

As amended and submitted for  
approval November 12, 2014

ORDINANCE NO. HCAA 08-28-14-A

AN ORDINANCE OF THE HAMILTON COUNTY AIRPORT AUTHORITY  
TO ESTABLISH REQUIREMENTS FOR FUELING OPERATIONS  
AT THE INDIANAPOLIS EXECUTIVE AIRPORT

WHEREAS, the Hamilton County Airport Authority (“Authority”) is the owner of the Indianapolis Executive Airport (“the Airport”) located in Boone County, Indiana, which contains approximately six hundred twenty-five (625) acres of land; and,

WHEREAS, the Authority has submitted an Airport Layout Plan as part of its Master Plan to the FAA, which has been approved by the FAA; and,

WHEREAS, since the acquisition of the Airport by Hamilton County in 2003, there has been continuous and substantial growth in the public use of the Airport by both based and non-based aircraft; and,

WHEREAS, the Authority recognizes the hazards inherent in the storage, handling, and dispensing of aircraft fuel (“fueling operations”) at airports; and,

WHEREAS, it is the policy of the Authority to promote, establish, and maintain a safe environment for such fueling operations.

NOW, THEREFORE, BE IT ORDAINED that this Ordinance establishes minimum standards and requirements for fueling operations at the Airport:

NON-PUBLIC AIRCRAFT FUELING STANDARDS AND  
REQUIREMENTS FOR THE INDIANAPOLIS EXECUTIVE AIRPORT

I. PERMIT REQUIRED.

All persons or entities who desire to self-fuel aircraft at the Airport must first obtain a Permit (defined below) from the Authority pursuant to this Ordinance before dispensing fuel. In order for the Authority to issue a Permit, (i) the applicant must receive the prior approval of all appropriate state and federal authorities, and (ii) meet the eligibility requirements set forth in Section III. All fueling operations shall be subject to the limitations set forth in this Ordinance, as amended from time to time, in the Permit and by all applicable laws and regulations applying to either the Permittee, the Owner, or the Authority.

II. DEFINITIONS.

The following words and phrases shall have the meanings indicated herein:

A. "Airport" means the Indianapolis Executive Airport located at 11329 East State Road 32, Zionsville, Indiana, 46077.

B. "Airport Manager" means the individual or company designated by the Authority to manage airport operations or their designee who is working in the terminal building at the Airport.

C. "Authority" means the Hamilton County Airport Authority.

D. "Bona Fide Employees" means a person who is employed by the owner or lessee of the aircraft or equipment, and whose employment can be verified with the Owner's IRS Forms 941 and W-2.

E. "Controlled Aircraft" means an aircraft for which the Owner has exclusive operational control and exclusive use, whether through a lease, as described in Section VII E below, or actual ownership of the aircraft.

F. "Designated Representative" means the person or persons who the Authority has appointed, in writing, to administer some of the duties and rights of the Authority.

G. "Equipment" means any machinery, together with the necessary supplies, tools, tanks, and apparatus required to properly conduct the fueling of an aircraft and includes any mobile fueling dispensing trucks.

H. "Owner" means the person, corporation, partnership, or other legal entity which has exclusive operational control and exclusive use of an aircraft through a lease or actual ownership of the aircraft.

I. "Permit" means a Non-Public Aircraft Fuel Dispensing Permit, the form of which is attached and incorporated into this Ordinance.

J. "Permittee" means any "Owner", exercising a right or privilege on the Airport pursuant to a Permit issued pursuant to this Ordinance by the Authority.

K. "Leased Premises" means the leasehold or site occupied by Permittee pursuant to the lease, license or permit.

L. "Self-Fueling" means the fueling or servicing of an Owner's Controlled Aircraft by the Owner with his or her own bona-fide employees using his or her own equipment. Self-fueling and other self-services cannot be contracted out to another party or independent contractor. Self-fueling implies using fuel obtained by the Owner from a source of the Owners preference. In addition to self-fueling, aircraft maintenance activities may be performed by the

Owner or permitted Owner's qualified employees with resources supplied by the aircraft owner. These services include activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft. However, the Permittee may contract for certain services such as maintenance of aircraft which is required to be performed by personnel designated by the manufacturer, engine washes, deep interior cleaning, and other services which have not been traditionally provided by the FBO at the Airport. These activities are included in the activities authorized by the self-fueling permit.

### III. ELIGIBILITY REQUIREMENTS.

In order to be eligible to receive or maintain a Permit, an Owner must meet the following minimum requirements:

A. The Owner must lease land from the Authority at the Airport to construct or maintain a private hangar for the purpose of housing the Owner's Controlled Aircraft;

B. The Owner must comply with the ownership and exclusive control provisions of Section VII below;

C. The Owner must operate in a manner consistent with the minimum standards set forth herein and such other restrictions as may be reasonable imposed by the Authority from time to time for the purposes of maintaining the safe operations of the Airport.

### IV. APPLICATION OF REGULATIONS.

A. Any person seeking to perform Self-Fueling operations at the Airport shall comply with all applicable standards and requirements concerning such activities as set forth in this Ordinance and Permit including any subsequent amendments thereto. All Permittee's are encouraged to exceed the minimum standards contained in this Ordinance and the Permit in the conducting their self-fueling activities.

B. This Ordinance and any amendments thereto, shall be deemed to be a part of each Permit unless any such provisions are amended or modified by the Authority. The mere omission of any particular standard from the written Permit shall not constitute a waiver or modification of such standard in the absence of clear and convincing evidence that the Authority intended to waive or modify such standard.

Except as may be prohibited by other provisions of this Ordinance and any other applicable law, all persons or entities who have leased land from the Authority on which an aircraft hangar or has been erected and used for the storage of such person's or entities' aircraft, and who desire to self-fuel their aircraft at the Airport may apply for and be issued a Permit from the Authority prior to the commencement of any self-fueling activities.

C. An Independent Contractor, such as an oil company, fuel supplier, or private hauler of fuel is prohibited from entering the Airport and refueling the Permittee's aircraft.

D. The Authority will not recognize a Permittee's designation of an independent commercial operator, as an agent of the Permittee, in an attempt to circumvent this Ordinance.

E. During emergency conditions declared by the Authority, the Designated Representative with prior written consent of the Authority may waive or modify any portion of this Ordinance for the benefit of any governmental agency or governmental contractor performing emergency public services, fire protection or fire-fighting operations so long as such waiver or modification does not, in the sole discretion of the Authority, compromise the safety and efficient use of the Airport. The Designated Representative may accept such documentation as may be issued or acceptable by another governmental entity for determining compliance with this Ordinance.

V. STORAGE FACILITIES.

A. All refueling vehicles and equipment of the Permittee shall be equipped and maintained to comply at all times with all applicable safety and fire prevention requirements, standards, and Regulatory Measures including without limitation, those prescribed by: State of Indiana Fire Code and local fire district; 14.5.3.2. National Fire Protection Association (NFPA) Codes; Indiana Department of Environmental Management standards and regulations; and applicable Federal Aviation Administration Advisory Circulars (AC) including but not limited to AC 00-34 "Aircraft Ground Handling and Servicing"; and AC 150/5210-5 Painting, Marking and Lighting of Vehicles Used on an airport.

B. Fuel storage tanks must have a minimum fuel capacity of ten thousand gallons (10,000); shall be constructed above ground pursuant to plans reviewed by the Authority's consulting engineer; and shall be located on land leased by the Permittee.

C. All fuel storage tanks and vehicles shall be identified as to the type of fuel. Permittees shall have adequate procedures for sampling and testing of aircraft fuels located at the Airport. All tests and test schedules shall be performed in the manner provided in the guidelines specified in Section IV (A) above or as such guidelines may hereinafter be amended.

