



**MIDLAND DEVELOPMENT CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS
LOCAL GOVERNMENT CODE**

NOTICE OF PUBLIC MEETING

In accordance with Chapter 551, Texas Government Code, as amended, notice is hereby given to the public that the Board of Directors of the Midland Development Corporation will meet in regular session, open to the public, in the Midland City Hall Council Chamber, 300 North Loraine Street, Midland, Texas, at 10:00 a.m. on April 7, 2025. A quorum of the Board of Directors of the Midland Development Corporation intends to be physically present at the aforementioned location.

Videoconference Information

Join Zoom Webinar

<https://us02web.zoom.us/j/87659628080?pwd=6u60bn2oulKpa2BylfnWbiaHRQKvWz.1>

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8592 US (Washington DC) +1 305 224 1968 US +1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 360
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At such meeting, the Board of Directors may discuss, consider, and take action on any of the following items:

1. Call meeting to order.
2. Motion approving the minutes of the March 3, 2025, meeting of the Midland Development Corporation.
3. Receive and discuss the Independent Auditors' Report and the Basic Financial Statements for the Fiscal Year 2023-2024 presented by Christy Weakland, Director of Finance for the City of Midland.
4. Motion ratifying and approving that certain letter dated March 25, 2025, from the Midland Development Corporation Chairman addressed to the City Manager of the City of Midland requesting assistance in obtaining services necessary for the administration of the Midland Development

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432.686.3579

www.midlandtxedc.com



Corporation in accordance with Article II, Section 6 of the Amended and Restated Bylaws of the Midland Development Corporation.

5. Motion authorizing the Midland Development Corporation Chairman to negotiate and execute an easement and right-of-way agreement with Oncor Electric Delivery Company, LLC, regarding certain real property described as Section 33, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas.
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8. Presentation on the March 2025 economic development activity report from the Midland Development Corporation Executive Director and staff.
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 - b. Section 551.072, Deliberation Regarding Real Property
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 - c. Section 551.074, Personnel Matters
 - i. Discuss the employment, evaluation, and duties of the Executive Director.
 - d. Section 551.087, Deliberation Regarding Economic Development Negotiations
 - i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of businesses.

Posted this 3rd day of April 2025.



Marcia Bentley German
City Governance Officer/City Secretary



**CITY OF MIDLAND
NOTICE OF PUBLIC MEETING**

PURSUANT to Texas Government Code § 551.041, notice is hereby given that a quorum of the City Council of the City of Midland, Texas, may assemble for a meeting of the Board of Directors of the Midland Development Corporation to be held in the Midland Council Chamber, 300 North Loraine Street, Midland, Texas, at 10:00 am on April 7, 2025.

Midland City Council business will not be discussed, except as may be incidental to comments or questions relating to the items listed on the Midland Development Corporation meeting agenda attached hereto as Attachment 1. The Midland City Council will not take any action or make any decision at this meeting.

Posted this 3rd day of April 2025.

WITNESS my hand and seal of office on April 3, 2025.



Marcia Bentley-German,
City Governance Officer / City Secretary





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 - c. Section 551.074, Personnel Matters
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 - d. Section 551.087, Deliberation Regarding Economic Development Negotiations
 - i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of businesses.

Posted this 3rd day of April 2025.

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Marcia Bentley German
City Governance Officer/City Secretary



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Board Binder Open Session

April 7, 2025

Agenda



**MIDLAND DEVELOPMENT CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS
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Posted this 3rd day of April 2025.



Marcia Bentley German
City Governance Officer/City Secretary

March 3rd Minutes

MIDLAND DEVELOPMENT CORPORATION

MINUTES

March 03, 2025

The Board of Directors of the Midland Development Corporation convened in regular session in the Midland City Hall Council Chamber, 300 North Loraine Street, Midland, Texas, at 10:00 a.m. on March 03, 2025.

Board Members present: Chairman Lourcey Sams, Director Elvie Brown, Director Brad Bullock, Director Zachary Deck, Director J Ross Lacy, Director Jill Pennington, and Director Garrett Donnelly

Board Members absent: None

Staff Members present: City Manager Tommy Gonzalez, Assistant City Manager Jose Ortiz, Assistant City Attorney Nicholas Toulet-Crump, Chief of Staff Taylor Novak, Deputy City Secretary Rachel Guentensberger, and Chief Deputy City Secretary Vanessa Magallanes

Council Member(s) present: Mayor Lori Blong, Councilwoman Robin Poole, Councilwoman Amy Stretcher Burkes, and Councilman John Burkholder

MDC Staff Members present: Executive Director Sara Harris and Business Engagement & Marketing Gabrielle Franks

1. Call meeting to order.

Chairman Sams called the meeting to order at 10:00 am

2. Motion approving the minutes of the February 03, 2025, meeting of the Midland Development Corporation.

Director Lacy moved to approve the minutes of the February 03, 2025, meeting of the Midland Development Corporation., seconded by Director Pennington. The motion carried by the following vote: AYE: Sams, Brown, Bullock, Deck, and Donnelly. NAY: None. ABSTAIN: None. ABSENT: None.

3. Presentation from the University of Texas Permian Basin Office of Innovation & Commercialization.

Brian Shedd Executive Director of the Office of Innovation & Commercialization gave a presentation over the University of Texas Permian Basin Office of Innovation & Commercialization.

4. Resolution authorizing payment in the amount of \$103,815.46 to the University of Texas of the Permian Basin pursuant to that certain Incubator and Makerspace Grant Agreement between the Midland Development Corporation and the University of Texas of the Permian Basin.

Director Bullock moved to approve Resolution ED-493 authorizing payment in the amount of \$103,815.46 to the University of Texas of the Permian Basin pursuant to that certain Incubator and Makerspace Grant Agreement between the Midland Development Corporation and the University of Texas of the Permian Basin..., seconded by Director Donnelly. The motion carried by the following vote: AYE: Sams, Brown, Pennington, Deck, and Lacy and Donnelly. NAY: None. ABSTAIN: None. ABSENT: None

5. Resolution authorizing the execution of a lease agreement with Firehawk Aerospace, Inc., for certain real property described as an 18.69-acre tract of land out of Section 33, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas.

Director Pennington moved to approve Resolution ED-494 authorizing the execution of a lease agreement with Firehawk Aerospace, Inc., for certain real property described as an 18.69-acre tract of land out of Section 33, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas., seconded by Director Bullock. The motion carried by the following vote: AYE: Sams, Brown, Deck, and Lacy. NAY: None. ABSTAIN: Donnelly. ABSENT: None.

6. Resolution authorizing signatories on Midland Development Corporation bank accounts.

Director Lacy moved to approve Resolution ED-495 authorizing signatories on Midland Development Corporation bank accounts., seconded by Director Brown. The motion carried by the following vote: AYE: Sams, Deck, Pennington, Bullock and Donnelly. NAY: Lacy. ABSTAIN: None. ABSENT: None.

7. Presentation on the February 2025 monthly expenses and economic development activity report from the Midland Development Corporation Executive Director and staff.

Sara Harris gave an overview of the month's expenses, revenues, and economic development activity. Gabrielle Franks updated the board on social media stats and marketing.

Board recessed into executive session at 10:30 a.m.

8. Pursuant to Texas Government Code §551.101, the Board of Directors will hold an Executive Session, which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Section 551.071, Consultation with Attorney

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b. Section 551.072, Deliberation Regarding Real Property

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Board reconvened into open session at 11:48 a.m.

All the business at hand having been completed, Chairman Sams adjourned the meeting at 11:50 a.m.

Respectfully submitted,

Vanessa Magallanes, Chief Deputy City Secretary

PASSED AND APPROVED the 7th Day of April 2025.

Elvie Brown, Secretary

MDC FY 2024 Audit



Report to the Board of Directors and Management

Midland Development Corporation

Results of the 2024 Financial Statement Audit, Including Required Communications

September 30, 2024

Required Communications Regarding Our Audit Strategy & Approach (AU-C 260)

The following matters are required communications we must make to you, including these responsibilities:

Matter	Discussion
Scope of Our Audit	<p>This report covers audit results related to your financial statements:</p> <ul style="list-style-type: none">• As of and for the year ended September 30, 2024• Conducted in accordance with our contract dated August 7, 2024
Our Responsibilities	<p>Forvis Mazars is responsible for forming and expressing opinions about whether the financial statements that have been prepared by management, with the oversight of those charged with governance, are prepared in accordance with accounting principles generally accepted in the United States of America (GAAP).</p>
Audit Scope & Inherent Limitations to Reasonable Assurance	<p>An audit performed in accordance with auditing standards generally accepted in the United States of America (GAAS) is designed to obtain reasonable, rather than absolute, assurance about the financial statements. The scope of our audit tests was established in relation to the opinion unit being audited and did not include a detailed audit of all transactions.</p>
Extent of Our Communication	<p>In addition to areas of interest and noting prior communications made during other phases of the engagement, this report includes communications required in accordance with GAAS that are relevant to the responsibilities of those charged with governance in overseeing the financial reporting process, including audit approach, results, and internal control. The standards do not require the auditor to design procedures for the purpose of identifying other matters to be communicated with those charged with governance.</p>

Matter	Discussion
Independence	The engagement team, others in our firm, as appropriate, and our firm, have complied with all relevant ethical requirements regarding independence.
Your Responsibilities	Our audit does not relieve management or those charged with governance of your responsibilities. Your responsibilities and ours are further referenced in our contract.
Distribution Restriction	<p>This communication is intended solely for the information and use of the following and is not intended to be, and should not be, used by anyone other than these specified parties:</p> <ul style="list-style-type: none"> • Board of Directors and Management • Others within the Entity

Qualitative Aspects of Significant Accounting Policies & Practices

The following matters are detailed in the following pages and included in our assessment:

**Significant Accounting
Policies**

**Unusual Policies or
Methods**

**Alternative Accounting
Treatments**

**Management Judgments
& Accounting Estimates**

**Financial Statement
Disclosures**

**Our Judgment About the
Quality of the Entity's
Accounting Principles**

Significant Accounting Policies

Significant accounting policies are described in Note 1 of the audited financial statements.

- No matters are reportable

Unusual Policies or Methods

With respect to significant unusual accounting policies or accounting methods used for significant unusual transactions (significant transactions outside the normal course of business or that otherwise appear to be unusual due to their timing, size, or nature):

- No matters are reportable

Alternative Accounting Treatments

We had discussions with management regarding alternative accounting treatments within GAAP for policies and practices for material items, including recognition, measurement and disclosure considerations related to the accounting for specific transactions as well as general accounting policies, as follows.

- No matters are reportable

Management Judgments & Accounting Estimates

Accounting estimates are an integral part of financial statement preparation by management, based on its judgments. Significant areas of such estimates for which we are prepared to discuss management's estimation process and our procedures for testing the reasonableness of those estimates include:

- Key estimates related to leases - lease discount rate, lease term, and lease payments

Financial Statement Disclosures

The following areas involve particularly sensitive financial statement disclosures for which we are prepared to discuss the issues involved and related judgments made in formulating those disclosures:

- Leases
- Economic development commitments
- Related party transactions

Our Judgment About the Quality of the Entity's Accounting Principles

During the course of the audit, we made the following observations regarding the Entity's application of accounting principles:

- No matters are reportable

Adjustments Identified by Audit

During the course of any audit, an auditor may propose adjustments to financial statement amounts. Management evaluates our proposals and records those adjustments that, in its judgment, are required to prevent the financial statements from being materially misstated.

A misstatement is a difference between the amount, classification, presentation, or disclosure of a reported financial statement item and that which is required for the item to be presented fairly in accordance with the applicable financial reporting framework.

Proposed & Recorded Adjustments

Auditor-proposed and management-recorded entries include the following:

- Year-end entries related to Governmental Accounting Standards Board 87 - outsourced to Forvis Mazars
- Entries to convert modified accrual statements to full accrual statements - outsourced to Forvis Mazars

Uncorrected Misstatements

Current Period Uncorrected Misstatements

- No current-period uncorrected misstatements to report

Prior-Period Uncorrected Misstatements

- No prior-period uncorrected misstatements to report

Other Required Communications

Other Material Communication

Listed below is a material communication between management and us related to the audit:

- Management representation letter (see Attachments)

Attachments

Management Representation Letter (Attachment A)

As a material communication with management, included herein is a copy of the representation letter provided by management at the conclusion of our engagement.



Attachment A

Management Representation Letter

Representation of:

Midland Development Corporation
201 N. Loraine St., Suite 641
Midland, Texas 79701

Provided to:

Forvis Mazars, LLP
Certified Public Accountants
14221 Dallas Parkway, Suite 400
Dallas, TX 75254

The undersigned ("We") are providing this letter in connection with Forvis Mazars' audit of our financial statements as of and for the year ended September 30, 2024.

Our representations are current and effective as of the date of Forvis Mazars' report: March 21, 2025.

Our engagement with Forvis Mazars is based on our contract for services dated: August 7, 2024.

Our Responsibility & Consideration of Material Matters

We confirm that we are responsible for the fair presentation of the financial statements subject to Forvis Mazars' report in conformity with accounting principles generally accepted in the United States of America .

We are also responsible for adopting sound accounting policies; establishing and maintaining effective internal control over financial reporting, operations, and compliance; and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

Confirmation of Matters Specific to the Subject Matter of Forvis Mazars' Report

We confirm, to the best of our knowledge and belief, the following:

Broad Matters

1. We have fulfilled our responsibilities, as set out in the terms of our contract, for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America.
2. We acknowledge our responsibility for the design, implementation, and maintenance of:
 - a. Internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
 - b. Internal control to prevent and detect fraud.

3. We have provided you with:
 - a. Access to all information of which we are aware that is relevant to the preparation and fair presentation of the financial statements, such as financial records and related data, documentation, and other matters.
 - b. Additional information that you have requested from us for the purpose of the audit.
 - c. Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
 - d. All minutes of governing body meetings held through the date of this letter or summaries of actions of recent meetings for which minutes have not yet been prepared. All unsigned copies of minutes provided to you are copies of our original minutes approved by the board, if applicable, and maintained as part of our records.
 - e. All significant contracts.
4. We have responded fully and truthfully to all your inquiries.

Misappropriation, Misstatements, & Fraud

5. We have informed you of all current risks of a material amount that are not adequately prevented or detected by our procedures with respect to:
 - a. Misappropriation of assets.
 - b. Misrepresented or misstated assets, liabilities, net position or fund balance.
6. We have no knowledge of fraud or suspected fraud affecting the entity involving:
 - a. Management or employees who have significant roles in internal control over financial reporting, or
 - b. Others when the fraud could have a material effect on the financial statements.
7. We understand that the term "fraud" includes misstatements arising from fraudulent financial reporting and misstatements arising from misappropriation of assets. Misstatements arising from fraudulent financial reporting are intentional misstatements, or omissions of amounts or disclosures in financial statements to deceive financial statement users. Misstatements arising from misappropriation of assets involve the theft of an entity's assets where the effect of the theft causes the financial statements not to be presented in conformity with accounting principles generally accepted in the United States of America.
8. We have no knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, citizens, analysts, regulators, suppliers, or others.
9. We have assessed the risk that the financial statements may be materially misstated as a result of fraud and disclosed to you any such risk identified.

Ongoing Operations

10. We have evaluated whether there are conditions or events known or reasonably knowable, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern within one year of the date of the financial statements and known facts thereafter without consideration of potential mitigating effects of management's plans and concluded substantial doubt does not exist.

Related Parties

11. We have disclosed to you the identity of all of the entity's related parties and all the related-party relationships of which we are aware.

In addition, we have disclosed to you all related-party transactions and amounts receivable from or payable to related parties of which we are aware, including any modifications during the year that were made to related-party transaction agreements which existed prior to the beginning of the year under audit, as well as new related-party transaction agreements that were executed during the year under audit.

Related-party relationships and transactions have been appropriately accounted for and disclosed in accordance with accounting principles generally accepted in the United States of America.

12. We understand that the term related party refers to:

- Affiliates
- Board of Directors and members of their immediate families
- Management and members of their immediate families
- Any other party with which the entity may deal if one party can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.

Another party is also a related party if it can significantly influence the management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

The term affiliate refers to a party that directly or indirectly controls, or is controlled by, or is under common control with, the entity.

Litigation, Laws, Rulings & Regulations

13. We are not aware of any pending or threatened litigation or claims whose effects should be considered when preparing the financial statements. We have not sought or received attorney's services related to pending or threatened litigation or claims during or subsequent to the audit period. Also, we are not aware of any litigation or claims, pending or threatened, for which legal counsel should be sought.
14. We have no knowledge of communications, other than those specifically disclosed, from regulatory agencies, governmental representatives, employees, or others concerning investigations or allegations of noncompliance with laws and regulations, deficiencies in financial reporting practices, or other matters that could have a material adverse effect on the financial statements.
15. We have disclosed to you all known instances of violations or noncompliance or possible violations or suspected noncompliance with laws and regulations whose effects should be considered when preparing financial statements or as a basis for recording a loss contingency.
16. We have no reason to believe the entity owes any penalties or payments under the Employer Shared Responsibility Provisions of the *Patient Protection and Affordable Care Act*, nor have we received any correspondence from the IRS or other agencies indicating such payments may be due.

17. We have not been designated as a potentially responsible party (PRP or equivalent status) by the Environmental Protection Agency (EPA) or other cognizant regulatory agency with authority to enforce environmental laws and regulations:

Nonattest Services

18. You have provided nonattest services, including the following, during the period of this engagement:
 - Preparing a draft of the financial statements and related notes
 - Preparing entries to convert from modified accrual to full-accrual basis statements
 - Entries related to current year activity under GASB 87, Leases
19. With respect to these services:
 - a. We have designated a qualified management-level individual to be responsible and accountable for overseeing the nonattest services.
 - b. We have established and monitored the performance of the nonattest services to ensure they meet our objectives.
 - c. We have made any and all decisions involving management functions with respect to the nonattest services and accept full responsibility for such decisions.
 - d. We have evaluated the adequacy of the services performed and any findings that resulted.
 - e. We have established and maintained internal controls, including monitoring ongoing activities.
 - f. When we receive final deliverables from you, we will store those deliverables in information systems controlled by us. We have taken responsibility for maintaining internal control over these deliverables.

Financial Statements & Reports

20. We have reviewed and approved a draft of the financial statements and related notes referred to above, which you prepared in connection with your audit of our financial statements. We acknowledge that we are responsible for the fair presentation of the financial statements and related notes.
21. We do not issue an annual report, nor do we have plans to issue an annual report at this time.

Transactions, Records, & Adjustments

22. All transactions have been recorded in the accounting records and are reflected in the financial statements.
23. The entity has appropriately reconciled its general ledger accounts to their related supporting information. All related reconciling items considered to be material were identified and included on the reconciliations and were appropriately adjusted in the financial statements. All intracompany (and intercompany) accounts have been eliminated or appropriately measured and considered for disclosure in the financial statements.
24. We have everything we need to keep our books and records.
25. We have disclosed any significant unusual transactions the entity has entered into during the period, including the nature, terms, and business purpose of those transactions.

26. We are in agreement with the adjusting journal entries you have proposed, and they have been posted to the entity's accounts.

Governmental Accounting & Disclosure Matters

27. Internal and intra-entity activity and balances have been appropriately classified and reported.
28. With regard to deposit and investment activities:
- a. All deposit and investment transactions have been made in accordance with legal and contractual requirements.
 - b. Investments are properly valued.
 - c. Disclosures of deposit and investment balances and risks in the financial statements are consistent with our understanding of the applicable laws regarding enforceability of any pledges of collateral.
 - d. We understand that your audit does not represent an opinion regarding the enforceability of any collateral pledges.
29. We have identified and evaluated all potential fiduciary activities and have determined there are no fiduciary activities required to be reported by GASB Statement No. 84, *Fiduciary Activities*, as amended.
30. Components of net position (net investment in capital assets, restricted, and unrestricted) and classifications of fund balance (nonspendable, restricted, committed, assigned, and unassigned) are properly classified and, if applicable, approved.
31. Capital and lease assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated or amortized.
32. We have appropriately disclosed the entity's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position/fund balance is available and have determined that net position is properly recognized under the policy.
33. The supplementary information required by the Governmental Accounting Standards Board, consisting of management's discussion and analysis and budgetary comparisons, has been prepared and is measured and presented in conformity with the applicable GASB pronouncements, and we acknowledge our responsibility for the information. The information contained therein is based on all facts, decisions, and conditions currently known to us and is measured using the same methods and assumptions as were used in the preparation of the financial statements. We believe the significant assumptions underlying the measurement and/or presentation of the information are reasonable and appropriate. There has been no change from the preceding period in the methods of measurement and presentation.

