sovereign immunity.

27. RESTRICTIONS ON USE OF LEASED PREMISES

27.0. RESERVED

28. EXHIBITS

28.0. Four (4) exhibits are attached to and made a part of this Lease, as follows:

Exhibit A - Description of Leased Premises

Exhibit B - Map of the Leased Premises

Exhibit C - Physical Condition Report

Exhibit D - Environmental Baseline Survey

IN WITNESS WHEREOF, the Parties have caused this Lease to be executed by their duly authorized representatives on the dates shown below.

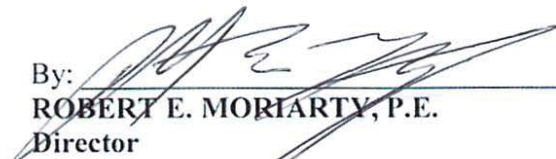
City of Burlington

Date: 5/23/2017

By: 
Gene Richards, Director of Aviation
Burlington International Airport

THE UNITED STATES OF AMERICA
by the Secretary of the Air Force

Date: Jul 18 2017

By: 
ROBERT E. MORIARTY, P.E.
Director
Installations Directorate

7.0. The Parties have entered into a Military Construction Cooperative Agreement (MCCA) contemporaneous to and in conjunction with this Lease Agreement. The MCCA provides that the Government will be placing, constructing, and/or make substantial improvements to the leased premises ("Alterations"). Pursuant to the MCCA and this Lease, , ALL said Alterations shall become the property of the Lessor upon the termination of this Lease.

7.0 The Parties have entered into a Military construction Cooperative Agreement (MCCA) contemporaneous to and in conjunction with this Lease Agreement. The MCCA provides that the Government may be placing, construction and/or make substantial improvement to the leased land premises ("Alteration"). Pursuant to the MCCA and this Lease. All said Alterations may be abandoned in place and conveyed to the Lessor in satisfaction of our restoration requirement upon the termination of this Lease.

Replace (will with may) "Government ~~will~~ may be placing, construction

We would strike out the "shall become the property of the Lessor" and replace with "may be abandoned in place and conveyed to the Lessor in satisfaction of our restoration requirement".

These changes were made to page 4, paragraph 7. CONSTRUCTION AND ALTERATIONS.

I authorized the substitution of the revised page 4, paragraph 7 as reworded above to be inserted into already signed copies of Lease ANGV-5-17-0003 dated 5/23/2017 Gene Richards, Director of Aviation .

City of Burlington

Date:

6/2/2017

By:


Gene Richards, Director of Aviation
Burlington International Airport

EXHIBIT A— DESCRIPTION OF PREMISES



EXHIBIT B— MAP OF PREMISES



EXHIBIT C—PHYSICAL CONDITION REPORT

**EXHIBIT D—ENVIRONMENTAL BASELINE SURVEY/ENVIRONMENTAL CONDITION OF
PROPERTY REPORT**

The EBS/ECP VALLEY WEST APRON BURLINGTON INTERNATIONAL
AIRPORT SOUTH BURLINGTON, VERMONT MARCH 2017 is hereby incorporated
by this reference.