D. Ground rods are required at authorized fueling locations. Permittees are required to test the ground rods on their ramp areas in the manner provided in the guidelines specified in Section IV (A) above or as such guidelines may hereafter be amended. Such tests must be conducted at least annually.

VI. TRAINING STANDARDS FOR SELF-FUELING OPERATIONS.

A. Self-fueling shall be allowed by only the Owner, and/or its Bona Fide Employee(s), that have completed an FAA approved fuel-handling training course (i.e. National Air

Transportation Association Professional Line Service Technician, Chevron, AvFuel, etc.), and provided copies of the completion Certificates to the Airport Manager (“Qualified Fueling Personnel”). Upon receipt of the Certificate, the Airport Manager shall promptly provide the Qualified Fueling Personnel with a fuel-handler’s permit.

B. All Qualified Fueling Personnel are required to attend a FAA approved Fuel-handling course every twelve (12) consecutive calendar months and the Permittee must file the completion Certificates of such refresher courses to the Airport Manager in order to maintain their status as Qualified Fueling Personnel.

C. During fueling operations, all personnel must have and display above waist-level their Airport-issued fuel handler’s permit. The Designated Representative has the authority to stop fueling operations if (i) a Qualified Fueling Personnel does not have possession and/or display of the fuel handler’s ID badge, (ii) the Designated Representative reasonably believes that the fuel is being dispensed by a person other than a Qualified Fueling Personnel, or (iii) the Designated Representative reasonably believes that fuel is being dispensed in a manner inconsistent with applicable law or the requirements set forth in this Ordinance or in an unsafe manner.

## VII. EVIDENCE OF OWNERSHIP.

A. All Owners seeking a permit under this Ordinance (Applicant) shall provide evidence of ownership or lease of all equipment used for fueling of aircraft being operated under the full and exclusive control of the Applicant, prior to the commencement of any Self-Fueling activity and upon the written request of the Designated Representative. A Permittee shall only engage in fueling of a Controlled Aircraft which is designated in the Owner’s Permit (“Permitted Aircraft”). The fueling of any aircraft which is not designated in a Permit shall be grounds for termination of the Permit.

B. An Applicant shall provide the Authority with proof of aircraft ownership or lease prior to issuing a permit for any non-public fueling activity. The registered legal owner of an aircraft shall be determined based upon the recorded bill of sale or warranty bill of sale contained in the records of the Federal Aviation Administration.

C. An owner of an aircraft shall only obtain or maintain a Permit and Certificate under this Ordinance if:

1. The Owner's primary business is unrelated to the ownership, operation, control, use, and maintenance of the Permitted Aircraft; and,
2. The primary use of the Permitted Aircraft by the Owner is the carriage of the Owner's company officials, employees, or guests, when the carriage is within the scope of, and is incidental to, the primary business of the Owner, the Applicant is not a flight department company formed by the Owner or other entities for the primary purpose of owning, controlling, or operating the Permitted Aircraft; and,
3. The Applicant seeking a permit under this Ordinance has not transferred to, or received from, any person or business entity, any full or partial ownership interest in a Permitted Aircraft in exchange for any financial interest in the Applicant or the Applicant's aircraft; and,
4. Neither the Applicant, nor its predecessors in title to a Permitted Aircraft, has participated in a transaction which results in merging or fractionalizing of the ownership of the Permitted Aircraft to attempt to circumvent the standards contained in Section 1, 2 or 3 above.

D. The Authority may reasonably require an Applicant and Permittee to provide proof of ownership of a Permitted Aircraft consistent with the above sub-section VII (C) including, but not limited to:

1. Copies of the recorded FAA Bill of Sale or Warranty Bill of Sale for the Permitted Aircraft, for the last three (3) ownership transfers or five (5) years, whichever is longer.
2. All LLC statements of the Applicant or its transferees of the Permitted Aircraft filed with the FAA on the FAA forms for the above transfers.
3. Any other additional documents which the Authority may reasonably request to prove that the Applicant is entitled to obtain and maintain a Permit under the standards in Section VII(C) above, including, but not limited to, Certifications of Formation, Articles of Incorporation, By-Laws, Operating Agreements, or non-confidential information concerning the Applicant's business operations. In the event the above are not sufficient to prove the Applicant is entitled to a Permit, the Authority may request the financial documents from the Applicant. Any financial document may be submitted as "Confidential" and shall be returned to the Applicant after review by the Authority.

E. If the Controlled Aircraft is being leased or operated by Permittee (and under Permittee's full and exclusive control), Permittee shall provide the Authority with a copy of the lease or operating agreement prior to commencement of any fueling activity. An aircraft qualifies as an exclusively leased aircraft for the purposes of this Ordinance if title is held by other persons or entity and use is exclusive to the Permittee pursuant to a lease of one (1) year or more, or if the leased aircraft is: 1) leased for less than one year; and, 2) the purpose of the lease is to replace an aircraft of the Permittee which is being maintained or repaired during the period of the short term lease.

F. Permittee shall notify the Authority, and provide updated proof of ownership documentation reflecting any changes in status of ownership of Permitted Aircraft or non-public

self-fueling equipment within ten (10) business days of said change and before fueling the aircraft. If, as a result of the change in ownership, the Permittee no longer has any Controlled Aircraft identified on the Permit, then the Permit will automatically terminate in ninety (90) days, unless the Permittee notifies the Authority of a replacement aircraft within the ninety (90) days.

#### VIII. MONTHLY FUEL REPORTING.

A. On or before the 10th day of each month, Owner shall provide for the preceding month:

1. A summary report to the Airport Manager identifying the number of gallons of aviation fuel:

- purchased by Owner (by fuel type),
- dispensed to Owner's fuel truck or fuel tank at the Airport during the prior month.

2. Pay the appropriate fuel flowage fees due to the County for the prior month.

B. Upon request, records and meters of the Owner shall be made available for review and inspection by the Authority or its Designated Representative. In the case of a discrepancy between the amount of fuel purchased by and/or delivered to Permittee and the amount of fuel delivered to Permittee's fuel truck or fuel tank, the greater amount shall prevail, unless the parties reasonably agree upon a lesser amount.

#### IX. ENVIRONMENTAL LAWS.

A. All fuel dispensing and storage must be in compliance with all applicable federal, state, and local environmental laws. "Environmental Laws" means those laws promulgated for the protection of human health or the environment, including but not limited to, the following as the same are amended from time to time: the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 [CERCLA], 42 U.S.C. Sections 601 et seq., as amended by the Superfund Amendment and Reauthorization Act [SARA]; the Solid Waste Disposal Act [SWDA], 42 U.S.C. Sections 6901 et seq., as amended by the Resource Conservation and Recovery Act [RCRA] including Subtitle I, Underground Storage Tanks; the Toxic Substances Control Act [TSCA], 15 U.S.C. Sections 2601 et seq.; the Public Health Service Act (Title XIV) [PHSA] a.k.a. the Safe Drinking Water Act [SDWA] and SDWA Amendments of 1996, 42 U.S.C. Sections 300f et seq.; the Federal Water Pollution Control Act [FWPCA], as amended by the Clean Water Act, 3; U.S.C. Sections 1251 et seq.; the Clean Air Act, 42 U.S.C. Sections 7401 et seq.; the Occupational Safety and Health Act of 1970 as amended, 29 U.S.C. Sections 651-678 and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by local, state or federal government) now in effect or hereafter enacted, that provide for the regulation or protection of human health or the environment, including the ambient air, ground water, surface water, and land use, including substrata soils. The Authority will use its best efforts to inform the Permittee of any changes which affect the duties of the Permittee.

B. Permittee shall not cause or permit any regulated substance to be used, generated, manufactured, produced, stored, brought upon, or released on, or under Airport, or transported to or from the Airport, by Permittee, its agents, employees, contractors, invitees or a third party in a manner that would constitute or result in a violation of Environmental Law or that would give rise to liability under an Environmental Law.