General Government Matters

34. The financial statements properly classify all funds and activities in accordance with GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, as amended.
35. All funds that meet the quantitative criteria in in GASB Statement No. 34, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*, as amended, and No. 37, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments: Omnibus—an Amendment of GASB Statements No. 21 and No. 34*, for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
36. Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
37. Revenues are appropriately classified in the statement of activities within program and general revenues.
38. We have appropriately disclosed that the entity is following either its established accounting policy regarding which governmental fund resources (that is, restricted, committed, assigned, or unassigned) are considered to be spent first for expenditures for which more than one resource classification is available or is following paragraph 18 of GASB Statement No. 54 to determine the fund balance classifications for financial reporting purposes and have determined that fund balance is properly recognized under the policy.

Accounting & Disclosure

39. All transactions entered into by the entity are final. We are not aware of any unrecorded transactions, side agreements or other arrangements (either written or oral) that are in place.
40. Except as reflected in the financial statements, there are no:
 - a. Plans or intentions that may materially affect carrying values or classifications of assets, liabilities, net position or fund balance.
 - b. Material transactions omitted or improperly recorded in the financial records.
 - c. Material unasserted claims or assessments that are probable of assertion or other gain/loss contingencies requiring accrual or disclosure, including those arising from environmental remediation obligations.
 - d. Events occurring subsequent to the statement of net position/balance sheet date through the date of this letter, which is the date the financial statements were available to be issued, requiring adjustment or disclosure in the financial statements.
 - e. Agreements to purchase assets previously sold.
 - f. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances, lines of credit, or similar arrangements.
 - g. Guarantees, whether written or oral, under which the entity is contingently liable.
 - h. Known or anticipated asset retirement obligations.

41. Except as disclosed in the financial statements, the entity has:
 - a. Satisfactory title to all recorded assets, and those assets are not subject to any liens, pledges, or other encumbrances.
 - b. Complied with all aspects of contractual agreements, for which noncompliance would materially affect the financial statements.

Revenue and Accounts Receivable

42. Adequate provisions and allowances have been accrued for any material losses from:
 - a. Uncollectible receivables.
 - b. Purchase commitments in excess of normal requirements or at prices in excess of prevailing market prices.

Estimates

43. We have identified all accounting estimates that could be material to the financial statements and we confirm the appropriateness of the methods and the consistency in their application, the accuracy and completeness of data, and the reasonableness of significant assumptions used by us in making the accounting estimates, including those measured at fair value reported in the financial statements.
44. Significant estimates that may be subject to a material change in the near term have been properly disclosed in the financial statements. We understand that “near term” means the period within one year of the date of the financial statements. In addition, we have no knowledge of concentrations, which refer to a lack of diversity related to employers, industries, inflows of resources, providers of financial resources, or suppliers of material, labor or services, investments, deposits, or constraints, which refer to a limitation imposed by an external party or by formal action of a government’s highest level of decision-making authority related to limitations on raising revenue, limitations on spending, limitations on the incurrence of debt, or mandated spending, existing at the date of the financial statements that would make the entity vulnerable to the risk of severe impact in the near term that have not been properly disclosed in the financial statements.

Fair Value

45. With respect to the fair value measurements of financial and nonfinancial assets and liabilities, if any, recognized in the financial statements or disclosed in the notes thereto:
 - a. The underlying assumptions are reasonable and they appropriately reflect management’s intent and ability to carry out its stated course of action.
 - b. The measurement methods and significant assumptions used in determining fair value are appropriate in the circumstances for financial statement measurement and disclosure purposes and have been consistently applied.
 - c. The significant assumptions appropriately reflect market participant assumptions.
 - d. The disclosures related to fair values are complete, adequate, and in conformity with accounting principles generally accepted in the United States of America.
 - e. There are no subsequent events that require adjustments to the fair value measurements and disclosures included in the financial statements.

Sara H Harris

Sara Harris, Executive Director, Midland Development Corporation
sharris@midlandtxedc.com

Christy Weakland

[Christy Weakland \(Mar 24, 2025 09:57 CDT\)](#)

Christy Weakland, CPA, Director of Finance, City of Midland, Texas
cweakland@midlandtexas.gov



Midland Development Corporation

A Component Unit of the City of Midland, Texas

Independent Auditor's Report and Financial Statements

September 30, 2024



Midland Development Corporation
A Component Unit of the City of Midland, Texas
September 30, 2024

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Independent Auditor's Report

Board of Directors
The Midland Development Corporation
Midland, Texas

Opinions

We have audited the financial statements of the governmental activities and the major fund of the Midland Development Corporation (MDC), as of and for the year ended September 30, 2024, and the related notes to the financial statements, which collectively comprise the MDC's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the MDC, as of September 30, 2024, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the "Auditor's Responsibilities for the Audit of the Financial Statements" section of our report. We are required to be independent of the MDC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the MDC's ability to continue as a going concern for 12 months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the MDC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the MDC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and the budgetary comparison be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Forvis Mazars, LLP

**Dallas, Texas
March 21, 2025**

**Midland Development Corporation
A Component Unit of the City of Midland, Texas
Management's Discussion and Analysis (Unaudited)
Year Ended September 30, 2024**

As management of the Midland Development Corporation (MDC), we offer readers of the MDC financial statements this narrative overview and analysis of the financial activities of the MDC for the fiscal year ended September 30, 2024.

Financial Highlights

The net position of the MDC was \$69.5 million at September 30, 2024, an increase of \$9.2 million from the prior year net position as of September 30, 2023, of \$60.3 million.

At September 30, 2024, amounts restricted for economic development activities in the general fund increased from \$34.1 million at September 30, 2023, to \$42.8 million at September 30, 2024.

Overview of the Financial Statements

This discussion and analysis are intended to serve as an introduction to the MDC's basic financial statements. The MDC's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the basic financial statements.

This report also contains required supplementary information in addition to the basic financial statements themselves.

Government-wide Financial Statements

The statement of net position presents information on all of the MDC's assets and liabilities, with the difference between the two reported as net position. Over time, increases, or decreases in net position may serve as a useful indicator of whether the financial position of the MDC is improving or deteriorating.

The statement of activities presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows.

Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal periods.

Both of the government-wide financial statements display functions of the MDC that are principally supported by sales taxes. The governmental activities of the MDC include general government and economic development only.

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The MDC, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The only fund of the MDC is a governmental fund.

Governmental Fund

A governmental fund is used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Management’s Discussion and Analysis (Unaudited)
Year Ended September 30, 2024

Because the focus of a governmental fund is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government’s near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balance provide a reconciliation to facilitate this comparison between the governmental fund and governmental activities.

The financial statements presented for the MDC are the same at the government-wide and fund levels, with the exception of compensated absences, lease obligations, and capital assets, because the nature of the assets, liabilities, revenues, and expenses that were reported at the government-wide level were such that they also met the criteria for reporting at the fund level.

Notes to the Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

Required Supplementary Information

In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning the MDC’s annual budget. The MDC adopts an annual appropriated budget for its general fund. A budgetary comparison schedule has been provided for the general fund to demonstrate compliance with this budget.

Government-wide Financial Analysis

As noted earlier, net position may serve over time as a useful indicator of a government’s financial position. At September 30, 2024, assets exceeded liabilities by \$69.5 million, an increase of \$9.2 million from the September 30, 2023, amount of \$60.3 million. In fiscal year 2024, the MDC had a \$6.1 million increase in total assets, due to a strong year operationally. Additionally, a tenant terminated a lease in 2024, which resulted in a decrease in lease receivable and related deferred inflows of resources. MDC recognized a \$43,762 loss as a result of this termination.

MDC’s Net Position

	Governmental Activities	
	2024	2023
Current and other assets	\$ 43,418,643	\$ 38,691,168
Capital and lease assets, net	28,181,792	26,793,549
Total assets	<u>71,600,435</u>	<u>65,484,717</u>
Accounts and retainage payable	525,614	321,756
Noncurrent liabilities	1,526,935	769,738
Total liabilities	<u>2,052,549</u>	<u>1,091,494</u>
Deferred inflows of resources	-	4,130,951
Net investment in capital assets	26,369,357	25,861,876
Restricted for economic development	43,178,529	34,400,396
Total net position	<u>\$ 69,547,886</u>	<u>\$ 60,262,272</u>

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Management’s Discussion and Analysis (Unaudited)
Year Ended September 30, 2024

MDC’s Changes in Net Position

	Governmental Activities	
	2024	2023
Revenues		
Program revenues		
Charges for services	\$ 976,743	\$ 976,744
Operating grants and contributions	65,000	-
General revenues		
Sales taxes	16,650,471	17,214,306
Investment earnings	1,305,040	907,536
Miscellaneous	6,010	434,284
Total Revenues	19,003,264	19,532,870
Expenses		
General government	1,005,723	1,057,244
Economic development	8,711,927	12,167,111
Total Expenses	9,717,650	13,224,355
Increase in Net Position	9,285,614	6,308,515
Net Position – October 1	60,262,272	53,953,757
Net Position – September 30	\$ 69,547,886	\$ 60,262,272

The MDC’s general revenues for governmental activities provided \$18.0 million in fiscal year 2024 as compared to \$18.6 million in fiscal year 2023. This decrease is primarily attributable to a slight decrease in local spending reflecting national economic volatility and uncertainty. Additionally, investment earnings continued to improve as the portfolio earned higher interest rates throughout fiscal year 2024. The revenues were used to pay for expenses associated with general government and economic development activities of \$9.7 million in fiscal year 2024, compared to \$13.2 million in fiscal year 2023. The decrease in economic development activities was driven by anticipation of substantial activities in upcoming years. Governmental activities are not self-supporting and are paid for through general revenues.

Financial Analysis of the Governmental Fund

As noted earlier, the MDC uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental Fund

The focus of the MDC’s governmental fund is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the MDC’s financing requirements. In particular, unassigned fund balance serves as a useful measure of a government’s net resources available for spending at the end of the fiscal year.

**Midland Development Corporation
A Component Unit of the City of Midland, Texas
Management’s Discussion and Analysis (Unaudited)
Year Ended September 30, 2024**

The general fund is the chief operating fund and the only fund of the MDC. Total fund balance increased \$8.6 million from 2023 to 2024 primarily due to an increase investment earnings and a decrease in economic development activities and capital outlay. Economic development activities will fluctuate from year to year. MDC has approximately \$84 million in commitments at September 30, 2024, which will be expensed as requirements are satisfied by the applicable third party. As a measure of the General Fund’s liquidity, it may be useful to compare total fund balance to total fund expenditures. Total fund balance represents 380% of total general fund expenditures. Most of the \$42.9 million fund balance is restricted for economic development.

General Fund Budgetary Highlights

Actual revenues for fiscal year 2024 exceeded the final budget amount by \$5.9 million. This is primarily due to sales tax income being \$4.6 million higher than budgeted and investment earnings are not budgeted.

Differences between the final budget and actual expenditures resulted in MDC expenditures being \$15.3 million under budget for fiscal year 2024. The major sources of this variance are direct business incentives provided by the MDC, which were under budget by \$15.6 million and general government expenditures being \$1.9 million under budget.

There were no budgetary adjustments during fiscal year 2024.

Capital and Lease Assets

MDC’s investment in capital and lease assets for its governmental type activities as of September 30, 2024, amounts to \$28.2 million (net of accumulated depreciation and amortization). This investment in capital and lease assets includes land, buildings, improvements other than buildings, machinery and equipment, infrastructure, lease assets, and construction in progress.

	Governmental Activities	
	2024	2023
Land	\$ 13,239,334	\$ 13,239,334
Buildings	8,037,968	8,265,441
Improvements other than buildings	3,185,821	2,471,791
Machinery and equipment	35,152	54,524
Infrastructure	904,642	958,219
Lease assets	1,471,282	724,449
Construction in progress	1,307,593	1,079,791
Total capital and lease assets, net	\$ 28,181,792	\$ 26,793,549

Major capital asset events during the current fiscal year included the following:

- Extended the hangar lease with the City.

Additional information on MDC’s capital assets can be found in the notes to financial statements.

Economic Factors and Next Year’s Budgets and Rates

The budgetary process for fiscal year 2025 focused on the allocation of resources to economic development activities, MDC’s assets, and contractual payments for administration of the MDC. The budget presented for MDC operations for the 2024-2025 fiscal year totals \$14.9 million.

**Midland Development Corporation
A Component Unit of the City of Midland, Texas
Management's Discussion and Analysis (Unaudited)
Year Ended September 30, 2024**

The fiscal year 2025 operating budget is supported by combined revenues of \$14.9 million. The major source of this revenue is sales tax of \$14 million.

Request for Information

This financial report is designed to provide a general overview of the MDC's finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Finance Director, MDC, 300 N. Loraine, Midland, TX 79702-1152.

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Statement of Net Position
September 30, 2024

ASSETS

Cash and cash equivalents	\$ 34,453,673
Investments	5,961,285
Sales tax receivable	2,778,885
Interest and dividends receivable	83,500
Prepayments	134,721
Notes receivable	6,579
Capital and lease assets (net of accumulated depreciation and amortization)	<u>28,181,792</u>

Total Assets \$ 71,600,435

LIABILITIES AND NET POSITION

Liabilities

Accounts payable	\$ 392,733
Accrued interest	2,681
Retainage payable	130,200
Noncurrent liabilities	
Due within one year	193,464
Due in more than one year	<u>1,333,471</u>

Total Liabilities 2,052,549

Net Position

Net investment in capital assets	26,369,357
Restricted for economic development	<u>43,178,529</u>

Total Net Position 69,547,886

Total Liabilities and Net Position \$ 71,600,435

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Statement of Activities
Year Ended September 30, 2024

Functions/Programs	Expenses	Program Revenues		Capital Grants and Contributions	Net (Expense) Revenue and Changes in Net Assets Governmental Activities
		Charges for Services	Operating Grants and Contributions		
Governmental Activities					
General government	\$ 1,005,723	\$ -	\$ -	\$ -	\$ (1,005,723)
Economic development	<u>8,711,927</u>	<u>976,743</u>	<u>65,000</u>	-	<u>(7,670,184)</u>
Total Governmental Activities	<u>\$ 9,717,650</u>	<u>\$ 976,743</u>	<u>\$ 65,000</u>	<u>\$ -</u>	<u>(8,675,907)</u>
		General Revenues			
		Sales taxes			16,650,471
		Investment earnings			1,305,040
		Miscellaneous			<u>6,010</u>
		Total General Revenues			<u>17,961,521</u>
		Change in net position			9,285,614
		Net Position, Beginning			<u>60,262,272</u>
		Net Position, Ending			<u>\$ 69,547,886</u>

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Balance Sheet – General Fund
September 30, 2024

ASSETS	
Cash and cash equivalents	\$ 34,453,673
Investments	5,961,285
Sales tax receivable	2,778,885
Interest and dividends receivable	83,500
Prepayments	134,721
Notes receivable	<u>6,579</u>
Total Assets	\$ 43,418,643
LIABILITIES AND FUND BALANCE	
Liabilities	
Accounts payable	\$ 392,733
Retainage payable	<u>130,200</u>
Total Liabilities	<u>522,933</u>
Fund Balance	
Nonspendable	
Prepayments	134,721
Restricted	
Economic development	<u>42,760,989</u>
Total Fund Balance	<u>42,895,710</u>
Total Liabilities and Fund Balance	\$ 43,418,643

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Reconciliation of the Balance Sheet to the Statement of Net Position
September 30, 2024

Fund balance of governmental fund	\$ 42,895,710
Amounts reported for governmental activities in the statement of net position are different because	
Capital and lease assets used in governmental activities are not financial resources and, therefore, are not reported in the fund.	28,181,792
Long-term liabilities, including lease obligations and compensated absences, are not due and payable in the current period and, therefore, are not reported in the fund.	(1,526,935)
Interest payable on lease obligations does not require current financial resources, therefore, interest payable is not reported as a liability in the governmental fund's balance sheet.	(2,681)
	<u> </u>
Net position of governmental activities	<u><u>\$ 69,547,886</u></u>

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Statement of Revenues, Expenditures, and Changes in Fund Balance – General Fund
Year Ended September 30, 2024

Revenues	
Sales taxes	\$ 16,650,471
Investment earnings	1,305,040
Rentals	976,743
Other	6,010
Intergovernmental	65,000
Total Revenues	<u>19,003,264</u>
Expenditures	
General government	
Administration	969,469
Economic development	8,171,267
Capital outlay	1,931,130
Debt service	
Lease payments	169,355
Interest	33,573
Total Expenditures	<u>11,274,794</u>
Excess of Revenues Over Expenditures	<u>7,728,470</u>
Other Financing Sources	
Leases (as lessee)	928,779
Net Change in Fund Balance	8,657,249
Fund Balance, Beginning of Year	<u>34,238,461</u>
Fund Balance, End of Year	<u>\$ 42,895,710</u>

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund Balance to
the Statement of Activities
Year Ended September 30, 2024

Net change in fund balance – governmental fund	\$ 8,657,249
Amounts reported for <i>governmental activities</i> in the the statement of activities are different because	
Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation and amortization expense. This is the amount by which capital outlays exceeded depreciation and amortization in the current period.	1,388,243
The repayment of the principal on leases consumes the current financial resources of governmental funds, but has no effect on net position.	169,355
The issuance of long-term debt (e.g., leases) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net position. This amount is the net effect of the differences in the treatment of long-term debt.	(928,779)
Current year change in accrued interest payable does not require the use of current financial resources; and is not reported as an expense in governmental activities.	(2,681)
Current year changes in long-term liabilities for compensated absences required the use of current financial resources; therefore, they are not reported as expenses in the statement of activities.	<u>2,227</u>
Change in net position of governmental activities	<u>\$ 9,285,614</u>

Note 1. Nature of Operations and Summary of Significant Accounting Policies

Nature of Operations and Reporting Entity

The Midland Development Corporation (MDC), a component unit of the City of Midland, Texas (City), is a legally separate nonprofit corporation organized under the *Texas Development Corporation Act of 1979*, Article 5190.6 Vernon's Texas Revised Civil Statutes Annotated as amended and governed by Section 4A of the Act. The MDC was incorporated in February 2002. The purpose of the MDC is to:

1. keep existing jobs in Midland;
2. keep existing businesses in Midland;
3. foster the expansion of businesses currently located in Midland;
4. attract new industry and businesses to Midland;
5. provide long-term employment opportunities for Midlanders;
6. promote and develop industrial and manufacturing enterprises in order to eliminate unemployment and underemployment;
7. promote and encourage employment and the public welfare of, for, and on behalf of the City;
8. promote areas of the City with a large number of substandard, deteriorated, or deteriorating structures, which impairs the sound growth of the City or constitutes an economic and social liability;
9. develop areas of the City that should be developed in order to meet the development objectives of the City; and
10. consider the impact on any local business before providing an incentive to any corporation or entity. The financial reporting entity presented in the accompanying financial statements of the MDC includes the primary corporate entity, the Midland Development Corporation. The MDC has no component units.

The accounting policies of the MDC, as reflected in the accompanying financial statements, conform to U.S. generally accepted accounting principles for local government units as prescribed by the Governmental Accounting Standards Board (GASB), the accepted body for promulgating governmental accounting and reporting principles.

The entirety of the MDC Board is appointed by the City Council and the City can impose its will upon the MDC. Additionally, the City Council and the MDC Boards are not substantively the same and the MDC does not provide services entirely or almost entirely to the City. Therefore, MDC is a discretely presented component unit of the City. The MDC began operations on February 1, 2002.

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Basic Financial Statements

The basic financial statements are presented at two basic levels:

1. The government-wide level, where all statements are prepared using the economic resources measurement focus and the accrual basis of accounting. These statements present all assets, liabilities, revenues, expenses, and gains and losses of the MDC as governmental activities.
2. The fund level, where governmental fund statements are prepared using the current financial resources measurement focus and the modified accrual basis of accounting.

Government-wide and Fund Financial Statements

As previously discussed, the basic financial statements of the MDC are presented at two basic levels, the government-wide level, and the fund level. These statements focus on the MDC as a whole at the government-wide level and on the major fund at the fund level. Government-wide financial statements (*i.e.*, the statement of net position and the statement of activities) report information on all activities of the MDC. There is no interfund activity in the MDC financial statements. Governmental activities, which are normally supported by taxes, are the only reported activities.

The government-wide statement of net position reports all financial and capital resources of the MDC and is presented in “assets less liabilities equals net position” format. Assets and liabilities are presented in relative order of liquidity with liabilities that have an average maturity of more than one year separated into the amount due within one year and the amount due in more than one year.

The government-wide statement of activities identifies the relative financial burden of each of the MDC’s functions on the taxpayers by identifying direct expenses and the extent of self-support through program revenues. Direct expenses are clearly identifiable expenses that can be specifically associated with a function. Program revenues are revenues derived directly from the function or other sources that reduce the net cost of the function to be financed from general government revenues. Program revenues are: 1) charges to customers who purchase, use, or directly benefit from services provided by a function and which are generated by that function, 2) grants and contributions restricted to operating requirements of a function, and 3) grants and contributions restricted to capital requirements of a function. Items such as taxes, investment earnings, and nonspecific grants are not included as program revenues but are reported as general revenues that normally cover the net cost of a function.

