



SPACEPORT AMERICA

LEASE AGREEMENT
NEW MEXICO SPACEPORT AUTHORITY
with
UP AEROSPACE, INC.

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LAUNCH COMPLEX 1 LEASE

The New Mexico Spaceport Authority (the "**Authority**") and UP Aerospace, Inc. a Colorado corporation with registered address at 9249 South Broadway Blvd. Unit 200 #112, Highlands Ranch, CO ("**UPA**"), being sometimes collectively referred to as the "**Parties**," agree:

1. RECITALS.

- 1.1. The Authority operates a licensed commercial space launch facility called Spaceport America (the "**Spaceport**") pursuant a Part 420 Launch Site Operator License awarded by the Federal Aviation Administration Office of Commercial Space Transportation, License No. LSO-08-011. The Authority also operates the Spaceport as a private general aviation airport, "**9NM9**", when supporting conventional aviation operations.
- 1.2. UPA wishes to lease from the Authority and the Authority wishes to lease to UPA certain "**Ground**" (defined in Exhibit A), and certain UPA Facilities (defined below), in accordance with the terms and conditions of this LAUNCH COMPLEX 1 LEASE agreement (this "**Lease**"), for UPA to operate a commercial space launch complex. As a condition precedent to the effectiveness of this Lease the Authority will obtain approval from the New Mexico Commissioner of Public Lands (the "**Commissioner**") to enter into this Lease and approval for the uses and purposes contemplated by this Lease, including without limitation the installation of improvements consistent with this Lease.
- 1.3. UPA will have a seat on the Spaceport Advisory Committee ("**SAC**") composed of spaceport tenants that provides input to the Authority on spaceport budgeting, operations, capital improvement planning, and other matters. This Committee also provides input into the Authority's process for scheduling space launches and other site-wide activities to assist the Authority in maximizing each spaceport tenant's launch opportunities.
- 1.4. Space launch scheduling is based on an annual estimate of each spaceport tenant's flight volume to determine the number of launch reservations needed for that year. Then throughout the year specific dates and time periods for each launch reservation are determined monthly.

2. DEFINITIONS.

- 2.1. **Aircraft.** A device that is used or intended to be used for flight in the air owned, leased, or operated by UPA or other Tenants, but does not include Spacecraft.



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- 2.2. Airfield. All horizontal landing areas, runways, taxiways, ramps, aprons, adjacent field areas and related support facilities, except exclusive use areas of a Tenant.
- 2.3. Applicable Laws. All federal, State and local laws, statutes, ordinances, rules, codes, policies, procedures, regulations, orders, determinations and court decisions applicable to the Spaceport and this Lease.
- 2.4. Authority Facilities. Means those improvements, fixtures and property located on the Ground belonging to the Authority and leased or licensed to UPA under the terms of this Lease, including without limit two manufactured buildings, an explosives magazine storage structure, a roll-back structure, launch pad, fences, cameras, and other equipment and infrastructure.
- 2.5. Bankruptcy Event. With respect to any Person, the occurrence of any of the following: (a) the commencement by such Person of any case, proceeding or other action: (i) under any Insolvency Law seeking to have an order for relief entered with respect to such Person, or seeking to adjudicate such Person bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition or other relief with respect to such Person's debts, or (ii) seeking appointment of a receiver, trustee, custodian, or other similar official for it or for all or any substantial part of its assets, or such Person will make a general assignment for the benefit of its creditors; or (b) the commencement against such Person of any case, proceeding or other action of a nature referred to in clause (a) above which will not have been dismissed, stayed or bonded pending appeal within sixty (60) days from the entry thereof.
- 2.6. The Commissioner. Means the New Mexico Commissioner of Public Lands of the New Mexico State Land Office.
- 2.7. Environmental Impact Statement (EIS) and Related Documentation. Means the FAA's Record of Decision Spaceport America Commercial Launch Site, Sierra County, New Mexico, December 2008; the Final Environmental Impact Statement for the Spaceport America Commercial Launch Site, Sierra County, NM, November 2008; the Programmatic Agreement Among The Federal Aviation Administration, Bureau Of Land Management, New Mexico State Land Office, New Mexico Spaceport Authority, New Mexico State Historic Preservation Office, And Advisory Council On Historic Preservation Regarding The Spaceport America Project, Sierra County, New Mexico; and related documentation including future updates and additional documents
- 2.8. Environmental Law. All applicable federal, State, or local laws, statutes, regulations or ordinances, and any judicial or administrative order or judgment

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thereunder, now or hereafter in effect, pertaining to human health or safety, industrial hygiene, natural resources or the environmental or ecological conditions on, under or about the Land, including, without limitation, each of the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 41 U.S.C. §§ 9601, et seq.; the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq.; the Federal Water Pollution Control Act (also known as the Clean Water Act), 33 U.S.C. §§ 1251, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101, et seq.; the New Mexico Hazardous Waste Act, NMSA 1978, §§ 74-4-1, et seq.; the Voluntary Remediation Act, NMSA 1978, §§ 74-4G-1, et seq.; the Water Quality Act, NMSA 1978, §§ 74-6-1, et seq.; the Ground Water Protection Act, NMSA 1978, §§ 74-6B-1, et seq.; the New Mexico Solid Waste Act, NMSA 1978, §§ 74-9-1, et seq.; and the Air Quality Control Act, NMSA 1978, §§ 72-2-1 et seq. The term "Environmental Law" also encompasses any applicable, enforceable judgment or order from a court of competent jurisdiction or binding settlement agreement pertaining to the environment, the use, removal or disposal of Hazardous Substances, or the manner in which Tenants may use the Land.

- 2.9. FAA. Means the United States Government Federal Aviation Administration.
- 2.10. Fiscal Year. The fiscal year of the Authority, which runs from July 1 of one calendar year to June 30 of the next calendar year. For example, the Fiscal Year for 2017 is the period between July 1st, 2016 and June 30th, 2017.
- 2.11. Hazardous Substance. Any material, waste, or substance that is: (a) included within the definitions of "Hazardous Substances," "hazardous materials," "hazardous waste," "toxic substances," "pollutants," "contaminants," "solid waste" or terms of similar import or regulatory effect in or pursuant to any Environmental Law, or subject to regulation under any Environmental Law; (b) listed in the United States Department of Transportation Optional Hazardous Materials Table, 49 C.F.R. § 172.101, as to date or hereafter amended, or in the United States Environmental Protection Agency List of Hazardous Substances and Reportable Quantities, 40 C.F.R. Part 302, as to date or hereafter amended; or (c) explosive materials, radioactive materials, asbestos or asbestos-containing materials, polychlorinated biphenyls, oil or petroleum products, or lead-based paint.
- 2.12. Insolvency Law. Collectively, with respect to any Person, any liquidation, insolvency, bankruptcy, moratorium, reorganization, or similar law applicable to such Person.

- 2.13. Land. All real property managed by the Authority under Business Lease No. BL-1729, including the Spaceport, Premises, and other subleased premises, totaling approximately 18,000 acres located within Sierra County, NM.
- 2.14. Mission. Each launch and recovery operation constitutes one "Mission," whether successful or not. A launch that is aborted prior to ignition of the motor or engine does not constitute a Mission.
- 2.15. O&M Expenses. Reasonable and necessary current expenses of the Authority in accordance with generally accepted accounting principles, paid or accrued, for operating, maintaining, and repairing the Spaceport. UPA O&M Expenses will be determined pursuant to Paragraph 5.3 of this Lease.
- 2.16. Person. An individual, corporation, partnership, limited liability company, unincorporated organization, association, joint stock company, joint venture, trust, estate, real estate investment trust, government, agency or political subdivision or other entity, whether acting in an individual, fiduciary or other capacity or authority.
- 2.17. Premises. Means the Ground, Authority Facilities and UPA Facilities.
- 2.18. Representatives. Includes agents, employees, contractors, subcontractors, officers, board members, commissioners, directors, licensees, subrogees, assignees, customers, and invitees.
- 2.19. Rules and Regulations. Those lawful rules and regulations promulgated by the SAC and approved by the Authority, which approval will not be unreasonably withheld, conditioned or delayed, in addition to any Applicable Laws, for the orderly use of the Spaceport, as the same may be amended, modified or supplemented from time to time.
- 2.20. Spacecraft. A vehicle built to operate in, or place a payload in, outer space, or a suborbital rocket or other spacecraft owned, leased, or operated by UPA or other Tenants.
- 2.21. State. The State of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions.
- 2.22. Tenant(s). Means a Person other than UPA who leases property in the Spaceport for the exclusive use of that Person.
- 2.23. UPA Facilities. Other than the Authority Facilities, all improvements, fixtures, equipment and other property constructed, acquired and installed on the

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Ground or in or upon the Premises including but not limited to the HSI Property and owned by HSI and its Representatives.

- 2.24. Vertical Launch Area (VLA). The portion of the Spaceport designated by the Authority for vertical launch and vertical landing operations.
- 2.25. Virgin Galactic. Means Virgin Galactic, LLC, a Delaware limited liability company, the anchor tenant at the Spaceport under the Facilities Lease of December 31, 2008.
- 2.26. VLA Common Facilities. Means the Facilities in the VLA that are not designated for the exclusive use of the Authority, UPA, or a Tenant.
- 2.27. WSMR. Means the U.S. Army White Sands Missile Range.
- 2.28. ZAB. Means the Albuquerque Air Route Traffic Control Center.