C. Prior to transporting fuel onto the Airport, the Permittee shall provide the Airport Manager with a Spill Prevention, Control, and Countermeasures Plan (SPCC) that meets applicable regulatory requirements. A current copy of such SPCC Plan shall be filed with the Airport Manager at least ten (10) business days prior to issuance of the Permit. Any updated or

amendment to the SPCC Plan shall be submitted within ten (10) business days after such update or amendment has been accepted by Permittee. Such Plan shall describe, in detail, those methods that shall be used by the Permittee to clean up any potentially hazardous fuel spills. The Plan should include equipment to be used, emergency contact personnel and their telephone numbers, and all other details as to how the Permittee would contain and remediate such a spill. The Plan should also describe, in detail, what methods the Permittee intends to use to prevent any such spill from occurring in the future.

X. FUELING EQUIPMENT.

A. Prior to the first use of fueling equipment on the Airport, the Permittee shall present the equipment and tanks for inspection and approval by the Designated Representative or its designee. The equipment shall conform with all Federal regulations for dispensing and storage of aviation fuel. Permittee shall only utilize fuel service equipment that has been approved by the Authority. Use of equipment not approved by the Authority could result in immediate revocation of the Permit.

B. Permittee shall, at its own expense, maintain and keep its fuel service equipment in a safe, serviceable and non-leaking operating condition consistent with all applicable laws.

C. The Authority or its Designated Representative may perform reasonable surveillance and inspections of all fueling activities and fueling equipment. Permittee shall allow inspections of the fuel service vehicles and equipment by the Authority or its designee upon reasonable notice. Such inspection may include, but is not limited to, taking meter readings, inspecting fuel service equipment, reviewing quality control and inspection records of fuel service vehicles and fuel storage tanks, reviewing training records, emergency equipment, and any and all material for safe fuel handling.

D. The Authority requires Permittee to take immediate corrective action whenever the Authority becomes aware of any non-compliance with fueling standards and Permittee shall undertake such corrective action immediately upon notice thereof. The Permittee shall cease fueling operations until any equipment malfunction or other discrepancy so noted, by either the Permittee or the Authority, is corrected to the satisfaction of the Authority or its Designated Representative.

E. All fueling equipment shall be metered with approved dispensing meters. Meters shall be calibrated annually and sealed in accordance with State of Indiana requirements.

F. It is the responsibility of the Permittee to ensure that all equipment conforms to and is in compliance with all standards and regulations set forth under the Airport rules and regulations and applicable National Fire Protection Codes, and Federal Aviation Administration Advisory Circulars.

G. Permittee shall be limited to a single refueling vehicle for each type of fuel to be dispensed with a minimum capacity of five hundred (500) gallons. Avgas refueling vehicles may have a maximum capacity of one thousand two hundred (1,200) gallons and jet refueling vehicles may have a maximum capacity of three thousand (3,000) gallons.

H. Each refueling vehicle, shall have the tail number of the Permitted Aircraft fueled by the vehicle prominently displayed in at least eight (8") inch characters.

#### XI. SAFETY REGULATIONS; FUELING PROCEDURES.

The following requirements shall govern and control the fueling and defueling of aircraft at the Airport:

A. All aviation fuels dispensed into aircraft at the Airport shall be done in accordance with NFPA standards and all applicable federal, Indiana state and Local codes.

B. All fueling equipment operating at the Airport shall meet the standards for dispensing equipment, safety equipment, and markings in accordance with NFPA standards, and all applicable Federal, State and local codes and regulations.

C. All fueling and defueling will only be performed in areas approved by the Authority.

D. Staging or parking of fueling vehicles at the Airport must be in areas approved by the Authority within the Permittee's Leased Premises and parked at least fifty (50) feet from any building.

E. Fueling vehicles must be parked and remain at least ten (10) feet away from another fueling vehicle.

F. Fueling vehicle drivers will remain with their vehicles at all times on the Airport unless the vehicle is in an authorized parking area.

G. No aircraft shall be fueled or defueled while the engine of the aircraft is running. Neither the aircraft or fueling vehicle may be fueled or defueled when being warmed by application of exterior heat or while the aircraft is in a hangar or enclosed space.

H. During fueling or defueling, the aircraft and fuel dispensing equipment shall both be electrically bonded to a point or points of zero electrical potentials subject to NFPA Standard 407 as superseded or amended.

I. Persons engaged in fueling and defueling of aircraft shall exercise the greatest degree of care to prevent overflow or spillage of fuel. Any person causing any overflow or spillage of fuel on the Airport shall immediately implement their Spill Prevention Control and Countermeasure (SPCC) Plan including immediate notification to the Airport Manager.

J. No Person shall fuel or defuel an aircraft with fueling hoses and other equipment or apparatus that are not in a safe, sound, and non-leaking condition in accordance with NFPA standards.

K. Fueling and defueling of aircraft shall be conducted at a distance of and remain at least twenty-five (25) feet from any hangar or building and at least fifty feet (50) from any building air intake used for heating apparatus.

L. No person shall light or permit any open flames within one hundred (100) feet of an aircraft being fueled or defueled or within one hundred (100) feet of a fuel storage area.

M. No person shall fuel a motor vehicle on the Airport property.

N. No Person shall store or dispense fuel except in accordance with the standards and recommendations of the NFPA applicable to fuel loading areas (NFPA Standard 407 or as superseded or amended).

O. Fueling is only permitted into aircraft and approved ground service equipment. Fueling of any non-aviation vehicles including, but not limited to, boats, jet skis, automobiles, recreational vehicles, and all-terrain vehicles is not permitted and is a violation of this Ordinance as the fueling of the aforementioned vehicle types with aviation gasoline that contains leaded fuel (i.e. 100LL, etc.) may constitute a violation of federal environmental regulations and subjecting the violator to fine.

P. Permittee shall have sole responsibility for maintaining its fuel service equipment and aviation fuel quality control standards in all phases of fuel dispensing operations. Permittee shall submit and keep on file with the Authority, an up-to-date copy of their aviation fuel quality control and fuel service training programs. Permittee shall notify the Authority of any changes within ten (10) business days.

Q. Any maintenance performed on the Owner's aircraft pursuant to the Permit shall occur within the Owner's hangar, other than any defueling required for the maintenance procedures.

R. The rights to repair and maintain an Owner's aircraft shall not include the use of any paint, paint lacquer, paint solvents, or thinners unless said materials are stored in approved containers and are only used for minor touch up and repair in a properly ventilated environment.

## XII. CONFLICTING REGULATIONS.

A. Where a conflict exists between any of the regulations, limitations, or restrictions prescribed or adopted hereunder or in conflict with a provision of the zoning, building, safety, fire, health or other ordinances, code, or rule of the Authority, and any other regulations, the higher standard and more stringent limitation or requirement for the promotion and protection of the health and safety of the people shall prevail and govern.

B. Subordination to U.S. Government.

Any permit issued pursuant to this Ordinance shall be subordinate to the provisions of any existing or future agreement(s) between the Authority and the United States Government or agency thereof, relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to Authority for Federal funds for the development of the Airport and in the event an amendment to a permit issued pursuant to this Ordinance is necessary to comply with any existing or future agreement with the United States Government or agency thereof, Authority reserves the right to terminate such permit and re-issue the permit in order to be in compliance with such agreement with the United States Government or agency thereof.

## XIII. ASSIGNMENT.

A. Permittee shall not assign its authorization under its Permit. Notwithstanding Section XIX below, any attempt to assign, sell, transfer or encumber, in any manner, or fuel any aircraft contrary to the Permit, shall be grounds for termination of the Permit.

B. Permittee shall not assign any of the rights granted pursuant to the Permit or allow other aircraft operators to share in the privileges or services authorized in or by the Permit. The Permittee shall not allow other aircraft owners or operators, other than the Permittee's Qualified Fueling Personnel to dispense fuel under the Permit.