Fund level financial statements are presented for the governmental fund, with a focus on the major fund. A major fund is a fund meeting certain specific asset, liability, revenue, or expenditure criteria relative to all funds of that type. The only major fund used by the MDC is the General Fund which is the only operating fund of the MDC. This fund accounts for the economic development activities of the MDC: collection of sales tax revenues and expenses associated with marketing and promotion of Midland.

Measurement Focus and Basis of Accounting

The government-wide statements are prepared using the economic resources measurement focus and the accrual basis of accounting. Revenues are recognized when earned and expenses are recognized when a liability is incurred, regardless of the timing of related cash flows.

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Governmental fund financial statements are reported using a current financial resources measurement focus and modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual, *i.e.*, both measurable and available. “Measurable” means the amount of the transaction can be determined and “available” means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. In the case of sales taxes, available means due within the current period and collected within the current period or soon enough thereafter to be used to pay liabilities of the current period. Such time thereafter shall not exceed 60 days. Expenditures are generally recorded when a fund liability is incurred, except for compensated absences and lease liabilities, which are recorded only when due. Governmental fund revenues, which have been accrued based upon the susceptible to accrual concept, are sales taxes.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Equity in Cash and Investments

The City pools a portion of the resources of its various funds and component units, including MDC, to facilitate the management of cash and enhance investment earnings. Records are maintained that reflect each fund or component unit’s equity in the pooled investments.

Cash, Cash Equivalents, and Investments

Cash and cash equivalents include any cash on hand, demand deposits, and any highly liquid investments that have an original maturity of three months or less from date of purchase. Investments in Texas Local Government Investment Pool (TexPool), TexStar, and Texas Class are considered cash equivalents as the amounts are available on demand. Investments, other than investments in TexPool, TexStar, Texas CLASS are recorded at fair value based upon verifiable market prices.

Notes Receivable

MDC provides loans to new and expanding businesses that meet certain qualifications aligned with MDC’s purpose. In some instances, the loans are given in the form of forgivable loans and are forgiven if all requirements are met.

Capital and Lease Assets

Capital and lease assets are defined as a purchase or other acquisition of land, equipment, facilities, or other similar assets or the cost of construction of such asset the cost of which is in excess of \$5,000 (\$15,000 for leased assets) and has a useful life of more than one year. These assets include property, plant, equipment, and all other tangible assets purchased or acquired. Purchased or constructed assets are carried at historical cost. Contributed assets are recorded at acquisition value at the time of donation.

Major outlays for capital assets and improvements are capitalized as capital projects are completed. Depreciable capital and lease assets are depreciated or amortized using the straight line method over the following estimated useful lives, or the lease term, whichever is shorter:

Buildings	40 years
Improvements other than buildings	20 years
Machinery and equipment	6 years
Furniture and fixtures	50 years

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Compensated Absences

The MDC's employees earn paid time off, which may either be taken or accumulated, subject to a specified maximum, until paid upon retirement or termination. The MDC has accrued paid time off using the regular pay and termination pay rates in effect at the statement of net position date plus an additional amount for compensation-related payments based on the criteria set forth in GASB Statement No. 16. The liability has been accrued in the government-wide statements. A liability for those amounts is recorded in the governmental fund only if the liability has matured as a result of employee resignations or retirements.

Lease Payable

The MDC is a lessee for noncancellable leases. The MDC recognizes a lease liability and an intangible right-to-use lease asset (lease asset) in the financial statements. The MDC recognizes a lease assets and related liability with an initial, individual value of \$15,000 or more. At the commencement of a lease, the MDC initially measures the lease liability at the present value of payments expected to be made during the lease term. Subsequently, the lease liability is reduced by the principal portion of lease payments made. The lease asset is initially measured as the initial amount of the lease liability, adjusted for lease payments made at or before the lease commencement date, plus certain initial direct costs. The lease asset is amortized on a straight-line basis over the shorter of its useful life or lease term.

The MDC monitors changes in circumstances that would require a remeasurement of its leases and will remeasure the lease asset and liability if certain changes occur that are expected to significantly affect the amount of the lease liability.

Net Position

Net position of the MDC is classified in two components on its statements of net position.

- Net investment in capital assets consists of capital assets net of accumulated depreciation and reduced by the outstanding balances of borrowings used to finance the purchase or construction of those assets.
- Restricted net position is made up of noncapital assets that must be used for a particular purpose, as specified by creditors, grantors, or donors external to the MDC.

Nature and Purpose of Classifications of Fund Balances

Governmental funds fund balances classified as restricted can only be used for specific purposes pursuant to constraints imposed by state law for Type A development corporations. Fund balances classified as nonspendable include amounts that cannot be spent because they are not in a spendable form.

Net Position/Fund Balance Flow Assumption

It is the MDC's policy to consider restricted net position/fund balances to have been depleted before unrestricted net position/fund balances is applied.

Note 2. Deposits, Investments, and Investment Income

Custodial Credit Risk – Deposits

In the case of deposits, this is the risk that, in the event of a bank's failure, the MDC's deposits may not be returned to it. As of September 30, 2024, the MDC's bank balance not held with the City's pooled cash was \$134,287 and was fully insured as of September 30, 2024. The remainder of MDC deposits, which are combined with the City's deposits, were fully insured or collateralized as of September 30, 2024. The carrying amount of the total deposits as of September 30, 2024, was \$17,506,701.

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In addition to these bank balances, Wells Fargo Bank serves as custodian for the City's eligible federal treasury and agency securities and municipal bonds and MDC's share is \$5,961,285 at September 30, 2024.

Investments

Investments, other than balances in government investment pools, are carried at fair value. The MDC's investment policies are governed by State statutes. The MDC is governed by the City's investment policies which further limit State statutes such that eligible investments include the following:

Obligations of the United States or its Agencies and Instrumentalities

1. United States of America Treasury securities
2. Farmers Home Administration (FmHA) obligations backed by the full faith and credit of the United States
3. Federal Home Loan Bank (FHLBs) bonds
4. Federal National Mortgage Association (Fannie Mae or FNMA) notes and debentures
5. Farm Credit System Obligations
6. Federal Home Loan Mortgage Corporation (Freddie Mac or FHLMC) obligations, *i.e.*, discount notes or debentures.

Direct Obligations of the State of Texas or its Agencies

Texas State, City, County, or School District General Obligation Bonds with a remaining maturity of 10 years or less having been rated as to investment quality by Moody's or Standard and Poor's (nationally recognized investment rating firms) and having received a rating of no less than "A" or its equivalent.

Certificates of Deposit Issued by State and National Banks Domiciled in this State

Certificates of deposit issued by state and national banks domiciled in this state that are: (1) guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor; or (2) secured by obligations that are described in V.T.C.A., Local Government Code Sections 105.001 et seq.

Fully Collateralized Repurchase Agreements Having a Defined Termination Date

Fully collateralized direct repurchase agreements and reverse repurchase agreements with a defined termination date of no more than 90 days from the date such investment is purchased, secured by obligations of the United States or its agencies and instrumentalities with a market value of not less than the amount of the funds disbursed and held by a custodian for the MDC.

Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a bank domiciled in Texas. Money received under the terms of a reverse repurchase agreement shall be used to acquire additional eligible investments whose maturity does not exceed the expiration date of the reverse repurchase agreement.

Money Market Funds

Money market funds fully authorized by State statute of both public and private sponsorship.

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Other Securities or Obligations Approved by the City Council

Other such securities or obligations as authorized by State statute and approved by the City Council.

Investment Pools

The MDC invests in three governmental investment pools; TexStar, Texas Cooperative Liquid Assets Securities System Trust (Texas CLASS), and the Texas Local Government Investment Pool (TexPool), which were created under the *Interlocal Cooperation Act*, Texas Government Code Ann. Ch. 791, and the Texas Government Code Ann. Ch. 2256. TexStar and Texas CLASS are rated AAAM and seeks to maintain a constant net asset value of \$1.00. TexPool is also rated AAAM, and balances are reported at amortized cost. Investments in the pools are considered to be cash equivalents when preparing these financial statements.

The Texas Treasury Safekeeping Trust Company (Trust) is trustee of TexPool and is a limited purpose trust company authorized pursuant to Texas Government Code Ann. Section 404.103 for which the Texas State Comptroller is the sole officer, director, and shareholder. The advisory board of TexPool is composed of members appointed pursuant to the requirements of the *Public Funds Investment Act*, Texas Government Code Ann. chapter 2256. TexStar is governed by a five-member Board of Directors comprising three government officials or employees and two other persons with expertise in public finance. Additionally, TexStar has a five-member Advisory Board. Texas CLASS is supervised by a Board of Trustees (Board) who are elected by the Participants and shall be an odd number of three or more. Additionally, Texas CLASS has a five-member Advisory Board. Fair value of the MDC's position in the pools is, in all material respects, the same as the value of the pool shares. Investment income earned on pooled cash and investments is allocated to each fund based upon each fund's weighted-average daily cash and investment balances.

Credit Risk

In compliance with the MDC's investment policy, as of September 30, 2024, the MDC minimized credit risk by limiting investments to the safest types of securities and diversifying the portfolio so that potential losses on individual securities were minimized. The investment pools (which represent approximately 74% of the portfolio) are rated AAAM by Standard and Poor's. The Federal National Mortgage Association, Federal Home Loan Bank notes, and Federal Home Loan Mortgage Corporation obligations were all rated AAA by Standard and Poor's.

Interest Rate Risk

As a means of limiting its exposure to fair value losses arising from rising interest rates, the City's investment policy limits final stated maturities to ten years maximum with no more than 30% exceeding seven years and dollar weighted average portfolio maturity not to exceed five years in the investments listed above. The investment pools are presented as an investment with a maturity of less than one year because the average maturity of the pools is less than one year.

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The MDC's investments carried at fair value as of September 30, 2024, are:

<u>Investments</u>	<u>Fair Value</u>	<u>Weighted-Average Maturity (in Years)</u>	<u>Credit Risk</u>
FHLB	\$ 3,624,522	6.25	AAA
FNMA	207,560	6.60	AAA
FHLMC	980,011	5.00	AAA
FFCB	1,129,728	8.50	AAA
Municipal bonds	19,464	6.00	AAA
TexPool	6,370,313	0.25	AAAm
TexStar	5,091,316	0.19	AAAm
Texas CLASS	5,485,343	0.23	AAAm
Total	<u>\$ 22,908,257</u>	3.22	

Concentration of Credit Risk

The MDC's investment policy states that the portfolio(s) shall be diversified by type of investment and maturities to reduce risks resulting from undue investment concentration. At September 30, 2024, more than 5% of the MDC investments are in the following investments:

<u>Investment</u>	<u>Amount</u>
FHLB	\$ 3,624,522
TexPool	6,370,313
TexStar	5,091,316
Texas CLASS	5,485,343

Fair Value of Investments

The MDC measures and records its investments using fair value measurement guidelines established by generally accepted accounting principles (GAAP). These guidelines recognize a three-tiered fair value hierarchy as follows:

- Level 1** Quoted prices for identical investments in active markets;
- Level 2** Observable inputs other than those in Level 1; and
- Level 3** Unobservable inputs, if any.

Debt securities classified as Level 1 are valued using prices quoted in active markets for those securities. Debt securities classified in Level 2 are normally valued based on price data obtained from observed transactions and market price quotations from broker dealers and/or pricing vendors. The MDC has no Level 3 investments at September 30, 2024.

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The following table presents the fair value measurements of assets recognized in the accompanying financial statements measured at fair value on a recurring basis and the level within the fair value hierarchy in which the fair value measurements fall at September 30, 2024:

	<u>Fair Value</u>	<u>Quoted Prices in Active Markets for Identical Assets (Level 1)</u>	<u>Significant Other Observable Inputs (Level 2)</u>	<u>Significant Unobservable Inputs (Level 3)</u>
Investments by fair value level				
U.S. agency securities	\$ 5,941,821	\$ -	\$ 5,941,821	\$ -
Municipal bonds	19,464	-	19,464	-
Total investments by fair value level	<u>5,961,285</u>	<u>\$ -</u>	<u>\$ 5,961,285</u>	<u>\$ -</u>
Investments measured at net asset value				
TexStar	5,091,316			
TexClass	<u>5,485,343</u>			
Total investments at net asset value	<u>10,576,659</u>			
Investments measured at amortized cost				
TexPool	<u>6,370,313</u>			
Total investments at amortized cost	<u>6,370,313</u>			
Total investments	<u>\$ 22,908,257</u>			

Note 3. Receivables

The receivables as of September 30, 2024, for the MDC include sales tax receivables of \$2,778,885 due from the State of Texas and interest and dividends receivable of \$83,500.

MDC provides funds to other entities in which requirements, contained within agreements between the MDC and recipients, are to be met or funds are required to be returned to the MDC. Receivables are recorded until requirements are met. At the time requirements are met, MDC reduces its receivables and recognizes economic development expenses. Notes receivable of \$6,579, at September 30, 2024, are economic development agreements with the City of Midland.

Midland Development Corporation
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Notes to Financial Statements
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Note 4. Capital Assets

Capital assets activity for the year ended September 30, 2024:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Retirements</u>	<u>Transfers/ Adjustments</u>	<u>Ending Balance</u>
Governmental Activities					
Capital assets, not being depreciated					
Land	\$ 13,239,334	\$ -	\$ -	\$ -	\$ 13,239,334
Construction in progress	<u>1,079,791</u>	<u>227,802</u>	<u>-</u>	<u>-</u>	<u>1,307,593</u>
Total capital assets, not being depreciated	<u>14,319,125</u>	<u>227,802</u>	<u>-</u>	<u>-</u>	<u>14,546,927</u>
Capital and lease assets, being depreciated/amortized					
Buildings	10,011,046	-	-	-	10,011,046
Improvements other than buildings	2,746,714	774,549	-	-	3,521,263
Machinery and equipment	162,581	-	-	-	162,581
Lease asset	902,585	928,779	-	-	1,831,364
Infrastructure	<u>1,362,237</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,362,237</u>
Total capital and lease assets, being depreciated/amortized	<u>15,185,163</u>	<u>1,703,328</u>	<u>-</u>	<u>-</u>	<u>16,888,491</u>
Less accumulated depreciation/amortization for					
Buildings	(1,745,605)	(227,473)	-	-	(1,973,078)
Improvements other than buildings	(274,923)	(60,519)	-	-	(335,442)
Machinery and equipment	(108,057)	(19,372)	-	-	(127,429)
Lease asset	(178,136)	(181,946)	-	-	(360,082)
Infrastructure	<u>(404,018)</u>	<u>(53,577)</u>	<u>-</u>	<u>-</u>	<u>(457,595)</u>
Total accumulated depreciation/amortization	<u>(2,710,739)</u>	<u>(542,887)</u>	<u>-</u>	<u>-</u>	<u>(3,253,626)</u>
Total capital and lease assets, being depreciated/amortized, net	<u>12,474,424</u>	<u>1,160,441</u>	<u>-</u>	<u>-</u>	<u>13,634,865</u>
Governmental activities capital and lease assets, net	<u>\$ 26,793,549</u>	<u>\$ 1,388,243</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 28,181,792</u>

Depreciation and amortization expense of \$542,887 was charged to the economic development function/program of the governmental activities.

Note 5. Employee Benefit Plan

The MDC participates in a multiple-employer defined contribution salary deferral plan created in accordance with Internal Revenue Code Section 401(k). The plan is administered by the American Chamber of Commerce Executives Profit Sharing Plan. Active participants must be at least 21 years of age with a minimum of one year of eligibility service. The MDC makes a matching contribution of up to 7% of each eligible employee's total annual compensation to the plan. Employees may also make elective deferral contributions up to specified limits of their total compensation each year. The MDC contributed a total of \$19,838 to the plan during fiscal year 2024.

Employees are immediately vested in their own contributions and earnings on those contributions and become vested in MDC contributions at 25% after one year of eligible service, 50% after two years, 75% after three years, and 100% after four years of eligible. Nonvested MDC contributions are forfeited upon termination of employment. Such forfeitures are used to cover a portion of the pension plan's administrative expenses. There were no forfeitures during 2024.

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Note 6. Long-term Obligations

The following is a summary of long-term obligation transactions for the MDC for the year ended September 30, 2024:

	<u>Beginning Balance</u>	<u>Additions/ Completions</u>	<u>Retirements/ Adjustments</u>	<u>Ending Balance</u>	<u>Due Within One Year</u>
Governmental Activities					
Compensated absences	\$ 33,601	\$ 28,376	\$ (30,603)	\$ 31,374	\$ 21,649
Lease liability – primary government	523,818	928,779	(17,553)	1,435,044	17,774
Lease liability	<u>212,319</u>	<u></u>	<u>(151,802)</u>	<u>60,517</u>	<u>154,041</u>
Governmental Activities Long-term Liabilities	<u>\$ 769,738</u>	<u>\$ 957,155</u>	<u>\$ (199,958)</u>	<u>\$ 1,526,935</u>	<u>\$ 193,464</u>

Note 7. Leases

Leases Liability

The MDC has agreements for buildings, a hanger, and land, the terms of which expire in various years through 2049. During the fiscal year ended September 30, 2024, the MDC did not recognize any rental expense for variable payments not previously included in the measurement of the lease liability.

Two of the lease agreements for the hangar and land at the airport are with the City and have an ending lease liability balance of \$1,435,044 at September 30, 2024.

The following is a schedule by year of payments under the leases as of September 30, 2024:

<u>Fiscal Year Ending September 30,</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2025	\$ 171,815	\$ 30,751	\$ 202,566
2026	176,640	27,588	204,228
2027	106,551	24,549	131,100
2028	109,421	21,679	131,100
2029	112,373	18,727	131,100
2030-2034	500,626	47,774	548,400
2035-2039	103,256	16,744	120,000
2040-2044	109,912	10,088	120,000
2045-2049	<u>104,967</u>	<u>3,034</u>	<u>108,001</u>
	<u>\$ 1,495,561</u>	<u>\$ 200,934</u>	<u>\$ 1,696,495</u>

Midland Development Corporation
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Regulated Leases

In accordance with GASB 87, the MDC does not recognize a lease receivable and a deferred inflow of resources for regulated leases in which the MDC is the lessor. Regulated leases are certain leases that are subject to external laws, regulation, or legal rulings, e.g., the U.S. Department of Transportation and the Federal Aviation Administration, between airports and air carriers and other aeronautical users. The MDC has a regulated lease related to a sublease at the City of Midland’s regional airport. The lease is for use of the land leased by MDC and subsequently subleased to the tenant. The tenant constructs or improves, owns, and maintains all the improvements on the land. This lease allows access to the land for aeronautical use. At the end of the ground lease, the improvements revert to City ownership. The revenue recognized for the lease during the fiscal year ended September 30, 2024, was \$976,644.

The future lease receipts for the MDC regulated lease as of September 30, 2024, were as follows:

<u>Fiscal Year Ending September 30,</u>	<u>Payment</u>
2025	\$ 976,644
2026	976,644
2027	976,644
2028	976,644
2029	976,644
2030-2034	<u>3,987,963</u>
Total minimum lease payments	<u>\$ 8,871,183</u>

Note 8. Risk Management

The MDC is exposed to various risks of loss related to torts, property damage, errors and omissions, and various employee related matters. Risks other than those related to torts, are covered by commercial insurance. For the purposes of the *Texas Tort Claims Act* (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), the MDC is a governmental unit, and its actions are governmental functions and, therefore, are limited by governmental immunity. As of September 30, 2024, there were no claims outstanding. There has been no significant reduction in coverage from 2023 to 2024; nor have settlement amounts exceeded coverage for each of the past three years.

Note 9. Commitments and Contingencies

Litigation

No legal action arose in the ordinary course of the MDC’s business during the fiscal year ended September 30, 2024.

Commitments

At September 30, 2024, the MDC had contracts for economic development commitments of approximately \$84,000,000 with the majority due over the next six years if various conditions are satisfied by the third parties.

Note 10. Related Party Transactions

A majority of the MDC board is appointed by the City and the City can impose its will upon MDC. Accordingly, MDC is a discretely presented component unit of the City.

The City allocates to the MDC an indirect cost percentage of administrative services for the MDC but paid through the City along with other indirect costs deemed necessary for operations. During the fiscal year ended September 30, 2024, the City was reimbursed \$444,960 for these services.