3. LEASE OF PREMISES; TERM.

- 3.1. Lease of Premises. In consideration of the payments as provided in Paragraph 5.6 and for other good and valuable consideration, the Authority leases the Premises to UPA and UPA leases the Premises from the Authority for the Term, subject to the terms and conditions of this Lease.
- 3.2. Initial Term. The "Initial Term" of this Lease shall be ten (10) years beginning on the Term Commencement Date, unless terminated earlier as set forth in this Lease.
- 3.3. Term Commencement Date. The Term Commencement Date (commencement date) shall begin the date of the last signature of this agreement.
- 3.4. Renewal Terms. UPA and the Authority shall each have the option, upon at least three (3) months written notice prior to the expiration of the Initial Term, to terminate this Agreement. The Initial Term exercised shall be herein referred to collectively as the "Term".
- 3.5. Surrender of Premises. Upon the expiration or earlier termination of this Lease, or upon any reentry by Authority as a result of an UPA Event of Default, UPA will peaceably quit and surrender possession of the Premises in broom clean, good condition, reasonable wear and tear excepted, and will remove all of UPA's Property (defined below) and the Authority will have the right to take possession of the Premises and any and all Authority Facilities on the Premises shall be the property of the Authority. An acceptance of surrender of the Premises must be in writing and signed by the Authority to be valid. Any items that remain within the

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Land after the end of the Term, or sixty (60) days after an earlier termination date, may at the option of the Authority be deemed to have been abandoned by UPA and retained by the Authority as its property or be disposed of by the Authority, in which case UPA must pay all reasonable costs incurred by the Authority to accomplish the disposal, which obligation to pay survives the expiration or termination of this Lease.

3.6. UPA Property. All movable partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Premises, that are installed by UPA without expense to the Authority and can be removed without structural damage to the Premises, and all furniture, furnishings and other articles of movable personal property owned by UPA and located in the Premises (the "UPA Property") will be and will remain the property of UPA and may be removed by UPA at any time during the Term of this Lease; provided that UPA will repair or pay the cost of repairing any and all damage to the Premises resulting from the installation and/or removal of UPA Property.

3.6.1. Existing UPA Property includes:



3.6.2. All capitalized terms in this Paragraph 3.6 not already defined, or not defined herein, are defined below.

3.7. Termination Due to Insufficient Amounts in Spaceport Authority Fund. Nothing in this Lease will be construed as authorizing or obligating the Authority to pay for the Authority's obligations under this Lease from any source other than amounts deposited in the Spaceport Authority Fund established pursuant to NMSA 1978, Section 58-31-17 (the "Amounts"). UPA may not look to any general or other fund of the State for the payment of the Authority's obligations except Amounts. This Lease will not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation, nor will this Lease be considered or held to be a general obligation of the State. If the Authority is unable, in the Authority's sole discretion, to pay its obligations with Amounts deposited in the Spaceport Authority Fund, the Authority will have the right to

immediately terminate this Lease upon written notice to UPA. Nothing herein will be deemed a concession by the Authority regarding the validity of any contractual impairment claim.

4. USE OF PREMISES.

4.1



4.2. Spaceport Mission Support. The Authority will support UPA's Missions with:

4.2.1. Coordination of the Mission with WSMR, ZAB, FAA, and other required entities.

4.2.2. Safety review and approval of each UPA Mission flight data package, including planned trajectories and operational procedures.

4.2.3. One lavatory in Spectator Area (defined below) during Missions.

4.2.4. One dedicated security guard in Spectator Area during Missions.

4.2.5. Spaceport ground control during Missions.

4.2.6. Emergency response standby of one wildlands/brush truck or Class A pumper engine and one ambulance with personnel during Missions.

4.2.7. Wireless Internet and network access to launch site.

4.2.8. 24/7 Spaceport perimeter security.

4.2.9. Access to the Land for the purpose of recovering spacecraft.

4.3. Mission and Activity Scheduling. UPA must request specific dates and time periods for its activities through the Authority's site-wide scheduling process according to the Paragraphs below. The Authority will coordinate UPA requests with other Spaceport Tenants, users, WSMR, and with other entities and will attempt to accommodate UPA's requested dates and time periods but these may not be available. The Authority will provide updates on whether requests are confirmed, denied, or pending within seven (7) days of submission from UPA. UPA will provide the Authority with a schedule of all key events for each Mission; the manifest and number of payloads; and other information that may be necessary to calculate and assess UPA User Fees at the Spaceport.

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- 4.3.1. Formal requests for a specific date and time period for a Mission must be submitted to the Authority no fewer than forty-eight (48) days prior to the desired Mission date to allow sufficient time for the Authority to coordinate the Mission with WSMR's internal scheduling process. However, UPA may submit informal requests on shorter notice and the Authority will make reasonable efforts to accommodate such requests. Repeated failures to actually launch during scheduled Mission periods may result in a loss of priority in the site-wide scheduling process.
- 4.3.2. Requests to conduct tethered or static engine firings and other energetic activities, must be submitted to the Authority not less than five (5) days prior to such activity, but the Authority will make reasonable efforts to accommodate requests on shorter notice. Additional operational support requirements may apply to energetic activities conducted during State declared drought conditions. For the avoidance of doubt, this Paragraph 4.3.2 does not apply to small scale activities conducted within an indoor laboratory facility.
- 4.3.3. The 9NM9 airfield is available on a first-come first-served basis. Because the local airspace is managed by WSMR the Authority recommends requesting a specific date and time period no fewer than sixty (60) days prior to allow for coordination of airspace availability.
- 4.3.4. Significant activities, such as major construction, deliveries of heavy equipment, and other activities likely to impact other Spaceport occupants must be scheduled not less than two business days in advance through the Authority. The Authority will make reasonable efforts to accommodate requests on shorter notice.
- 4.3.5. For the avoidance of doubt, the Authority exercises final discretion over the scheduling of all significant activities by UPA and Tenants, including but not limited to launches, tethered or static engine firings, major construction, deliveries of heavy equipment, and other activities likely to impact other Spaceport occupants. Denial of such requests does not constitute a breach of this Lease. The Authority cannot guarantee approval from other agencies, such as WSMR or ZAB, and the Authority will not be liable to UPA for the conduct of such other agencies.
- 4.4. Spectator Area and Parking. The "**Spectator Area**" is the gravel lot adjacent to the VLA Mission Control and as a VLA Common Facility may be used by UPA during UPA Missions on a non-exclusive basis for staging up to seventy-five (75) UPA Representatives. UPA and its Representatives may park no more than thirty (30) vehicles in the Spectator Area. Overflow parking, as space permits,

may be available at the Spaceport main entrance parking lot. The Authority reserves the right to charge for visitor parking. For the avoidance of doubt, the Authority and its designees retain the right to also use the Spectator Area during UPA Missions. UPA Representatives must comply with all Authority policies, including submission of full names at least forty-eight (48) hours in advance and presentation of government issued photo ID for each UPA Representative. UPA will have non-exclusive use of the other VLA Common Facilities for transiting to the Premises and for other reasonable purposes of the VLA Common Facilities in accordance with Authority policies. UPA must not make permanent modifications to the VLA Common Facilities without prior approval of the Authority.

- 4.5. "Gateway to Space" Event Services. UPA will receive a ten percent (10%) discount off the then effective pricing for services purchased from the Authority's Gateway to Space™ event venue for UP Aerospace events. For the avoidance of doubt this discount is non-transferable and only applies to events conducted by UPA directly related to the marketing of UP Aerospace.
- 4.6. Branding and Marketing. To the extent permitted by law, UPA and the Authority will cooperate to maximize positive publicity regarding the Spaceport, for example, through co-branding. UPA may film, photograph, videotape, or otherwise make recordings or capture footage ("**Recordings**") of the Premises and the VLA Common Facilities for the sole commercial purpose of promoting the UP Aerospace brand with credit to "SPACEPORT AMERICA®, New Mexico, USA, Earth" wherever reasonably practicable. Upon request, UPA will grant rights for usage of said Recordings to the Authority. For the avoidance of doubt, UPA may make Recordings for any non-commercial purpose as well.
- 4.7. Signage. All UPA signs will be professionally designed, prepared and installed and in good taste so as not to detract from the general appearance of the Spaceport. All UPA signs require the written approval of the Authority, which approval will not be unreasonably withheld, conditioned or delayed. All signage will be designed to be consistent with and complement the materials, color and architectural style of the Spaceport.
- 4.8. Right of Public Access to Premises. UPA agrees to participate in the Authority's visitor experience programs through mutually agreeable means that enable visitors to observe exterior areas of the Premises consistent with the safety and security of both UPA and the visitors. At the request of the Authority, UPA agrees to reasonably accommodate requests for visitors to enter the Premises under escort. The Authority will coordinate the visitation with UPA to identify areas that if accessed would result in disruption of UPA work schedules, would


compromise confidential UPA activities, or would pose a risk under UPA's export control compliance practices.

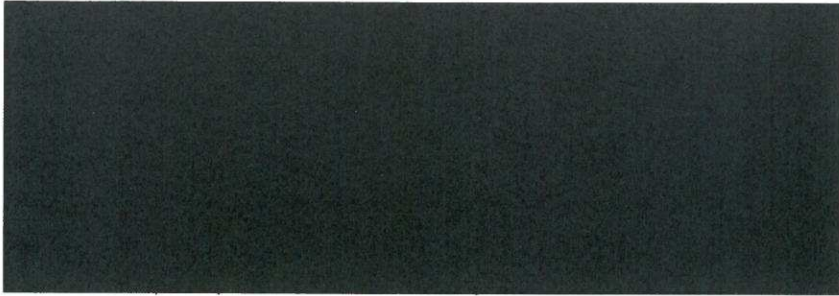
- 4.9. Commercial Space Launch Act. If Chapter 509 of Title 51 of the US Code, or a license or permit awarded by the FAA Office of Commercial Space Transportation pursuant to 14 CFR Chapter III, or any of those statutes, regulations, or any license or permit terms are in conflict with the provisions of this Lease then such statutes, regulations, or any license or permit terms will control and the failure to comply with the conflicting provisions of this Lease will not constitute a breach thereof.
- 4.10. Limitations on Use. In connection with the use of the Land, UPA must not:
- 4.10.1. Do or permit to be done anything at or about the Land that may interfere with the effectiveness or accessibility of the drainage system; sewage system; natural gas system; electrical system; heating, ventilation and air conditioning system; fire protection system; or alarm system.
 - 4.10.2. Do or permit to be done any act in, on, or about the Land that will invalidate or conflict with any insurance policies applicable to the Land (including, but not limited to, the State of New Mexico's risk pool, liability pool, or pool of excess insurance) or the activities conducted at the Land.
 - 4.10.3. Dispose of or permit any other Person to dispose of any waste material taken from or products used (whether liquid or solid) with respect to its Aircraft or Spacecraft into the sanitary sewer, storm sewer, ground or trash except in accordance with Applicable Laws. UPA may use the Authority's common trash disposal facility for non-hazardous waste in accordance with Authority policies.
 - 4.10.4. Store flammable or energetic materials, except in storage Facilities especially constructed for such purposes in accordance with best practices and Applicable Laws.
 - 4.10.5. Do or permit to be done any act upon the Land in violation of or inconsistent with the Authority's EIS and Related Documentation.
 - 4.10.6. Do or permit to be done any act in violation of or inconsistent with Rules and Regulations, Applicable Laws, or Authority policies.
 - 4.10.7. Conduct recovery operations beyond the Premises except with prior approval of the Authority and in accordance with Authority requirements.

