



# TOWN OF NORTH ELBA

## AGENDA

TUESDAY, SEPTEMBER 11, 2012

SARANAC LAKE TOWNHOUSE

7:00 PM Regular Board Meeting

1. Call Meeting to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Approve Minutes August 14, 2012 Board Meeting.
5. Persons Present Opportunity to Speak
6. Old Business:
  - a. LP Airport Lease
  - b. Craig Wood Lease Extension
  - c. Resolution to accept Tahawus Way as Town Road
  - d. Skateboard Equipment
  - e. Bike Path
  - f. Joint Land Use Plan - Expenditures
7. New Business:
  - a. Budget Amendments
  - b. Hazardous Waste Day – Essex County
  - c. Balsams – Pumping Station Dedication
8. Committee Reports:
9. Town Attorney Reports
10. Essex County Update
11. Approve Audits as per Audit #'s
12. Executive Session
13. Adjournment

**EXTENSION/MODIFICATION AGREEMENT**  
**for**  
**CRAIG WOOD RESTAURANT LEASE/CONCESSION AGREEMENT**

This agreement made this \_\_\_day of September, 2012, by and between The Town Board of North Elba, as Trustee for the Town of North Elba Public Parks and Playgrounds District, a municipal corporation located in Essex County, New York (hereinafter referred to as the ALandlord@) and Joe Warren doing business as Scott=s Cobble a New York Corporation with an address of 13 American Way, Lake Placid, New York 12946, (hereinafter referred to as the ATenant@).

**W I T N E S S E T H:**

WHEREAS, Landlord and Tenant previously entered into a written Lease/Concession Agreement, dated April 1, 2012, by which Tenant leased from Landlord a portion of those premises commonly known as the ACraig Wood Golf and Country Club Clubhouse@; and,

WHEREAS, pursuant to said agreement Tenant agreed to operate and provide a restaurant and hospitality services on the leased premises; and,

WHEREAS, the term of the agreement was to expire on October 31, 2012; and,

WHEREAS, the parties wish to extend the term of the agreement to October 31, 2013.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties agree as follows:

1. Paragraph 3 of the agreement shall be amended to provide that the agreement shall terminate on or about October 31, 2013.

2. Paragraph 4 of the agreement shall be amended by adding the following: However, in the event Tenant utilizes the Leased Premises for events such as wedding receptions, banquets, parties and other such gatherings, it shall pay a venue fee to Landlord equal to \$5.00 per person attending such event. This venue fee shall not apply to events given by certain non-profit organizations or club membership and league functions subject to the prior approval by the Town Board.

3. All of the other terms and conditions of the agreement shall continue in force and effect except those provisions which are expressly or impliedly modified by paragraphs 1 and 2 above.

IN WITNESS WHEREOF, the parties herein have executed this Extension/Modification Agreement as of the date and year set forth above.

TOWN OF NORTH ELBA

By: \_\_\_\_\_  
Robert T. Politi, Supervisor/Landlord

\_\_\_\_\_  
Joe Warren d/b/a Scott=s Cobble, Tenant



# TOWN OF NORTH ELBA

## RESOLUTION OF ROAD DEDICATION

### TAHAWUS WAY

At the Regular meeting of the North Elba Town Board held on September 11, 2012 the following resolution was made and approved:

Pursuant to the inspection, completion, and approval of the Town Highway Superintendent as well as the Town Attorney;

Councilman \_\_\_\_\_ moved and Councilman \_\_\_\_\_ seconded the motion to approve a resolution to accept for dedication to the Town of North Elba the roadway known as Tahawus Way.

There being no discussion said motion is unanimously carried by those present.

State of New York

I, Laurie Curtis Dudley, Town Clerk of the Town of North Elba, Essex County, New York.

County of Essex SS:

I DO HEREBY CERTIFY, that I have compared the foregoing with the original resolution adopted by the Town Board of the Town of North Elba at a Meeting of said Board of the Town of North Elba held on the **September 11, 2012** and that the foregoing is a true and correct transcript of said original resolution and of the whole thereof, and that said original resolution is on file in my office.

Town Of North Elba

I DO FURTHER CERTIFY that each of the members of said Town Board had due notice of said meeting and that Supervisor **Robert Politi**, and Town Councilmen **Jay Rand, Jack Favro, Derek Doty, and Bob Miller** were present at such meeting.