Note 11. Future Change in Accounting Principle

GASB issued its Statement No. 101, *Compensated Absences*. This statement updates the recognition and measurement guidance for compensated absences under a unified model. It defines compensated absences and requires that liabilities be recognized for leave for which employees may receive one or more: cash payments when the leave is used for time off; other cash payments, such as payment for unused leave upon termination of employment which includes a voluntary resignation or retirement; or noncash settlements. Such as conversion to defined benefit postemployment benefits. GASB 101 also establishes guidance for measuring a liability for leave that has not been used, generally using an employee's pay rate as of the date of the financial statements. GASB 101 amends the existing requirement to disclose the gross increases and decreases in a liability for compensated absences to allow governments to disclose only the net change in the liability (as long as they identify it as a net change). In addition, governments are no longer required to disclose which governmental funds typically have been used to liquidate the liability for compensated absences. The MDC expects to first apply GASB 101 during the year ending September 30, 2025. The impact of applying the Statement has not been determined.

GASB also issued its Statement No. 102, *Certain Risk Disclosures*. This statement requires governments to disclose information about certain concentrations or constraints that could affect services provided or the ability to meet obligations as they come due. The MDC expects to first apply GASB 102 during the year ending September 30, 2025. The impact of applying the Statement has not been determined.

GASB Statement No. 103, *Financial Reporting Model Improvements*. The objective of this Statement is to improve the financial reporting model by standardizing the presentation for various matters within governmental financial statements. The purpose is to eliminate diversity practice and improve comparability. The requirements of this Statement will take effect for the MDC's fiscal year 2026. Management has not yet determined the impact of this Statement on its financial statements.

GASB Statement No. 104, *Disclosure of Certain Capital Assets*. The objective of this Statement is to improve disclosures related to certain types of capital assets. The purpose is to provide users of government financial statements with essential information about certain types of capital assets. The requirements of this Statement will take effect for the MDC's fiscal year 2026. Management has not yet determined the impact of this Statement on its financial statements.

Required Supplementary Information

Midland Development Corporation
A Component Unit of the City of Midland, Texas
Schedule of Revenues, Expenditures, and Changes in Fund Balance –
Budget and Actual – General Fund
Year Ended September 30, 2024

	Original / Final Budget	Actual	Variance
Revenues			
Sales taxes	\$ 12,000,000	\$ 16,650,471	\$ 4,650,471
Investment earnings	-	1,305,040	1,305,040
Rentals	976,644	976,743	99
Other	-	6,010	6,010
Intergovernmental	-	65,000	65,000
Total Revenues	<u>12,976,644</u>	<u>19,003,264</u>	<u>6,026,620</u>
Expenditures			
General government	2,862,049	969,469	1,892,580
Economic development	23,721,757	8,171,267	15,550,490
Capital outlay	-	1,931,130	(1,931,130)
Debt service	-	202,928	(202,928)
Total Expenditures	<u>26,583,806</u>	<u>11,274,794</u>	<u>15,309,012</u>
Excess (deficiencies) of revenues over (under) expenditures	<u>(13,607,162)</u>	<u>7,728,470</u>	<u>21,335,632</u>
Other Financing Sources			
Leases issued	-	928,779	928,779
Total Other Financing Sources	<u>-</u>	<u>928,779</u>	<u>928,779</u>
Net Change in Fund Balance	(13,607,162)	8,657,249	22,264,411
Fund Balance, Beginning	<u>34,238,461</u>	<u>34,238,461</u>	<u>-</u>
Fund Balance, Ending	<u>\$ 20,631,299</u>	<u>\$ 42,895,710</u>	<u>\$ 22,264,411</u>

**Midland Development Corporation
A Component Unit of the City of Midland, Texas
Notes to Schedule of Revenues, Expenditures, and Changes in Fund Balance –
Budget and Actual – General Fund
Year Ended September 30, 2024**

Notes to Schedule

The annual budget is legally adopted by the MDC Board and approved by the City Council of the City of Midland (City) on a basis consistent with U.S. generally accepted accounting principles.

The MDC Board follows these procedures in establishing the budget reflected for the MDC:

1. At least sixty (60) days prior to October 1 of each year, the MDC Board, with the assistance of the MDC Treasurer, prepares and adopts a proposed budget for the fiscal year beginning on the following October 1. The operating budget includes proposed expenditures and other such budgetary information as required by the City Council for approval and adoption.
2. The proposed budget is then submitted to the City Council for approval and is considered adopted upon formal approval by the City Council.
3. Expenditures may not exceed the appropriation for the adopted annual operating budget.
4. Supplemental appropriations during the year must be approved and adopted by the MDC Board and the City Council through passage of resolution.

Administrative Services Letter

VIA EMAIL

March 25, 2025

Re: Midland Development Corporation ("MDC")

Mr. Tommy Gonzalez
City of Midland

Dear Mr. Gonzalez (Tommy),

I hope this message finds you well. As you know, Sara Harris, the Executive Director of the Midland Development Corporation, will be departing within the next 30 days. We are truly grateful for the excellent service Sara has provided to both the MDC and the City of Midland. Her leadership has had a positive and lasting impact on both the corporation and our community, and we wish her all the best in her future endeavors.

Given the short window to secure administrative support, I am reaching out in accordance with the MDC's bylaws to formally request such services. The MDC would, of course, reimburse the city for any costs associated with these services. I would like to request the City's assistance in providing administrative support during this transition period.

This support will provide the MDC Board with the time needed to evaluate our options and make a careful decision regarding the next Executive Director. With a tight timeframe, it is essential that we do not rush the decision-making process. Securing administrative support for the next 12 months will give us the time necessary to ensure a smooth transition and conduct a thorough search for the right candidate to lead the organization.

We believe this approach will ensure continuity of operations and allow us to make a thoughtful, strategic decision for the future of the MDC.

Please let me know if there are any further steps required, or additional information needed. I look forward to your response and appreciate your assistance in this matter.

Best regards,

MIDLAND DEVELOPMENT CORPORATION

Lourcey Sams
Chairmen
PLS/itm

Cc: Mayor Lori Blong

Oncor Right-of- Way – Castelion Lease

PT #: 2025-1717
District: West
WO #: 27154215
ER # _____

EASEMENT AND RIGHT OF WAY

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

That **MIDLAND DEVELOPMENT CORPORATION, an economic development corporation pursuant to chapter 504 of the Texas local government code, C/O the city of Midland, Texas, a Texas home rule municipal corporation**, hereinafter called "Grantor," whether one or more, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration to Grantor in hand paid by **Oncor Electric Delivery Company LLC, a Delaware limited liability company**, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202-1234, hereinafter referred to as "Grantee," has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, its successors and assigns, a non-exclusive easement and right-of-way for overhead and/or underground electric supply and communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits and all necessary or desirable appurtenances over, under, through, across and upon Grantor's land described as follows:

SEE EXHIBIT "A" (ATTACHED)

Grantor recognizes that the general course of said lines, or the metes and bounds as described above, is based on preliminary surveys only, and Grantor hereby agrees that the easement and right-of-way and its general dimensions hereby granted shall apply to the actual location of said lines when constructed.

Together with the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjoining properties for the purpose of and with the right to construct, maintain, operate, repair, remove, replace, reconstruct, abandon in place, and to change the size and capacity of said facilities; the right to relocate said facilities in the same relative direction of said facilities; the right to relocate said facilities in the same relative position to any adjacent road if and as such is widened in the future; the right to lease wire space for the purpose of permitting others to string or lay wire or cable along said facilities; the right to prevent excavation within the easement area; the right to prevent construction of, within the easement area, any and all buildings, structures or other obstructions which, in the sole judgment of Grantee, may endanger or interfere with the efficiency, safety, and/or convenient operation of said facilities and their appurtenances and the right to trim or remove trees or shrubbery within, but not limited to, said easement area, including by use of herbicides or other similar chemicals approved by the U.S. Environmental Protection Agency, to the extent in the sole judgment of Grantee, as may be necessary to prevent possible interference with the operation of said facilities or to remove possible hazard thereto. Grantor shall not make changes in grade, elevation or contour of the land or impound water within the easement area as described above without prior written consent of Grantee.

Grantor reserves the right to use the land within the above described easement area for purposes not inconsistent with Grantee's use of such property, provided such use shall not, in the sole-reasonable judgment of Grantee, interfere with the exercise by Grantee of the rights hereby granted.

TO HAVE AND TO HOLD the above described easement and right-of-way unto the said Grantee, its successors and assigns, until all of said electric lines and facilities shall be abandoned, and in that event said easement and right-of-way shall cease and all rights herein granted shall terminate and revert to Grantor or Grantor's heirs, successors or assigns, and legal representatives, to warrant and forever defend the above described easement and right-of-way unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2025.

**GRANTOR: MIDLAND DEVELOPMENT CORPORATION,
an economic development corporation pursuant to chapter 504
of the Texas local government code, C/O the city of Midland, Texas,
a Texas home rule municipal corporation**

By: _____
J. David Mims, Chairman/ Director

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared J. David Mims, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act and deed of **MIDLAND DEVELOPMENT CORPORATION, an economic development corporation pursuant to chapter 504 of the Texas local government code, C/O the city of Midland, Texas, a Texas home rule municipal corporation**, as the Chairman/ Director thereof, for the purposes and consideration therein expressed, in the capacity therein stated and that he/she is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2025.

Notary Public in and for the State of Texas



Pole #1 Pole #2
Pole #3 Pole #4
Pole #6 Pole #9
Pole #10

TX-191 Frontage

Southwest Baptist Church

191

Construction

Image © 2025 Airbus

AST Economic Development Agreement

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN ECONOMIC DEVELOPMENT AGREEMENT
WITH AST & SCIENCE, LLC**

WHEREAS, the Board of Directors finds it to be in the public interest to authorize the execution of an economic development agreement with AST & Science, LLC;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MIDLAND DEVELOPMENT CORPORATION:

SECTION ONE. That the Chairman and Secretary are hereby authorized to execute and attest, respectively, on behalf of the Midland Development Corporation, an economic development agreement with AST & Science, LLC. Said agreement being in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That the Executive Director of the Midland Development Corporation, or her designee, is hereby authorized and directed to administer all the Midland Development Corporation's obligations under said agreement, including the issuance of all written notices and confirmations due thereunder.

On motion of Director _____, seconded by Director _____, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the _____ day of _____, A.D., 2025, by the following vote:

Directors voting "AYE":

Directors voting "NAY":

P. LOURCEY SAMS,
Chairman of the Midland
Development Corporation

ATTEST:

ELVIE BROWN,
Secretary of the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

NICHOLAS TOULET,
Attorney for the Midland
Development Corporation

Exhibit "A"

ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the MIDLAND DEVELOPMENT CORPORATION (“MDC”), a Type A corporation pursuant to Chapter 504 of the Texas Local Government Code, as amended, and AST & SCIENCE, LLC, a Delaware limited liability company (“Company”).

I.

Recitals

- A. Company is currently headquartered at the office and hangar facility located at 2901 Enterprise Lane, Midland, Texas 79706, and is in the business of building the first and only cellular broadband network in space designed to be accessible directly by smartphones for commercial use, and other applications for government use utilizing its extensive intellectual property and patent portfolio.
- B. MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from the City of Midland, Texas (the “City”).
- C. MDC has constructed a single facility on said real property that houses office space, testing and fabrication rooms, and the Midland Altitude Chamber Complex.
- D. MDC and Company desire to set forth the terms and conditions upon which incentives will be provided to Company as consideration for Company’s (i) expansion and occupation of certain portions of the facility referenced above, (ii) creation of primary jobs at the facility, and (iii) investment and maintenance of certain levels of Personal Property and Inventory (as defined herein) at the facility.
- E. MDC intends to lease portions of the facility to Company to provide for Company’s expansion of its operations to include the establishment of a radio frequency lab and communications testing activities therein.
- F. Company will exercise commercially reasonable efforts to employ Midland, Texas residents and to advertise the availability of job openings in Midland, Texas. Additionally, when it is not possible to hire city of Midland, Texas residents, Company will exercise commercially reasonable efforts to recruit new residents to live within the city limits of Midland, Texas and to advertise the availability of job openings in the city limits of Midland, Texas.
- G. Company anticipates creating and maintaining fifty (50) Full-Time Jobs (as defined herein) at the facility by March 31, 2028.

- H. In addition to creating and maintaining said Full-Time Jobs, Company anticipates that it will provide for and maintain an average of \$3,000,000.00 in Personal Property and Inventory at the Facility (as hereinafter defined) during the term of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MDC and Company hereby agree as follows:

II. Definitions

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

- A. “*Affiliate*” Affiliate shall mean any entity controlling, controlled by, or under common control with AST & Science, LLC.
- B. “*Business*” means Company’s commercial operations at the Facility (as defined herein) relating to Company’s establishment of a radio frequency lab and communications testing activities.
- C. “*Business Day*” Business Day shall mean each day, Monday through Friday, except to the extent any day is a holiday recognized by the federal government of the United States or a state holiday recognized by the State of Texas.
- D. “*Effective Date*” means April 22, 2025.
- E. “*Facility*” means the single facility located at 2908 Enterprise Lane, Midland, Texas 79706 that houses office space and testing and fabrication rooms. The term “*Facility*” shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the Midland Altitude Chamber Complex is housed and operated.
- F. “*Determination Period*” means a twelve (12) month period commencing on April 1st and ending on March 31st. It being agreed that the first Determination Period shall be April 1, 2026.
- G. “*Full-Time Job*” means a position of employment that requires an individual (i) work 1,820 hours per year, including allowance for vacation, sick leave, earned time off, or other of Company’s policies and practices and (ii) spend a substantial amount of his or her time performing job duties at the Facility.
- H. “*Personal Property and Inventory*” means personal property and inventory purchased by and/or caused to be made by Company or its Affiliates at the Facility or the Midland Spaceport Business Park that appear on the certified tax rolls of the Midland Central Appraisal District.

- I. “*Previously Executed Agreements*” means those certain existing agreements between the parties consisting of: (i) that Economic Development Agreement dated November 21, 2018, as amended, concerning the relocation of Company’s headquarters from Miami, Florida, to its current headquarters location at the Midland Spaceport Business Park; and (ii) that Sublease Agreement dated November 13, 2018, as amended, concerning Company’s sublease of the office and hangar facility located at 2907 Enterprise Lane, Midland, Texas, from MDC.

III. Previously Executed Agreements

The parties acknowledge the existence and validity of the Previously Executed Agreements. Notwithstanding any contrary provision contained herein, this Agreement shall not affect, alter, or modify the Previously Executed Agreements or the parties’ respective obligations contained therein; provided, however, that Company’s satisfaction of any obligation contained in this Agreement may be achieved by Company’s performance under the Previously Executed Agreements. Specifically, Company’s obligations as to the creation and investment in Full-Time Jobs and Personal Property and Inventory under this Agreement may be satisfied through the creation of Full-Time Jobs and investment in Personal Property and Inventory under the Previously Executed Agreements, subject to Company’s compliance (subject to applicable notice and cure periods) with the Previously Executed Agreements. For the avoidance of doubt, so long as the Company creates the applicable number of Full-Time Jobs in the City of Midland, Texas, in accordance with the schedule contained in Section IV.B, Company shall be deemed to be in compliance under this Agreement with respect to such obligation and the Previously Executed Agreements with respect to such job creation.

IV. Obligations of the Company

- A. **Personal Property and Inventory Investment Obligation.** Company shall invest in and maintain during the term of this Agreement, an average of \$3,000,000.00 in Personal Property and Inventory at the Facility. Company’s Personal Property and Inventory investment obligation shall be evidenced by tax statements issued by the Midland Central Appraisal District, which shall be provided to MDC no later than the date on which the annual compliance certificate is required to be delivered hereunder for each year during the term of this Agreement for which a Determination Period is applicable. The value of the Personal Property and Inventory shall be determined in accordance with the tax statements issued by the Midland Central Appraisal District. Company shall maintain its investment in the Personal Property and Inventory in accordance with the terms of this Agreement for the duration of the term of this Agreement. The required average of the Personal Property and Inventory shall be tested at the end of a Determination Period.
- B. **Full-Time Jobs Obligation.** Company shall create and maintain cumulative new Full-Time Jobs in accordance with the following schedule:
 1. Twenty-Five (25) Full-Time Jobs as of March 31, 2026.

2. Forty (40) Full-Time Jobs as of March 31, 2027.
3. Fifty (50) Full-Time Jobs as of March 31, 2028.

Company shall maintain said Full-Time Jobs for the duration of the term of this Agreement as such may be extended in accordance with Section VIII below.

C. **Quarterly Compliance Certifications.** Beginning for the calendar quarter ending July 31, 2025, and for every quarter thereafter during the term of this Agreement, Company shall certify to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained as of the last day of the quarter; and
2. The total amount of Personal Property and Inventory investment made at the Facility as of the last day of the quarter.

Said quarterly compliance certifications shall be due to MDC no later than forty-five (45) days following the end of each quarter.

D. **Annual Compliance Certifications.** Beginning for the time period spanning April 1, 2025, to March 31, 2026, and every subsequent time period thereafter (April 1 to March 31 of the following year, each a “*Compliance Year*”) during the term of this Agreement, Company shall submit a compliance certification (“*Annual Certification*”) to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained during the Compliance Year; and
2. The total amount of Personal Property and Inventory investment made at the Facility during the Compliance Year.

Every Annual Certification shall be accompanied by a separate certification completed by a duly licensed accountant stipulating that (i) the information contained in the Annual Certification is true and correct, and (ii) the information contained in the Annual Certification was derived using Generally Accepted Accounting Principles. Company shall submit every Annual Certification within sixty (60) days from the end of every Compliance Year.

V. Obligation of the MDC

MDC agrees to lease certain portions of the Facility to Company for the purpose of Company conducting its Business thereon and in accordance with the terms and conditions of the Commercial Lease Agreement (the “*Lease*”), the form of which is attached hereto as **Exhibit A** and incorporated herein for all purposes. MDC’s lease of such portions of the Facility to Company

shall be conditioned on Company's strict compliance and fulfillment of all obligations contained in this Agreement and in the Lease, subject to applicable notice and cure periods.

**VI.
MDC's Remedies Upon Default**

The parties agree that if Company defaults under this Agreement, MDC shall be entitled, in addition to any other remedy to which it may be available at law or in equity, to those remedies specifically provided for and enumerated in the Lease. MDC shall have all rights and remedies set forth in the Lease and all rights and remedies that MDC has by law.

**VII.
Cure Period**

In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in the Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in this Agreement or the Lease.

**VIII.
Term**

The term of this Agreement shall be coterminous with the term of the Lease. For the avoidance of doubt, a termination of the Lease shall be an automatic termination of this Agreement and any extension under the Lease shall automatically extend the term under this Agreement.

**IX.
Applicable Statutes, Rules, and Regulations**

The parties acknowledge that the real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, and its owner, the City of Midland, are subject to the Airport and Airway Improvement Act of 1982, as amended and recodified at 49 U.S.C. 47107(a)(1), as well as the Federal Aviation Administration's Airport Improvement Program. The parties further acknowledge that the City is generally required to make said real property available to users that participate in aeronautical activities and that the City is prohibited from causing or permitting any activity that would interfere with use of said real property for aeronautical purposes. MDC has fully and completely disclosed the requirements referenced herein to Company. Company has satisfied itself of said requirements and warrants that it is entering into this Agreement subject to said requirements. MDC has made no warranty or representation that Company's intended use of the Facility will be compliant with the requirements referenced in this Section. Company hereby represents and warrants that its use of the Facility complies with said requirement.

Notwithstanding any other provision contained in this Agreement, the parties agree that if the Federal Aviation Administration (the “FAA”) determines that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, that upon either party’s notice of such determination, this Agreement shall automatically terminate in its entirety and be of no further force or effect. Said automatic termination shall occur without penalty to either party, except as provided for below. In the event of such automatic termination, the parties shall be fully discharged of any and all obligations due hereunder.

Company acknowledges that this Agreement is made subject to the above-referenced statutes, rules, and regulations. MDC has not provided Company with any warranties as to the Facility, the real property on which the Facility is located, or the applicable statutes, rules, or regulations referenced herein. Company acknowledges that MDC has not warranted (i) the Facility for any particular use, or (ii) Company’s quiet enjoyment of the Facility with regards to the provisions contained in this Section. Company acknowledges that the FAA may determine that Company’s possession of the Facility does not constitute an aeronautical purpose. Company agrees to hold MDC and the City harmless if the FAA makes such a determination.

Notwithstanding any other provision contained in this Agreement, if Company creates any condition that does not conform to the purpose of establishing Company’s Business at the Facility, and said condition causes the FAA to determine that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, and Company has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Agreement shall terminate and all rent payments contemplated by the Lease shall, at MDC’s option, thereupon immediately become due and payable to MDC (in accordance with the accelerated rent provisions of Section 14.03 of the Lease). Company shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Agreement, the Lease, or by law MDC elects to pursue.