- 4.10.8. Materially and adversely affect the operations of other Tenants or users at the Spaceport, other than through competition.
- 4.10.9. Other than interior alterations that do not have any material effect on the Ground or UPA Facilities structures or systems, which may be made without the approval of the Authority, UPA will make no alterations or construction in the UPA Facilities or Ground without the prior written approval of the Authority.
- 4.11. Evacuations. UPA must evacuate the Premises of all persons and readily portable items of UPA Property identified by the Authority on those occasions where the Authority determines such evacuation to be necessary to enable other Tenant Missions and on no less than five (5) days advance notice to UPA. The necessity, scope, and duration of any such evacuation will be determined by the Authority.
- 4.12. Experimental Activities. UPA must not conduct developmental or test flights or developmental or test operations at or from the Spaceport unless the following criteria are met:
- 4.12.1. FAA or other applicable governmental approval has been obtained, if any is required; and,
- 4.12.2. UPA maintains appropriate liability insurance; and,
- 4.12.3. Such flights or operations will not result in a violation of the terms and conditions of any Tenant's FAA operating license; and
- 4.12.4. Such flights or operations that involve use of the runways, taxiways, or other launch infrastructure will not occur during the period blocked for another Tenant Mission.

5. RENTALS, FEES AND CHARGES.

5.1. General. In return for use of the Premises, UPA agrees to pay to the Authority certain rents, fees and charges as set forth below.

5.2. Ground Rent. 



- 5.3. UPA User Fees. The "UPA User Fees" are based on UPA's actual operations at the Spaceport, O&M Expenses, capitalized repair, maintenance, and equipment costs. UPA must pay an UPA User Fee for each Mission, each use of 9NM9, according to the rates in Exhibit C, unless those rates are changed by the Authority. The Authority determines UPA's and each Tenant's User Fee rates on an annual basis and delivers updates to UPA's User Fee rates, if any, by August 31st to go into effect the following Fiscal Year.
- 5.4. WSMR Fees. UPA must reimburse the Authority for any costs from WSMR, including without limit, airspace coordination, radars, telemetry, tracking, US Army Air recovery services, and flight safety analysis.
- 5.5. Payment Provisions.
- 5.5.1. Rent. Ground Rent will be due and payable in equal quarterly installments the first day of each quarter in arrears without invoice from the Authority.
- 5.5.2. UPA User Fees. UPA User Fees will be due thirty (30) days after each Mission, use of 9NM9, or use of storage facilities.
- 5.5.3. WSMR Fees. WSMR Fees are due thirty (30) days after UPA receives an invoice from the Authority.
- 5.6. Late Payment Fees. If rents, fees, and charges required by this Lease are not received by the Authority within thirty (30) days following the date specified in this Lease or receipt of invoice, UPA must pay a late payment fee to the Authority of one and one quarter percent (1.25%) on those amounts due and unpaid.
- 5.7. Taxes. UPA must pay all taxes of whatever character that lawfully apply and which are not exempted by Applicable Law.

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5.8. Promotional Payloads. If there is payload availability, UPA and the Authority may engage in a co-branding activity whereby a payload is later used to support STEM activities at Spaceport America.

6. UTILITIES.

6.1. There is no utility service to the Premises. Any future utility service requires prior approval of the Authority and separately executed agreement or amendment of this Lease.

6.2. UPA will be solely responsible for all aspects of any electrical generator or energy storage equipment within UPA Mission Control, including operation, maintenance, and fueling, and the Authority will not incur any liability for failure of the equipment to perform.

7. MAINTENANCE OF SPACEPORT.

7.1. UPA shall keep any UPA Facilities within each fenced area within the Vertical Launch Area well-kept and in good working order.

7.2. The Authority shall annually clear plant growth from each fence line extending to 15 ft. beyond.

7.3. The Authority shall maintain the basic road to the Premises so as to enable year-round operational access.

7.4. The Authority shall perform weekly visual walk-around inspections of the Explosives Magazine from outside the fence line and report any observed signs of tampering in an email to UPA.

7.5. The Authority will manage pest control in an environmentally responsible way utilizing rat traps as well as encouraging a presence of several raptor species to halt/limit the use of poisonous substances.

7.6. Other maintenance services are available for purchase from the Authority by separate service level agreement.

8. DAMAGE OF PREMISES.

8.1. Restoration. If for any reason any of the Premises are damaged or destroyed then UPA must, at a minimum, restore the Authority Facilities and Ground, including without limitation removal of damaged UPA Property, to the condition immediately prior to the initial occurrence of such damage or destruction in the



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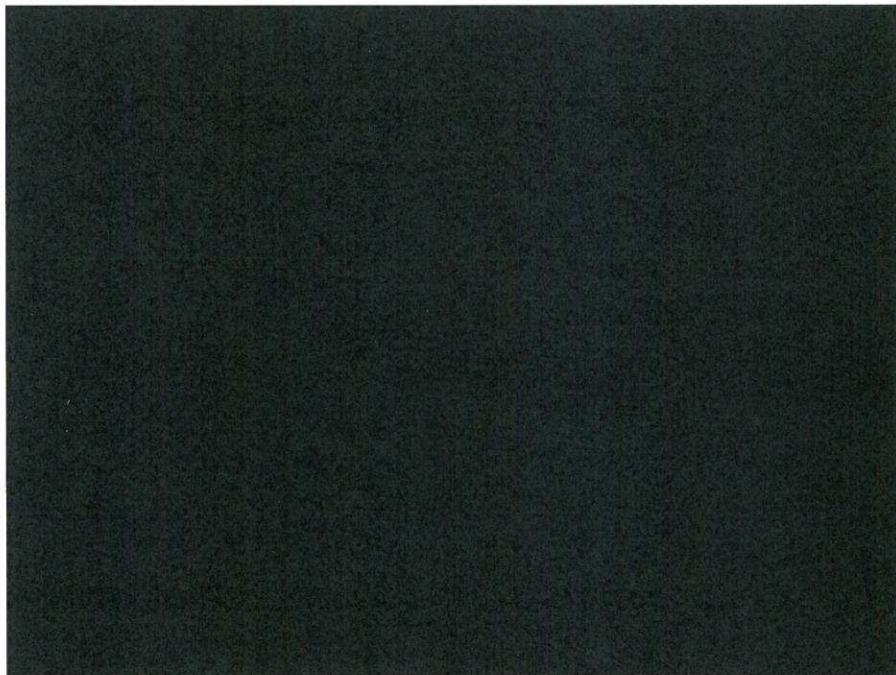
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reasonable judgment of the Authority or to a condition agreed upon by the Authority.

8.2. UPA will bear the full risk of loss from any and all causes for all of the UPA Property. The Authority will have no responsibility and will not be liable for damage or destruction thereto, or for losses resulting from any such damage or destruction.

8.3. CONDEMNATION AND EMINENT DOMAIN. If during the Term of this Lease the whole or a portion of the UPA Facilities is taken, acquired, sold, or under imminent threat of such, to a government for any public or quasi-public use or purpose under any power of eminent domain or condemnation then this Lease will cease and terminate on the date title vests in the condemning authority. UPA will make all required payments apportioned to the date of such termination and will promptly vacate the UPA Facilities affected.