IN WITNESS THEREOF, I have hereto set my hand seal of the Town of North Elba, this day **September 11, 2012**.

\_\_\_\_\_  
Laurie Curtis Dudley, Town Clerk  
Town of North Elba

**HANGAR AND FIXED BASED OPERATION  
COMMERCIAL AVIATION LEASE**

THIS LEASE AGREEMENT, made the \_\_\_\_ day of \_\_\_\_\_, 2012,

**BETWEEN: THE TOWN OF NORTH ELBA**, as Trustee for the North Elba Public Parks Playgrounds District, a municipal corporation located in Essex County, New York, party of the first part, hereinafter referred to as "Town" or "Lessor"

and

**LAKE PLACID AIRWAYS, INC.**, d/b/a Adirondack Flying Service, a domestic corporation organized and existing under the laws of the State of New York, with a principal place of business in the Town of North Elba, County of Essex, State of New York, party of the second part, hereinafter referred to as "Lessee".

**WITNESSETH:**

**WHEREAS**, the Town in its capacity as Trustee of the Town of North Elba Public Parks and Recreation District is the owner of the Lake Placid Airport, located in the Town of North Elba, County of Essex, State of New York (the "Airport"), and the Town, pursuant to Article 14 of the General Municipal Law of the State of New York, is authorized to enter into agreements pertaining to the operation of such facility; and

**WHEREAS**, Lake Placid Airways, Inc., has for the past several years leased and operated the Lake Placid Airport and served in the capacity of fixed base operator of such airport and the Town Board, after public hearing, has determined that it is in the public interest to enter into a further lease with Lake Placid Airways, Inc., for the consideration provided for herein, to provide the services set forth herein, as an independent contractor, subject to the terms and conditions of this agreement; and

**WHEREAS**, the Town Board has determined that the operation of the Lake Placid Airport by Lessee will benefit the Town and its citizens and will be beneficial to the tourism

industry within the town, and as such will be consistent with the purposes and intent of the North Elba Public Parks and Playgrounds District.

**NOW THEREFORE**, the parties hereto agree as follows:

1. **TERM:** The Town, as Lessor, leases to Lessee that portion of the airport facility and grounds as delineated on **Exhibit A** annexed hereto. For purpose of clarification, this lease does include that structure known as the former Stone Hangar. This Lease does not include, however, the T-hangars which were constructed during the summer of 2001 and 2007 and the new T-hangars which were constructed during 2011/2012 and have been leased by the Town to other parties. This facility shall be under the exclusive custody, care and control of Lessor and its agents, representatives and assigns. Lessor shall have sole and exclusive right to all income from such hangars and shall be solely responsible for the management, rental, maintenance and upkeep of such facility. The Lessor reserves easements and rights of access and entry over and across the airport roadways, entryways, parking areas and adjacent areas which may be necessary to maintain such facilities and to provide the users thereof unrestricted access thereto. This Lease also does not include the maintenance building constructed by Lessor and all use thereof and access thereto shall be reserved exclusively to Lessor.

The term of this Lease shall be for a five (5) year period which shall be deemed to have commenced on June 1, 2012 and shall terminate on May 31, 2017, at 12:00 p.m., subject to the Lessee's full compliance with the terms and conditions set forth herein.

2. **PRIVILEGES, USERS' RIGHTS, AND INTERESTS:** Lessee is granted the non-exclusive right to provide the following services during the term of this Lease:

(a) The loading and unloading of aircraft in any lawful aviation activities. No scheduled commercial airline service shall be permitted to utilize the facilities without the prior notice to and consent of the Town Board;

(b) The maintenance, storing and servicing of aircraft, including overhauling, rebuilding, repairing, inspection and licensing of same, and the purchase and sale of parts, equipment and accessories therefore;

(c) The right to conduct a business of buying and selling aircraft, parts and accessories therefore, aviation equipment of all types and descriptions, aircraft fuel, lubricants and propellants, including the right to use vehicles to service aircraft in the sale of aircraft fuel and lubricants on the Airport;

(d) The training at the Airport of the Lessee's employees and/or members of the general public as students in any recognized program for flying, operation and/or repair an maintenance of aircraft;