X. Special Conditions

- A. **No Financial Commitment.** Notwithstanding any other provision hereof that may be interpreted otherwise, MDC’s obligations due hereunder shall not consist of any financial commitment or payments whatsoever. MDC’s only obligation under this Agreement is encompassed in Section V and Company agrees that MDC shall not provide any financial consideration to Company under this Agreement.

- B. **Certifications.** Company agrees to the following certification requirements:
 - 1. As to the certifications required in Section IV.C.1 and Section IV.D.1, subject to securities obligations applicable to public companies, the Company shall provide reasonable evidence or supporting documentation. Documentation for employment numbers may be in the form of Texas Workforce Commission Employer Quarterly Reports, or certified employee rosters that show the hours worked and positions filled,

or such other reports as may be agreed upon by MDC and Company. Upon request, MDC may review Company's Texas Workforce Commission Employer Quarterly Reports in Midland, Texas, but may not copy or retain a copy of said reports.

2. Company shall allow MDC reasonable access to the Facility for purposes of determining Company's compliance with the employment certifications given by Company, provided that such access shall be (i) with prior written notice; (ii) accompanied by representatives of Company; and (iii) during normal business hours; provided, further, such access shall not unreasonably interfere or hinder the Company's Business operations.
3. When requested in writing by MDC to do so, Company will provide a notarized statement in a form acceptable to MDC that, to Company's knowledge, Company is in compliance with each applicable material term of this Agreement.
4. All certifications required under this Agreement shall be signed and sworn to by Company's chief executive officer and chief financial officer before a notary and shall contain an appropriate jurat and a statement that the information contained in the certification is true and correct. E-mail shall not be an acceptable form of certification under this Agreement.
5. Company shall maintain, during the term of this Agreement and for a period of three (3) years following expiration of the term, all records necessary to confirm that the Company is capable of meeting its obligations under this Agreement and that the Company has met its obligations under this Agreement relating to the Full-Time Jobs obligation and Personal Property and Inventory obligation, including such records maintained by a parent company, affiliates, subsidiaries or other related parties, and including (as appropriate): (i) all payroll records and daily time sheets and other records of personnel utilization on work activities at the Facility (including records on an hourly basis for personnel); (ii) invoices for materials and equipment; (iii) drawings, specifications, schedules, instructions, receipts; and (iv) agreements, subcontracts and purchase orders relating to the Personal Property and Inventory obligation. Upon reasonable advance-written notice, Company shall, subject to confidentiality and privacy obligations, make all such documents available to MDC for inspection, audit and copying, regardless of whether a dispute is then pending between the parties. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Company shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents.

C. **Covenants.** Company makes the following covenants to MDC and agrees that in the event of failure of Company to comply with such covenants, the breach of any one of which, subject to applicable notice and cure periods hereunder, shall constitute an event of default, MDC may terminate this Agreement, at its sole and absolute discretion:

1. Company is a legal entity duly organized, validly existing and in good standing and is duly authorized to do business in the State of Texas.
2. The execution of this Agreement has been duly authorized by Company's board of directors or other governing body, or by officers empowered to execute such agreements and bind Company, and is not in contravention of the provisions of Company's articles of incorporation or bylaws, or to the Company's knowledge, of any agreement or instrument to which Company is a party to or by which they may be bound, the breach of which would have a material, adverse effect on Company and its operations.
3. There are no bankruptcy proceedings currently pending by or, to Company's knowledge, against Company.
4. To Company's knowledge, as of the Effective Date, none of Company's collateral provided under the Lease is subject to any material lien, security interest or other encumbrance, except for liens reflected in writing and furnished to MDC prior to the Effective Date.
5. To Company's knowledge, no certificate or statement delivered or to be delivered by Company to MDC under this Agreement or in connection with any transaction contemplated hereby contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading in any material respect by reason of any omission.

D. **Suspension.** MDC, under the following circumstances and at its sole discretion, may terminate this Agreement:

1. The insolvency of Company. "*Insolvency*" shall have the meaning set forth in federal bankruptcy law.
2. The appointment of a receiver of Company, or of all or any substantial part of their property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
3. The adjudication of Company as bankrupt, the filing by Company of a petition to be adjudged bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against Company in any bankruptcy or reorganization proceeding.

E. **Additional Covenants.** If Company should fail to comply with any of the following provisions, and such failure continues for thirty (30) days following written notice to Company (each, an event of default), MDC may terminate this Agreement.

1. Company, or any affiliate of, or successor to Company, shall continue its fulltime commercial operations in accordance with Company's obligations set forth in this Agreement at the Facility at all times during the term of this Agreement.
 2. Company shall pay, or cause to be paid, before delinquent all ad valorem taxes assessed against Company's property owed to the taxing authorities having jurisdiction, as may be set forth in the Lease. In addition, Company will pay before delinquent all employment, income, franchise and all other taxes to all local, state and federal entities.
 3. Company shall, on a yearly basis during the term of this Agreement, provide MDC with tax certificates from Midland Central Appraisal District demonstrating that all taxes on Company's property, including those assessed as to the Personal Property Inventory have been paid in full to the current tax year.
 4. Company shall obtain and maintain all necessary rights, licenses, and permits to carry on the Business.
 5. Company agrees that, as to all of the programs and activities arising out of this Agreement, it shall comply in all material respects with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, religion, age, sex or by reason of being disabled.
 6. Company agrees that it shall comply with Texas Government Code Section 2264.001 *et seq.*, as amended.
- F. **Interpretation of Terms & Obligations.** Notwithstanding any other provision contained herein to the contrary, the parties agree that if there is a dispute regarding whether a particular item falls within the definition of Full-Time Jobs or Personal Property and Inventory, MDC shall make such determination in its sole but good faith discretion and such determination shall be final and binding on Company.

XI. General Terms

- A. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements, excluding the Lease and the Previously Executed Agreements, between the parties relating to matters in this Agreement. Except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.
- B. **Legal Relationships.** The parties are not, and shall not be considered as, joint venturers, partners, or agents of each other and no party shall have the power to bind or obligate another, except as set forth in this Agreement. The parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency

between MDC and Company. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a community of pecuniary interest or an equal right of control that would give rise to vicarious liability.

- C. **No Third-Party Beneficiary.** The parties' approval of the Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity that is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.
- D. **Independent Contractor.** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Company shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Company. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Company shall be independent contractors under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractors hereunder. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.
- E. **Terminations.** This Agreement may be terminated by mutual agreement of the parties or by any party upon the failure of another party to fulfill an obligation as set forth herein if the default is not cured within the time periods set forth hereunder. This Agreement may also be terminated as specifically provided for in Section IX herein. A termination of this Agreement shall terminate the Lease. A termination of the Lease shall terminate this Agreement. A termination of this Agreement without liability to either party shall terminate the Lease without liability to either party. A termination of the Lease without liability to either party shall terminate this Agreement without liability to either party. Uncured defaults under either this Agreement or the Lease shall be deemed uncured defaults of the other agreement, and contractual and legal termination procedures shall apply to this Agreement and the Lease.
- F. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of the Agreement, and of the signature pages, by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic mail (i.e., .pdf) shall be deemed to be original signatures for any purpose(s) whatsoever.

- G. **Governing Law & Venue.** The laws of the State of Texas shall govern, construe, and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes, or any other action arising from, relating to, or concerning in any way this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.
- H. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. **Law.** This Agreement is subject to all applicable municipal, county, state and federal laws, regulations, orders and rules and Company agrees that it will comply in all material respects with all such applicable laws, regulations, orders and rules of the State of Texas and other such governmental agencies. As used in this Agreement, the phrase “applicable law” is deemed to include the foregoing.
- J. **Assignment.** This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by a party (other than by Company to one or more entities comprising Company’s Affiliated Group (as hereinafter defined)) without the prior written consent of the other party. “*Company’s Affiliated Group*” shall mean Company, the parent company of Company (AST SpaceMobile, Inc.) and all subsidiaries of Company or the parent company of Company (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Agreement and the Lease.

XII.

Miscellaneous

- A. **Certification Regarding Undocumented Workers:** Company certifies that it and its Affiliates do not and will not knowingly employ an Undocumented Worker, as defined below, during the term of this Agreement, “Undocumented Worker” shall mean an individual who, at any time during employment, is not (i) lawfully admitted for permanent residence to the United States or (ii) otherwise authorized under applicable law to be employed, on any basis or under any program in the United States. Company shall immediately notify MDC if (i) Company becomes aware of it or its Affiliate employs or has employed an Undocumented Worker, (ii) Company becomes aware or receives notice

that it or its Affiliated is alleged to have employed an Undocumented Worker, or (iii) Company or its Affiliate is convicted of a violation under the following paragraph.

If during the term of this Agreement, Company or any of its Affiliates knowingly employ any Undocumented Worker and is convicted of a violation under 8 U.S.C. § 1324a(f), Company shall forfeit its claim to any incentives owed to it by MDC under this Agreement and MDC shall be fully and completely discharged from any and all obligations due hereunder.

B. Severability. If any provision of this Agreement is held invalid or otherwise unenforceable by any court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect. Any provision of this Agreement held invalid or otherwise unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

C. Notices. All notices permitted or required hereunder shall be in writing, signed by the party giving such notice and delivered either (i) personally; (ii) by certified mail, return receipt requested, postage prepaid addressed to the party at the address listed below; (iii) delivered by a nationally recognized courier service; or (iv) via email or fax, provided that concurrent notice is delivered by any other approved method of delivery outlined in subsections (i) – (iii) above. Notices under this paragraph will be deemed effective if sent to the party or person identified below:

If to MDC:

Midland Development Corp.
Attn: MDC Chairman
Attn: Executive Director

200 N. Loraine St., Suite 610
Midland, Texas 79701

If to Company:

AST & Science, LLC
Attn: Shanti Gupta
Chief Operating Officer
Attn: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To:

City Attorney's Office
City Hall
300 Loraine St., Suite 320
Midland, Texas 79701

With Copy To:

Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

D. Paragraph Headings. The paragraph headings inserted in this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement or any provisions hereof, or in any way affect the interpretation of this Agreement.

E. Binding Effect. This Agreement shall inure to the benefit of, and shall be legally binding upon, the parties hereto and their respective heirs, successors, assigns and legal representatives.

F. Findings Incorporated. The recitals are hereby incorporated into the body of this Agreement for all rights and purposes, and shall be considered part of the mutual covenants, consideration and promises that bind the parties in the same manner as the material terms and provisions hereof.

G. Waiver of Attorney Fees. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC REGARDING THE AWARD OF ATTORNEY FEES THAT IS IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS AGREEMENT. COMPANY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), THAT COMPANY AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH IT MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. COMPANY ACKNOWLEDGES THAT COMPANY UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN COMPANY AND MDC. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY ACKNOWLEDGES THAT COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

H. Amendment. This Agreement may only be amended by written instrument executed by both parties expressly stating the intention to amend this Agreement. No amendment shall be effective unless approved by the Midland City Council.

I. Release. COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT

CLAIMS, MDC'S NEGLIGENCE, OR RELATING TO ANY FAA RULE OR REGULATION AND THE ENFORCEMENT OF THE SAME.

- J. Consideration.** MDC and Company hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties.
- K. Governmental Immunity.** By executing this Agreement, MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- L. Governmental Function.** **MDC AND COMPANY HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS AGREEMENT, COMPANY RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND COMPANY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.**
- M. No Disparity of Bargaining Position.** MDC and Company agree that there was no disparity of bargaining power between the parties in the negotiation and execution of this Agreement. MDC and Company acknowledge and agree that they were represented by legal counsel. MDC and Company acknowledge and agree that they read and understood the entire Agreement prior to its execution. MDC and Company acknowledge and agree that there were numerous compromises and concessions made by the parties resulting in the agreed-upon terms of this Agreement.
- N. Notice of Alleged Breach; Statutory Prerequisites.** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Company or its legal representatives shall give the MDC Chairman notice in writing (consisting of one (1) original and two (2) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Company relies to establish its claims. Failure to so notify the

MDC Chairman within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Company that Company's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Texas law. Notwithstanding any other provision, Company's failure to comply with the requirements herein shall perpetually bar Company's claim for damages regardless if MDC has actual or constructive notice or knowledge of said claim or alleged damages. Company agrees that the requirements of this Section are reasonable.

O. Approval Required. This Agreement shall not become effective until approved by the Midland City Council.

P. Decision for Expansion. Company had many options to expand its present operations within the United States, and Company specifically chose to expand to property located in the corporate limits of the City of Midland due to the commercial and community advantages offered in Midland, Texas.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS AGREEMENT.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, MDC and Company have executed this Agreement as of the Effective Date.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

AST & SCIENCE, LLC, a Delaware
limited liability company

Abel Avellan, Chairman and CEO

THE STATE OF _____ §

§

COUNTY OF _____ §

BEFORE ME, _____, a notary public, on this day personally appeared Abel Avellan, Chairman and CEO of AST & Science, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2025.

Notary Public, in and for
the State of _____

Exhibit A

Commercial Lease Agreement

Exhibit "A"

COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.

1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“*Rent*”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

**ARTICLE 9.
UTILITIES**

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

**ARTICLE 10.
SIGNS**

10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 **Default by Lessee:** The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 **Abandonment of the Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

**ARTICLE 14.
TERMINATION**

14.01 **Discretionary Termination:** MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 **Automatic Termination:** Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 **Termination; Accelerated Rent:** Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

15.03 Resumption of Rent Abatement Period: If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.

15.04 Grace Period and Post Grace Period Rent Obligations: Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee’s tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee’s use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, “Permits”) required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC: Executive Director
Midland Development Corporation
200 North
Loraine Street,
Suite 610
Midland, Texas 79701

With Copy To: City Manager
P. O. Box 1152
300 North Loraine
Midland, Texas 79702

If to Lessee: AST & Science, LLC
ATTN: Shanti Gupta, Chief Operating Officer
ATTN: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To: Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.

17.24 WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ____ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Leased Premises



FLOOR PLAN
SCALE 1/8"=1'-0"

Exhibit A

Leased Space

Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.

2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.

3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.

4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____

AST Lease Agreement

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A COMMERCIAL LEASE AGREEMENT WITH AST & SCIENCE, LLC, REGARDING A PORTION OF THAT CERTAIN FACILITY LOCATED ON LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS, AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT

WHEREAS, the Board of Directors finds it to be in the public interest to authorize the execution of a commercial lease agreement with AST & Science, LLC, regarding a portion of that certain facility located on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, at the Midland International Air & Space Port;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MIDLAND DEVELOPMENT CORPORATION:

SECTION ONE. That the Chairman and Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the Midland Development Corporation, a commercial lease agreement with AST & Science, LLC, regarding a portion of that certain facility located on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, at the Midland International Air & Space Port. Said lease agreement being in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That the Executive Director of the Midland Development Corporation, or her designee, is hereby authorized and directed to administer all the Midland Development Corporation's obligations under said lease agreement, including the issuance of all written notices and confirmation due thereunder.

On motion of Director _____, seconded by Director _____, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the _____ day of _____, A.D., 2025, by the following vote:

Directors voting "AYE":

Directors voting "NAY":

P. LOURCEY SAMS,
Chairman of the Midland
Development Corporation

ATTEST:

ELVIE BROWN,
Secretary of the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

NICHOLAS TOULET,
Attorney for the Midland
Development Corporation

Exhibit "A"

COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.

1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“*Rent*”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

**ARTICLE 9.
UTILITIES**

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

**ARTICLE 10.
SIGNS**

10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 **Default by Lessee:** The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 **Abandonment of the Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

**ARTICLE 14.
TERMINATION**

14.01 **Discretionary Termination:** MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 **Automatic Termination:** Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 **Termination; Accelerated Rent:** Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

15.03 Resumption of Rent Abatement Period: If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.

15.04 Grace Period and Post Grace Period Rent Obligations: Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee’s tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee’s use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, “Permits”) required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC: Executive Director
 Midland Development Corporation
 200 North
 Loraine Street,
 Suite 610
 Midland, Texas 79701

With Copy To: City Manager
 P. O. Box 1152
 300 North Loraine
 Midland, Texas 79702

If to Lessee: AST & Science, LLC
 ATTN: Shanti Gupta, Chief Operating Officer
 ATTN: AST Legal
 2901 Enterprise Lane
 Midland, Texas 79706

With Copy To: Foley & Lardner LLP
 2 South Biscayne Blvd, Suite 1900
 Miami, FL 33131
 Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.

17.24 WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ____ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Leased Premises

Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.

2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.

3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.

4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____

Income Statement

MIDLAND DEVELOPMENT CORPORATION
INCOME STATEMENT FOR THE 5 MONTHS ENDED
February 28, 2025

	Feb-25	YTD	Budgeted Amount
Revenue	\$1,787,466.40	\$5,125,748.81	\$14,976,644.00
40100 - State Sales Tax	\$1,662,116.28	\$4,420,044.48	\$14,000,000.00
40600 - Public ROW Use Fees	\$0.00	\$0.00	\$0.00
43000 - Interest	\$0.00	\$109,500.00	\$0.00
43010 - Interest - Nonpooled Invest	\$43,963.12	\$182,736.60	\$0.00
47005 - Government Contributions	\$0.00	\$0.00	\$0.00
46190 - Miscellaneous Rentals	\$81,387.00	\$406,935.00	\$976,644.00
48480 - Reimbursement of Budget Exp	\$0.00	\$6,532.73	\$0.00
49112 - Incr/Decr In Fair Value of Inv	\$0.00	\$0.00	\$0.00
4235150 - Midland Dvlpmt Corp Revenue	\$1,787,466.40	\$5,125,748.81	\$14,976,644.00

Expense	\$443,373.66	\$6,014,701.42	\$14,976,644.00
51010 - Base Salary	\$28,771.24	\$159,153.73	\$408,238.00
51090 - Fica MDC Portion	\$2,212.72	\$11,334.51	\$32,976.00
51110 - Health Insurance	\$2,417.48	\$14,041.41	\$41,100.00
51135 - ACCE Profit Sharing	\$0.00	\$6,254.02	\$26,127.00
52010 - Office Supplies	\$340.72	\$3,865.10	\$6,500.00
52110 - Motor Vehicle Supplies	\$23.00	\$459.26	\$1,000.00
52115 - Minor Furniture & Fixtures	\$0.00	\$0.00	\$2,000.00
52155 - Minor Computer Hrdwre & Periph	\$0.00	\$3,089.47	\$5,000.00
52160 - Computer Software & Supplies	\$0.00	\$17,215.10	\$40,000.00
52620 - Postage	\$0.00	\$204.51	\$700.00
53010 - Communication	\$1,105.13	\$5,837.16	\$17,000.00
53030 - Light & Power	\$0.00	\$30.01	\$150.00
53110 - Insurance-External	\$518.96	\$781.09	\$150,000.00
53212 - Equipment Rental-External	\$334.98	\$1,339.92	\$5,000.00
53220 - Advertising	\$34,802.15	\$152,050.16	\$300,000.00
53370 - Grounds Maintenance	\$2,635.00	\$10,844.05	\$50,000.00
53405 - Software Maintenance	\$3,555.48	\$8,888.70	\$20,000.00
53440 - External Audit Fees	\$0.00	\$3,526.70	\$45,000.00
53450 - Consulting Fees	\$4,427.00	\$150,559.49	\$500,000.00
53510 - Travel & Entertainment	\$1,738.29	\$10,337.01	\$15,000.00
53520 - Dues & Subscriptions	\$1,714.39	\$10,975.48	\$20,000.00
53530 - Training,Registration Fees,Etc	\$79.00	\$237.00	\$10,000.00
53905 - Economic Development Incentive	\$0.00	\$0.00	\$6,246,827.00
53907 - Business Recruitment & Retentn	\$13,491.62	\$76,523.51	\$120,000.00
53909 - Prior Year Committed Incentives	\$287,001.11	\$3,319,965.08	\$4,251,988.00
53920 - Rent	\$6,107.71	\$30,538.55	\$71,466.00
54010 - Building Maintenance	\$9,400.13	\$87,493.63	\$125,000.00
55120 - Maint. - Instruments & Appara.	\$148.33	\$3,464.38	\$2,000.00
56188 - MOTRAN	\$0.00	\$71,250.00	\$142,500.00
56202 - General Fund Services	\$35,617.67	\$178,088.35	\$427,412.00
56410 - Payment of Principal	\$0.00	\$0.00	\$70,605.00
56420 - Interest Expense	\$0.00	\$0.00	\$6,595.00
56910 - Depreciation Expense	\$0.00	\$0.00	\$416,460.00
56995 - Project Non Capital - Promotions	\$6,931.55	\$61,797.31	\$1,400,000.00
57000 - Capital Land Purchases	\$0.00	\$1,584,556.73	\$0.00
57002 - Capital Improvements Other Than Buildings	\$0.00	\$30,000.00	\$0.00
235235 - Midland Development Corp	\$443,373.66	\$6,014,701.42	\$14,976,644.00