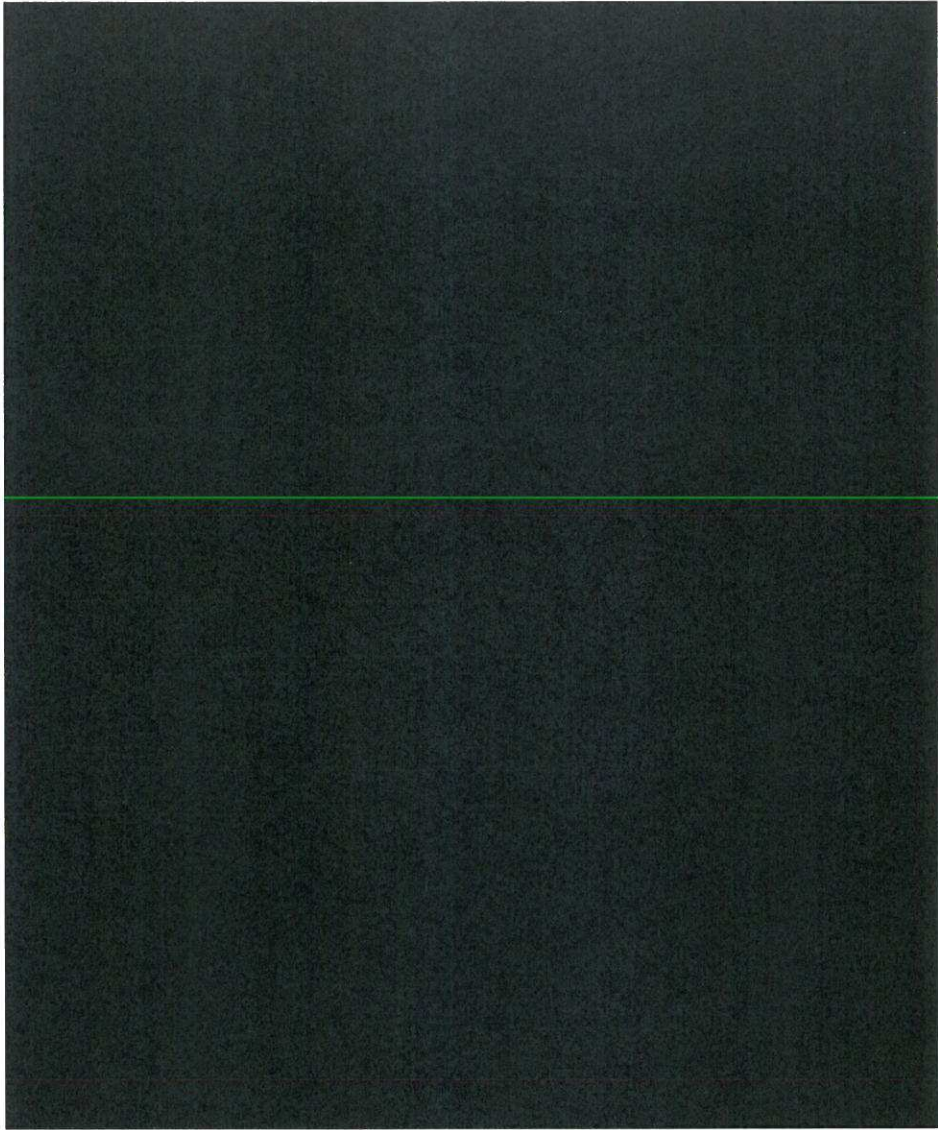
9. SPACEPORT SECURITY.

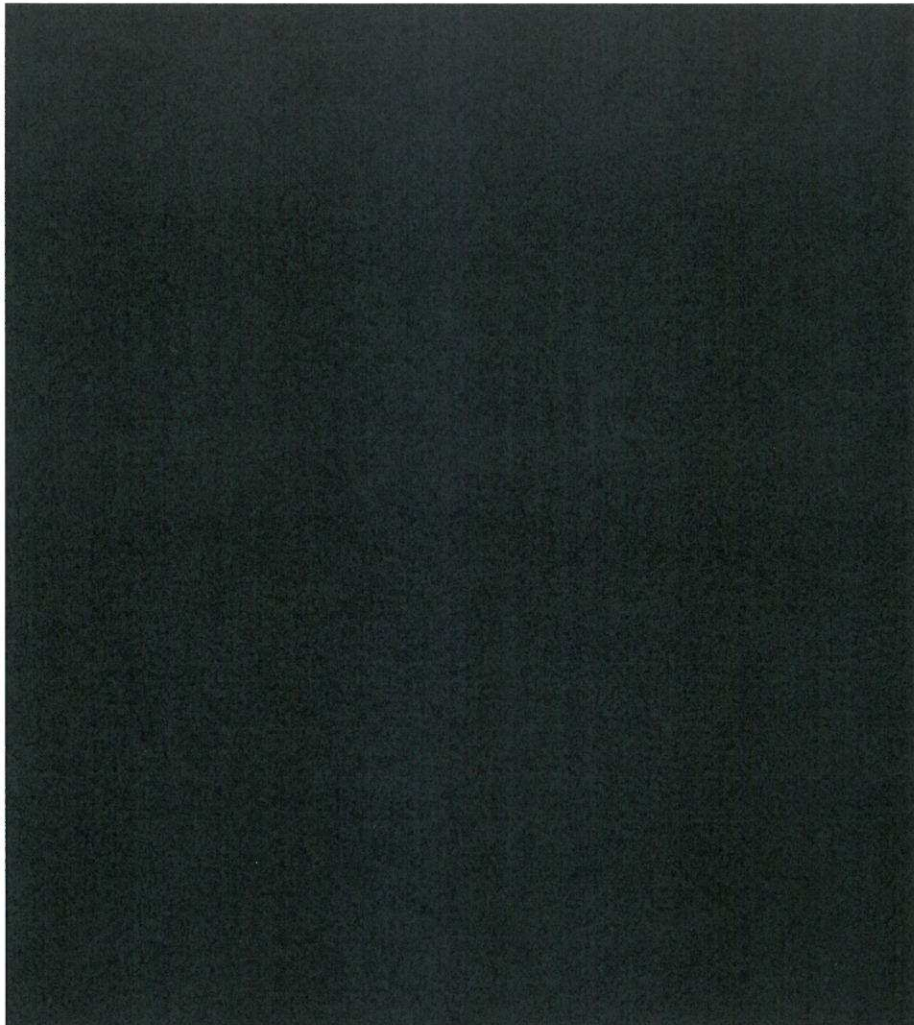


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10. ENVIRONMENTAL MATTERS.

10.1. Environmental Definitions. The following terms have the following meanings in this Paragraph 10.

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- 10.2. **Best Management Practices.** Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects of a Release or other event, including any practices prescribed by Environmental Laws and standard industry practice in the aerospace industry.
- 10.3. **Environmental Claim.** Any investigative action, enforcement action, cleanup mandate, removal mandate, containment mandate, remedial mandate, liability, fine or payment of liens at any time threatened, instituted or completed pursuant to any applicable Environmental Laws, against UPA, UPA's activities, or the Premises or any condition, use or activity on the Land relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Substance. Any Environmental Claim will include damages, impairments, penalties, fines, reasonable attorneys' fees, court costs, remediation costs, expert and consultant fees and costs, consequential damages, diminution of value of the Premises or Land, damages for loss or restriction of use of the Premises or Land, or losses of any kind or nature, whether known or unknown, foreseeable or unforeseeable, whether for personal injury, death, natural resources or property damage or otherwise, whether for aggravation of or contribution to any pre-existing condition or otherwise, and whether civil or criminal.
- 10.4. **Release.** Any spill, leak, emission, pumping, pouring, discharging, leaching, dumping, pulverizing, causing to become airborne, percolation or disposal into or on any property or the environment.
- 10.5. **Contamination.** The Release or uncontained presence of Hazardous Substances resulting from UPA activities at the Premises or the Land, or any condition caused by non-compliance with Environmental Laws, whether revealed in a Compliance Audit (defined below), Exit ESA (defined below) or otherwise.
- 10.6. **Environmental Compliance.** UPA's conduct and operations as related to any operations involving or arising from UPA's use of the Premises or the Land will at all times be in compliance with all Applicable Laws, including, but not limited to, Environmental Laws. Without limiting the generality of this requirement, UPA will at all times handle Hazardous Substances in a manner consistent with Best Management Practices and Environmental Laws. Upon request UPA will provide to the Authority any record related to any operations required to be maintained pursuant to any Environmental Law and UPA will provide to the Authority a list of and information on the Hazardous Substances used, or planned for use, by UPA.

- 10.7. UPA will be solely responsible for the proper removal and disposal of all Hazardous Substances arising from UPA's activities at the Premises or the Land in accordance with Environmental Laws. Additionally, UPA will be solely responsible for Contamination that impacts the Premises or the Land as a result of the storage, handling, use, Release, removal or disposal of any substances used by UPA or its Representatives.
- 10.8. No later than five (5) days after receipt UPA must provide the Authority with a copy of any notice of violation, summons, order, complaint or any correspondence alleging, threatening or relating to noncompliance with any Environmental Law pertaining to UPA operations on the Premises or the Land.
- 10.9. Site Contamination. If a Release or threatened Release of a Hazardous Substance or any Contamination arising from UPA activities occurs, UPA will immediately notify the Authority by telephone and will send a written confirmation to the Authority no later than twenty four (24) hours after the Release or threatened Release has occurred. Such notice is required for any Release of greater than a reasonably de-minimis quantity or if notification of governmental agencies/bodies is required under Environmental Laws.
- 10.9.1. UPA will immediately stabilize the site of the Release or threatened Release in a manner consistent with Best Management Practices and will notify the Authority when such stabilization is complete.
- 10.9.2. If the Release requires reporting under Environmental Law, then UPA will timely make the required notification and notify the Authority that it has done so. In this event, UPA and the Authority, in conjunction with a licensed environmental firm, will develop a remediation action plan ("Remediation Plan") that complies with Environmental Law.
- 10.9.3. Once the Remediation Plan has received approval from UPA, the Authority, and any governmental agency/body or court that is required to approve the Remediation Plan, UPA will execute the Remediation Plan as soon as reasonably possible and will work expeditiously to accomplish remediation at UPA's sole expense. Upon completion, the Authority may request that UPA provide a Phase II environmental site assessment to be completed at UPA's expense and in accordance with ASTM-E1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, or other assessment specified by the Authority (the "Post-Remediation ESA").
- 10.9.4. If UPA fails to clean up, properly dispose of, remove, repair, or remediate any operation or condition that relates to a Hazardous Substance,

Release, threatened Release, or violation of Environmental Law, or if UPA fails timely to complete a Remediation Plan, the Authority may (but is not required to) take all steps it deems necessary to properly clean up, dispose of, remove, repair or remediate that condition or operation. Any such action on the part of the Authority will be at UPA's sole cost and expense, and UPA will, pursuant to Paragraph 10.11 and subject to Paragraph 11.11, indemnify, defend and hold harmless the Authority, and pay for or reimburse the Authority for any and all costs, including administrative overhead and legal fees, that the Authority incurs as a result of such action.

