

DIAMONDHEAD POA

1200 AIRPORT CIRCLE
DIAMONDHEAD, MS 39525

LEASE OF HANGAR FACILITY

June 18, 2020



1.0 Introduction

Diamondhead Property Owners Association (“POA”) is offering a hangar (“FACILITY”) for lease for a three-year term, with two, one-year option periods. The base period will be from August 1, 2020 – July 31, 2022, the first option period will be from August 1, 2022 – July 31, 2023 and the second option period will be from August 1, 2023 – July 31, 2024. The POA (“LESSOR”) is interested in obtaining a LESSEE who can offer aircraft/airport services such as aircraft maintenance, fixed based operator (FBO) services, etc., but understand that this may not be possible due to the limited size of the operation at Diamondhead. Therefore, the POA will entertain any and all offers to lease the facility.

2.0 Hangar/Airport Description

The hangar dimensions are approximately 94 feet wide by 50 feet deep. Within the hangar is approximately 700 square feet of office/lounge space. More information about the Diamondhead airport and runway can be found at <https://www.airnav.com/airport/66Y>.

Fuel service at Diamondhead is self service with credit card payments and the LESSEE is not entitled to income from fuel operations or expected to perform any fuel related services. Additionally, tie down rentals on the ramp will be handled by the POA office staff and LESSEE is not entitled to income from tie down operations.

3.0 Utilities

LESSEE will be responsible for all utility costs, including but not limited to, electric and water for the FACILITY. Historical data for POA in 2018-2019 are as follows:

<u>Year</u>	<u>Electric</u>	<u>Water</u>
2018	\$1869.25	\$307.56
2019	\$2556.74	\$307.56

The LESSOR does not guarantee that LESSEE can receive utilities at the same rate as the POA. LESSOR will be responsible for the Fire District fees, Intrusion and Fire Alarms, and the electric bills for Airport Circle and the runway lights.

4.0 Bid Format & Evaluation

As mentioned above, the POA is hoping to attract a LESSEE who will enhance the airport experience at Diamondhead. For this purpose, bids will be evaluated on a “BEST VALUE” basis. The POA will evaluate bids on the following factors:

- i) FACILITY Use – an offeror offering any sort of aviation service that would benefit the airport experience would receive a higher mark in this category than an offeror whose intended use is unrelated to aviation.
- ii) Lease Price - The POA is looking to maximize revenue from our Airport operation and bids offering substantially more revenue opportunity for the POA will receive a higher mark in this category than an offeror who offers substantially less revenue.
- iii) FBO Services – Any offeror, regardless of their intended use of the FACILITY, will receive a higher mark in this category if they offer any FBO services, such as provide a computer for flight planning services, make restrooms available to pilots and guests, etc.

Your bid must include the following minimum information:

i) Company name, address, telephone number, contact person and title, website address (if applicable), and short company biography. Individuals providing a bid must provide name, address, and telephone number,

ii) A description of your intended use of the FACILITY. If you plan to run a commercial enterprise please describe intended operational details. If you cannot meet the target date of August 1, 2020, please explain and provide a proposed date to take possession of the FACILITY.

iii) Please provide your offered price for the base period, as follows:

Base Period beginning Aug 1, 2020, \$_____ per month.

iv) List any FBO services that you intend to provided, including hours of availability.

v) Please list any concerns or exceptions to the proposed commercial lease attached hereto as Exhibit A.

vi) The offer must be signed by same person who will sign the lease with the POA.

Bids are due by Noon on July 7, 2020. Bids may be mailed, emailed or hand delivered to:

Mr. August Rechten
Diamondhead POA
7600 Country Club Circle
Diamondhead, MS 39525
Email: arechten@dhpoa.org

5.0 Open House

The POA will make the FACILITY available for inspection on June 30, 2020, during the hours of 1:00 pm to 3:00 pm. If your schedule does not permit you to see the FACILITY during Open House hours, you may contact Mr. Rechten by email at the address above to schedule a site visit.