February 2025 Net Income: \$1,344,092.74

Year-to-Date Net Income: (\$888,952.61)

Balance Sheet

MIDLAND DEVELOPMENT CORPORATION
BALANCE SHEET FOR THE PERIOD ENDED
February 28, 2025
(Used for Internal Purposes Only)

ASSETS

Current Assets

Cash and cash equivalents	36,004,555	
Investments	5,961,285	
Sales tax receivable	-	
Prepaid expenses	134,721	
Accounts receivable	83,500	
	42,184,061	

Non-Current Assets

Capital Assets, net	26,432,611	
Forgivable Loans		
Made to Primary Government	-	
Made to Other	6,579	
Total Forgivable Loans	6,579	
		26,439,190

Total Assets \$ 68,623,251

LIABILITIES AND NET POSITION

Liabilities

Accounts payable	184,417	
Retainage Payable	130,200	
Capital Leases payable	523,818	
Commitments payable		
Due within one year	7,895,554	
Due in more than one year	61,199,614	
Total Commitments Payable	69,095,168	
		69,933,603

Net Position

Net investment in capital assets	26,432,611	
Restricted for Forgivable Loans	6,579	
Restricted for Capital Leases	523,818	
Promotions	3,353,282	
Unrestricted	(31,626,643)	
		(1,310,352)

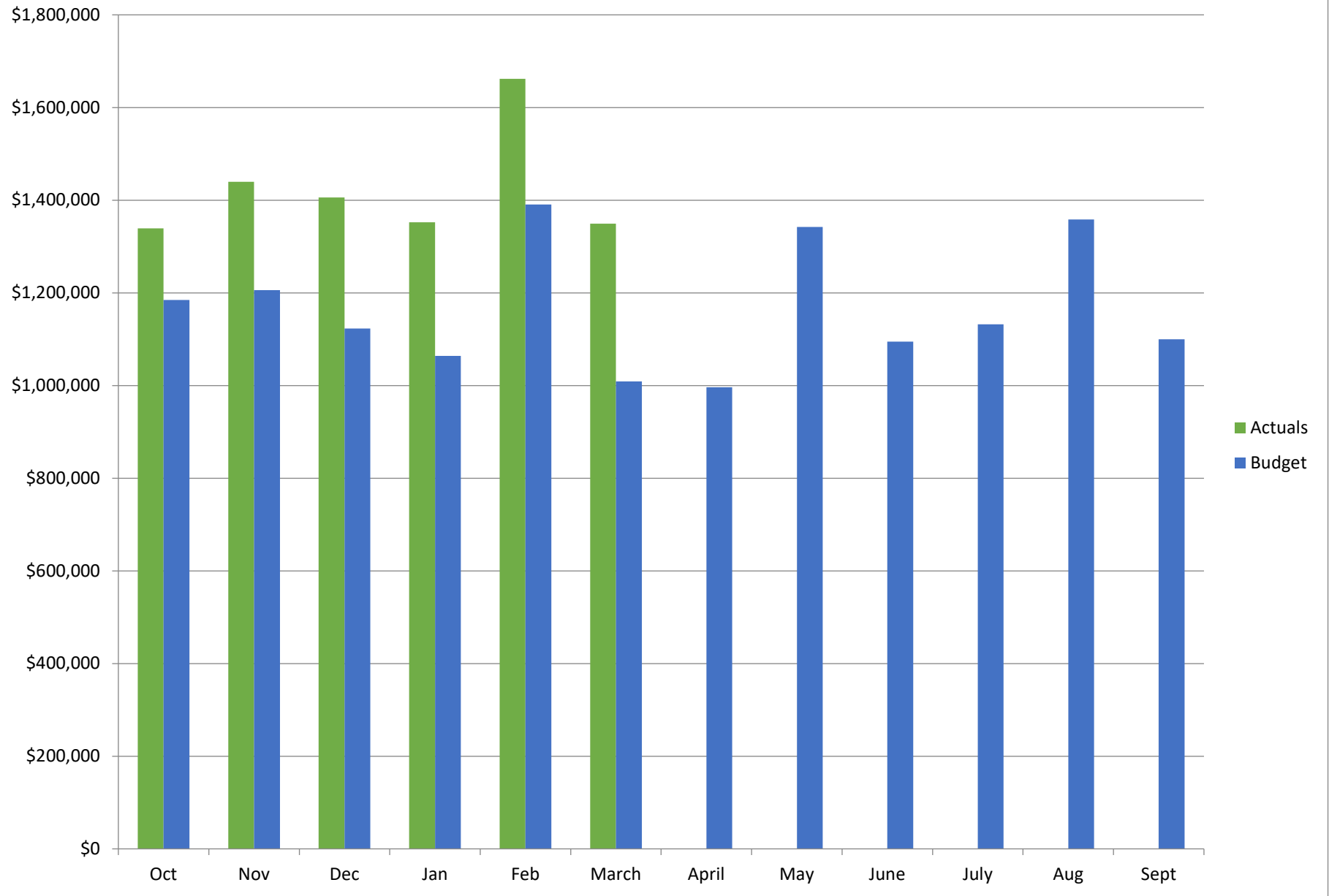
Total Liabilities and Net Position \$ 68,623,251

Sales Tax Revenue

Sales Tax Variance

	2022-2023	2023-2024	% Change	2023-2024	2024-2025	% Change	YTD Change
October	\$1,416,510.48	\$1,376,937.05	2.87%	\$1,376,937.05	\$1,339,067.34	-2.75%	-2.75%
November	\$1,364,595.51	\$1,526,083.42	-10.58%	\$1,526,083.42	\$1,439,817.92	-5.65%	-4.28%
December	\$1,380,834.52	\$1,363,408.12	1.28%	\$1,363,408.12	\$1,405,626.04	3.10%	-1.92%
January	\$1,358,336.22	\$1,290,650.15	5.24%	\$1,290,650.15	\$1,352,302.16	4.78%	-0.36%
February	\$1,649,985.00	\$1,673,418.77	-1.40%	\$1,673,418.77	\$1,662,116.28	-0.68%	-0.44%
March	\$1,344,612.50	\$1,191,145.36	12.88%	\$1,191,145.36	\$1,349,307.23	13.28%	1.50%
April	\$1,266,881.01	\$1,226,873.37	3.26%	\$1,226,873.37			
May	\$1,597,917.80	\$1,474,708.24	8.35%	\$1,474,708.24			
June	\$1,325,843.43	\$1,350,292.64	-1.81%	\$1,350,292.64			
July	\$1,395,392.32	\$1,404,616.05	-0.66%	\$1,404,616.05			
August	\$1,662,691.61	\$1,598,380.46	4.02%	\$1,598,380.46			
September	\$1,328,790.99	\$1,298,093.07	2.36%	\$1,298,093.07			
Annual Total	\$17,092,391.39	\$16,774,606.70	-1.86%	\$16,774,606.70	\$8,548,236.97		

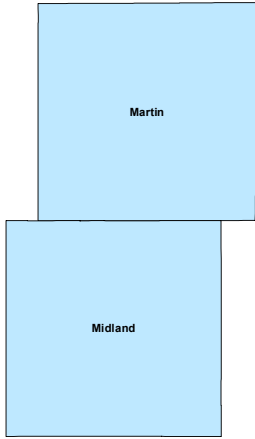
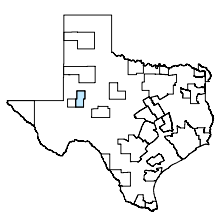
Sales Tax Actuals vs Budget Estimates



Activity Report

Midland MSA

February 2025

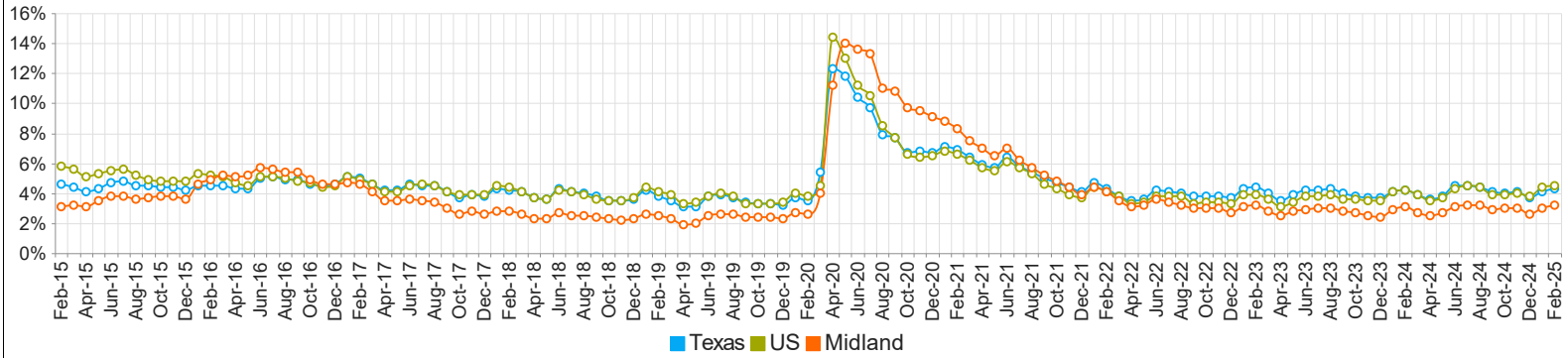


MSA Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	105,717	104,737	103,186	2,531
Employed	102,332	101,568	100,025	2,307
Unemployed	3,385	3,169	3,161	224
Unemployment Rate	3.2%	3.0%	3.1%	0.1%

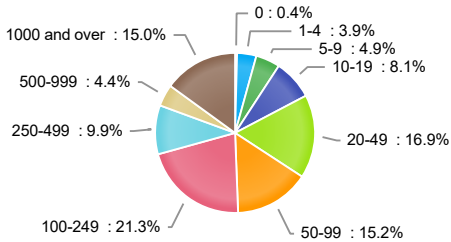
Texas Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	15,840,511	15,744,807	15,473,132	367,379
Employed	15,163,796	15,097,107	14,817,758	346,038
Unemployed	676,715	647,700	655,374	21,341
Unemployment Rate	4.3%	4.1%	4.2%	0.1%

US Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	170,116,000	169,814,000	167,285,000	2,831,000
Employed	162,544,000	162,347,000	160,315,000	2,229,000
Unemployed	7,572,000	7,467,000	6,970,000	602,000
Unemployment Rate	4.5%	4.4%	4.2%	0.3%

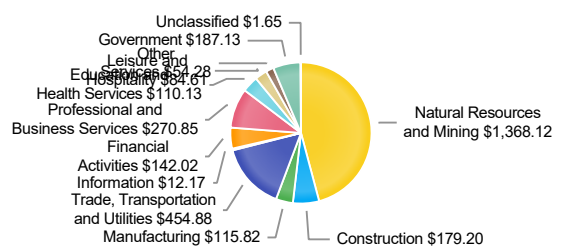
Historical Unemployment Rates



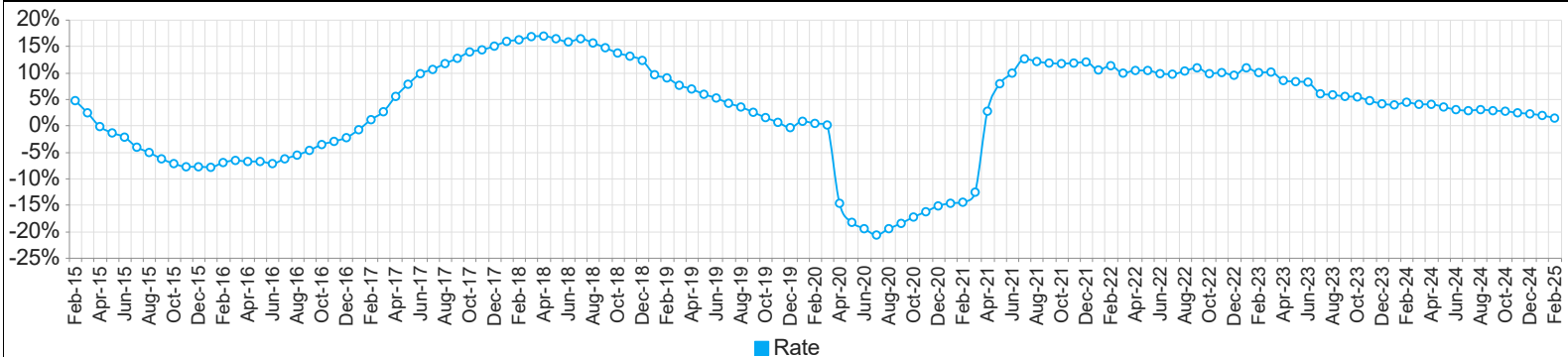
Employment by Size Class (3rd Quarter 2024)



Wages by Industry (in millions) (3rd Quarter 2024)



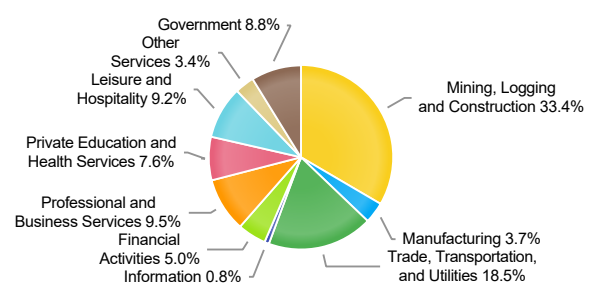
Annual Growth Rate Total Non-agricultural employment



Employment by Industry (February 2025)

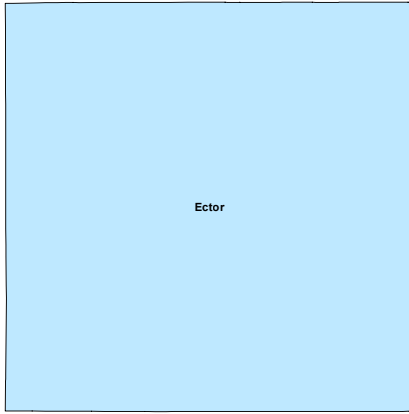
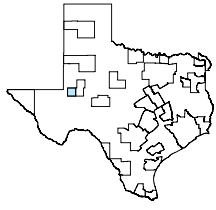
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	126,000	0.8%	1.4%
Mining, Logging and Construction	42,100	1.2%	0.0%
Manufacturing	4,700	0.0%	-2.1%
Trade, Transportation, and Utilities	23,300	0.0%	2.6%
Information	1,000	0.0%	11.1%
Financial Activities	6,300	0.0%	5.0%
Professional and Business Services	12,000	0.8%	2.6%
Private Education and Health Services	9,600	-1.0%	2.1%
Leisure and Hospitality	11,600	1.8%	1.8%
Other Services	4,300	0.0%	0.0%
Government	11,100	2.8%	1.8%

Employment by Industry (February 2025)



Odessa MSA

February 2025



Ector

MSA Labor Force Statistics

	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	87,900	87,272	85,767	2,133
Employed	84,529	84,064	82,661	1,868
Unemployed	3,371	3,208	3,106	265
Unemployment Rate	3.8%	3.7%	3.6%	0.2%

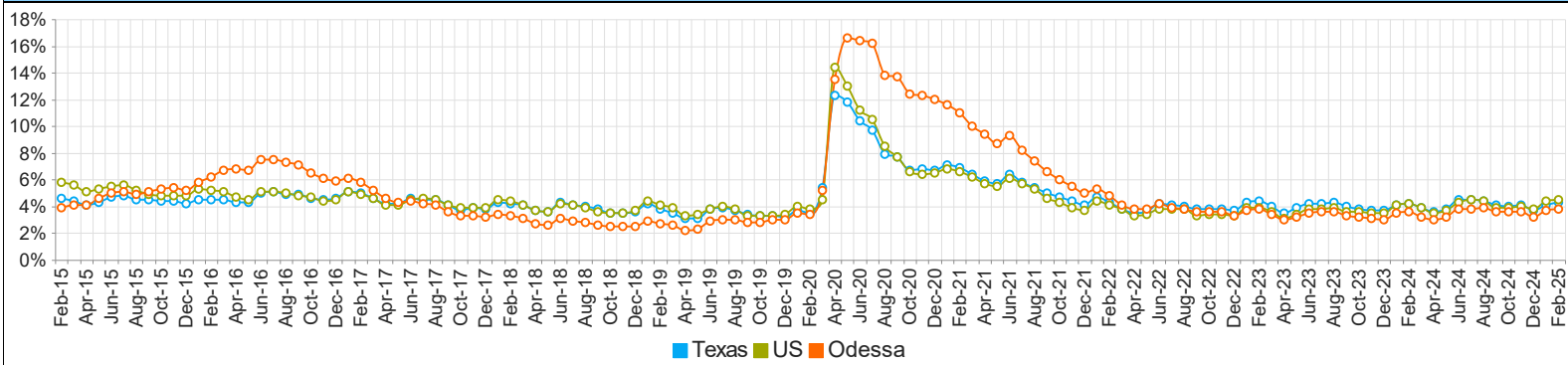
Texas Labor Force Statistics

	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	15,840,511	15,744,807	15,473,132	367,379
Employed	15,163,796	15,097,107	14,817,758	346,038
Unemployed	676,715	647,700	655,374	21,341
Unemployment Rate	4.3%	4.1%	4.2%	0.1%

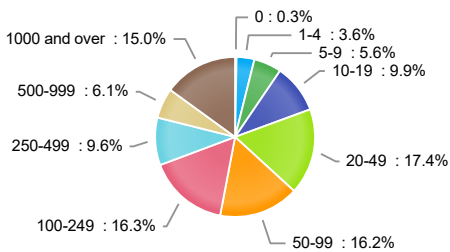
US Labor Force Statistics

	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	170,116,000	169,814,000	167,285,000	2,831,000
Employed	162,544,000	162,347,000	160,315,000	2,229,000
Unemployed	7,572,000	7,467,000	6,970,000	602,000
Unemployment Rate	4.5%	4.4%	4.2%	0.3%

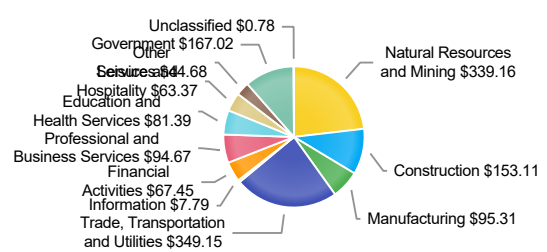
Historical Unemployment Rates



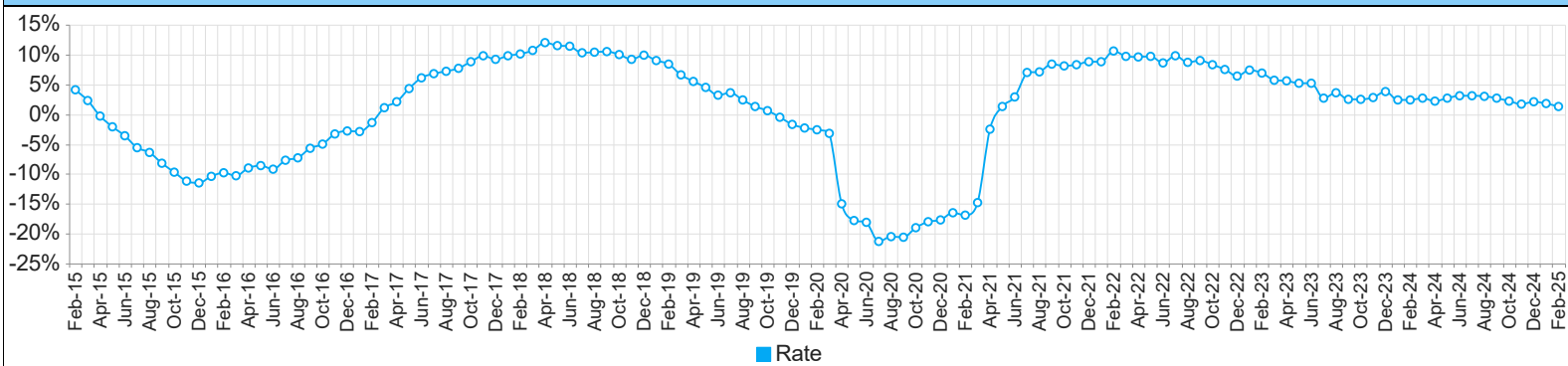
Employment by Size Class (3rd Quarter 2024)



Wages by Industry (in millions) (3rd Quarter 2024)



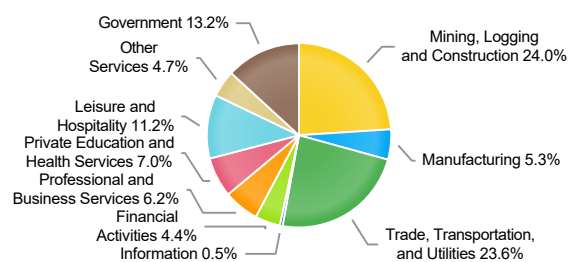
Annual Growth Rate Total Non-agricultural employment