- 10.9.5. If a Release or threatened Release occurs in an area used jointly between UPA and one or more other Tenants, UPA and such Tenants will be liable jointly and severally for carrying out the obligations and making all payments required by Paragraph 10.9.
- 10.10. Storage Tanks. UPA will not install any storage tanks without the prior written consent of the Authority, which consent will not be unreasonably withheld, conditioned or delayed. UPA will maintain any approved storage tank in good working order, consistent with Best Management Practices and in accordance with Environmental Laws, including remediating the presence of any Hazardous Substances or Releases caused by or related to the UPA storage tanks.
- 10.11. Environmental Indemnification. In addition to all other remedies available to the Authority, UPA will, subject to Paragraph 11.11, indemnify, defend and save harmless the Authority and its Representatives from and against any and all Environmental Claims arising out of the acts or omissions of UPA or its Representatives any other Person acting by or through or on behalf of UPA, except to the extent arising out of the negligence or willful misconduct of the Authority. This indemnity will survive the expiration or termination of this Lease.
- 10.12. Environmental Audit. On one or more occasions, the Authority may conduct an audit to assess UPA's compliance with Environmental Laws (a "**Compliance Audit**"). The Authority will provide UPA with a reasonable opportunity to consult with and provide comments to the Authority as to the design of the Compliance Audit. If the Compliance Audit reveals UPA's non-compliance with any Environmental Law, the provisions of this Lease relating to Paragraph 10.9. Site Contamination will apply.
- 10.13. Inspection. In addition to any other rights of entry or inspection contained in this Lease, the Authority may, upon no less than forty eight (48) hours' advance written notice to UPA, enter the Premises to conduct reasonable inspections, tests, samplings, split samples or other investigations pertaining to

environmental matters. The Authority will provide to UPA a copy of the results of any testing that occurs during an inspection.

- 10.14. End of Occupancy. The Authority may request the preparation of a Phase II environmental site assessment to be completed at UPA's expense and in accordance with ASTM-E1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, an update to any existing Phase II environmental site assessment or other assessment specified by the Authority during the final months of the Term ("Exit ESA"). If the Exit ESA reveals UPA's non-compliance with any Environmental Law, the provisions of this Lease relating to Paragraph 10.9. Site Contamination will apply.
- 10.15. No Assumption of Liability. UPA and the Authority acknowledge that the provisions of this Paragraph 10 may not insulate either party from direct liability assessed by governmental agencies/bodies for environmental investigation and remediation costs. UPA and the Authority intend that each entity will be responsible for the costs and liabilities associated with Environmental Claims stemming from its own acts and omissions. Any violation by UPA of any Environmental Laws, and UPA's obligations and liability under this Paragraph 10, will survive the expiration or termination of this Lease.

11. INSURANCE AND INDEMNIFICATION.

- 11.1. UPA will procure and maintain at its own cost during the Term such insurance as is required in this Lease. On request, UPA will provide to the Authority copies of any or all policies of insurance required in this Paragraph 11. UPA will not violate the terms or prohibitions of required insurance policies. UPA will promptly notify the Authority of any claim or loss exceeding the amount of the deductible under such insurance policies.
- 11.2. The required amounts of insurance provided in this Paragraph 11 are minimums only; the Authority will be entitled to the full benefit and protection of any higher dollar amount of coverage stated in an insurance policy actually carried by UPA. The insurance requirements set forth in this Lease will not be construed as a representation by the Authority that the satisfaction of such requirements will be sufficient to protect UPA.
- 11.3. Commercial General Liability Including Premises Liability, Contractual Liability and Products/Completed Operations. UPA will procure and maintain comprehensive general liability policies of insurance, including premises liability, contractual liability, and products/completed operations, of no less than one million dollars (\$1,000,000.00) combined single limit per occurrence and in the

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aggregate as respects products. UPA will also procure and maintain policies of insurance for automobile liability insurance for all vehicles used in its operation at the Spaceport in amounts not less than one million dollars (\$1,000,000.00) per occurrence and no less than five million dollars (\$5,000,000.00) in the aggregate single limit liability for bodily injury, including death, and property damage. UPA will also procure and maintain insurance to cover liabilities arising out of UPA's space launch operations of no less than one million dollars (\$1,000,000.00) combined single limit per occurrence, or the insurance required under Chapter 509 of Title 51 of the US Code, or under any license or permit terms awarded by the FAA Office of Commercial Space Transportation pursuant to 14 CFR Chapter III, whichever is greater. Said policies of insurance will include coverage for premises, operations and UPA's contractual liability to the Authority under this Lease. Contractual liability coverage will specifically insure all Indemnification provisions of this Lease. The insurance policies will contain "products" and "completed operations" coverage (if applicable) and will not be written on a "claims made" form. The insurance policies will include coverage for all use of, activities on, or operations with respect to the Premises and Land, coverage for the use of all owned, non-owned, hired automobiles, vehicles, and other equipment, both on and off work. The Authority reserves the right to annually review the limits stated above and to notify UPA that the Authority believes the coverage limits need to be increased to give effect to the changing risk management environment, changes to UPA's operations or vehicles, or inflationary trends. Notwithstanding the foregoing, if new or changed State or federal laws mandate an increase in insurance coverage limits UPA will timely comply with the required limits, including without limitation increases to the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-27).

- 11.4. Workers' Compensation and Employer's Liability Insurance as Required by New Mexico Law. UPA will comply with applicable provisions of the New Mexico Workers' Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law. UPA will procure and maintain during the term of this Lease complete Workers' and Employer's Liability Insurance in accordance with New Mexico laws and regulations. UPA hereby covenants and agrees that the Authority and its Representatives will not be liable or responsible for any claims or actions occasioned by UPA's failure to comply with the provisions of this Paragraph 11.4 and that the Indemnification provision of this Lease will apply to this Paragraph 11.4. It is expressly agreed that the employees of UPA are not the Authority's employees or agents for any purpose.

- 11.5. Additional Insured. The Authority, the State, and the New Mexico Commissioner of Public Lands will be named as additional insureds on each insurance policy required in this Paragraph 11.
- 11.6. Contents Insurance. UPA will be solely responsible for obtaining insurance policies that provide coverage for losses involving the UPA Facilities. The Authority will not be required to provide such insurance coverage or be responsible for payment for such insurance.
- 11.7. Builders Risk Insurance. During any period of construction or reconstruction UPA will carry a policy of builders risk Insurance in an amount sufficient to insure the value of the work.
- 11.8. Additional Requirements. Insofar as any insurance provides protection against liability for damages to third parties for personal injury, death and property damage, the Authority, the State, and the Commissioner will be included as additional insureds; provided such liability insurance coverage will also extend to damage, destruction and injury to property owned or leased by the Authority, the State, or the Commissioner and to the Authority, State, or Commissioner personnel, and caused by the negligence or willful misconduct of or resulting from work, acts, operations, or omissions of UPA, or its Representatives, on the Land. Nothing herein will be deemed to override the waiver of claims/waiver of subrogation provision set forth below in this Paragraph 11.8. The Authority will have no liability for any premiums charged for such coverage, and the inclusion of the Authority as an additional insured is not intended to, and will not make the Authority a partner or joint venturer with UPA in its operations on the Land. All insurance policies issued pursuant to this Paragraph 11 will be written as primary policies that may not be interpreted as contributing policies or as excess coverage. All UPA property insurance policies will expressly waive all claims or rights of subrogation, if any, against the Authority, the Commissioner, or the State.
- 11.9. The Authority's Right to Remedy Breach by UPA. If UPA fails to provide insurance as required in this Lease, the Authority will have the right, but not the obligation, to prohibit any UPA space launches or related activities until such insurance is in place.
- 11.10. Indemnification. UPA and its Representatives will use due care and diligence in all activities and operations at the Land. UPA will defend, indemnify and hold harmless the Authority, the State, and the Commissioner, and the Representatives of each from and against all suits, actions, claims, demands, penalties, fines, liabilities, damages, costs and expenses (including but not limited to consultants' fees, reasonable fees of attorneys, court costs and

litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, brought against the Authority, the State, or the Commissioner or the Representatives of each, because of any injury, including death at any time resulting from bodily injury, damages for care and loss of services, or damage received or sustained by any person, persons or property arising out of or resulting from the negligence or willful misconduct of UPA or its Representatives arising out of the operations of UPA under this Lease, except to the extent arising out of the negligence or willful misconduct of the Authority, the State, the Commissioner, or the Representatives of each. This indemnity will survive the expiration or termination of this Lease. Nothing herein will be deemed to override the waiver of claims/waiver of subrogation provision set forth above in Paragraph 11.8.

- 11.11. No Violation of Public Policies Involving Indemnity. The indemnifications contained in this Lease will not be construed to be inconsistent with the requirements of NMSA 1978, Section 56-7-1, to the extent such Section applies to this Lease.
- 11.12. Scope of Indemnification. With respect to any claims, actions, suits, damages or judgments alleging, caused by, or resulting from the negligence, act or omission or willful misconduct of UPA or its Representatives, UPA will (a) investigate accidents involving such injuries; (b) negotiate all claims made, and defend suits for damages, even if groundless, false or fraudulent, brought on account of such injuries or damages, in the name and on behalf of the Authority, the State, or the Commissioner, as the case may be, subject to the consents and approvals required by applicable State law; (c) pay or cause to be paid: (i) all costs of the Authority, the State, or the Commissioner, as the case may be, in any legal proceeding defended by UPA pursuant to the above; (ii) any interest accruing up to the date of payment by UPA; (iii) all premiums charged upon appeal bonds required in such proceedings; and (iv) all expenses incurred by the Authority, the State, or the Commissioner for investigation, negotiation, and defense, including but not limited to expert witnesses' and attorneys' fees incurred, however, that UPA will not be responsible for any of the costs of the Authority, the State, or the Commissioner to the extent each is determined to be responsible.
- 11.13. Non-liability of Authority. The Authority, the State, and the Commissioner will not in any event be liable for any acts, omissions, or any condition resulting from the operations of activities of UPA or its Representatives. The Authority, the State, and the Commissioner will not be liable for UPA's failure to perform any of its obligations under this Lease or for any delay in the performance thereof. Authority does not undertake any responsibility for the suitability of the Land or of the Ground for the UPA Facilities or UPA's intended uses. NO WARRANTY

OR REPRESENTATION, EXPRESS OR IMPLIED, IS MADE BY AUTHORITY WITH RESPECT TO THE SUITABILITY OF THE LAND FOR UPA'S INTENDED USE THEREOF.