(e) The use, in common with other authorized users of the airport facilities, of navigational aids and related apparatus, for purposes of landings, take-offs, and taxing of aircraft;

(f) The use, in common with other authorized users, of a right of ingress to and egress from all leased premises for Lessee and its customer's aircraft over the right-of-way servicing the premises;

(g) The right to charge and collect aircraft landing fees and parking fees upon said premises pursuant to a schedule of reasonable and competitive fees and charges which shall have been submitted to the Town Board for its prior review and approval;

(h) The right to operate an automobile rental concession, subject to the prior submission to the Town Board for its review approval of rules and regulations pertaining to the parking and storage of cars upon the leased premises, theft location and duration:

(i) Such other uses and purposes as shall be permitted by the Town Board upon Lessee's written request therefore;

3. **RENT:** The parties agree to the following rental schedule:

1. Year 1 (which shall be deemed to have commenced on June 1, 2012): \$14,000.00
2. Year 2 (which shall be deemed to have commenced on June 1, 2013): \$14,500.00
3. Year 3 (which shall be deemed to have commenced on June 1, 2014): \$15,000.00
4. Year 4 (which shall be deemed to have commenced on June 1, 2015): \$15,500.00
5. Year 5 (which shall be deemed to have commenced on June 1, 2016): \$16,000.00

All annual rental payments shall be paid in 12 equal monthly installments on or before the 1st day of each month. Payments shall be made to the Town at its offices at 2693 Main Street, Lake Placid, New York. A lease payment schedule is attached hereto and marked **Exhibit D**. Any payment not actually received by the 10th day of any month shall result in the imposition of a late charge of five percent (5.0%) of the overdue payment.

4. **UTILITIES:** Lessee shall be solely responsible for the payment of all utility services to the premises and the structures thereon, including, but not limited to, fuel oil, electricity (including runway lights), water charges, sewer charges, telephone, trash removal, and any and all other utility expenses servicing the entire premises.

5. **LESSEE'S OBLIGATIONS:** Lessee agrees to comply with and fulfill the following specified conditions:

(a) To perform all duties and responsibilities as airport manager and fixed based operator as set forth in the operations manual of the Lake Placid Airport, as adopted by the Town, (see **Exhibit B** annexed hereto) and as may be hereinafter amended and/or supplemented.

(b) To do all things necessary, and to take all appropriate actions, to operate the Lake Placid Airport in a proper, professional and courteous manner, having due regard for the safety of the public and all personnel utilizing the airport, and taking into account the importance of presenting the airport in a suitable manner to visitors and other users thereof.

(c) To provide modern, efficient and professional services and to operate such facility consistent with good business practices, including maintaining adequate supplies on hand to meet the usual demands of anticipated users of the airport facilities, and the timely payment of Lessee's suppliers, vendors, employees and contractors.

(d) To maintain the premises (including but not limited to, the interior of the Main terminal building, which is used by or open to the public access, and the exterior areas of the grounds, which are used by or open to public access) at all times in a neat, clean and attractive condition. In this regard, the Lessee shall properly dispose of all trash, rubbish and garbage generated by Lessee, its invitees, guests or other users of the airport facilities as authorized by Lessee. Lessee shall utilize appropriate containers for keeping and removing the same. The responsibility and expense of regular garbage removal shall be Lessees. The foregoing notwithstanding, the Lessee shall not be responsible for nor shall it bear the expense of the removal of trash and other litter generated or left behind by users of adjacent areas of the Town Show Ground facilities and fields.

(e) To furnish professional, prompt and efficient aviation services and to charge fair, reasonable and non-discriminatory prices therefore.

(f) To operate its business and to provide such services in full compliance with all applicable federal, state and local statutes, rules and regulations pertaining thereto, and to obey all rules and policies adopted by the Town Board pertaining to the conduct of the operations of such facility.

(g) Utilize runway lights and other improvements consistent with the policies of the Town Board regarding night flying. (See Exhibit C annexed hereto and incorporated herein.)

(h) To furnish yearly gasoline services on an eight (8) hour daily schedule. In addition, Lessee shall have a qualified mechanic available during regular business hours (5) five days a week and shall further provide such other reasonable and necessary services and personnel as are adequate and customary to meet the usual demands for such services and facilities at this airport.