Employment by Industry (February 2025)

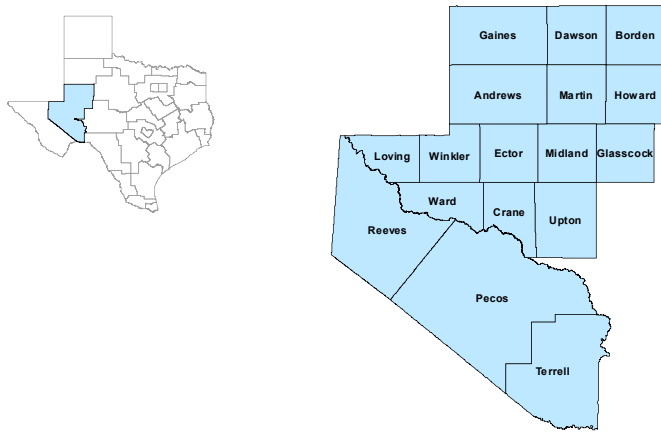
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	83,400	0.7%	1.3%
Mining, Logging and Construction	20,000	-1.0%	3.6%
Manufacturing	4,400	0.0%	4.8%
Trade, Transportation, and Utilities	19,700	1.0%	0.5%
Information	400	0.0%	0.0%
Financial Activities	3,700	0.0%	0.0%
Professional and Business Services	5,200	2.0%	0.0%
Private Education and Health Services	5,800	0.0%	3.6%
Leisure and Hospitality	9,300	1.1%	-2.1%
Other Services	3,900	0.0%	0.0%
Government	11,000	3.8%	0.9%

Employment by Industry (February 2025)



Permian Basin Workforce Development Area

February 2025



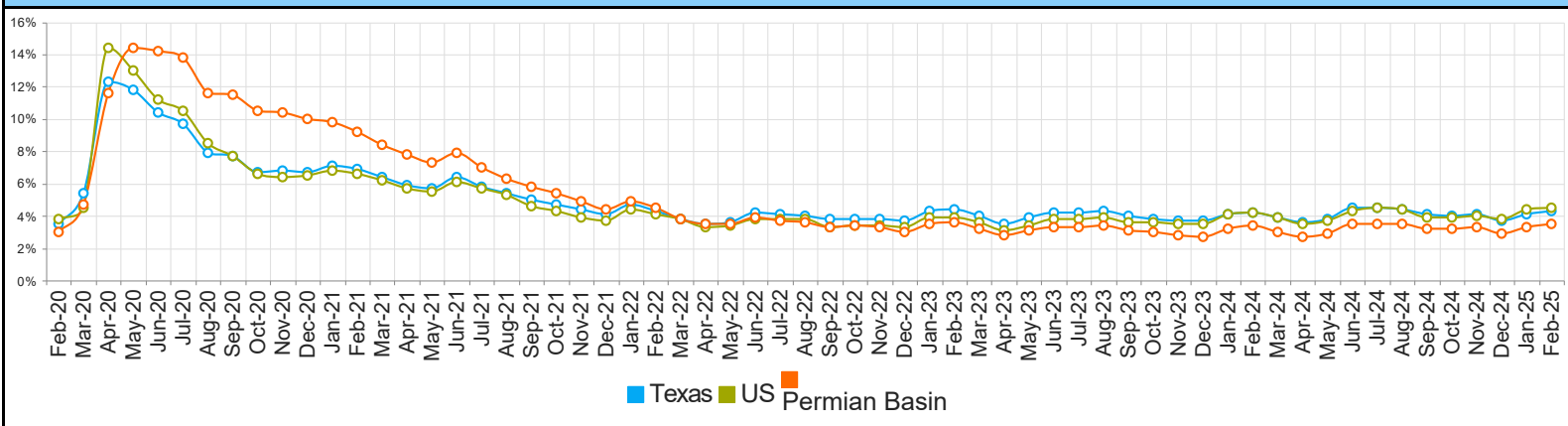
WDA Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	262,804	260,380	254,876	7,928
Employed	253,692	251,762	246,330	7,362
Unemployed	9,112	8,618	8,546	566
Unemployment Rate	3.5%	3.3%	3.4%	0.1%

Texas Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	15,840,511	15,744,807	15,473,132	367,379
Employed	15,163,796	15,097,107	14,817,758	346,038
Unemployed	676,715	647,700	655,374	21,341
Unemployment Rate	4.3%	4.1%	4.2%	0.1%

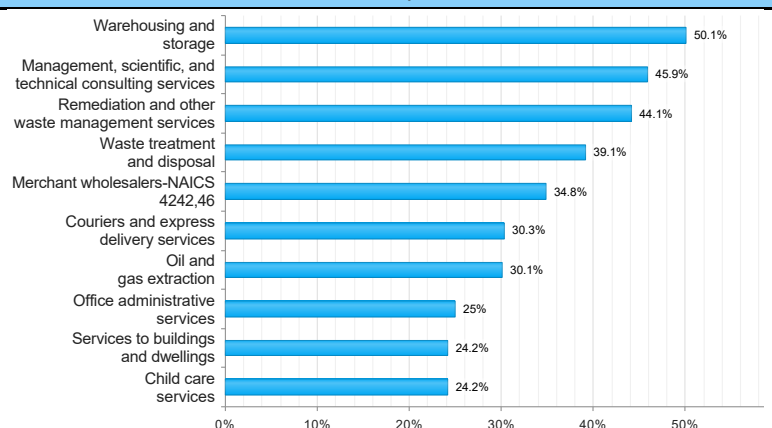
US Labor Force Statistics				
	Feb-25	Jan-25	Feb-24	Yearly Change
Civilian Labor Force	170,116,000	169,814,000	167,285,000	2,831,000
Employed	162,544,000	162,347,000	160,315,000	2,229,000
Unemployed	7,572,000	7,467,000	6,970,000	602,000
Unemployment Rate	4.5%	4.4%	4.2%	0.3%

Continued Claims for the Week of the 12th				
	Feb-25	Jan-25	Feb-24	Yearly Change
WDA	1,349	1,397	1,145	204
Texas	119,145	122,903	116,264	2,881

Historical Unemployment Rates



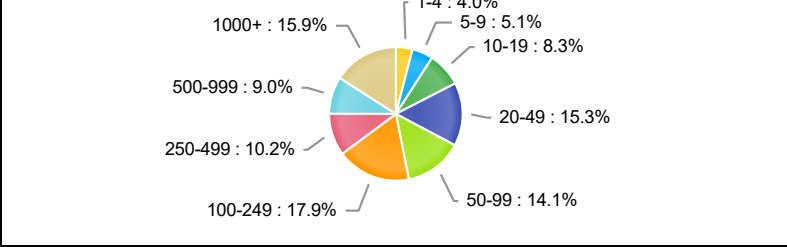
Projected Top Ten Fastest Growing Industries in WDA (% Growth 2022-2032)



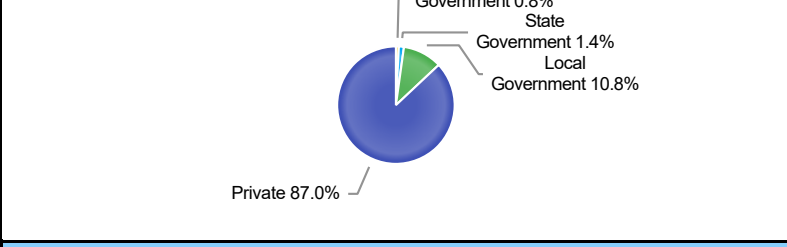
Average Weekly Wage (3rd Quarter 2024)

	Q3 2024	Q2 2024	Q3 2023	Quarterly Change	Yearly Change
WDA	\$1,627	\$1,532	\$1,504	\$95	\$123
Texas	\$1,396	\$1,381	\$1,335	\$15	\$61
US	\$1,394	\$1,390	\$1,334	\$4	\$60

Employment by Size Class (3rd Quarter 2024)



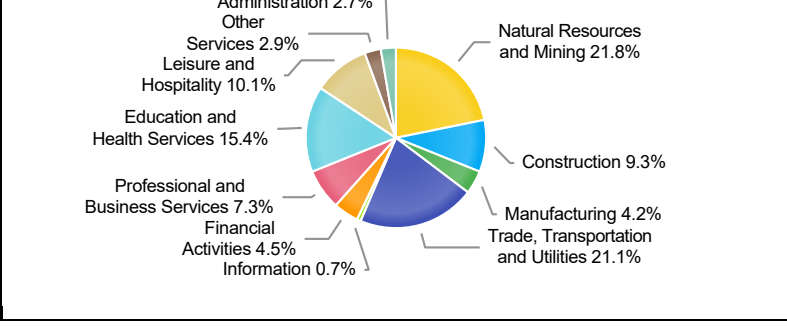
Employment by Ownership (3rd Quarter 2024)



Employment by Industry (3rd Quarter 2024, Percent Change)

Industry	Employment	% of Total	% Quarterly Change	% Yearly Change
Natural Resources and Mining	57,259	21.8%	-0.1%	1.7%
Construction	24,349	9.3%	3.8%	10.2%
Manufacturing	10,909	4.2%	-1.1%	3.5%
Trade, Transportation and Utilities	55,512	21.1%	0.4%	2.4%
Information	1,923	0.7%	10.5%	-4.1%
Financial Activities	11,859	4.5%	0.8%	5.0%
Professional and Business Services	19,170	7.3%	-0.5%	2.8%
Education and Health Services	40,416	15.4%	-1.9%	2.7%
Leisure and Hospitality	26,561	10.1%	-1.2%	0.0%
Other Services	7,671	2.9%	-0.7%	-0.4%
Public Administration	7,174	2.7%	1.4%	3.0%

Employment by Industry (3rd Quarter 2024)



RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN ECONOMIC DEVELOPMENT AGREEMENT
WITH AST & SCIENCE, LLC**

WHEREAS, the Board of Directors finds it to be in the public interest to authorize the execution of an economic development agreement with AST & Science, LLC;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MIDLAND DEVELOPMENT CORPORATION:

SECTION ONE. That the Chairman and Secretary are hereby authorized to execute and attest, respectively, on behalf of the Midland Development Corporation, an economic development agreement with AST & Science, LLC. Said agreement being in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That the Executive Director of the Midland Development Corporation, or her designee, is hereby authorized and directed to administer all the Midland Development Corporation's obligations under said agreement, including the issuance of all written notices and confirmations due thereunder.

On motion of Director _____, seconded by Director _____, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the _____ day of _____, A.D., 2025, by the following vote:

Directors voting "AYE":

Directors voting "NAY":

P. LOURCEY SAMS,
Chairman of the Midland
Development Corporation

ATTEST:

ELVIE BROWN,
Secretary of the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

NICHOLAS TOULET,
Attorney for the Midland
Development Corporation

**COMMERCIAL LEASE AGREEMENT
BETWEEN THE MIDLAND DEVELOPMENT
CORPORATION AND AST & SCIENCE, LLC**

THIS COMMERCIAL LEASE AGREEMENT (“*Lease*”) is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION (“*MDC*” or “*Landlord*”), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas (“*Lessee*”).

RECITALS

WHEREAS, the City of Midland, Texas (“*City*”), owns and operates Midland International Air & Space Port (the “*Airport*”) and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the “*Facility*”) that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the “*MACC*”) is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the “*Economic Development Agreement*”), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord’s Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord’s Telephone: 432-686-3579

Lessee’s Proportionate Share of the Leased Premises: 100%

Lessee’s Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.

1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“*Rent*”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

**ARTICLE 9.
UTILITIES**

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

**ARTICLE 10.
SIGNS**

10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 **Default by Lessee:** The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 **Abandonment of the Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

**ARTICLE 14.
TERMINATION**

14.01 **Discretionary Termination:** MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 **Automatic Termination:** Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 **Termination; Accelerated Rent:** Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

15.03 Resumption of Rent Abatement Period: If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.

15.04 Grace Period and Post Grace Period Rent Obligations: Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee’s tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee’s use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, “Permits”) required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC: Executive Director
Midland Development Corporation
200 North
Loraine Street,
Suite 610
Midland, Texas 79701

With Copy To: City Manager
P. O. Box 1152
300 North Loraine
Midland, Texas 79702

If to Lessee: AST & Science, LLC
ATTN: Shanti Gupta, Chief Operating Officer
ATTN: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To: Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.

17.24 WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ___ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Leased Premises



FLOOR PLAN
SCALE 1/8"=1'-0"

Exhibit A

Leased Space

Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.

2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.

3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.

4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____

Exhibit "A"

ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the MIDLAND DEVELOPMENT CORPORATION (“MDC”), a Type A corporation pursuant to Chapter 504 of the Texas Local Government Code, as amended, and AST & SCIENCE, LLC, a Delaware limited liability company (“Company”).

I.

Recitals

- A. Company is currently headquartered at the office and hangar facility located at 2901 Enterprise Lane, Midland, Texas 79706, and is in the business of building the first and only cellular broadband network in space designed to be accessible directly by smartphones for commercial use, and other applications for government use utilizing its extensive intellectual property and patent portfolio.
- B. MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from the City of Midland, Texas (the “City”).
- C. MDC has constructed a single facility on said real property that houses office space, testing and fabrication rooms, and the Midland Altitude Chamber Complex.
- D. MDC and Company desire to set forth the terms and conditions upon which incentives will be provided to Company as consideration for Company’s (i) expansion and occupation of certain portions of the facility referenced above, (ii) creation of primary jobs at the facility, and (iii) investment and maintenance of certain levels of Personal Property and Inventory (as defined herein) at the facility.
- E. MDC intends to lease portions of the facility to Company to provide for Company’s expansion of its operations to include the establishment of a radio frequency lab and communications testing activities therein.
- F. Company will exercise commercially reasonable efforts to employ Midland, Texas residents and to advertise the availability of job openings in Midland, Texas. Additionally, when it is not possible to hire city of Midland, Texas residents, Company will exercise commercially reasonable efforts to recruit new residents to live within the city limits of Midland, Texas and to advertise the availability of job openings in the city limits of Midland, Texas.
- G. Company anticipates creating and maintaining fifty (50) Full-Time Jobs (as defined herein) at the facility by March 31, 2028.

- H. In addition to creating and maintaining said Full-Time Jobs, Company anticipates that it will provide for and maintain an average of \$3,000,000.00 in Personal Property and Inventory at the Facility (as hereinafter defined) during the term of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MDC and Company hereby agree as follows:

II. Definitions

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

- A. “*Affiliate*” Affiliate shall mean any entity controlling, controlled by, or under common control with AST & Science, LLC.
- B. “*Business*” means Company’s commercial operations at the Facility (as defined herein) relating to Company’s establishment of a radio frequency lab and communications testing activities.
- C. “*Business Day*” Business Day shall mean each day, Monday through Friday, except to the extent any day is a holiday recognized by the federal government of the United States or a state holiday recognized by the State of Texas.
- D. “*Effective Date*” means April 22, 2025.
- E. “*Facility*” means the single facility located at 2908 Enterprise Lane, Midland, Texas 79706 that houses office space and testing and fabrication rooms. The term “*Facility*” shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the Midland Altitude Chamber Complex is housed and operated.
- F. “*Determination Period*” means a twelve (12) month period commencing on April 1st and ending on March 31st. It being agreed that the first Determination Period shall be April 1, 2026.
- G. “*Full-Time Job*” means a position of employment that requires an individual (i) work 1,820 hours per year, including allowance for vacation, sick leave, earned time off, or other of Company’s policies and practices and (ii) spend a substantial amount of his or her time performing job duties at the Facility.
- H. “*Personal Property and Inventory*” means personal property and inventory purchased by and/or caused to be made by Company or its Affiliates at the Facility or the Midland Spaceport Business Park that appear on the certified tax rolls of the Midland Central Appraisal District.

- I. “*Previously Executed Agreements*” means those certain existing agreements between the parties consisting of: (i) that Economic Development Agreement dated November 21, 2018, as amended, concerning the relocation of Company’s headquarters from Miami, Florida, to its current headquarters location at the Midland Spaceport Business Park; and (ii) that Sublease Agreement dated November 13, 2018, as amended, concerning Company’s sublease of the office and hangar facility located at 2907 Enterprise Lane, Midland, Texas, from MDC.

III. Previously Executed Agreements

The parties acknowledge the existence and validity of the Previously Executed Agreements. Notwithstanding any contrary provision contained herein, this Agreement shall not affect, alter, or modify the Previously Executed Agreements or the parties’ respective obligations contained therein; provided, however, that Company’s satisfaction of any obligation contained in this Agreement may be achieved by Company’s performance under the Previously Executed Agreements. Specifically, Company’s obligations as to the creation and investment in Full-Time Jobs and Personal Property and Inventory under this Agreement may be satisfied through the creation of Full-Time Jobs and investment in Personal Property and Inventory under the Previously Executed Agreements, subject to Company’s compliance (subject to applicable notice and cure periods) with the Previously Executed Agreements. For the avoidance of doubt, so long as the Company creates the applicable number of Full-Time Jobs in the City of Midland, Texas, in accordance with the schedule contained in Section IV.B, Company shall be deemed to be in compliance under this Agreement with respect to such obligation and the Previously Executed Agreements with respect to such job creation.

IV. Obligations of the Company

- A. **Personal Property and Inventory Investment Obligation.** Company shall invest in and maintain during the term of this Agreement, an average of \$3,000,000.00 in Personal Property and Inventory at the Facility. Company’s Personal Property and Inventory investment obligation shall be evidenced by tax statements issued by the Midland Central Appraisal District, which shall be provided to MDC no later than the date on which the annual compliance certificate is required to be delivered hereunder for each year during the term of this Agreement for which a Determination Period is applicable. The value of the Personal Property and Inventory shall be determined in accordance with the tax statements issued by the Midland Central Appraisal District. Company shall maintain its investment in the Personal Property and Inventory in accordance with the terms of this Agreement for the duration of the term of this Agreement. The required average of the Personal Property and Inventory shall be tested at the end of a Determination Period.
- B. **Full-Time Jobs Obligation.** Company shall create and maintain cumulative new Full-Time Jobs in accordance with the following schedule:
 1. Twenty-Five (25) Full-Time Jobs as of March 31, 2026.

2. Forty (40) Full-Time Jobs as of March 31, 2027.
3. Fifty (50) Full-Time Jobs as of March 31, 2028.

Company shall maintain said Full-Time Jobs for the duration of the term of this Agreement as such may be extended in accordance with Section VIII below.

C. **Quarterly Compliance Certifications.** Beginning for the calendar quarter ending July 31, 2025, and for every quarter thereafter during the term of this Agreement, Company shall certify to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained as of the last day of the quarter; and
2. The total amount of Personal Property and Inventory investment made at the Facility as of the last day of the quarter.

Said quarterly compliance certifications shall be due to MDC no later than forty-five (45) days following the end of each quarter.

D. **Annual Compliance Certifications.** Beginning for the time period spanning April 1, 2025, to March 31, 2026, and every subsequent time period thereafter (April 1 to March 31 of the following year, each a “*Compliance Year*”) during the term of this Agreement, Company shall submit a compliance certification (“*Annual Certification*”) to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained during the Compliance Year; and
2. The total amount of Personal Property and Inventory investment made at the Facility during the Compliance Year.

Every Annual Certification shall be accompanied by a separate certification completed by a duly licensed accountant stipulating that (i) the information contained in the Annual Certification is true and correct, and (ii) the information contained in the Annual Certification was derived using Generally Accepted Accounting Principles. Company shall submit every Annual Certification within sixty (60) days from the end of every Compliance Year.

V. Obligation of the MDC

MDC agrees to lease certain portions of the Facility to Company for the purpose of Company conducting its Business thereon and in accordance with the terms and conditions of the Commercial Lease Agreement (the “*Lease*”), the form of which is attached hereto as Exhibit A and incorporated herein for all purposes. MDC’s lease of such portions of the Facility to Company

shall be conditioned on Company's strict compliance and fulfillment of all obligations contained in this Agreement and in the Lease, subject to applicable notice and cure periods.

**VI.
MDC's Remedies Upon Default**

The parties agree that if Company defaults under this Agreement, MDC shall be entitled, in addition to any other remedy to which it may be available at law or in equity, to those remedies specifically provided for and enumerated in the Lease. MDC shall have all rights and remedies set forth in the Lease and all rights and remedies that MDC has by law.

**VII.
Cure Period**

In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in the Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in this Agreement or the Lease.

**VIII.
Term**

The term of this Agreement shall be coterminous with the term of the Lease. For the avoidance of doubt, a termination of the Lease shall be an automatic termination of this Agreement and any extension under the Lease shall automatically extend the term under this Agreement.