- 11.14. New Mexico Tort Claims Act. The liability of the Authority, the State, and the Commissioner is subject to the New Mexico Tort Claims Act, as and when amended.

12. TRANSFER BY ASSIGNMENT OR SUBLETTING.

- 12.1. UPA must not assign or sublease any part of this Lease without the prior approval of the Authority. Any assignment or sublease will also be subject to the approval of the Commissioner.
- 12.2. If UPA fails to obtain advance written approval of any such assignment or sublease, the assignment or sublease will be void, and the Authority may also exercise all rights and remedies set forth in Paragraph 15 of this Lease.
- 12.3. Notwithstanding anything to the contrary set forth above, UPA will have the right, without the consent of the Authority, but with advance notice to the Authority, to assign this Lease or to sublease any portion of its rights hereunder: (i) to any entity that UPA owns, (ii) to the entity that owns UPA, (iii) to any entity with which UPA is merged or which acquires all or substantially all of the stock or assets of UPA.
- 12.4. UPA will remain fully responsible for the performance of all obligations under this Lease unless otherwise agreed by the Authority in writing when approving the assignment or sublease.

13. REPRESENTATIONS OF UPA.

- 13.1. UPA represents and warrants to the Authority as follows:
- 13.1.1. UPA is a Corporation duly organized, validly existing and in good standing under the laws of State and has all requisite power and authority to execute, deliver and perform the obligations under this Lease.
- 13.1.2. This Lease has been duly executed and delivered by UPA and constitutes a legal, valid and binding obligation of UPA, enforceable against UPA in accordance with its terms.

14. REPRESENTATIONS OF THE AUTHORITY.

- 14.1. The Authority hereby states to UPA as follows:

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- 14.1.1. The Authority is duly organized under the laws of the State of New Mexico and has all requisite power and authority to execute, deliver and perform the obligations of the Authority under this Lease.
- 14.1.2. No approval, consent, authorization, exemption or other action by, or written notice to, or filing with, any governmental authority or any other person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Authority of this Lease except the approval of the Commissioner per Paragraph 1.1.
- 14.1.3. This Lease has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority.

15. UPA DEFAULT.

- 15.1. Default by UPA. Each of the following events will be an "UPA Event of Default" for purposes of this Lease:
- 15.1.1. Failure to timely pay any rents, fees, or charges;
- 15.1.2. Failure to maintain the insurance required by this Lease;
- 15.1.3. Failure to comply with the environmental provisions of this Lease;
- 15.1.4. Failure to perform the maintenance required by this Lease;
- 15.1.5. Any representation or warranty made by UPA in this Lease proves to have been false or misleading in any material respect when made;
- 15.1.6. Failure to comply with any covenant, agreement or condition contained in this Lease that remains uncured after a period of ninety (90) days after receipt of written notice from the Authority.
- 15.1.7. Any authorization, approval, filing, registration or other governmental, judicial or public body or authority necessary to enable UPA to comply with its obligations under this Lease is revoked, rescinded, suspended, held invalid, or otherwise limited in effect in a manner that would affect materially and adversely UPA's ability to perform its obligations under this Lease; or any law, regulation, rule, decree or directive of a competent authority is enacted or issued that will impair materially and adversely the ability or the right of UPA, as the case may be, to perform such obligations, or it becomes unlawful for UPA to perform such obligations; or,
- 15.1.8. Occurrence of a Bankruptcy Event with respect to UPA.

15.2. Termination by the Authority. If UPA fails to cure any UPA Event of Default described above within a period reasonable for the nature of the Default, but in no event longer than ninety (90) days, the Authority will have the right to terminate this Lease by sending UPA written Notice of Termination, provided that UPA will have no cure period and the Authority may terminate immediately upon an UPA Bankruptcy Event. Termination of this Lease will take effect immediately upon UPA's receipt of the Notice of Termination, unless stated otherwise in the Notice of Termination. If, however, UPA has cured the deficiencies identified in the Authority's notice to cure prior to UPA's receipt of the Authority's Notice of Termination, then such Notice of Termination will be of no force or effect.

16. AUTHORITY DEFAULT.

16.1. Default by Authority, Notice and Cure Periods. Each of the following events will be an "**Authority Event of Default**" for purposes of this Lease:

16.1.1. Any representation made by the Authority in this Lease proves to have been false or misleading in any material respect when made;

16.1.2. Any authorization, approval, filing, registration or other governmental, judicial or public body or authority necessary to enable the Authority to comply with its obligations under this Lease is revoked, rescinded, suspended, held invalid, or otherwise limited in effect in a manner that would affect materially and adversely the Authority's ability to perform its obligations under this Lease; or any law, regulation, rule, decree or directive of a competent authority is enacted or issued that will impair materially and adversely the ability or the right of the Authority, as the case may be, to perform such obligations, or it becomes unlawful for the Authority to perform such obligations;

16.1.3. Failure to comply with any covenant, agreement or condition contained in this Lease that remains uncured after a period of ninety (90) days after receipt of written notice from UPA.

16.2. The Authority's termination of this Lease pursuant to Paragraph 3.7 of this Lease will not be an Authority Event of Default.

16.3. Right of Termination by UPA. If the Authority fails to cure any of the Authority Events of Default within ninety (90) days after receipt of a written notice of an Event of Default, UPA will have the right to terminate this Lease by sending the Authority a Notice of Termination. If, however, the Authority has

cured the Event of Default before receipt of the Notice of Termination, then such Notice of Termination will be of no force and effect.

17. MINIMUM LAUNCH CADENCE.

17.1. If UPA does not conduct at least one (1) Mission over every twenty-four (24) month period starting October 1st, 2016, then either Party may elect to terminate this Lease by sending written notice to the other, effective on receipt. Upon receipt of termination notice from Landlord to Tenant, Tenant may pay the equivalent of one (1) launch fee to continue the Lease. Amendment or extension of the Term will not alter the twenty-four month period unless such amendment explicitly states so in writing.

18. VIRGIN GALACTIC PREFERENCES.

18.1. UPA acknowledges that due to Virgin Galactic's business requirements, the Authority has granted Virgin Galactic exclusive use of the Airfield at specified blocks of time to launch and retrieve Spacecraft. As the anchor tenant of the Spaceport, Virgin Galactic has first right in scheduling its Missions and activities through the Authority's site-wide scheduling process and Virgin Galactic's signage will be uniquely prominent and befitting of Virgin Galactic's status as the anchor tenant at the Spaceport. For the avoidance of doubt, this does not constitute pre-emption capability for Virgin Galactic. Once an UPA mission is scheduled it can not be rescheduled to accommodate another Authority tenant.

19. GENERAL PROVISIONS.

- 19.1. Compliance with Law. UPA and its Representatives will not use the Spaceport or any part thereof for any illegal purposes and will comply with Applicable Laws at all times during the Term.
- 19.2. Non-Discrimination. In the use and occupation of the Spaceport, UPA will not discriminate against any person or class of persons by reason of race, color, religion, sex, national origin or ancestry, age, gender identity, sexual orientation, or physical or mental handicap.
- 19.3. Consents, Approvals and Notices. All consents, approvals and notices required by this Lease will be in writing sent by certified or registered mail, postage prepaid and return receipt requested. Notice will be deemed to be received seven (7) days after deposit with the United States Postal Service. Unless changed, notices will be delivered as follows:

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19.3.1. Authority:
New Mexico Spaceport Authority
901 E. University Ave Suite 965L
Las Cruces NM 88001
Attn: Christine Anderson, Executive Director
575.267.8500

19.3.2. UPA:
UP Aerospace Inc.
9249 South Broadway Blvd.
Unit 200 #112
Highlands Ranch, CO 80129 USA

19.4. Amendment or Waiver. This Lease may not be amended without the prior written consent of UPA and the Authority, and no provision of this Lease may be waived without the written consent of the Party to be bound by the waived provision. Any amendment to this Lease requires the prior approval of the Commissioner.

19.5. Construction and Interpretation. Each of the Authority and UPA consulted with counsel and determined that this Lease accurately and completely reflects the agreement of the Authority and UPA, and no presumption or rule that ambiguities will be construed against the drafting party will apply to the interpretation or enforcement of this Lease.

19.6. Governing Law. This Lease will be governed by and construed under the law of the State of New Mexico without reference to any choice-of-law provisions of the State of New Mexico that would lead to the applicability of other law.

19.7. Consent to Jurisdiction and Venue. The Authority and UPA consent to and agree to the exclusive jurisdiction of the courts within New Mexico for the resolution of any disputes arising under this Lease and waive any objection to the personal jurisdiction of the courts within New Mexico over UPA. The Authority and UPA agree that venue for litigation arising from this Lease will be in the Santa Fe County, New Mexico, First Judicial District Court. However, claims pursuant to 51 USC § 50914(g) may be brought in the federal courts located within New Mexico and in which case the exercise of supplemental jurisdiction is permissible under this Paragraph.