(i) Not to construct any improvements or make any modifications or alterations of existing improvements or structures without prior written approval of the Town.

6. **ACCEPTANCE OF PREMISES:** Lessee accepts the leased premises in their "as is" condition and covenants that such premises and the structures thereon are suitable for the use intended by Lessee, including the existing fuel tanks.

7. **EQUIPMENT:** Any trade fixtures, furniture, equipment, and machinery installed or provided by the Town prior to or during the term of this Lease shall remain the

property of the Town. Any such items which Lessee deems necessary for replacement shall be done so at Lessee's sole expense. Any trade fixtures, furniture, machinery and equipment heretofore installed or provided by the Lessee or, which are installed or provided by Lessee during the term of this Lease, shall remain in the sole property of the Lessee and shall be removed by the Lessee upon termination of this agreement. All property and fixtures permanently attached or built into and upon the leased premises or structures located thereon shall be and become the property of the Town at and upon the termination of this Agreement.

8. **CARE AND MAINTENANCE OF PREMISES:** The Town shall maintain the structural elements of the premises and all structures located thereon in a reasonable state of repair and maintenance and subject to the constraints of available personnel and budget allocations. Structural elements include, but are not limited to, roof, windows, walls, floors, flooring and ceiling tiles.

Lessee shall, at its sole expense, be responsible for all regular and routine maintenance, good care, upkeep, repair and replacement of all other elements of the premises, including electrical and lighting fixtures. Lessee shall, at its own expense, keep and maintain the said premises and all equipment and furnishings thereon in good order and repair, and in a clean, sanitary, and attractive condition at all times.

The parties mutually recognize that it is essential that there be an orderly and efficient mechanism followed by the parties to maintain and upgrade the premises. In this regard, the Lessee shall prior to September 1st of each year present to the Town's Park District Manager a list of needed structural maintenance work to be accomplished over the next year, as well as a five year plan for capital upgrades and replacements to the airport

facilities. The Park District Manager shall present such plans and requests to the Town Board for consideration for inclusion in the upcoming Town budget(s). The Lessee shall also meet at least monthly with the Park District Manger to review the airport operations, any areas of concern and they shall mutually consult on the assignment of Park District personnel to airport projects. The Lessee and/or Park District manager shall make a monthly report to the Town Board at its regular work session/department heads meeting regarding the airport facilities and the operations thereof. When appropriate, such meetings shall also include the Town Superintendent of Highways and the Town Board Airport Committee members.

The Lessor shall be responsible for snow removal in and around the runways, ramps, T-Hangars and runway lights. Any such lights which may be damaged or destroyed by the Lessor shall be replaced by the Lessor. All other snow removal in and around the leased premises shall be the sole responsibility of the Lessor.

9. **MECHANIC'S LIEN**: Lessee shall keep the fee estate of the Town free and clear of all mechanic's and materialmen's liens.

10. **INSURANCE**: Town will insure the leased premises and the contents and equipment owned by the Town against loss by fire or other casualty, as determined by the Town.

Lessee shall secure, maintain and pay for any and all insurance upon its contents and equipment in and upon the premises, of whatever nature and wherever situated.

The parties mutually release any and all claims that it might have to any of

the insurance proceeds payable to the other under such other party's insurance policies. If the main terminal building shall be destroyed or damaged by fire or other casualty, and if such damage or destruction is such that the structure is more than 50% destroyed, or is rendered unfit for occupancy, or if it is impossible or unsafe to use or occupy the structure, the Town shall have the right, at its sole discretion, to elect not to rebuild or repair the same. If such election is made, the parties shall enter into negotiations for the purpose of determining a pro-rated rent to be paid by Lessee for the balance of the lease term. If the parties cannot mutually agree within thirty (30) days to a new rental payment, this agreement shall be deemed to have automatically terminated as of the date of the damage or destruction and Lessee's liability for rental payments shall be prorated only to the date of such damage or destruction.

If, however, the Town does elect to repair any such damage or destruction to the main terminal building, then the rent to be paid by Lessee shall abate in proportion to that part of the leased premises which are rendered unfit for occupancy bears to the whole of the leased premises.