#### XIV. NON-EXCLUSIVE RIGHTS.

Permittee acknowledges that nothing contained in the Permit shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. §40103(e). Non-Public Aircraft Fuel Dispensing Permits are non-exclusive and nothing herein shall prohibit the Authority from permitting other airport tenants, described in this Ordinance to apply for a Self-Fuel Permit with the Authority. The Authority expressly reserves the right to issue such permit, if the Applicant conforms with the terms of this Ordinance.

#### XV. PERMIT FEES.

A. Permittee shall pay on an annual basis for the duration of the Permit, an Administrative Fee to the Authority in the amount of One Thousand Dollars (\$1,000.00) for the review of service equipment and facilities.

B. Fuel Flowage Fee – Permittee shall pay a fuel flowage fee to the Authority on or before the 10<sup>th</sup> calendar day of each month in the amount of the existing Fuel Flowage Fee for each gallon of fuel transferred into the Permittee's storage tank for the immediate past month. The uniform Fuel Flowage Fee charged by the Authority may be amended from time to time.

C. Application Fee – Permittee shall pay at the time of initial application, a One Thousand Dollars (\$1,000.00) non-refundable fee to the Authority for but not limited to:

1. Review of the Permittee's application;
2. Review of Permittee's fuel facility plans and specifications;
3. Conducting initial inspection of Permittee's fuel service equipment and fuel facility;
4. Review of the Permittee's fuel service training program and supporting documentation;
5. Review of the Permittee's quality control program and supporting documentation;

This review process will include representatives from the Authority and Hamilton County as designated by the Authority.

D. All fees are subject to reasonable revision or adjustment by the Authority.

#### XVI. LIABILITY INSURANCE.

A. Permittee shall, at its expense, procure and keep in force at all times during the term of the Permit, from a financially sound and reputable company reasonably acceptable to Authority, a comprehensive general liability and aircraft public liability insurance, insuring Permittee, the Authority, and Hamilton County, as additional named insureds, providing coverage for bodily injury, including wrongful death, and property damage and insurance necessary to protect the Permittee and the Authority and Hamilton County from such claims and actions. Without limiting its liability, Permittee agrees to carry and keep in force insurance with liability limits for bodily injury, including death, personal injury and property damage in a sum not less than Three Million Dollars (\$3,000,000) per person/Ten Million Dollars (\$10,000,000) per occurrence, for bodily

injury and Ten Million Dollars (\$10,000,000) for property damage liability with said policies designating the Authority and Hamilton County as additional named insureds. Proof of Insurance shall be provided to Authority and Hamilton County by a policy declaration page or policy endorsement evidencing such coverage. The policies shall contain severability of interest provisions, and all such policies shall be deemed as "primary" with respect to the Authority's and Hamilton County's insurance. Permittee shall furnish Authority and Hamilton County with a copy of the insurance declarations page or endorsement to the policy as evidence of such coverage. Said insurance shall not be cancelled or materially modified except upon thirty (30) days advance written notice to Authority and Hamilton County. Prior to expiration of said insurance, the Permittee shall replace such coverage and provide the Authority with a Certificate of Insurance and other schedules and documents required above. Permittee shall provide a complete copy of all such policies upon request of the Authority or Hamilton County. Coverage is to be written on the broadest liability form which is customarily available.

B. The Permittee shall also provide a copy of the declarations page or endorsement to the policy for Motor Vehicle Liability including coverage for bodily injury, including death, or damage to the property of others caused by the operation of an automobile owned/leased/borrowed or used by the Permittee. The minimum coverages shall be: One Million Dollars (\$1,000,000) per person, Five Million Dollars (\$5,000,000) per occurrence, and Ten Million Dollars (\$10,000,000) Property Damage.

C. The Permittee shall also provide Pollution Liability insurance policy including coverage for bodily injury, including death, or property damage arising out of the actual or alleged release, dispersal, discharge of fuel, oil, hydraulic fluids, or other pollutants. The policies shall have minimum coverage of One Million Dollars (\$1,000,000) per occurrence and a Three Million Dollar (\$3,000,000) aggregate.

D. All of the Permittee's insurance coverage provided to Authority and Hamilton County shall be primary and non-contributory insurance with respect to all other available sources.

E. Coverage provided by the Permittee shall not be limited to the liability assumed under the indemnification provisions of this Ordinance.

F. Notice of Cancellation. Each insurance Policy required by the insurance provisions of this Ordinance shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to Airport Authority and Hamilton County. Such notice shall be sent directly to the Authority with a copy to the Airport Manager and to Hamilton County by certified mail, return receipt requested, or by hand delivery.

G. Acceptability of Insurers. All insurance must be written by an insurance company authorized to do business in the State of Indiana, to be evidenced by a Certificate of Authority, a copy of which certificate is to be attached to the applicable insurance Policy or binder. The Authority reserves the right to modify the terms of the insurance provisions herein as long as the modified provisions apply to all Permittees.

H. Workers' Compensation Insurance. Permittee shall, at its expense, procure and keep in force at all times during the term of this Permit with a financially sound and reputable company reasonably acceptable to the Authority, a policy of workers' compensation insurance on the employees of Permittee in the required statutory amounts. This policy shall, to the extent it is lawful or practicable to do so, designate the Authority and Hamilton County as additional insureds. Permittee shall, upon execution of the Permit and at least thirty (30) days before the expiration of the policy, furnish the Authority and Hamilton County with a copy of the policy declarations or endorsement issued by the insurance company as evidence of such coverage.

This policy shall not be cancelled, terminated, or materially modified or amended except upon thirty (30) days advance written notice to the additional insureds.

I. Duplicate Copies of Evidence of Insurance Coverage. Permittee shall, at Permittee's cost and expense, furnish to the Authority from time to time, upon the Authority's written request, duplicate copies of the insurance policies that Permittee is required to maintain pursuant to the preceding provisions. The duplicate copies of the insurance policies shall be certified to the Authority and Hamilton County by Permittee's insurance carrier as being true, complete and correct photocopies of those policies.

J. Fire Insurance. Permittee shall maintain insurance in accordance with the provisions of Permittee's Lease Agreement.

K. Indemnification. The Authority and Hamilton County ("County") shall be indemnified by Permittee as herein provided. Permittee shall be deemed to be an independent contractor and operator responsible to all parties for its acts and omissions, and Authority, shall in no way be responsible therefor. Permittee shall indemnify, hold harmless and defend the Authority, the County, and their respective directors, officers, agents, servants, and employees from and against any and all claims or incidents related to the Permittees fueling of aircraft and to the privileges granted by the use of the Permit issued in accordance with this Ordinance and occupancy of the Leased Premises by Permittee, its employees, patrons, contractors, subcontractors, and invitees, and the Permittee shall assume and indemnify Authority and County, and their respective directors, officers, agents, servants, and employees from and against all liability, and responsibility for injuries, claims or suits for damages, to persons or property of whatsoever kind or character, whether real or asserted, including cost of defense and attorney's fees, occurring during the term of the Permit issued to the Permittee pursuant to this Ordinance relating to the fueling of aircraft and/or to the use or occupancy of the premises leased by the

Permittee, its respective employees, patrons, contractors, subcontractors, or invitees. The Permittee shall indemnify Authority and County against any and all mechanics and material men's liens or other types of liens imposed upon the Permittee's Leased Premises arising as a result of the Permittee's conduct, acts or omissions. The indemnities of Permittee under this Paragraph K shall not, as to any indemnitee, be available to the extent that such losses, claims, damages, liabilities, or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee. The provisions of this Paragraph K shall survive the expiration or early termination of a Permit issued pursuant to this Ordinance.