- 19.8. Waiver of Jury Trial. The Authority and UPA each waive all right to trial by jury in any civil legal action brought to enforce or defend any rights or remedies as provided in this Lease.
- 19.9. Entire Agreement. This Lease contains the entire understanding and agreement of the Authority and UPA. There are no oral or written representations, understandings, undertakings or agreements that are not contained or expressly referenced in this Lease. All of the Exhibits attached to this Lease are incorporated by this reference into this Lease as if the content of each Exhibit was set out at each point of reference to the Exhibit in this Lease.
- 19.10. No Third Party Beneficiaries. This Lease is made and entered into for the sole protection and benefit of the Authority and UPA and their respective permitted successors and assigns. No other Person will have any right of action based upon any provision of this Lease.
- 19.11. Severability. If any covenant, condition or provision in this Lease is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision will be deemed amended to conform to Applicable Laws so as to be valid or enforceable so this Lease will remain in full force and effect.
- 19.12. Captions and Paragraph Headings. The captions, section and paragraph headings, and table of contents contained in this Lease are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Lease.
- 19.13. No Agency, Joint Venture or Partnership. Nothing in this Lease or other documents concerning the subject of this Lease will or will be construed to create an agency relationship, partnership or joint venture between the Authority and UPA.
- 19.14. No Waiver. No waiver of rights, of any of the terms, covenants and conditions to be performed in this Lease, or of default by the Authority or UPA, will be construed as a subsequent waiver of rights or a waiver of any subsequent default of any of the terms, covenants or conditions of this Lease. No failure by the Authority or UPA to insist upon the strict performance by the other of any agreement, term, condition or covenant of this Lease, or to exercise any right or remedy consequent upon a breach of this Lease, will constitute a waiver of any subsequent breach or of such agreement, term, condition or covenant, including without limit the acceptance of rents, fees, and charges by the Authority following a breach. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, condition and covenant of this Lease will

continue in full force and effect with respect to any existing or subsequent breach of this Lease.

- 19.15. Further Assurances. The Authority and UPA will, from time to time, take all actions and sign any documents as necessary to further carry out the purposes of this Lease.
- 19.16. Time of the Essence. Time is of the essence in the performance of this Lease.
- 19.17. Successors. All covenants, stipulations and agreements in this Lease will extend to and bind the legal representatives, permitted successors, and permitted assigns of the Authority and UPA.
- 19.18. Governmental Rights and Powers. Nothing in this Lease will be construed or interpreted as limiting, relinquishing or waiving any rights of ownership enjoyed by the Authority in the Spaceport property, or waiving or limiting the Authority's control over the management, operations or maintenance of property, except as specifically provided in this Lease, or impairing, exercising, waiving, or defining governmental rights and the police powers of the Authority.
- 19.19. Recordation. Neither the Authority nor UPA will record this Lease in any real property records office.
- 19.20. Brokerage Disclosures. The Authority and UPA represent and warrant to each other that they have not dealt with any real estate consultant, broker, agent or salesperson, so as to create any legal right in any such consultant, broker, agent or salesperson to claim a real estate brokerage fee or consultation fee or commission in connection with this Lease.
- 19.21. True Lease. UPA and the Authority recognize and agree that this Lease is a true Lease and not a financing arrangement for the UPA Facilities.
- 19.22. Consequential Damages. Neither party will be liable to the other for any consequential, special or indirect damages, including loss of profits.
- 19.23. Counterpart Copies. This Lease may be signed in counterpart or duplicate copies, and any signed counterpart, duplicate or facsimile copy will be equivalent to a signed original for all purposes.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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UP AEROSPACE, INC.

By Jerry Larson

Name [Signature]

Title President

Date 11-22-16

NEW MEXICO SPACEPORT AUTHORITY

By [Signature]

Name Dr. Rick Holdridge

Title Chair, Board of Directors

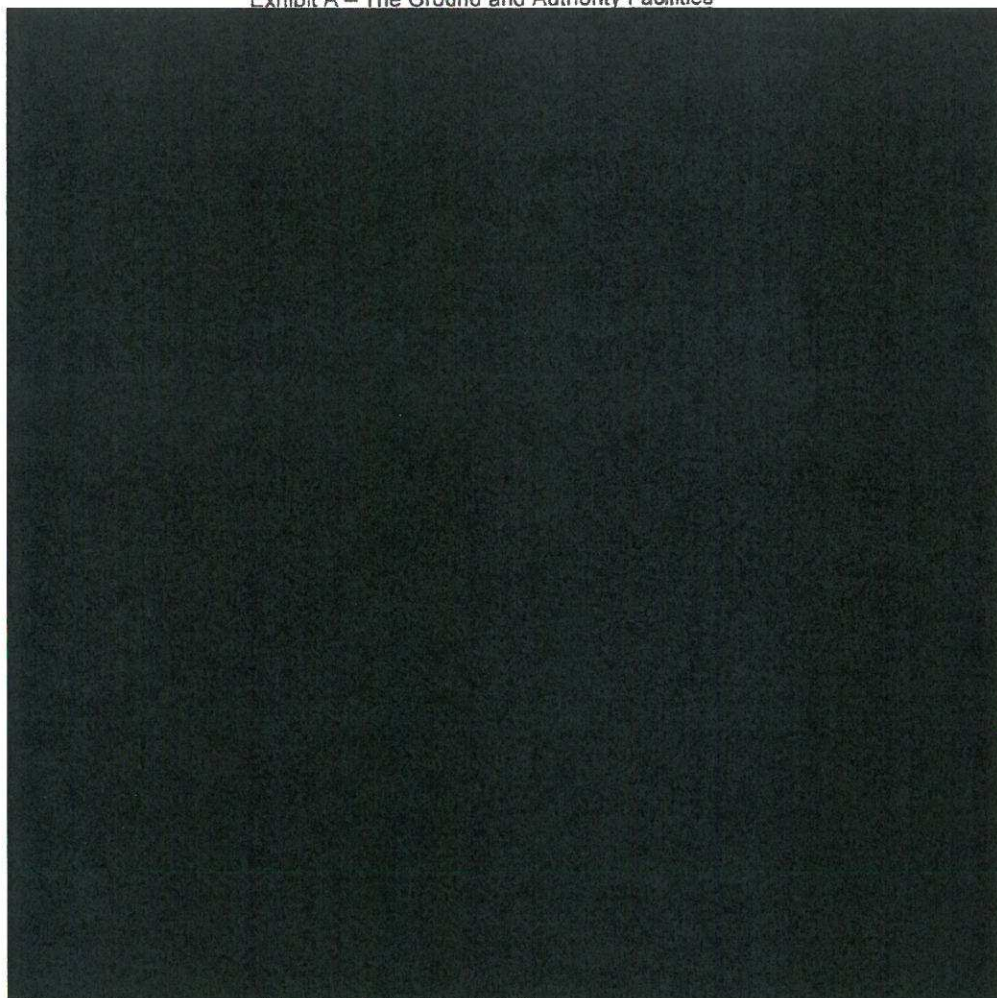
Date 11/28/2016

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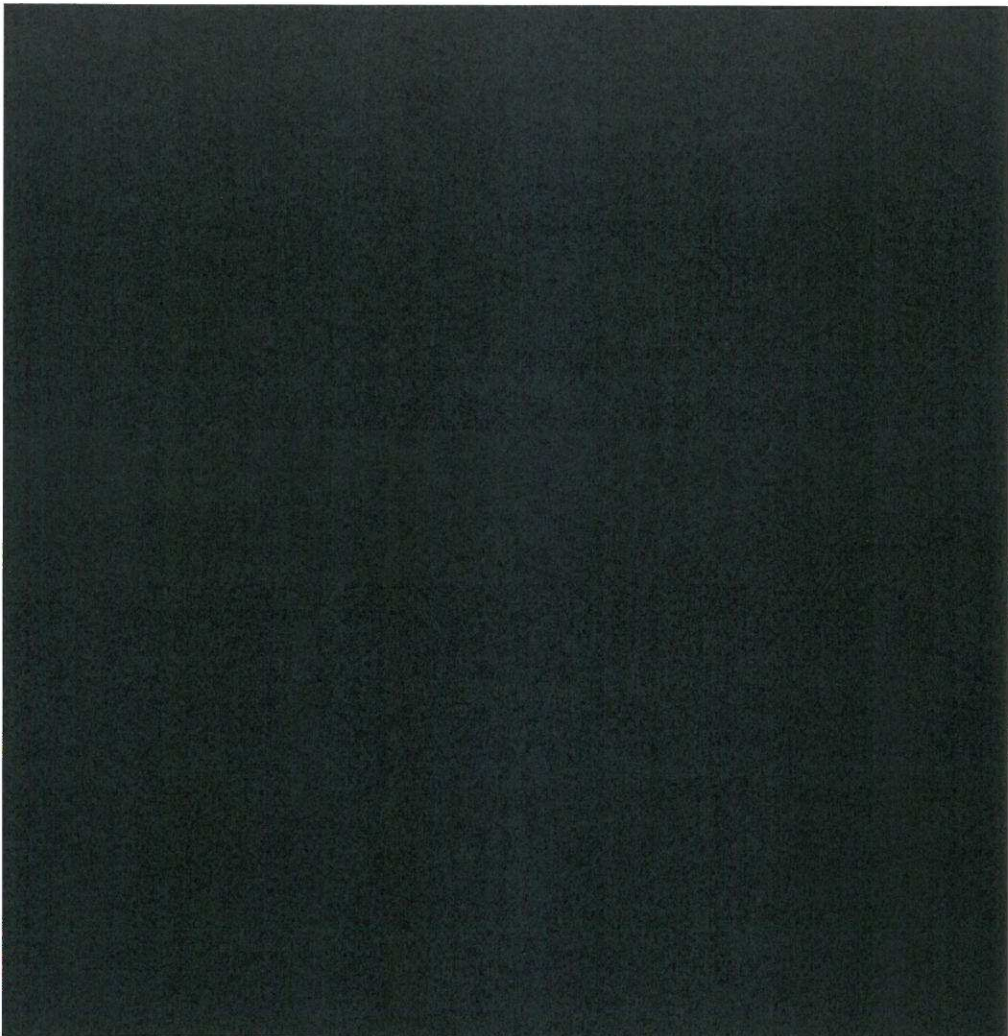
Exhibit A – The Ground and Authority Facilities