11. **INDEMNIFICATION**: Lessee agrees to hold the Town and its Park District, their agents, officers, and employees free and harmless against any and all claims, damages, suits or causes of action for damages, and any orders, decrees or judgments which may be entered therein, brought for damages or alleged damages resulting from any injury to person or property, or for loss of life sustained in or upon the leased premises, or from any act or failure to act in violation of this agreement. Lessee shall indemnify, defend and save harmless Town, its Park District and their agents, officers and employees from and against all liabilities, damages, penalties or judgments arising from injury to person or

property, including death, sustained by anyone in or upon the leased premises resulting from any acts or omissions of Lessee, or Lessee's agents, officers, employees, contractors, customers, students or other persons.

12. **LIABILITY INSURANCE:** Lessee hereby agrees, at its own cost and expense, to obtain and maintain at all times during the term of this agreement, policies of public liability, personal injury and property damage insurance in companies authorized to do business in the State of New York, naming as insured therein, Lessee, Town of North Elba, the North Elba Public Parks and Playgrounds District and their agents, officers and employees, such insurance to provide defense, indemnification and protection against all claims or demands for personal injuries to or death of any person, and damage to or destruction or loss of property, including any and all claims of products liability arising out of any and all products or services rendered by Lessee under this Agreement which claims or causes of action arise by reason of any uses or operations conducted by Lessee pursuant to this Agreement, said insurance to be in the minimum amount of \$1,000,000.00 for personal injury or death for any one person in any accident, and the minimum sum of \$2,000,000.00 for personal injury or death of two or more persons in any one accident, and the minimum sum of \$100,000.00 for property damage. Lessee shall also secure, at its sole cost and expense, and maintain at all times during the term of this Agreement, a policy of insurance entitled "Hangarkeepers Liability Insurance," which shall name the Town of North Elba, The North Elba Public Parks and Playgrounds District, Lessee, and their agents, officers and employees as additional insureds, which said policy or policies of insurance shall be in the minimum amount of \$200,000.00 for each aircraft and \$200,000.00 minimum for damages to two or more aircraft in any one accident, subject to

a deductible of \$500.00, which said deductible shall be the responsibility of Lessee only. Lessee shall deliver to Town a certificate of such insurance coverages at and upon the execution of this Agreement. Lessee agrees that such insurance shall further guarantee that the same cannot be cancelled without providing the Town of North Elba at least ten (10) days prior to written notice of cancellation.

13. **REPLACEMENT OR REMOVAL OF STRUCTURES**: The parties agree that there are presently located upon said premises, the various structures as shown on Exhibit A. Town reserves the right to hereafter cause or require the relocation, removal, replacement or addition of more structures in or about the leased premises in accordance with determinations reached by Town, in its sole discretion, applicable to its existing Airport Master Plan Study and/or Adirondack Park Agency Permits. In the event any changes to existing structures or additional structures or airport improvements are effectuated pursuant to said Master Plan Study project and/or APA Permits during the term hereof, the parties agree to review and modify this Agreement to equitably reflect the then existing facilities and the conditions regarding usage thereof. If the parties are unable to agree upon the terms for equitable modification of this Agreement, within sixty (60) days after Lessee received written notice of the need for modification from Town, such disputes shall be resolved by arbitration as provided in paragraph 31 hereof.

14. **OTHER USES**: The Town retains the right to make any and all other uses of the airport premises not required for use by Lessee in its operation of a safe and functional airport, it being understood and agreed that any such uses shall not interfere with the Lessees uses of the airport. Lessee shall not be responsible for such uses,

damage caused thereby or the maintenance and cleanup required by reason of any such uses.

15. **FORCE MAJEURE**: Neither Town, its Park District or Lessee shall be liable for the failure to perform any of their obligations hereunder, or for damage or loss to the other party, if such failure, damage or loss is caused by acts of God, or acts of the State or Federal Governments, fire or other casualty such as war, disaster, riots, strikes or any similar circumstances, or cause beyond the reasonable control of either party.

16. **INSPECTION**: Lessee agrees that Town and its agencies and other representatives shall have the right to enter into and upon all of the premises and structures being utilized by Lessee pursuant to this Agreement at all reasonable times and hours, for the purpose of examining the same or making such repairs or alterations therein as may be necessary for the safety and preservation, or the repair of any part or portion of any of the structures of which the leased premises are a part.

