

CITY OF MINOT, NORTH DAKOTA

CONSENT TO MORTGAGE OF LEASEHOLD INTEREST

THIS CONSENT TO MORTGAGE OF LEASEHOLD INTEREST is entered into this ___ day of _____, 2018, by and between Comerica Bank, a Texas banking association, whose address is 3501 Hamlin Road, Ste. 3, Auburn Hills, Michigan 48326, Attention: Middle Market - Metro C Financial Center, Mail Code 5240 (hereinafter referred to as “Comerica”) and the City of Minot, North Dakota (hereinafter referred to as “City”).

WHEREAS, Comerica has previously loaned or committed to loan to Avflight Corporation, a Michigan corporation, whose address is 47 West Ellsworth Road, Ann Arbor, MI 48108 (hereinafter referred to as “Avflight Corporation”) \$30,000,000 as evidenced by the Third Amended And Restated Master Revolving Note executed by Borrower and delivered to Mortgagee on or about January __, 2017, as amended (the “Loan”) a portion of which has funded or will fund the acquisition and renovation by Avflight Minot Corporation, a Michigan corporation, whose address is 47 West Ellsworth Road, Ann Arbor, MI 48108 (hereinafter referred to as “Avflight Minot”) of the land, building and other improvements on the land described in Exhibit A (collectively, the “Leased Premises”) being leased by the City to Avflight Minot pursuant to the Lease Agreement dated December 13, 2017, a copy of which is attached as Exhibit B; and

WHEREAS, Comerica has required that Avflight Minot grant to Comerica a Mortgage of its leasehold interest in the Leased Premises (the “Mortgage”) as a condition to continued funding under the Loan.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the payment of One and no/100 (\$1.00) Dollar and other good and valuable consideration the receipt of with is hereby acknowledged, the parties agree as follows:

1. The City hereby consents to the grant by Avflight Minot to Comerica of the Mortgage with respect to Avflight Minot’s leasehold interest under the Lease and in the Leased Premises, upon the condition that the net proceeds of such mortgage be devoted exclusively to the purpose of acquiring or developing the Leased Premises and the Initial Improvements thereon.

2. The City acknowledges that Comerica may have no means of determining in due course when the City claims default under the Lease. Therefore, the City agrees it will not claim a breach entitling to rescind, cancel or terminate its performance under the Lease, nor will it claim any right to additional consideration, time or performance, unless the City shall have given prior written notice to Comerica of such breach, and Comerica shall have thirty (30) days from the receipt of such notice to remedy or cure any claims of breach by the City. During this period, upon Comerica’s request, the City will continue its performance under the Lease in accordance with the terms thereof. No claim of rescission, cancellation or default under the Lease shall be binding upon Comerica in the absence of such notice nor shall anything herein require Comerica to remedy or cure any breach or default. Upon the cure of any default or breach by Comerica, the City shall continue to perform its obligations thereunder to or for the benefit of Comerica, if Comerica is then acting pursuant to this Agreement.

3. Comerica agrees that, in the event that Comerica forecloses on the Mortgage and takes possession of the Leased Premises, it will be bound by all of the terms and conditions of the Lease.

4. The City agrees that it will not terminate or cancel the Lease based upon Comerica's exercise of its right to have a receiver appointed to operate the Leased Premises as provided in the Mortgage, so long as Comerica and the receiver abide by the terms and conditions of the Lease.

5. Comerica acknowledges that, subject to the terms of this Agreement, the City has not subordinated its rights under the Lease to the Mortgage, that Avflight Minot's interest in the Leased Premises is subject to the Lease and that Comerica has no greater interest in the Leased Premises than that held by Avflight Minot.

6. Notwithstanding the rights granted to Comerica under this Agreement, the City reserves the right to proceed directly against Avflight Minot for any claim of breach occurring under the Lease so long as Avflight Minot remains in possession of the Leased Premises.

7. In addition to the rights on default granted to Comerica in the above paragraphs, the parties acknowledge that in the event of a declaration of a default based on non-monetary breaches of the Lease, Comerica may need additional time and cooperation to cure those defaults. In the event that the City gives notice to Avflight Minot of any alleged failure to perform any obligation or condition under the Lease, excluding obligations or conditions which can be satisfied by the payment of money, then Comerica shall have the right to notice and cure recited in paragraph 2 above, and additionally shall have sufficient time in excess of the thirty (30) day cure period cited above to cure the default by whatever steps are reasonable, including foreclosing on its Mortgage, taking possession of the Leased Premises and releasing, subleasing, or assigning to a new tenant for the Leased Premises approved by the City (which consent shall not be unreasonably withheld by the City) The right of Comerica to extend its cure period under this paragraph in excess of the thirty (30) day period granted above shall be conditioned upon the payment by Comerica of the rent provided for in the Lease during such period.

SIGNATURES ON NEXT PAGE

EXECUTED as of the date first written above.

WITNESSES:

CITY OF MINOT, NORTH DAKOTA

By: _____
_____, _____

WITNESSES:

COMERICA BANK, a Texas banking association

By: _____
_____, _____

STATE OF NORTH DAKOTA)

) ss

COUNTY OF WARD)

On this _____ day of _____, 2018, before me personally appeared _____ the _____ of the City of Minot, North Dakota, to me known to be the persons described in and who executed the foregoing instrument that they executed the same as their free act and deed.

Notary Public, Minot County, North Dakota
My City expires: _____

STATE OF MICHIGAN)

) ss

COUNTY OF)

On this _____ day of _____, 2018, before me personally appeared _____, _____ of Comerica Bank, to me known to be the person described in and who executed the foregoing instrument that he executed the same as his free act and deed on behalf of the Bank.

Notary Public, _____ County, Michigan
My City expires: _____

EXHIBIT A

Legal Description of Leased Premises

Lease:

Lots 1 and 2, Minot International Airport Third Addition to the City of Minot,
Ward County, North Dakota

AND

Lot 1, Block 9, Minot International Airport Second Addition to the City of Minot,
Ward County, North Dakota

Right of First Option:

Lot 2, Block 2, Minot International Airport Second Addition to the City of Minot,
Ward County, North Dakota

EXHIBIT B

Minot International Airport Amended and Restated Lease and Full Service Operator Agreement

By and Between

The City of Minot, North Dakota

And

Avflight Minot Corporation

December 13, 2017