6.0 Lease

Attached hereto as Exhibit A is the proposed lease for the FACILITY.

EXHIBIT A

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (the "**Lease**") is made and entered into this ___ day of _____, 2020 by and between the Diamondhead Country Club and Property Owners Association Inc., 7610 Country Club Circle, Diamondhead, MS 39525 (hereinafter "**Lessor**") and _____ (hereinafter "**Lessee**").

For and in consideration of the rents, covenants and agreements hereinafter made by Lessee to be observed and performed, Lessor demises and leases to Lessee, and Lessee leases, rents and accepts from Lessor the Premises, as hereinafter defined.

1. **Premises.** An airport hangar located at 1200 Airport Circle Diamondhead, MS 39525 (the "**Facility**") consisting of a space measuring approximately 94 feet wide by 50 feet deep (the "**Premises**").

2. **Term.** The Term of this Lease shall commence on August 1, 2020, (hereinafter "**Commencement Date**") and end on July 31, 2022 (hereinafter "**Termination Date**"), unless otherwise sooner terminated in accordance with the provisions of this Lease (the "**Term**"). Lessee shall have two one-year renewal options. Each renewal option must be exercised by written notice to Lessor no less than 60 days prior to the Termination Date with respect to the original term and 60 days prior to the termination of any extension period. In the event Lessor determines, in its sole discretion, that any activity by Lessee's employees, agents, or invitees, is disruptive to Lessor's operations, employees, or members, then within 5 days of written notice to Lessee, Lessee shall remove such employee, agent or invitee from the Premises and strictly prohibit any re-entry on the Premises without Lessor's consent.

3. **Commencement.** If Lessor permits Lessee to take Possession prior to the commencement of the Term, such early Possession shall not advance the Termination Date and shall be subject to the provisions of this Lease including, without limitation, the payment of rent. If Lessor fails to deliver Possession to Lessee on or before the Commencement Date, this Lease shall be canceled, in which case all consideration previously paid by Lessee to Lessor pursuant to this Lease shall be returned to Lessee, on account of such delay or cancellation.

4. **Base Rent and Holdover Rent.** Base rental for the Term shall be \$_____ per month. Lessee shall pay the Base Rent to Lessor at Lessor's address set forth above, or at such other place as Lessor may designate from time to time, in advance and without notice or demand therefor, and without any abatement (except as expressly set forth herein to the contrary), deduction, diminution or set-off whatsoever, on the Commencement Date and the first day of each succeeding calendar month thereafter throughout the Term. If mailed, the Base Rent and all other payments under this Lease shall be mailed in sufficient time and with adequate postage thereon to be actually received by Lessor not later than the due date. This shall be a full-service Lease with Lessee having the use of all standard building services. First month rental amount shall be due on or before lease execution. If the Term begins or ends on a day other than the first or last day of a month, then rent for the partial months shall be prorated on a per diem basis. In the event the Lessee continues to occupy the Premises after the Termination Date ("**Holdover Occupancy**"), the Lessee agrees to pay rent pursuant to the same terms and conditions of this Lease, however, rent shall increase twenty-five percent (25%) per month during the period of Holdover Occupancy.

5. **Utilities and Telecommunications.** Lessee may install its own voice and data lines and all related infrastructure used in the Premises. Lessee shall be responsible for the cost of all utility and telecommunication expenses associated with the Facility. Within 14 days of taking possession of the Premises, Lessee shall set up electric and water accounts in the name of Lessee and shall stay current with respect to all charges due on said accounts. Failure to maintain electric and water on the Premises and pay all charges when due shall be deemed an event of default hereunder.