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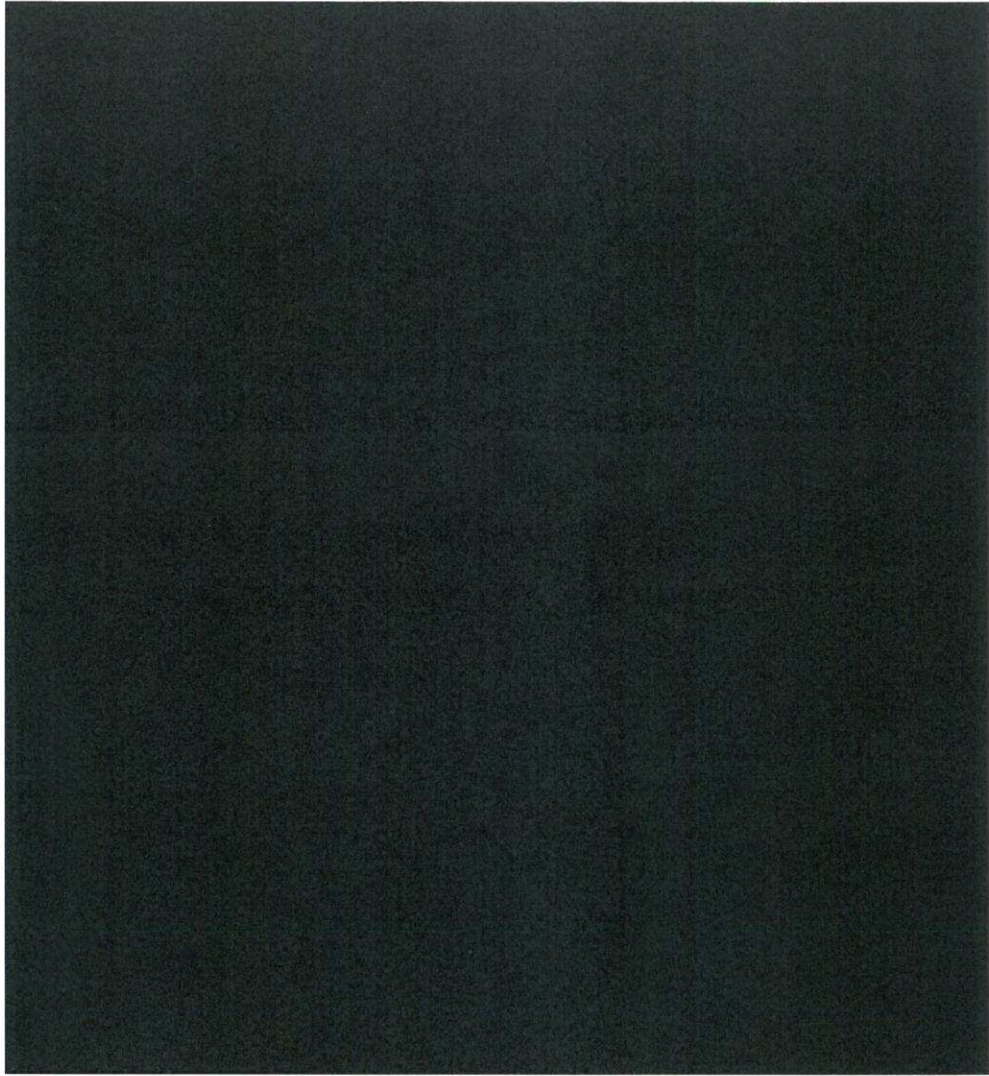
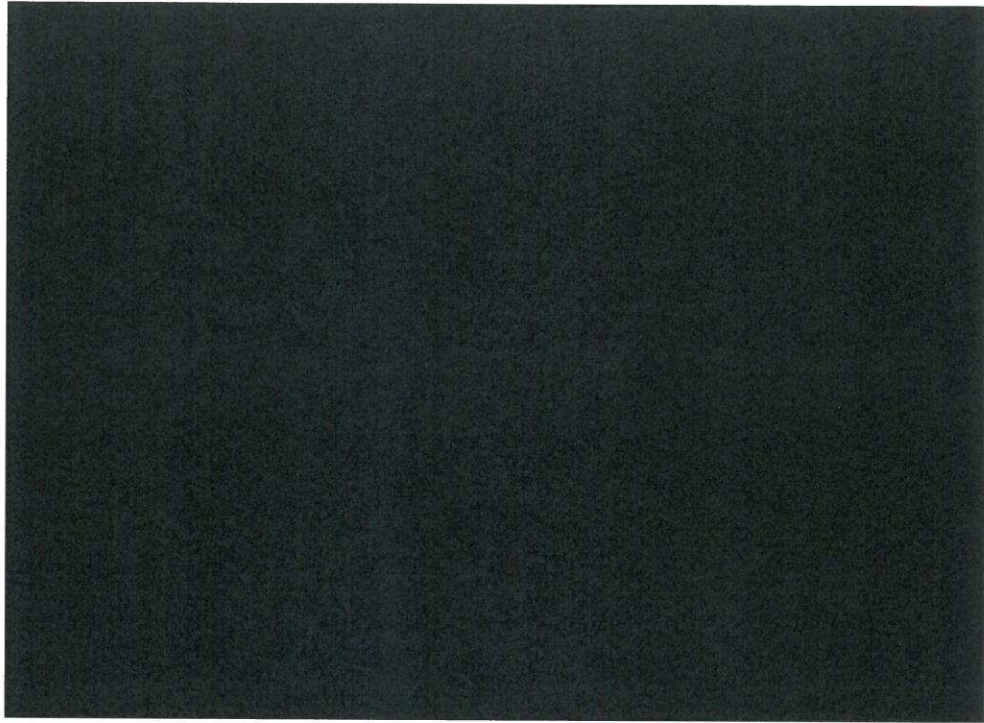


Exhibit B – UPA Fees



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Exhibit C – Spaceport Advisory Committee

19.1. The Spaceport Advisory Committee ("**SAC**") is composed of the Authority and other Tenants that operate Aircraft or Spacecraft at the Spaceport.

19.1. Representatives. Each member will designate an individual who will act on the member's behalf at meetings of the SAC (the "**SAC Representative**"). UPA's SAC Representative must: (a) be fully acquainted with the Spaceport; and (b) provide the information and services necessary to fulfill the obligations of UPA under this Lease.

19.2. Voting. Matters before the SAC will be put to a vote of the Tenants through the Tenants' SAC Representatives, and each Tenant's voting power will be equal to that Tenant's percentage of total rents and fees paid by all Tenants to the Authority in the preceding Fiscal Year. Decisions of the SAC will be made by majority vote and, in the event no majority decision is reached, the Tenant with the greatest voting power has final decision-making authority on behalf of the SAC.

19.3. Reports. The Authority, the SAC, and its members exchange various reports each year to assist the Authority in managing the Spaceport and preparing annual operating budgets for the Spaceport, these budgets including (a) O&M Expense budget; (b) debt service and/or cost amortization charges; (c) upcoming capital improvements or major maintenance; and (d) projected total User Fees (the "**Budget**"). For purposes of the following Paragraphs the then current Fiscal Year is denoted by "**FY1**." The then upcoming Fiscal Year is denoted by "**FY2**." And the then next Fiscal Year is denoted by "**FY3**." As a notional example FY1 would be Fiscal Year 2016, FY2 would be Fiscal Year 2017, and FY3 would be Fiscal Year 2018.

19.3.1. Authority FY2 Budget Brief. By June 1st of each FY1 the Authority will submit to the SAC a copy of the Authority's State-approved FY2 operating Budget.

19.3.2. UPA Reports. UPA will provide the SAC and the Authority with the following information by June 1st of each FY1: (a) the estimated number of launches from the Spaceport for FY2 and FY3; and (b) the estimated manifest and number of payloads that will be launched in FY2 and FY3 ("**UPA Report**"). Additional information may be requested by the SAC and the Authority in reviewing or, as applicable, preparing the Budget, provided that no Tenant will be required to disclose information that it reasonably determines to be commercially sensitive information, proprietary technical information or trade secrets, and further provided that any information disclosed will be public unless such information is marked "confidential" and



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is subject to an exception set out in the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 et. seq., as amended. The Monthly Activity Reports will be in a form mutually agreed to by the Authority and the Tenants on the SAC.

- 19.3.3. Preliminary Operating Budget. By August 31st of each FY3 the Authority will submit to the SAC a copy of its preliminary operating Budget for the Spaceport for FY3 that will include: (a) O&M Expense budget; (b) debt service and/or cost amortization charges; (c) upcoming capital improvements or major maintenance; and (d) projected total User Fees for FY3. The SAC will submit to the Authority any comments it may have with respect to the preliminary operating Budget within thirty (30) days of receiving the preliminary operating Budget. The SAC may provide recommendations to the Authority in regard to: (i) the Budget; (ii) operational practices and procedures for the Spaceport; (iii) maintenance and repair schedules for the Spaceport, (iv) capital improvement plans for the Spaceport, which may include, but not be limited to, expansions of capacity and additional services; (v) safety practices and procedures; and (vi) annual setting of total User Fees. The Authority acknowledges that the recommendations of the SAC will be given the highest regard, and the Authority will not act contrary to the SAC's recommendations without due consideration. Nothing in this Paragraph will prevent UPA from bringing an action to contend that any allocation of costs for the items identified in (i), (iv) and (vi) above is inequitable.
- 19.4. The Authority will timely furnish all Tenants and the SAC with a copy of the final approved Budget.
- 19.5. Green Energy. Any plans by the Authority for future locally based generation of utility services will be reviewed by the SAC and allow for SAC recommendations on alternate green systems. Green systems may include without limit solar, wind or geothermal systems that are designed to reduce the environmental impact of the generation of power and the cost of providing that power over more traditional generation techniques.
- 19.6. Modifications to Common Facilities. Before making any modifications or reductions of any kind to the Common Facilities, the Authority will provide a detailed description of all proposed modifications or reductions to the SAC and will allow at least thirty (30) days for the SAC to review and make comments to the Authority with respect to the proposed modifications or reductions. The Authority will give due consideration to, and use all reasonable efforts to accommodate, all comments made by the SAC.


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19.7. Notice of Experimental Activities. In addition to the requirements in Paragraph 4.12, UPA must not conduct developmental or test flights or developmental or test operations at or from the Spaceport unless the SAC is given notice of any such flights or operations at least five (5) days in advance. UPA may deliver such notice to the Authority for forwarding to the SAC.

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