XVII. ENVIRONMENTAL RESPONSIBILITY AND COMPLIANCE.

A. Permittee shall not cause or permit any regulated substance to be used, generated, manufactured, produced, stored, brought upon, or released on, or under the Airport, or transported to or from the Airport, by Permittee, its agents, employees, contractors, or invitees in a manner that would constitute or result in a violation of any Environmental Law or that would give rise to liability under an Environmental Law.

B. Permittee shall indemnify, defend and hold harmless, the Hamilton County Airport Authority and Hamilton County, their successors and assigns, its elected and appointed officials, and their respective directors, officers, employees, or agents for all acts or omissions of the Permittee, its employees, agents, assigns, contractors, and subcontractors. The indemnities of Permittee under this Paragraph B shall not, as to any indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee.

C. Permittee shall comply with all federal, Indiana state and local governmental laws, ordinances, and shall indemnify and hold harmless Authority and Hamilton County from and against any and all liabilities, obligations, damages, charges and expenses, penalties, suits, fines, claims, legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons, the environment or premises and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, human health or the environment pursuant to any Environmental Law, the common law, or other statute, ordinance, rule, regulation, judgment or order of any governmental agency or judicial entity, which are incurred or assessed as a result of any use of the Airport during the term of the Permit or any previous lease or uses of the Airport by Permittee or its owners or affiliated entities, agents, employees, invitees, contractors, visitors or licensees. Regardless of the date of termination of the Permit, Permittee's obligations and liabilities under this Section shall continue so long as the Hamilton County Airport Authority bears any liability or responsibility under the Environmental Laws arising from Permittee's use of the Airport during the term of the Permit. This indemnification of the Authority by Permittee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial actions, removal or restoration work required or conducted by any federal, state or local governmental agency or political subdivision because of regulated substances located on the Airport or present in the soil or ground water on, or under the Airport. The Authority covenants and agrees that it will not seek (nor will it suffer the Airport to seek) damages or remedy from Permittee for any environmental contamination of the Leased Premises or for remediation activities on the Leased Premises if the contaminants at issue exist on the Leased Premises or for remediation activities on the Leased Premises if the contaminants at issue

exist on the Leased Premises through no fault of Permittee and such contaminants migrated onto the Leased Premises from a source other than Permittee's facilities or activities. The indemnities of Permittee under this Paragraph C shall not, as to any indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee.

D. Permittee shall comply with all federal, Indiana state and local governmental laws, ordinances, regulations, Airport rules & regulations, licenses and permits relating to fuel facility and fuel service vehicle operation and use thereof. Permittee shall also comply, where appropriate, with the Resource Conservation and Recovery Act of 1976 ("RCRA") and the Hazardous and Solid Waste Amendments thereto of 1984; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"); the Superfund Amendments and Reauthorization Act of 1986 amending said act; and any other federal or state Environmental Protection Agency regulations or amendments now or hereinafter promulgated. The Authority agrees that it will provide information to the Permittee concerning any substantial changes to the above laws. However, the failure to do so shall not relieve the Permittee of any of the duties defined in this Section XVII.

E. In the event of spillage or discharge of gasoline, oil, grease, pollutant or any material by Permittee which may be detrimental or regulated under any environmental law, onto any surface of the Airport, the same shall be contained and removed or remediated by Permittee in accordance with applicable laws and Permittee's SPCC Plan.

F. The responsibility for containment and the removal or remediation of such gasoline, oil, grease, pollutant or any material shall be assumed by the operator and/or owner of the aircraft or equipment causing the same or by the Permittee responsible for the deposit on the

surface. Upon default of the responsible party to clean up such area, the Authority may provide the necessary cleaning and bill the responsible party or parties for the expense thereof.

G. The Airport Manager shall be notified immediately of any fuel leakage or spill of five (5) gallons or greater. Permittee shall provide a written fuel and oil spill report to Airport Manager of any fuel leakage or spill of one (1) gallon or greater within seventy-two (72) hours of the occurrence or in the event any substance enters into a storm drain system.

H. Without limiting the foregoing, if the release by Permittee of any regulated substance on or under the Airport results in any contamination of Airport property, Permittee shall promptly take all actions at its sole cost and expense that are necessary to mitigate any immediate threat to human health or the environment. Permittee shall then undertake any further action necessary to remediate the contaminated site.

I. In accordance with applicable laws and Permittee's SPCC Plan; provided that Authority's approval of such actions shall first be obtained, which approval shall not be unreasonable withheld, conditioned or delayed. Permittee shall undertake such actions without regard to the potential legal liability of any other person; however, any remedial activities by Permittee shall not be construed to impair Permittee's rights, if any, to seek contribution or indemnity from another person.

J. Permittee shall, at Permittee's own cost and expense, make all tests, reports, studies and provide all information to any appropriate governmental agency as may be required pursuant to the Environmental laws.

#### XVIII. SEVERABILITY.

If any of the terms, rules, regulations or restrictions herein contained are ruled invalid or unenforceable by any court, the FAA, or agency of competent jurisdiction, then the remaining terms, rules, regulations or restrictions shall remain in full force and effect.

#### XIX. LIMITATIONS AND PENALTIES.

Permittee shall comply with all of the terms and conditions of this Ordinance and the Permit. Notwithstanding the other provisions of this Section XIX, the fueling of any aircraft which is not listed as a Permitted Aircraft on a Permit, may result in termination of the Permit. Said termination shall not occur until the Permittee has an opportunity for a hearing before the Authority. The hearing shall occur within thirty (30) days of the alleged violation.

Any other violation of the terms of the Ordinance may result in termination of the Permit, subject to the following:

A. Upon the first occurrence of a violation, the Designated Representative may issue a written notice and demand that the act or omission alleged in the notice be remediated in accordance with applicable law and Permittee's SPCC Plan. Such remediation shall occur within a reasonable amount of time as stated in the notice.

B. Upon a second violation or subsequent violation of any term of this Ordinance within one (1) year, the Authority shall require a written response from the Permittee including a plan to remediate the violation(s).

C. Upon a third violation within one (1) year, the Authority shall issue a "Show Cause Order" for the Permittee to appear before the Authority or its designee to show cause why the Permit should not be suspended for a reasonable time, not to exceed sixty (60) days, depending upon the frequency and severity of the violation.

D. Upon more than four (4) violations in one (1) year or six (6) violations in a three (3) year period, after notice to the Permittee and an opportunity for a hearing before the Authority, the Permit may be terminated.

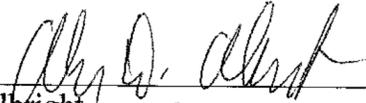
E. The failure of the Authority to enforce any violation of this Ordinance or the Permit shall not be deemed as a waiver or consent to any subsequent violation. For purposes of this subsection, each act of the Permittee in violation of the Ordinance shall be deemed a separate violation.

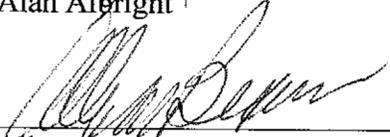
XX. The Authority reserves unto itself the right to amend the terms of this Ordinance as long as the amendment does not violate any state or federal law or rule or regulation of the FAA.

XXI. This Ordinance shall be in full force and effect upon passage.

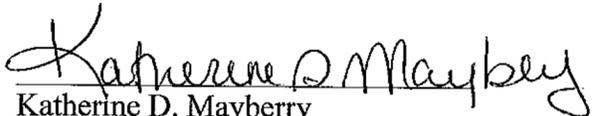
ALL OF WHICH IS ORDAINED by the Hamilton County Airport Authority on this  
12 day of November, 2014.

