

OPERATING AGREEMENT
between
COMMISSIONERS OF ST. MARY'S COUNTY
and
AIRTEC, INC.

THIS OPERATING AGREEMENT (hereinafter referred to as "Agreement") entered into July 1, 2016, by and between the **COMMISSIONERS OF ST. MARY'S COUNTY**, a body politic and corporate and a political subdivision of the State of Maryland (hereinafter referred to as "**County**") and **AIRTEC, INC.**, a Maryland corporation (hereinafter referred to as "**Operator**").

WHEREAS, Operator has entered into a prior operating agreement with the County with respect to the Captain Walter Francis Duke Regional Airport at St. Mary's County also known as the St. Mary's County Regional Airport (the "**Airport**") and the parties wish to enter into a new Operating Agreement thereby superseding the prior operating agreement;

NOW THEREFORE, in consideration of the mutual covenants, conditions and restrictions set forth herein and other good and valuable consideration the receipt of which is hereby acknowledged, the parties do hereby agree as follows.

1. **OPERATING RIGHTS/DUTIES**: Subject to compliance with all requirements of this Operating Agreement, the St. Mary's County Airport Rules and Minimum Standards, Federal Aviation Administration rules, regulations and orders, and any other applicable laws, rules, regulations or requirements of regulatory agencies, County hereby grants unto Operator the right, license and privilege of conducting the following aeronautical related activities on the Airport and Operator agrees to assume the following duties, responsibilities and obligations in connection therewith:

1.1. The Operator shall manage and collect daily and overnight user fees and/or rents for all outside tie-down storage facilities at the Airport which are available for public use ("Tie Down Facilities"). All fees shall be charged to users in accordance with the fee structure agreed from time to time by both the County and Operator.

1.2. Operator shall maintain all lease documents and insurance certificates relating to the tie-down storage facilities, however the County shall be the lessor on all such leases. Operator shall maintain separate escrow accounts for the collection of user fees and rents for the outside tie-down storage facilities and shall account for any payments made by users of the outside tie-down storage facilities. The Operator shall provide the County with quarterly reports stating all fees collected pursuant to this Agreement, as well as any customer billing information. All such reports shall be provided to the County on or before the 15th day of each month following the preceding quarter. Operator shall monitor and maintain a record of aircraft operations and shall maintain a suitable log of transient aircraft and shall provide reports to the Airport Manager on a weekly basis.

1.3. Operator shall advise the County of any collection issues. In no event

shall the Operator be financially or otherwise responsible for the failure of users of the Airport to pay any fees or rent for use of outside tie-down storage facilities.

1.4 Operator shall, during normal business hours, answer the UNICOM radio and provide parking directions to requesting aircraft.

1.5 Operator shall assist County by performing monthly inspections of the airfield aviation and support and navigational aids, as well as monthly inspections of perimeter security fencing. Operator shall perform daily inspections of all Airport access gates. Operator shall advise the Airport Manager of any necessary repairs to the airfield identified by Operator provided that Operator shall report any known unsafe airport conditions, operational and/or safety related deficiencies to the County within twenty-four (24) hours after the Operator learns of the same. Operator shall forward to Airport Manager any deficiencies reported by users of the Airport within twenty-four (24) hours of the receipt of the deficiency report. If any accidents or safety related incidents occur in and/or on the Airport, of which the Operator has knowledge, the Operator shall provide copies of the Accident Reporting Forms as required by the Airport Rules and shall notify the Airport manager of the nature of each incident or accident and to whom the reporting forms for each accident or incident were provided. The County shall be responsible for making any required repairs, or taking such necessary remedial action, and the Operator shall not be obligated to perform such repairs or to pay for any such repairs or remedial action.

1.6 Operator shall manage the access card system and swipe distribution system for access cards to the Airport, including the maintenance of a list of distributed cards and an inventory of cards that have been distributed and returned as directed by the Airport Manager.

1.7 Operator shall establish, maintain and furnish a flight planning room in one of the County owned facilities. The County shall provide Operator with space for this room and Operator shall have no obligation to pay rent or any other charges for this room.

1.8 Operator shall be responsible for installing airfield, signage and pavement markings for transient and tie-down customers as agreed to and directed by the County.

1.9 Operator shall assist and respond to reasonable customer requests.

1.10 Operator shall supply grass tie-downs as needed. Any long-term tie-downs shall be overseen by the Operator in accordance with the County's standard lease.