**IX.
Applicable Statutes, Rules, and Regulations**

The parties acknowledge that the real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, and its owner, the City of Midland, are subject to the Airport and Airway Improvement Act of 1982, as amended and recodified at 49 U.S.C. 47107(a)(1), as well as the Federal Aviation Administration's Airport Improvement Program. The parties further acknowledge that the City is generally required to make said real property available to users that participate in aeronautical activities and that the City is prohibited from causing or permitting any activity that would interfere with use of said real property for aeronautical purposes. MDC has fully and completely disclosed the requirements referenced herein to Company. Company has satisfied itself of said requirements and warrants that it is entering into this Agreement subject to said requirements. MDC has made no warranty or representation that Company's intended use of the Facility will be compliant with the requirements referenced in this Section. Company hereby represents and warrants that its use of the Facility complies with said requirement.

Notwithstanding any other provision contained in this Agreement, the parties agree that if the Federal Aviation Administration (the “FAA”) determines that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, that upon either party’s notice of such determination, this Agreement shall automatically terminate in its entirety and be of no further force or effect. Said automatic termination shall occur without penalty to either party, except as provided for below. In the event of such automatic termination, the parties shall be fully discharged of any and all obligations due hereunder.

Company acknowledges that this Agreement is made subject to the above-referenced statutes, rules, and regulations. MDC has not provided Company with any warranties as to the Facility, the real property on which the Facility is located, or the applicable statutes, rules, or regulations referenced herein. Company acknowledges that MDC has not warranted (i) the Facility for any particular use, or (ii) Company’s quiet enjoyment of the Facility with regards to the provisions contained in this Section. Company acknowledges that the FAA may determine that Company’s possession of the Facility does not constitute an aeronautical purpose. Company agrees to hold MDC and the City harmless if the FAA makes such a determination.

Notwithstanding any other provision contained in this Agreement, if Company creates any condition that does not conform to the purpose of establishing Company’s Business at the Facility, and said condition causes the FAA to determine that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, and Company has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Agreement shall terminate and all rent payments contemplated by the Lease shall, at MDC’s option, thereupon immediately become due and payable to MDC (in accordance with the accelerated rent provisions of Section 14.03 of the Lease). Company shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Agreement, the Lease, or by law MDC elects to pursue.

X. Special Conditions

- A. **No Financial Commitment.** Notwithstanding any other provision hereof that may be interpreted otherwise, MDC’s obligations due hereunder shall not consist of any financial commitment or payments whatsoever. MDC’s only obligation under this Agreement is encompassed in Section V and Company agrees that MDC shall not provide any financial consideration to Company under this Agreement.

- B. **Certifications.** Company agrees to the following certification requirements:
 - 1. As to the certifications required in Section IV.C.1 and Section IV.D.1, subject to securities obligations applicable to public companies, the Company shall provide reasonable evidence or supporting documentation. Documentation for employment numbers may be in the form of Texas Workforce Commission Employer Quarterly Reports, or certified employee rosters that show the hours worked and positions filled,

or such other reports as may be agreed upon by MDC and Company. Upon request, MDC may review Company's Texas Workforce Commission Employer Quarterly Reports in Midland, Texas, but may not copy or retain a copy of said reports.

2. Company shall allow MDC reasonable access to the Facility for purposes of determining Company's compliance with the employment certifications given by Company, provided that such access shall be (i) with prior written notice; (ii) accompanied by representatives of Company; and (iii) during normal business hours; provided, further, such access shall not unreasonably interfere or hinder the Company's Business operations.
3. When requested in writing by MDC to do so, Company will provide a notarized statement in a form acceptable to MDC that, to Company's knowledge, Company is in compliance with each applicable material term of this Agreement.
4. All certifications required under this Agreement shall be signed and sworn to by Company's chief executive officer and chief financial officer before a notary and shall contain an appropriate jurat and a statement that the information contained in the certification is true and correct. E-mail shall not be an acceptable form of certification under this Agreement.
5. Company shall maintain, during the term of this Agreement and for a period of three (3) years following expiration of the term, all records necessary to confirm that the Company is capable of meeting its obligations under this Agreement and that the Company has met its obligations under this Agreement relating to the Full-Time Jobs obligation and Personal Property and Inventory obligation, including such records maintained by a parent company, affiliates, subsidiaries or other related parties, and including (as appropriate): (i) all payroll records and daily time sheets and other records of personnel utilization on work activities at the Facility (including records on an hourly basis for personnel); (ii) invoices for materials and equipment; (iii) drawings, specifications, schedules, instructions, receipts; and (iv) agreements, subcontracts and purchase orders relating to the Personal Property and Inventory obligation. Upon reasonable advance-written notice, Company shall, subject to confidentiality and privacy obligations, make all such documents available to MDC for inspection, audit and copying, regardless of whether a dispute is then pending between the parties. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Company shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents.

C. **Covenants.** Company makes the following covenants to MDC and agrees that in the event of failure of Company to comply with such covenants, the breach of any one of which, subject to applicable notice and cure periods hereunder, shall constitute an event of default, MDC may terminate this Agreement, at its sole and absolute discretion:

1. Company is a legal entity duly organized, validly existing and in good standing and is duly authorized to do business in the State of Texas.
2. The execution of this Agreement has been duly authorized by Company's board of directors or other governing body, or by officers empowered to execute such agreements and bind Company, and is not in contravention of the provisions of Company's articles of incorporation or bylaws, or to the Company's knowledge, of any agreement or instrument to which Company is a party to or by which they may be bound, the breach of which would have a material, adverse effect on Company and its operations.
3. There are no bankruptcy proceedings currently pending by or, to Company's knowledge, against Company.
4. To Company's knowledge, as of the Effective Date, none of Company's collateral provided under the Lease is subject to any material lien, security interest or other encumbrance, except for liens reflected in writing and furnished to MDC prior to the Effective Date.
5. To Company's knowledge, no certificate or statement delivered or to be delivered by Company to MDC under this Agreement or in connection with any transaction contemplated hereby contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading in any material respect by reason of any omission.

D. **Suspension.** MDC, under the following circumstances and at its sole discretion, may terminate this Agreement:

1. The insolvency of Company. "*Insolvency*" shall have the meaning set forth in federal bankruptcy law.
2. The appointment of a receiver of Company, or of all or any substantial part of their property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
3. The adjudication of Company as bankrupt, the filing by Company of a petition to be adjudged bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against Company in any bankruptcy or reorganization proceeding.

E. **Additional Covenants.** If Company should fail to comply with any of the following provisions, and such failure continues for thirty (30) days following written notice to Company (each, an event of default), MDC may terminate this Agreement.

1. Company, or any affiliate of, or successor to Company, shall continue its fulltime commercial operations in accordance with Company's obligations set forth in this Agreement at the Facility at all times during the term of this Agreement.
 2. Company shall pay, or cause to be paid, before delinquent all ad valorem taxes assessed against Company's property owed to the taxing authorities having jurisdiction, as may be set forth in the Lease. In addition, Company will pay before delinquent all employment, income, franchise and all other taxes to all local, state and federal entities.
 3. Company shall, on a yearly basis during the term of this Agreement, provide MDC with tax certificates from Midland Central Appraisal District demonstrating that all taxes on Company's property, including those assessed as to the Personal Property Inventory have been paid in full to the current tax year.
 4. Company shall obtain and maintain all necessary rights, licenses, and permits to carry on the Business.
 5. Company agrees that, as to all of the programs and activities arising out of this Agreement, it shall comply in all material respects with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, religion, age, sex or by reason of being disabled.
 6. Company agrees that it shall comply with Texas Government Code Section 2264.001 *et seq.*, as amended.
- F. **Interpretation of Terms & Obligations.** Notwithstanding any other provision contained herein to the contrary, the parties agree that if there is a dispute regarding whether a particular item falls within the definition of Full-Time Jobs or Personal Property and Inventory, MDC shall make such determination in its sole but good faith discretion and such determination shall be final and binding on Company.

XI. General Terms

- A. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements, excluding the Lease and the Previously Executed Agreements, between the parties relating to matters in this Agreement. Except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.
- B. **Legal Relationships.** The parties are not, and shall not be considered as, joint venturers, partners, or agents of each other and no party shall have the power to bind or obligate another, except as set forth in this Agreement. The parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency

between MDC and Company. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a community of pecuniary interest or an equal right of control that would give rise to vicarious liability.

- C. **No Third-Party Beneficiary.** The parties' approval of the Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity that is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.
- D. **Independent Contractor.** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Company shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Company. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Company shall be independent contractors under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractors hereunder. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.
- E. **Terminations.** This Agreement may be terminated by mutual agreement of the parties or by any party upon the failure of another party to fulfill an obligation as set forth herein if the default is not cured within the time periods set forth hereunder. This Agreement may also be terminated as specifically provided for in Section IX herein. A termination of this Agreement shall terminate the Lease. A termination of the Lease shall terminate this Agreement. A termination of this Agreement without liability to either party shall terminate the Lease without liability to either party. A termination of the Lease without liability to either party shall terminate this Agreement without liability to either party. Uncured defaults under either this Agreement or the Lease shall be deemed uncured defaults of the other agreement, and contractual and legal termination procedures shall apply to this Agreement and the Lease.
- F. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of the Agreement, and of the signature pages, by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic mail (i.e., .pdf) shall be deemed to be original signatures for any purpose(s) whatsoever.

- G. **Governing Law & Venue.** The laws of the State of Texas shall govern, construe, and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes, or any other action arising from, relating to, or concerning in any way this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.
- H. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. **Law.** This Agreement is subject to all applicable municipal, county, state and federal laws, regulations, orders and rules and Company agrees that it will comply in all material respects with all such applicable laws, regulations, orders and rules of the State of Texas and other such governmental agencies. As used in this Agreement, the phrase “applicable law” is deemed to include the foregoing.
- J. **Assignment.** This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by a party (other than by Company to one or more entities comprising Company’s Affiliated Group (as hereinafter defined)) without the prior written consent of the other party. “*Company’s Affiliated Group*” shall mean Company, the parent company of Company (AST SpaceMobile, Inc.) and all subsidiaries of Company or the parent company of Company (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Agreement and the Lease.

XII.

Miscellaneous

- A. **Certification Regarding Undocumented Workers:** Company certifies that it and its Affiliates do not and will not knowingly employ an Undocumented Worker, as defined below, during the term of this Agreement, “Undocumented Worker” shall mean an individual who, at any time during employment, is not (i) lawfully admitted for permanent residence to the United States or (ii) otherwise authorized under applicable law to be employed, on any basis or under any program in the United States. Company shall immediately notify MDC if (i) Company becomes aware of it or its Affiliate employs or has employed an Undocumented Worker, (ii) Company becomes aware or receives notice

that it or its Affiliated is alleged to have employed an Undocumented Worker, or (iii) Company or its Affiliate is convicted of a violation under the following paragraph.

If during the term of this Agreement, Company or any of its Affiliates knowingly employ any Undocumented Worker and is convicted of a violation under 8 U.S.C. § 1324a(f), Company shall forfeit its claim to any incentives owed to it by MDC under this Agreement and MDC shall be fully and completely discharged from any and all obligations due hereunder.

B. Severability. If any provision of this Agreement is held invalid or otherwise unenforceable by any court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect. Any provision of this Agreement held invalid or otherwise unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

C. Notices. All notices permitted or required hereunder shall be in writing, signed by the party giving such notice and delivered either (i) personally; (ii) by certified mail, return receipt requested, postage prepaid addressed to the party at the address listed below; (iii) delivered by a nationally recognized courier service; or (iv) via email or fax, provided that concurrent notice is delivered by any other approved method of delivery outlined in subsections (i) – (iii) above. Notices under this paragraph will be deemed effective if sent to the party or person identified below:

If to MDC:

Midland Development Corp.
Attn: MDC Chairman
Attn: Executive Director

200 N. Loraine St., Suite 610
Midland, Texas 79701

If to Company:

AST & Science, LLC
Attn: Shanti Gupta
Chief Operating Officer
Attn: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To:

City Attorney's Office
City Hall
300 Loraine St., Suite 320
Midland, Texas 79701

With Copy To:

Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

D. Paragraph Headings. The paragraph headings inserted in this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement or any provisions hereof, or in any way affect the interpretation of this Agreement.

E. Binding Effect. This Agreement shall inure to the benefit of, and shall be legally binding upon, the parties hereto and their respective heirs, successors, assigns and legal representatives.

F. Findings Incorporated. The recitals are hereby incorporated into the body of this Agreement for all rights and purposes, and shall be considered part of the mutual covenants, consideration and promises that bind the parties in the same manner as the material terms and provisions hereof.

G. Waiver of Attorney Fees. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC REGARDING THE AWARD OF ATTORNEY FEES THAT IS IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS AGREEMENT. COMPANY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), THAT COMPANY AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH IT MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. COMPANY ACKNOWLEDGES THAT COMPANY UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN COMPANY AND MDC. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY ACKNOWLEDGES THAT COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

H. Amendment. This Agreement may only be amended by written instrument executed by both parties expressly stating the intention to amend this Agreement. No amendment shall be effective unless approved by the Midland City Council.

I. Release. COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT

CLAIMS, MDC'S NEGLIGENCE, OR RELATING TO ANY FAA RULE OR REGULATION AND THE ENFORCEMENT OF THE SAME.

- J. Consideration.** MDC and Company hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties.
- K. Governmental Immunity.** By executing this Agreement, MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- L. Governmental Function.** **MDC AND COMPANY HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS AGREEMENT, COMPANY RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND COMPANY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.**
- M. No Disparity of Bargaining Position.** MDC and Company agree that there was no disparity of bargaining power between the parties in the negotiation and execution of this Agreement. MDC and Company acknowledge and agree that they were represented by legal counsel. MDC and Company acknowledge and agree that they read and understood the entire Agreement prior to its execution. MDC and Company acknowledge and agree that there were numerous compromises and concessions made by the parties resulting in the agreed-upon terms of this Agreement.
- N. Notice of Alleged Breach; Statutory Prerequisites.** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Company or its legal representatives shall give the MDC Chairman notice in writing (consisting of one (1) original and two (2) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Company relies to establish its claims. Failure to so notify the

MDC Chairman within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Company that Company's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Texas law. Notwithstanding any other provision, Company's failure to comply with the requirements herein shall perpetually bar Company's claim for damages regardless if MDC has actual or constructive notice or knowledge of said claim or alleged damages. Company agrees that the requirements of this Section are reasonable.

O. Approval Required. This Agreement shall not become effective until approved by the Midland City Council.

P. Decision for Expansion. Company had many options to expand its present operations within the United States, and Company specifically chose to expand to property located in the corporate limits of the City of Midland due to the commercial and community advantages offered in Midland, Texas.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS AGREEMENT.

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SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, MDC and Company have executed this Agreement as of the Effective Date.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Commercial Lease Agreement

Exhibit "A"

COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

- 1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

- 1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.
- 1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“*Rent*”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against, Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

**ARTICLE 9.
UTILITIES**

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

**ARTICLE 10.
SIGNS**

10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 **Default by Lessee:** The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 **Abandonment of the Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

**ARTICLE 14.
TERMINATION**

14.01 **Discretionary Termination:** MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 **Automatic Termination:** Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 **Termination; Accelerated Rent:** Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

- 15.03 **Resumption of Rent Abatement Period:** If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.
- 15.04 **Grace Period and Post Grace Period Rent Obligations:** Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee’s tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee’s use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, “Permits”) required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC: Executive Director
Midland Development Corporation
200 North
Loraine Street,
Suite 610
Midland, Texas 79701

With Copy To: City Manager
P. O. Box 1152
300 North Loraine
Midland, Texas 79702

If to Lessee: AST & Science, LLC
ATTN: Shanti Gupta, Chief Operating Officer
ATTN: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To: Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 **RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.**

17.24 **WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.**

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ___ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Leased Premises



FLOOR PLAN
SCALE 1/8"=1'-0"

Exhibit A

Leased Space

Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.

2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.

3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.

4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____

Exhibit "A"

COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.

1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“*Rent*”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

**ARTICLE 9.
UTILITIES**

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

**ARTICLE 10.
SIGNS**

10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 **Default by Lessee:** The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 **Abandonment of the Business by Lessee:** Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

**ARTICLE 14.
TERMINATION**

14.01 **Discretionary Termination:** MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 **Automatic Termination:** Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 **Termination; Accelerated Rent:** Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

15.03 Resumption of Rent Abatement Period: If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.

15.04 Grace Period and Post Grace Period Rent Obligations: Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee’s tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee’s use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, “Permits”) required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC: Executive Director
Midland Development Corporation
200 North
Loraine Street,
Suite 610
Midland, Texas 79701

With Copy To: City Manager
P. O. Box 1152
300 North Loraine
Midland, Texas 79702

If to Lessee: AST & Science, LLC
ATTN: Shanti Gupta, Chief Operating Officer
ATTN: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To: Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.

17.24 WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ___ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

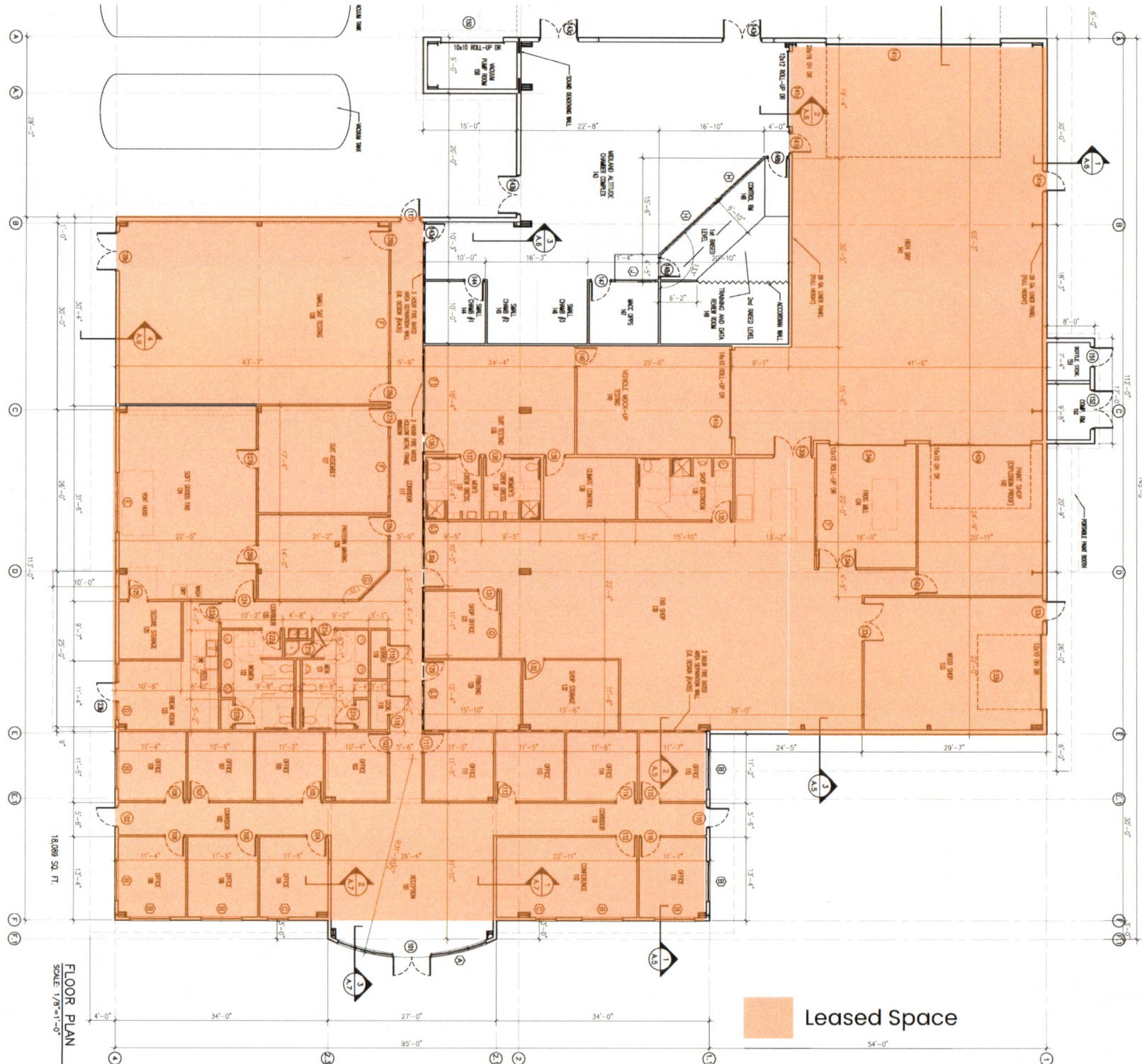
P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

Exhibit A

Leased Premises



FLOOR PLAN
SCALE 1/8"=1'-0"

Exhibit A

Leased Space

Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.

2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.

3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.

4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____