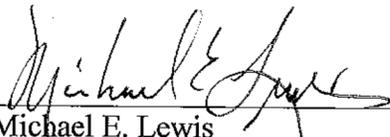
HAMILTON COUNTY AIRPORT  
AUTHORITY

  
\_\_\_\_\_  
Alan Albright

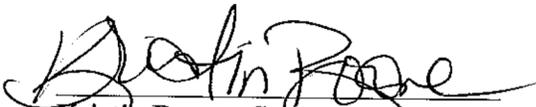
  
\_\_\_\_\_  
Allyn Beaver

  
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William H. Frye

  
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Katherine D. Mayberry

  
\_\_\_\_\_  
Michael E. Lewis

ATTEST:

  
\_\_\_\_\_  
Kristin Boone, Secretary

**Hamilton County Airport Authority**

**NON-PUBLIC AIRCRAFT FUEL DISPENSING PERMIT**  
**WITH**

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This Non-Public Aircraft Fuel Dispensing Permit (hereinafter "Permit") is issued this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the Hamilton County Airport Authority, (hereinafter "Authority"), a municipal corporation in the State of Indiana, and \_\_\_\_\_, (hereinafter "Permittee") authorized to conduct business in the State of Indiana;

WITNESSETH:

Whereas, Authority owns and operates the Indianapolis Executive Airport (hereinafter "Airport"), located in Boone County, Indiana; and

Whereas, Permittee and Authority entered into a certain Land and Building Lease Agreement, dated \_\_\_\_\_, (hereinafter "Lease Agreement") to operate an aircraft storage hangar (hereinafter "Leased Premises") at the Airport; and

Whereas, Authority and Permittee desire to enter into a Permit for the dispensing of aircraft fuel into Permittee's aircraft as further defined herein;

Now therefore, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree to the following:

1. Authorization

Authorization is granted pursuant to Ordinance HCAA 08-28-14-A ("the Ordinance") to conduct non-public aircraft fuel dispensing upon Permittee's Leased Premises as described in Permittee's Lease Agreement with the Authority. The issuance of this Permit is only valid with respect to the Permittee owning and occupying the Hangar on the Leased Premises.

Deviations, if any, from the provisions of this Permit will be considered on an individual basis, and are authorized only when written approval is received from Authority's President.

2. Restriction from Public Aircraft Fuel Dispensing Service

This Permit authorizes Permittee to dispense aircraft fuel only into aircraft owned or leased by Permittee and Permittee is restricted from selling or transferring aircraft fuel to other Airport users, including locally based and transient aircraft. Fueling of any aircraft not owned or leased by Permittee shall constitute a violation of the Permit and may result

in revocation of said Permit in accordance with the Ordinance. Upon request by Authority, Permittee shall provide evidence of ownership or lease of any aircraft being fueled. The aircraft which may be fueled, pursuant to this Permit, are listed on Exhibit 1, which may be amended from time to time, upon proof of ownership by the Permittee as described in Section VII of the Ordinance.

3. Rules and Regulations

Permittee agrees upon the execution of this Permit to comply with Authority Ordinance No. 8-28-14-A ("the Ordinance") which is attached hereto.

Permittee shall also comply with the applicable provisions of the Federal Clean Water Act and 40 CFR Part 112, as amended, relating to oil pollution prevention. In addition, the Permittee shall comply with all Best Management Practices set forth in the Authority's Storm Water Pollution Prevention Plan (SWPPP), specifically Sections 3.1 Good Housekeeping and 3.3 Spill Prevention and Response.

Permittee shall develop and implement a Spill Prevention Control and Countermeasure (SPCC) Plan, and file a copy with the Authority, or its designee, prior to any fueling activity.

Permittee shall comply with all local city, state, and federal regulations relating to the activities described in this Permit and the Ordinance.

4. Personnel

Fueling personnel will be designated by the Permittee. Personnel engaged in dispensing aircraft fuel shall be properly trained in all fueling, handling and associated safety procedures and shall in all fueling and aircraft handling operations conform to all proper practices and procedures for such operations and be trained and certified as described in the Ordinance. Observation of improper practices and procedures by Authority personnel and notification thereof to the Permittee will result in a reevaluation of Permittee's personnel as qualified to perform fueling operations. Failure on the part of Permittee to correct improper practices or procedures shall constitute a violation of the Permit and may result in revocation or suspension of said Permit in accordance with the Ordinance.

Permittee understands and agrees that its operation at the Airport necessitates the rendering of and communication to the public. To accomplish this, all service employees of Permittee must be fluent in the English language.

5. Fuel

Permittee may only provide aircraft fuel of the types required by those aircraft which Permittee owns or leases and shall not fuel aircraft with fuel other than those approved by the aircraft engine manufacturer and FAA type certificate for the type of aircraft involved.

Upon request by the Authority, Permittee shall furnish a Letter of Product Commitment and Allocation of Product for the fuels to be dispensed from a supplier as well as a Certificate of Insurance showing the insurance coverages of Permittee's Supplier.

6. Refueling Equipment

- A. If not fueling directly from a fuel storage tank, Permittee shall furnish single product mobile dispensing trucks, for each type fuel to be dispensed. Each truck shall have a minimum capacity of five hundred (500) gallons. The maximum capacity shall be one thousand two hundred (1,200) gallons for AVGAS and three thousand (3,000) gallons for jet fuel. In no instance shall any mobile dispensing truck exceed three thousand (3,000) gallons capacity. A separate filter dispensing pump, meter, bottom tank loading and grounding services are required for each type of fuel. The mobile dispensing trucks may be filled from an above ground fuel storage tank(s) located on Permittee's Leased Premises that is installed and operated pursuant to the provisions of Ordinance No. HCAA 08-28-14-A.

Trucks shall be properly maintained, operated and equipped in accordance with applicable procedures and guidelines contained in FAA Advisory Circular 150/5230-4, American Petroleum Institute Bulletin No. 1500, 1581, 1542, National Air Transportation Association (NATA) refueling and quality control procedures, National Fire Protection Association (NFPA) Publications, and local city and state codes, regulations and ordinances. Aircraft refueler units shall only be operated by persons instructed in their proper use and operation and who are qualified to use such refueler units in accordance with applicable safety requirements. Each qualified operator shall carry on his person an identification card issued by his employer certifying his qualifications.

Permittee shall adequately provide secondary containment for the mobile dispensing trucks as specified in 40 CFR Part 112.

- B. Permittee shall not allow use of defective equipment and will operate all other equipment as designed in a safe, efficient and clean manner, and under the terms of the Ordinance.
- C. Permittee's fuel trucks, when not engaged in refueling, must be parked within its Leased Premises or in an area designated by Authority, or its designee.
- D. Fuel trucks and starting systems will have locking capability and will be locked at all times when not in use.
- E. The Permittee may purchase fuel from a Fixed Base Operator (FBO) on the Airport for direct delivery into Permittee's mobile fuel dispensing truck at the Authority's tank farm, or (b) purchase fuel from a supplier off the Airport for

direct delivery into Permittee's mobile dispensing truck or above ground fuel tank.

- F. Loading of Permittee's mobile dispensing truck off the Airport for transport of fuel onto the Airport for off-loading into aircraft is permitted only in a Permittee owned or leased mobile fuel dispensing truck, operated only by Permittee's trained employees and in a properly licensed truck with the ability to operate on public streets.
- G. Prior to the first use of a mobile dispensing truck on the Airport, the Permittee shall present such truck for inspection and approval by Authority, or its designee. Authority's approval is mandatory prior to the mobile dispensing truck's use or operation. Periodically, Permittee shall allow mechanical and dispensing system inspection of Permittee's fuel trucks by Authority, or its designee, and shall cease operation of the trucks until any malfunction or discrepancy so noted is corrected. Operation of mobile dispensing trucks with known mechanical or operational deficiencies shall constitute a violation of this Permit and may result in revocation or suspension of said Permit in accordance with the Ordinance.