1.11 Operator shall assist the Airport Manager with special events in accordance with the Airport Rules and shall use such agreements as are required by the County for such events.

1.12 Operator shall file and cancel Notices to Airmen ("**NOTAMS**") with prior authorization from the Airport Manager. All local field condition NOTAMS shall be filed immediately and Operator shall immediately notify the Airport Manager. A report regarding the same shall be provided at the next regularly scheduled Advisory Committee Meeting. The report

shall include the nature of the NOTAM, the date that each NOTAM was filed and the date on which each NOTAM was removed.

1.13 Operator shall attend the regular meetings of the Airport Advisory Committee and shall provide verbal reporting at said meetings.

1.14 Operator shall adhere to the reporting requirements of the Airport Rules.

2. **TERM:** The term of this Agreement shall commence as of the date above written and shall continue for a term of one year, provided, however, that this Agreement shall be deemed automatically renewed for successive one (1) year terms unless either the Operator or County send written notice to the other of the party's intent to terminate this Agreement on or before December 1 of the then current term, in which event this Agreement shall be deemed terminated at the end of the term. Notwithstanding the above, either party shall have the right to terminate this Agreement immediately in the event that the other party is in default of this Agreement and said default is not cured as permitted hereunder. Either party may terminate this Agreement immediately in the event that the County and Operator are unable to agree upon the fees to charge to users of the Tie Down Facilities.

3. **FEES:** Operator shall pay to the County fifty percent (50%) of all fees and rents collected from users of the Tie Down Facilities. The Operator shall retain the remaining fifty percent (50%) of the said fees as consideration for the duties performed pursuant to this Agreement. Said fees shall be remitted to the County at the time that the Operator reports the fees as set forth in Section 1.2 of this Agreement.

4. **COUNTY'S RESPONSIBILITIES:** Operator shall have no obligation to physically maintain the Tie Down Facilities. County shall be responsible for and keep in good repair all of the Airport including roads, runways, utility supplies, buildings, parking areas, septic and/or sewer systems, water supply and drainage systems, and shall provide such services such as grass cutting, snow removal, grading, expansion of the Airport, etc. to the extent said areas are under the control of the County. County shall be responsible for installing, repairing, maintaining, and operating runway lights, taxiway lights, and the rotating beacon and other navigational and landing aids.

5. **ASSUMPTION OF RISK INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:** The Operator shall indemnify, defend, and save harmless the County, its authorized agents and representatives, from any and all penalties for violation of any law, ordinance, or regulation affecting or having application to his operations, and from any and all claims, suits losses, or damages for injuries to persons or property, of whatever kind or nature, arising directly or indirectly out of Operator's operations resulting from the act or omission of the Operator, its agents, employees, or customers. In order to insure such indemnity, the Operator, at its own cost and expense, shall take out and carry in effect throughout the term of this Agreement for the protection of both of County and Operator a standard form policy or policies for public liability insurance for bodily injury and property damages insurance with limits for each as specified in the St. Mary's County Airport Rules and Minimum Standards as may be amended from time to time. All said insurance shall be carried by a good and

responsible insurance company. The Operator agrees to furnish the County a certificate or certificates of insurance from the insurance carrier(s) evidencing original and renewal coverage of Operator's operations of the airport and the period of the policy and indicating the time, kind and amount of insurance in effect. The Operator shall furnish the original certificate of insurance and duplicate to the County for approval thirty (30) days before the effective date of this Agreement, unless otherwise specifically authorized by the County in writing.

6. **DISCRIMINATION PROHIBITION:** The Operator agrees that in its operations that neither it nor any person or organization occupying space, providing service, or facilities thereon through or under the authority of the Operator will discriminate against any person or class of persons by reason of race, color, creed, sex, age or national origin in the use of any of the facilities provided for the public on the St. Mary's County Airport. The Operator hereby agrees to furnish all services permitted under the terms of this Agreement on a nondiscriminatory basis for each unit or service.

7. **SELF-MAINTENANCE RIGHTS:** The Operator agrees that none of the rights or privileges granted hereunder shall be construed to prevent any person, firm or corporation operating aircraft from performing any services on its own aircraft with its own "employees", as defined by Federal Aviation Regulations and by Federal Aviation Administration Grant Assurances paragraph 22(f), both as may be amended from time to time, including, but not limited to maintenance and repair that it may choose to perform.