6. **Late Charges.** Other remedies for non-payment of rental notwithstanding, time is of the essence of this Lease and if Lessor elects to accept rent on or after the fifth (5th) day of the month, a late charge equal to five percent (5%) of the base rent will be due as additional rent. Lessee agrees to tender all late rent by cashier's check, certified check, or money order. In the event Lessee's rent check is dishonored by the bank, Lessee agrees to pay Lessor \$30.00 as a handling charge and, if applicable, the late charge, and Lessee shall deliver said monies to Lessor as specified in Paragraph 4. Dishonored checks must be replaced by a cashier's check, certified check, or money order. In the event more than one check is dishonored, Lessee agrees to pay all future rent and charges in the form of cashier's check, certified check, or money order. Any other

amounts payable to Lessor under this Lease, with the exception of Base Rent, shall be considered past due thirty (30) days from Lessor's billing date and Lessee shall pay a monthly service charge of two percent (5%) of the amount past due for that and each subsequent month that the amount remains past due. The parties agree that such charges represent a fair and reasonable estimate of the costs the Lessor will incur by reason of such late payment and/or returned check.

7. **Security Deposit.** On the date of execution of this Lease by Lessee, Lessee will pay to Lessor a security deposit in the amount of _____ (\$ _____) for Lessee's faithful performance of Lessee's obligations hereunder (hereinafter "**Security Deposit**"). If Lessee fails to pay rent or other charges when due under this Lease, or fails to perform any of its other obligations hereunder, Lessor may use or apply all or any portion of the Security Deposit for the payment of any rent or other amounts then due hereunder and unpaid, for the payment of any other sum for which Lessor may become obligated by reason of Lessee's default or breach, or for any loss or damage sustained by Lessor as a result of Lessee's default or breach. If Lessor so uses any portion of the Security Deposit, Lessee shall, within thirty (30) days after written demand by Lessor, restore the Security Deposit to the full amount originally deposited, and Lessee's failure to do so shall constitute a default under this Lease. Lessor shall not be required to keep the Security Deposit separate from its general accounts and shall have no obligation or liability for payment of interest on the Security Deposit. In the event Lessor assigns its interest in this Lease, Lessor shall deliver to its assignee so much of the Security Deposit as is then held by Lessor. Within thirty (30) days after the Term has expired, or Lessee has vacated the Premises, or any final adjustment pursuant to Paragraph 4 hereof has been made, whichever shall last occur, and provided Lessee is not then in default of any of its obligations hereunder, the Security Deposit, or so much thereof as had not theretofore been applied by Lessor, shall be returned to Lessee.

8. **Acceptance of Premises.** Lessor has made no representations or warranties, express or implied, with respect to the Premises or this Lease except as herein expressly set forth. The taking of Possession of the Premises by Lessee shall be conclusive evidence that Lessee accepts the Premises "as-is" and that Lessee has determined that the Premises are suitable for the use intended by Lessee and were in good and satisfactory condition at the time such Possession as so taken.

9. **Use of Premises.** Lessee shall use the Premises for _____, general office use and for all lawful activities normally incidental thereto and related to the conduct of Lessee's business and for no other purpose. Lessee shall not, without Lessor's prior written consent, make any improvements, additions, or alterations to the Premises or permit any mechanic's materialman's or any other type of lien to be filed against the Premises by reason of or related to work supplied or claimed to have been supplied to Lessee.

10. **Assignment and Subletting.** Lessee shall not assign this Lease or further sublet all or any part of the Premises without prior written consent of Lessor, which consent may be withheld in Lessor's sole discretion. Any assignment or subletting without consent shall be void.