7. Fueling Areas and Routes of Travel

Aircraft fueling will be conducted only in specific areas designated by the Authority. Access to the Leased Premises by Permittee's fuel provider, to and from the Permittee's fuel tank or fueling truck, shall be via routes approved by the Authority, or its designee.

8. Insurance and Indemnification

The Permittee shall obtain and maintain the following insurance as required by the Ordinance as follows:

A. Liability Insurance

Permittee shall, at its expense, procure and keep in force at all times during the term of the Permit, from a financially sound and reputable company reasonably acceptable to Authority, a comprehensive general liability and aircraft public liability insurance, insuring Permittee, the Authority, and Hamilton County, as additional named insureds, for bodily injury, including wrongful death, and property damage and insurance necessary to protect the Permittee, the Authority, and Hamilton County from such claims and actions. Without limiting its liability, Permittee agrees to carry and keep in force insurance with liability limits for bodily injury, including death, personal injury and property damage in a sum not less than Three Million Dollars (\$3,000,000) per person/Ten Million Dollars (\$10,000,000) per occurrence, for bodily injury and Ten Million Dollars (\$10,000,000) for property damage liability with said policies, designating the Authority and Hamilton County as additional named insureds. Proof of Insurance shall be provided to Authority and Hamilton County by a policy declaration page or policy endorsement evidencing such coverage. The policies shall contain severability of interest provisions, and all such policies shall be deemed as "primary" with respect to the Authority's and Hamilton

County's insurance. Permittee shall furnish Authority and Hamilton County with a copy of the insurance declarations page or endorsement to the policy as evidence of such coverage. Said insurance shall not be cancelled or materially modified except upon thirty (30) days advance written notice to Authority and Hamilton County.

Permittee shall provide a complete copy of all such policies upon written request of the Authority or Hamilton County. Coverage is to be written on the broadest liability form which is customarily available.

- i. The Permittee shall also provide a copy of the declarations page or endorsement to the policy for Motor Vehicle Liability including coverage for bodily injury, including death, or damage to the property of others caused by the operation of an automobile owned/leased/borrowed or used by the Permittee. The minimum coverages shall be: One Million Dollars (\$1,000,000) liability per person, Five Million Dollars (\$5,000,000) per occurrence, and One Million Dollars (\$1,000,000) Property Damage.
- ii. The Permittee shall also provide a Pollution Liability insurance policy including coverage for bodily injury, including death, or property damage arising out of the actual or alleged release, dispersal, or discharge, of fuel, oil, hydraulic fluids, or other pollutants. The policies shall have minimum coverage of One Million Dollars (\$1,000,000) per occurrence and a Three Million Dollars (\$3,000,000) aggregate.
- iii. All of Permittee's insurance coverage provided to the Authority and Hamilton County shall be primary and non-contributory insurance with respect to all other available sources.
- iv. Coverage provided by the Permittee shall not be limited to the liability assumed under the indemnification provisions of this Permit.
- v. NOTICE OF CANCELLATION: Each insurance Policy required by the insurance provisions of this Permit shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to Authority and Hamilton County. Such notice shall be sent directly to the Authority with a copy to the Airport Manager and to Hamilton County by certified mail, return receipt requested, or by hand delivery to each.
- vi. ACCEPTABILITY OF INSURERS: All insurance must be written by an insurance company authorized to do business in the State of Indiana, to be evidenced by a Certificate of Authority, a copy of which certificate is to be attached to the applicable insurance Policy or binder.

B. Workers' Compensation Insurance

Permittee shall, at its expense, procure and keep in force at all times during the Term of this Permit with a financially sound and reputable company reasonably acceptable to the Authority, a policy of workers' compensation insurance on the employees of Permittee in the required statutory amounts. This policy shall, to the extent it is lawful or practicable to do so, designate the Authority and Hamilton County as additional insureds. Permittee shall, upon execution of this Permit and at least thirty (30) days before the expiration of the policy, furnish the Authority and Hamilton County with a copy of the policy declarations or endorsement issued by the insurance company as evidence of such coverage. This policy shall not be cancelled, terminated, or materially modified or amended except upon thirty (30) days' advance written notice to the additional insureds.

C. Duplicate Copies of Evidence of Insurance Coverage

Permittee shall, at Permittee's cost and expense, furnish to the Authority from time to time, upon the Authority's request, duplicate copies of the insurance policies that Permittee is required to maintain pursuant to the preceding provisions. Those duplicate copies of the insurance policies shall be certified to the Authority and Hamilton County by Permittee's insurance carrier as being true, complete and correct photocopies of those policies.

D. Fire Insurance

Permittee shall maintain insurance in accordance with the provisions of Permittee's Lease Agreement.

E. Indemnification

The Authority and Hamilton County "County" shall be indemnified by Permittee as provided in the Ordinance and this Permit. If there is a conflict in terms between the Ordinance and this Permit the Ordinance shall control. Permittee is and shall be deemed to be an independent contractor and operator responsible to all parties for its acts or omissions, and Authority, shall in no way be responsible therefor. Permittee covenants and agrees to indemnify, hold harmless and defend the Authority, the County, and their respective directors, officers, agents, servants, and employees from and against any and all claims or incidents relating to fueling of aircraft and to the privileges granted by the use of this Permit and occupancy of the Leased Premises by Permittee, its employees, patrons, contractors, or subcontractors; and Permittee does hereby agree to assume and indemnifies Authority and County, and their respective directors, officers, agents, servants and employees from and against all liability, and responsibility for injuries, claims or suites for damages, to persons or property of whatsoever kind or character,

whether real or asserted, including cost of defense and attorney's fees, occurring during the term of this Permit related to the fueling of aircraft and/or the use or occupancy of the Leased Premises by Permittee, its employees, patrons, contractors or subcontractors. Permittee shall indemnify Authority and County, against any and all mechanics and materialmen's liens or other types of liens imposed upon the Leased Premises demised under this Permit arising as a result of Permittee's conduct, acts or omissions. The indemnities of Permittee under this Paragraph E shall not, as to any indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee. The provisions of this Section shall survive the expiration or early termination of this Permit.

9. Non-Discrimination

The Permittee, for itself, its heirs, its personal representatives, successors in interest, and assigns, and sublessees as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of sex, race, color, national origin, handicap, or veteran status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such Leased Premises, the furnishing of services thereof, no person on the grounds of age, sex, race, color, or national origin, handicap, or veteran status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Permittee shall use the Leased Premises in compliance with other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, non-discrimination in federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended, or as the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

10. Civil Rights

The Permittee assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of age, sex, race, color, national origin, handicap or veteran status be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates Permittee or its transferee for the period during which federal assistance is extended to the Airport program, except where federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended,

or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.

11. Environmental Statutes

Permittee covenants and agrees to comply with all applicable environmental laws and to provide to Authority, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of Permittee or which seek criminal or punitive penalties from Permittee for an alleged violation of environmental laws. Permittee further agrees to advise the Authority in writing as soon as Permittee becomes aware of any condition or circumstance which may result in a potential violation of any environmental laws and / or contamination caused by Permittee on Authority's land. Permittee agrees, at the request of Authority, to permit an environmental audit solely for the benefit of Authority, to be conducted by Authority or an independent agent selected by Authority. Permittee agrees to bear the expense of said audit only in the event of contamination or other violation by Permittee discovered pursuant to said audit. This provision shall not relieve Permittee from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

If in the reasonable opinion of Authority, there exists any uncorrected violation by Permittee of an environmental law or any condition which requires, or may require, a cleanup, removal or other remedial action by Permittee, and such cleanup, removal or other remedial action is not initiated within thirty (30) days from the date of written notice from Authority to Permittee, and completed within such time period as specified in any remediation action plan approved by Authority or as required by the Indiana Department of Environmental Management or the Environmental Protection Agency, the same shall, at the option of Authority, constitute an event of default hereunder.