The Operator shall make available to any person, firm or corporation holding a current permit (the "Permittee") issued by Airport Manager, for purposes of allowing the Permittee to perform work on planes stored in hangars located on the Airport. As a prerequisite to granting said access or the performance of any work on the Airport by the Permit Holder, the Permittee shall execute the Agreement attached hereto as Exhibit C and provide the documents to the Operator as required therein. The Permittee shall only be allowed to provide services to as permitted by the permit. Any work performed by the Permittee shall be performed within the hangar where the plane is being stored or such other specified areas as designated by the Operator.

8 **ASSIGNMENT:** Operator shall also have the right to sell or assign the entirety of its operating rights, licenses, privileges, duties, obligations and liabilities under this Operating Agreement to others, subject to approval of the County, which shall not be unreasonably withheld.

9. **COMPLIANCE WITH LAWS, RULES AND REGULATIONS:** The Operator shall comply, at its own cost and expense, with all Federal, State, or Local laws, County or Local Ordinances, Rules or Regulations, now or hereafter in force, which may be applicable to the operation of its business at the Airport.

10. **ACCOUNTING:**

10.1 All financial records concerning the operations of the Tie Down Facilities at the Airport by Operator shall be available for audit at the expense of the County, with County

having the right to select the auditor. In the event an audit discloses a liability for any payment due to the County, Operator will pay all deficiency payments so enumerated in the audit. If the Lessee shall dispute any such deficiency, it may pay the deficiency under protest and avail itself of all remedies available at law or equity.

10.2. Operator agrees to keep all financial records on file for a period of five (5) years from the date of their generation.

11. **DEFAULT:** Any of the following shall constitute a default by the Operator:

11.1. The taking by a court of competent jurisdiction of the jurisdiction of Operator and its assets pursuant to proceedings brought under the provisions of any State or Federal bankruptcy or reorganization act for a period of more than thirty (30) days;

11.2. The appointment of a receiver of Operator's assets and the failure of the Operator to have the receiver removed within thirty (30) days;

11.3. The failure of the Operator to pay the County any fees as due hereunder, after ten (10) calendar days written notice given in accordance with the notice requirements of this Agreement;

11.4. The failure to comply with any terms of this Agreement, other than a monetary default, which is not cured within thirty (30) days of receipt of written notice from the County to the Operator, which time period may be extended by the County upon good cause shown, which extension shall not be unreasonably withheld.

12. **MISCELLANEOUS.**

12.1 Waiver. Failure of any party to insist in any one or more instance upon a strict performance by the other of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this Agreement shall not be construed as waiver or relinquishment thereof for the future, but the same shall continue and remain in full force and effect.

12.2 Partnership. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in anyway creating or establishing the relationship of co-partners between the parties hereto, or of constituting either party as an agent or representative of the other for any purpose in any manner whatsoever.

12.3 Merger. Except as expressly provided for elsewhere in this Agreement, the terms of this Agreement supersede all prior negotiations, representations and agreements, and constitutes the entire contract between County and Operator concerning the operation of the Tie Down Facilities.

12.4 Exclusive Rights. Notwithstanding any provision herein to the contrary, it is expressly agreed and understood that the County is not granting or permitting any exclusive

right for the use of the St. Mary's County Airport in violation of the Federal Aviation Act.

12.5 Disclosure of Owners. Prior to execution of this Agreement and during the term hereof, or any extension, the Operator shall provide County with a list of all partners, silent or otherwise, and members of any joint venture(s) and stockholders of five percent (5%) or more of any corporation(s) that is a party to this Agreement.

12.6 Notices. Notices required by this Agreement shall be sent to the following addresses:

To County:

Airport Manager
44174 Airport Road, Suite 800
California, MD 20619

Manager, Office of Central Services
St. Mary's County Government
23115 Leonard Hall Drive
P.O. Box 653
Leonardtown, MD 20650

County Attorney
St. Mary's County Government
23115 Leonard Hall Drive
P.O. Box 653
Leonardtown, MD 20650

To Operator:

Steven J. Bildman, President
Airtec, Inc.
PO Box 40
Hollywood, Md 20636

Bill McKissick, Esquire
Dugan, McKissick & Longmore, LLC
22738 Maple Road, Suite 101
Lexington Park, Maryland 20653

12.7 Sovereign Immunity. By entering into this contract, the County, and its "employees", as defined in the Local Government Tort Claims Act, "5-301 *et seq.* of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability, all as may be provided for by law. No provision of this contract modifies and/or waives any provision of the Local Government Tort Claims Act.