11. **Indemnity and Insurance.** Except for Lessor's or Lessor's employee's, contractor's, and/or invitee's negligence or willful misconduct, Lessee agrees to and hereby does indemnify and save Lessor harmless against all claims for damages to persons arising out of or relating to Lessee's use or occupancy of the Premises, and all expenses incurred by Lessor because thereof, including attorney's fees and court costs. Except for Lessor's or Lessor's employee's, contractor's, and/or invitee's gross negligence or willful misconduct, Lessee agrees to and hereby does indemnify and save Lessor harmless against all claims for damages to property arising out of or relating to Lessee's use or occupancy of the Premises, and all expenses incurred by Lessor because thereof, including attorney's fees and court costs. Lessor shall not be liable for any loss of property by theft or burglary from the Premises or the Facility in which the Premises is located, absent Lessor's gross negligence or other willful act or omission giving rise to the same (or the grossly negligent or intentional acts or omissions of Lessor's employees, agents, contractors, visitors or employees). Lessee agrees to pay for all damages to Lessor or occupants thereof caused by Lessee's misuse or neglect of the Premises, its apparatus or appurtenances, by Lessee's invitees, employees, agents, visitors or licensees. Supplementing the foregoing and in addition thereto, Lessee shall during the Term of this Lease, and at Lessee's expense, maintain in full force and effect comprehensive general liability insurance with minimum limits of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate and property damage limits of \$100,000.00, and naming Lessor as additional insureds. Lessee must also maintain during the term of the Lease, broad form coverage on Lessee's personal business property, improvements, and betterments in such amounts and forms as Lessee may elect. Lessee shall provide evidence of such insurance to Lessor prior to the commencement of the Term of this Lease. Lessor and Lessee each hereby release and relieve the other, and waive its right of recovery, for loss or damage arising out of or incident to the perils insured against which perils occur in, on, or about the Premises, whether due to the negligence of Lessor or Lessee or their employees, contractors, and/or invitees with respect to the insurance actually carried, or required to be carried hereunder, to the extent of the proceeds realized from such insurance coverage. Lessor and Lessee shall, upon obtaining the

policies of insurance required, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease. Within five (5) business days of execution of this Lease by all parties, Lessee shall provide Lessor with a Certificate of Insurance on a standard Acord form evidencing the above-referenced insurance and providing for a thirty (30) day notice of cancellation/non-renewal. Insurance may be provided by endorsement of Lessee's blanket insurance policies.

12. **Casualty Loss or Destruction**

12.1 Lessee shall give Lessor immediate written notice of any damage to the Premises. Subject to the provisions of Paragraph 12.2, if the Premises or the Facility shall be damaged to such an extent that there is substantial interference for a period exceeding 90 consecutive days with the conduct by Lessee of its business at the Premises, Lessee, at any time prior to commencement of repair of the Premises and following 10 days written notice to Lessor, may terminate this Lease effective 30 days after delivery of such notice to Lessor. Such termination shall not excuse the performance by Lessee of those covenants, which under the terms hereof survive termination. Rent shall be abated in proportion to the degree of interference during the period that there is such substantial interference with the conduct of Lessee's business at the Premises. Abatement of rent and Lessee's right of termination pursuant to this provision shall be Lessee's sole remedy for failure of Lessor to keep in good order, condition and repair the foundations and exterior walls of the Facility, Facility roof, utility systems outside the Facility, the common areas and HVAC.

12.2 **Damage Caused by Lessee.** Lessee's termination rights under Paragraph 12.1 shall not apply if the damage to the Premises or Facility is the result of any act or omission of Lessee or of any of Lessee's agents, employees, customers, invitees or contractors ("**Lessee Acts**"). Any damage resulting from a Lessee Act shall be promptly repaired by Lessee. Lessor, at its option, may at Lessee's expense repair any damage caused by Lessee Acts. Lessee shall continue to pay all rent and other sums due hereunder and shall be liable to Lessor for all damages that Lessor may sustain resulting from a Lessee Act.

13. **Defaults: Remedies.**

13.1 **Defaults.** The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessee:

- (a) The abandonment of the Leased Premises by Lessee.
- (b) The failure by Lessee to make any payment of rent within five (5) days from the date when due, or if Lessee defaults in making any other payment required to be made by Lessee hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof from Lessor to Lessee.
- (c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Lessee, other than described in Section 13.1 (b), where such failure shall continue for a period of thirty (30) days after written notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- (d) The making by Lessee of any general assignment, or general arrangement, for the benefit of creditors.
- (e) The filing by or against Lessee of a petition to have Lessee adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, the same is dismissed within ninety (90) days).
- (f) The appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Leased Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within thirty (30) days.
- (g) The attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Leased Premises or of Lessee's interest in this Lease, where such seizure is not discharged within sixty (60) days.