17. **ASSIGNMENT AND SUBLEASING**: Lessee shall not assign, mortgage, pledge or encumber this lease, the leased premises, and any structures thereon or sublet the whole or any part of the leased premises.

18. **EVENT OF DEFAULT**: If any one or more of the following events, hereinafter sometimes referred to as events of default shall happen, then and in such event, Town may, at once, give written notice to Lessee specifying such event of default and stating that this Lease and the terms shall expire and terminate on the date specified in such notice, which shall be at least ten (10) days after the giving of notice. It is the essence of this lease that the rental is for the entire term is not to be reduced in the event of any default

and a notice of termination is issued. Lessee will remain responsible for the entire rental payments as set forth hereinabove notwithstanding termination. Upon such termination by Town Lessee will at once surrender possession of the premises to Town and shall remove all of Lessee's effects therefrom, and Town may forthwith reenter the premises and repossess itself thereof and remove all persons and effects therefrom, using such force as may be necessary without being guilty of trespass, forcible entry or detainer or other tort.

Events of default are as follows:

(1) If default shall be made in the due punctual payment of any rent payable under this Lease, or any part thereof, when and as the same shall become due and payable.

(2) If default shall be made by Lessee in the performance or compliance with any of the agreements, terms covenants or conditions in this Lease provided from a period of ten (10) days after written notice from Town to Lessee, by certified mail, return receipt requested, specifying the items in default, or in the case of a default or contingency which cannot with due diligence be cured within said ten (10) day period, if Lessee fails to commence within said ten (10) days thereafter to prosecute the curing of such default with due diligence.

(3) If Lessee shall file a voluntary petition in bankruptcy or shall be adjudicated bankrupt or insolvent, or if there shall be appointed a Receiver or Trustee of all substantially all of the property of the Lessee, or if Lessee shall make any assignment for the benefit of Lessees creditors.

After default and notice of default to Lessee, if any rents owing under this

lease are collected by or through an attorney, Lessee agrees to pay Town's reasonable attorney's fees and other related costs.

19. **LANDLORDS LIEN**: Town is hereby granted a lien in addition to any statutory lien or right to distrain that might exist on all property and equipment of Lessee in and upon the premises, to secure payment of the rent required to be paid under this Agreement. This provision shall not be construed as imposing a superior lien to the ordinary financing of inventory or to purchase liens on equipment and fixtures acquired by Lessee during the term of this Agreement.

20. **QUIET ENJOYMENT**: Upon payment by the Lessee of the rents hereon provided for, and upon the observance and performance of all the agreements, covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the premises for the term without hindrance or interruption by Town.

21. **WAIVER**: The waiver by Town of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of such term, covenant, or condition, or any subsequent breach of the same, or any other term, covenant, or condition. No covenant, term or condition of this Lease shall be deemed to have been waived by Town unless such waiver be in writing and signed by Town.

22. **CAPTIONS, HEADINGS**: The captions, section numbers and headings appearing in this Agreement are inserted only as a matter of convenience, and in no way define, limit construe or describe the scope or intent of such sections or articles, nor in any way affect this lease.

23. **APPLICABLE LAW:** This Lease shall be construed in accordance with the law of the State of New York.

24. **NOTICES:** Any notices to be given pursuant to this Lease shall be sufficient if given by a writing deposited in the United States mail, certified mail or registered mail, postage paid, and addressed as follows:

If to Town: Supervisor, Town of North Elba  
2693 Main Street  
Lake Placid, New York 12946

If to Lessee: Lake Placid Airways, Inc.  
27 Airport Lane  
Lake Placid, New York 12946

or to such other person and/or address as may be specified by the party entitled to notice, so long as such specification is made in accordance with the terms of this paragraph.

25. **TAXES:** Lessee shall be solely responsible for the payment of all sales taxes and sales tax liabilities incurred by Lessee by the sale of merchandise or services on, from and upon the leased premises. In the event any taxing authority, Federal or State, asserts a lien against Lessee that may or could affect the right of Lessee to continue to operate and conduct the airport business upon the leased premises, Town shall have the right to declare this Lease terminated by making written demand upon Lessee to make payment or otherwise properly and timely discharge any lien of any such tax within five (5) days following such written demand. In the event Lessee fails to make such payment or discharge any lien claim of such tax within five (5) days following receipt of said notice, this Lease shall be deemed terminated and Lessee shall have no further rights hereunder. Said notice shall be given by Town in writing to Lessee as herein provided, or may be

delivered to Lessee personally.