12.8. No Third Party Beneficiaries: It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of this Agreement to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein without the written consent of the County and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof in fulfilling the obligations of the Agreement.

12.9. No Personal Liability of Public Officials: No elected official, appointed official, employee, servant, agent or law enforcement officer shall be held personally liable in contract for performance of contract obligations under this Agreement and any extension or renewals thereof because of its enforcement or attempted enforcement provided they are acting within the course and scope of their employment or governmental duties and responsibilities.

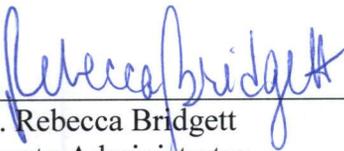
12.10. Sufficient Appropriations: County's financial obligations, if any, under this Agreement are contingent upon sufficient appropriations and authorization being made by the County for the performance of this Agreement. The County's decision as to whether sufficient appropriations are available shall be accepted by the other party or parties to this Agreement, and shall be final.

12.11. Severability: In the event any portion of this Agreement is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the parties, to sever only the invalid portion or provision, so long as the remainder of this Agreement shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of this Agreement, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the parties, in entering into this agreement.

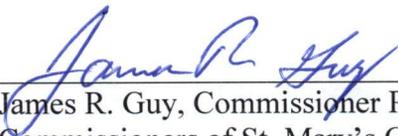
12.12. Recitals: The recitals which precede this Operating Agreement are an integral part of this Operating Agreement and shall be binding upon the parties and shall be enforceable in a manner consistent with the remainder of the terms and conditions of this Operating Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

WITNESS:

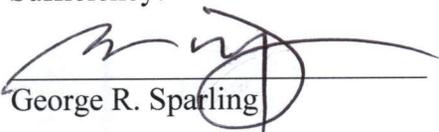


Dr. Rebecca Bridgett
County Administrator

 (SEAL)

James R. Guy, Commissioner President,
Commissioners of St. Mary's County

Approved as to Form and Legal
Sufficiency:



George R. Sparling

County Attorney

ATTEST:

Teresa Hillert

Airtec, Inc., a Maryland corporation

By: [Signature] (SEAL)

Name: Steven J. Bildman

Title: President

STATE OF MARYLAND:

COUNTY OF ^{Calvert} ST. MARY'S:

The undersigned a Notary Public in and for the County, and State aforesaid, duly commissioned and acting, do hereby certify that on this 25th day of April, 2016, personally appeared before me Steven J Bildman, to me personally known to be the person who signed the foregoing instrument on behalf of Airtec, Inc. and who, being by me duly sworn and being informed of the contents of said instrument, stated and acknowledged under oath that he is an authorized agent of Airtec, Inc., a Maryland corporation, and, as such, is a duly authorized individual who may enter into agreements on behalf of that entity. Moreover, he acknowledged that the entity has executed the same as its voluntary act and deed and was voluntarily executed by himself, on behalf of said entity, for the uses, purposes and consideration therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year above written.

[Signature]

Notary Public

My Commission Expires: 9/8/2017

STATE OF MARYLAND:

COUNTY OF ST. MARY'S:

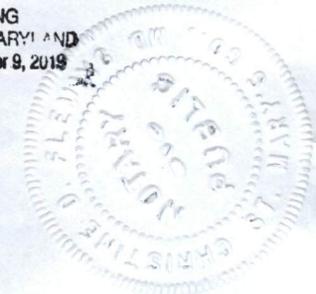
The undersigned, a Notary Public within and for the State of Maryland, duly commissioned and acting, do hereby certify that on this 17th day of May, 2016, personally appeared before me James R. Guy, Commissioner President, Commissioners for St. Mary's County, to me personally known to be the person who signed the foregoing Agreement and who, being by me duly sworn and being informed of the contents of said Agreement, stated and acknowledged under oath that he is an authorized agent of the Commissioners of St. Mary's County, and, as such, is a duly certified individual who may enter into agreements on behalf of the Commissioners of St. Mary's County. Moreover, he acknowledged that the Commissioners of St. Mary's County has executed the same as its voluntary act and deed and was voluntarily executed by himself in such capacity, for the uses, purposes and consideration therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year above written.

Christine D. Fleming

Notary Public

My Commission Expires: _____
CHRISTINE D. FLEMING
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires November 9, 2019



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