13.2 **Remedies.** In the event of a material default or breach by Lessee, Lessor, in addition to and/or concurrently with any other remedies given it by law or in equity, may at its option, (a) re-enter the Premises by any lawful means and re-let the Premises either as agent of Lessee or otherwise and receive the rent therefrom applying such rent first to the payment of such expenses as Lessor may be put to in reentering, and then to the payment of rent or other amounts accruing hereunder, the balance, if any, to be paid by Lessee, who shall remain liable for any deficiency, or (b) terminate this Lease and all rights of Lessee hereunder, but Lessee shall in the event of any such re-entry, re-letting or termination remain fully liable for the performance of its obligations under this Lease, including, but not limited to, payment of all rental obligations. It is further agreed that in the event Lessor shall incur attorney's fees or other costs in the enforcement of any provision of this Lease or should suit be brought for the collection of rent due hereunder or by reason of the failure of Lessee to perform any of its covenants or obligations hereunder, Lessee shall pay to Lessor all the costs of such enforcement and/or suit, including reasonable attorney's fees (through appeal), whether or not suit is brought.

14. **Surrender.** Subject to the provisions of Section 4 and 12, on the last day of the Term (or as sooner terminated as provided hereunder), Lessee shall surrender the Premises to Lessor in the same condition as when received, broom clean, ordinary wear and tear and casualty loss excepted.

15. **Notices.** (a) Any notice by either party to the other required or permitted under this Lease shall be valid only if in writing and shall be deemed to be duly given only if delivered personally or sent by registered or certified mail addressed (1) if to Lessee, at the Premises, and (2) if to Lessor, at the address set forth herein, or at such other address for either party as that party may designate by notice to the other; notice shall be deemed given, if delivered personally, upon delivery thereof, and if mailed upon the mailing thereof.

16. **Entire Agreement.** This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises, or agreements, oral or otherwise, between the parties, not embodied herein, shall be of any force or effect. No subsequent alteration, amendment, change, or addition of this Lease, shall be binding upon Lessor or Lessee unless reduced to writing and signed by Lessor and Lessee.

17. **Attorney's Fees.** In the event that any action or proceeding is brought to enforce any term, covenant or condition of this Lease on the part of the Lessor or Lessee, the prevailing party in such litigation shall be entitled to recover reasonable attorney's fees and costs. Furthermore, Lessor and Lessee agree to pay the attorney's fees and expenses of the other party to this Lease (either Lessor or Lessee) if it is made a party to litigation because of its being a party to this Lease and when it has not engaged in any wrongful conduct itself.

18. **Time of Essence.** Time is of the essence of this Lease.

19. **Validity and Severability.** The terms, conditions, covenants, and provisions of the Lease shall be deemed to be severable. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect. The validity, interpretation, construction, and performance of this Lease shall be governed by the laws of the State of Mississippi. Any arbitration, litigation or similar proceeding with respect to this Lease must be brought within Mississippi, and all parties to this Lease consent to Mississippi's jurisdiction.

20. **Agency Disclosure.** Lessor and Lessee hereby acknowledge that no Broker has acted as an agent for either party in this transaction.

21. **Section Titles.** The section titles in the Lease are included for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

22. **Miscellaneous.** Lessee will have use of any existing furniture in the Premises provided by Lessor, but said furniture shall remain property of Lessor.

23. **Counterparts.** This agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same agreement.

[Signatures appear on following page.]

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

Signed, sealed and delivered in the presence of:

Witness

LESSOR:

(SEAL)

Printed Name

Address

Telephone

Date

Signed, sealed and delivered in the presence of:

Witness

LESSEE:

(SEAL)

Printed Name

Address

Telephone

Date