For the purposes of this Article, the term "environmental law" shall mean all federal, state and local laws including statutes, regulations, ordinances, codes, rules, policies, guidance, permits issued to the Authority and other governmental restrictions, requirements, and best management practices relating to the environment or hazardous substance including, but not limited to, the Indiana Environmental Management Act, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Re-authorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Natural Resources or State Environmental Protection Agency, requirements of the Authority's Environmental Management System or other Environmental Plans now or anytime hereafter in effect.

Permittee agrees fully to indemnify and save and hold harmless Authority and Hamilton County (Indemnified Parties), from and against all claims and actions and all expenses incidental to the investigation and defense thereof, including reasonable litigation expenses and attorneys' fees, based on or arising out of damages or injuries to persons or their property, resulting from Permittee, its agents, or employees, violation of any environmental laws with respect to Permittee's use and occupancy of any Leased Premises, and any contamination caused by the Permittee on the Authority's land. The indemnities of Permittee under this Paragraph 11 shall not, as to any indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee. This indemnity shall survive the expiration or early termination of this Permit.

The Indemnified Party or Parties shall give to Permittee prompt and reasonable notice of any such claim or action, and Permittee shall have the right to investigate, compromise, and defend the same.

12. Fees and Audit

A. Fuel Flowage Fee

In addition to the annual Permit fee provided herein, Permittee shall pay to Authority a fuel flowage fee in the amount per gallon as set forth in Authority's Rates & Charges General Ordinance or as such Ordinance may hereafter be amended, for the previous month, times the number of gallons of fuel received from off the Airport by Permittee in its Permittee's storage tanks on the Leased Premises. Copies of the documents evidencing the type and amount of fuel received will be submitted together with Permittee's fuel flowage payment, shall be delivered to the Airport Manager monthly prior to the 10<sup>th</sup> day of the subsequent month.

B. Audit

At all times during the term hereof, Permittee shall keep at a location within Hamilton County, Indiana, or their place of business, in accordance with generally accepted accounting practices, separate and accurate daily records of fuel deliveries, transfers and usage at the Airport. Permittee shall maintain records for inspection or auditing purposes and all entries in such records or books shall be made at or about the time the transaction occurs. It is the intent and purpose of the foregoing provisions that Permittee shall keep all such records as will enable Authority, as well as Permittee to ascertain and determine, accurately and clearly, the amount of fuel delivered, transferred and used and any amount of fuel flowage fees payable to Authority hereunder. Authority shall have the right, during normal business hours, to audit Permittee's records pertaining to its fueling operations at the Airport. Permittee agrees to maintain the records for a period of three (3) years from the date of the fuel purchase.

13. Cancellation

A. Cancellation by Permittee

This Permit may be cancelled by Permittee upon thirty (30) days written notice to Authority, but only after all payments due have been paid.

B. Subordination to U.S. Government

This Permit shall be subordinate to the provisions of any existing or future agreement(s) between the Authority and the United States Government or agency thereof, relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to Authority of Federal funds for the development of the Airport and in the event an amendment to this Permit is necessary to comply with any existing or future agreement with the United States Government or agency thereof, this Permit is subject to cancellation or termination by Authority and re-issuance thereof with such amendment(s) as necessary to comply with such agreement(s).

C. Suspension or Revocation by Authority

This Permit shall be subject to suspension or revocation by Authority in the event Permittee shall:

1. Be in arrears in the payment in whole or part of the amounts agreed upon for a period of twenty (20) days after the time such payments become due to Authority.
2. Make a general assignment for the benefit of creditors.
3. File a voluntary petition in bankruptcy.
4. Abandon the Leased Premises for a period of more than 60 days during any calendar year or the Lease for the Leased Premises is terminated pursuant to its terms.
5. Discontinue fueling operations.
6. Default in the performance of any of the covenants and conditions required herein to be kept and performed by Permittee, and such default continues for a period of thirty (30) days after receipt of a written notice from Authority of said default.
7. Cause or permit the fueling of any Aircraft which is not listed as a "Permitted Aircraft" on Exhibit 1 of this Permit.

8. Failure to comply in any material respects with the provisions of Authority Ordinance HCAA 8-28-14-A, or as said Ordinance may hereafter be amended, and such noncompliance continues for a period of thirty (30) days after receipt of a written notice from Authority of said noncompliance.

D. In the event of a suspension or termination of this Permit pursuant to the terms of Section XIX of the Ordinance, subject to applicable law, Authority may take immediate possession of Permittee's refueling equipment and tank, and remove Permittee's equipment forcibly, if necessary, without being deemed guilty of trespassing. Upon said possession, this Permit shall terminate.

All payments due from Permittee shall be payable to said date of termination. Failure of the Authority to declare the Permit terminated upon the acts of the Permittee for any of the reasons set out in this Section 13(C), shall not operate to bar or destroy the right of Authority to cancel the Permit by reason of any subsequent violation of the terms hereof.

14. Term of Permit

Subject to Paragraph 13(C) above, the term of this Permit is for ten (10) years. This permit shall be renewable for additional five (5) year periods as long as the Permittee is in compliance with the terms of this permit and continues to be a Lessee of the Leased premises. The renewal shall be under the same terms as set out herein, subject to changes in any state, federal, and local laws, rules, and regulations which impose mandatory changes to the rights and duties of the parties. If Permittee is not in compliance with the terms of this permit and Permittee continues to provide fueling services beyond the applicable termination date, such holding over of this Permit shall not constitute a renewal or extension, but shall create a month to month use, which may be terminated at any time by the Authority or Permittee by giving thirty (30) days written notice to the other party.

15. Fuel Permit Fee

An annual fee of Five Hundred Dollars (\$500) will be assessed for the duration of this Permit. Such annual fee will be payable before February 1st of every year.

16. Assignment of Transfer

Permittee shall not assign or transfer this Permit nor any privileges herein contained. It is specifically stipulated and agreed that Permittee will not enter into any tie-in agreements with other operators or Airport tenants or grant any of the rights herein whereby other operators share in the privileges of the services authorized in this Permit.

17. Taxes

Permittee agrees to pay taxes or assessments which may be lawfully levied against Permittee's equipment or operation.

18. Notices

Notice to all parties required by the Ordinance or this permit shall be mailed or delivered to:

The Permittee at:

The Authority at: Hamilton County Auditor  
33 North 9<sup>th</sup> Street, Suite L-21  
Noblesville, Indiana 46060

The Airport Manager at: Indianapolis Executive Airport  
11329 East State Road 32  
Zionsville, Indiana 46077

19. Disputes.

In the event of a dispute or controversy under or relating to this Permit other than a dispute or controversy seeking injunctive or equitable relief, the parties agree to attempt to resolve the matter by mediation. The parties shall use reasonable efforts to agree upon the employment of a mediator, upon receipt, by either of them, of a written notice to concur in such an employment. Should the parties fail to agree on a mediator within fourteen (14) days, a mediator shall be appointed by the Judge of the Hamilton Circuit Court. If the parties, through mediation, fail to resolve the dispute within forty-five (45) days, either party may give written notice that the dispute shall be submitted to arbitration for resolution, which arbitration shall be conducted in Indianapolis, Indiana, before one arbitrator, in accordance with the rules of the American Arbitration Association then in effect. The decision of the arbitrator shall be binding on the parties and judgment upon the award of arbitration rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator shall limit its judgment to matters permitted to be submitted to it under the express terms of this Permit. The expenses of the arbitrator shall be borne equally between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**HAMILTON COUNTY AIRPORT AUTHORITY**

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form and Legality:

By: \_\_\_\_\_

Michael A. Howard, Attorney

**PERMITTEE**

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Exhibit 1

## Aircraft Authorized To Be Fueled Pursuant to the Non-Public Aircraft Fuel Dispensing Permit Issued to

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Make and Model of Aircraft

Registration Number