26. **WASTE AND VERMIN CONTROL:** Lessee shall be responsible for the proper and adequate storage of any fuels, oil products and trash or garbage resulting from the operation of the leased premises and shall be solely responsible for all costs and expenses for its proper and lawful removal from the premises when such removal is reasonable and/or required by Federal or State rules and regulations.

27. **NO BROKER:** The parties hereto agree that no real estate broker or agent was involved in the negotiations of this Agreement.

28. **RESERVATION OF RIGHT TO LEASE:** Town reserves the right to lease or license that portion of the lands described in Exhibit A as the area of Airport Manager House to private third party interests so long as such uses do not interfere with the efficient and successful operation of the Lake Placid Airport. Lessor shall have the further right to grant to other existing or future users, licensees and lessees or adjacent premises or facilities such as existing or new t-hangars, all required and necessary rights of way for ingress or egress and all easements for maintenance, use installation, repair and improvement of all new or existing utility services servicing such premises or facilities on and over the lands leased by Lessee from Lessor hereunder.

29. **COMPLAINTS:** Any complaints or inquiries regarding the standard of service or the appearance of the premises, or of an alleged violation of Federal or State standards of operation affecting the public safety shall be reported to Town. Any such complaints received by Town shall be subject to its review and it shall have the right to take such action, upon proper notice to Lessee, as Town in its sole discretion deems appropriate

under the circumstances existing. Violation of Town, Federal or State regulatory standards of operation shall be grounds for the termination of this Agreement as an event of default as provided in paragraph 18 hereof.

30. **SIGNS**: Lessee shall post at each entrance and each exit to the hangar and the main terminal building that such premises are under the control of and being operated by Lake Placid Airways, Inc. - d/b/a the Adirondack Flying Service.

31. **ARBITRATION**: Any controversy arising from, or related to, this Agreement shall be determined by arbitration only, such arbitration to be by three arbitrators and to be held in the Town of North Elba, County of Essex, State of New York, in accordance with the rules of the American Arbitration Association and judgment upon any such determination or award may be entered in any court having jurisdiction thereof. Each party shall select one arbitrator, who shall serve as chairman. The parties agree to share in the expenses incurred in arbitration on an equal basis.

32. **INDEMNIFICATION**: Town agrees to indemnify and hold Lessee and its agents, officers and employees free and harmless against any and all claims, damages, suits or causes of action for damages, and any orders, decrees or judgments which may be entered therein, brought for damages or alleged damages resulting from any injury to person or property, or for loss of life sustained in or upon the leased premises arising from and caused by any act of Town, its agents, employees, officers or contractors.

33. **NON-DISCRIMINATION**: Notwithstanding any other provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration of this

Agreement does hereby covenant and agree, as a covenant running with the land, that:

(a) No person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in then use of the premises;

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

(c) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (C.F.R.), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination 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.

(d) In the event of breach of any of the above non-discrimination covenants, Lessor shall have the right to terminate this Agreement and to reenter and repossess the Premises and hold the same as if said Agreement had never been made or issued. This provision does not become effective until the procedures of 49 C.F.R. Part 21 have been followed and completed, including the expiration of appeal rights.

34. **RIGHTS OF OTHER USERS:** Lessee acknowledges that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing services in its own aircraft with its own employees, including maintenance and repair services.

35. **SERVICES/CHARGES:** Lessee shall furnish service on a fair, reasonable

and non-discriminatory basis to all users of the Airport. Lessee shall furnish good, prompt and efficient service adequate to meet all reasonable demands for its services at the Airport. Lessee shall charge fair, reasonable and non-discriminatory prices for each unit of sale or service; provided, however, that Lessee shall be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

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

**THE TOWN OF NORTH ELBA**  
As Trustee for the North Elba Public Parks and  
Playgrounds District

By: \_\_\_\_\_  
ROBERT T. POLITI  
Supervisor

**LAKE PLACID AIRWAYS, INC.**

By: \_\_\_\_\_  
STEPHEN SHORT  
President