

DRAFT LEASE  
FOR  
OCCUPATION OF SPACE AT  
CAPTAIN WALTER FRANCIS DUKE REGIONAL AIRPORT

**THIS LEASE** (the "Lease") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2003, by and between the \_\_\_\_\_ ("\_\_\_\_"), a Maryland Corporation in good standing, and the **BOARD OF COUNTY COMMISSIONERS FOR ST. MARY'S COUNTY, MARYLAND**, (EIN: 52-6001015), a body corporate and politic ("County").

This Lease sets forth the understanding of the County and \_\_\_\_\_ for occupancy by \_\_\_\_\_ of certain space herein delineated at the terminal building of the Captain Walter Francis Duke Regional Airport.

This Lease sets forth the operating agreement and understanding of the parties for occupancy and use of the defined area for transportation operations as further defined below.

1. **LEASED PREMISES.** County hereby grants to Smart Ride a license to occupy a portion of that building known as the main terminal at the Captain Walter Francis Duke Regional Airport (the "Terminal"), consisting of approximately \_\_\_\_ square feet, more particularly shown and described at Exhibit A attached hereto, as "\_\_\_\_" incorporated by reference, (the "Leased Premises"), together with the nonexclusive right to use the "common area" of the Terminal in common with County, other tenants, their invitees, customers and employees. \_\_\_\_\_ shall also have the nonexclusive right to use the parking facilities as designated from time to time by the County, and curb space outside the Terminal to the extent such facilities are available.
2. **TERM.** The term of this Lease shall commence on the \_\_\_\_ day of \_\_\_\_\_, 2003, (the "Commencement Date"), and continue until terminated the earlier of either: upon thirty (30) days prior written notice, for any reason, by either party, or one (1) year after the Commencement Date, subject to renewal as described herein.
3. **RENT.** Rent shall be \_\_\_\_\_ Dollars (\$----.--) per year, due upon signing of the Lease. However, \_\_\_\_\_ shall pay the actual cost of all utilities and expenses related to the use and occupancy of the Leased Premises as and when billed by County in its reasonable discretion or by supplying vendors

Payment of any amount billed by the County shall be due within fifteen (15) calendar days of billing. Amounts billed by vendors shall be paid by \_\_\_\_\_ as required by vendor. Vendors of \_\_\_\_\_ may not acquire a lien in the Leased Premise or Terminal. If a vendor acquires a lien in the Leased Premises or Terminal, this Lease shall immediately terminate, and \_\_\_\_\_ shall immediately pay the amount of the lien and indemnify the County in connection with the lien and any judicial or administrative action taken in connection therewith.

4. **USE.**

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\_\_\_\_\_ shall not use or suffer or permit to be used the Leased Premises for any other purpose or use in violation of any law or ordinance including but not limited to the Airport Master Plan and Airport Rules and Minimum Standards, as amended from time to time, or any regulation of any governmental authority or in any manner that will constitute any unreasonable annoyance to an occupant of the Terminal or any part thereof, or in any manner that will violate, suspend, void or serve to increase the premium rate or make inoperative any

policy or policies of insurance at any time carried on any property, buildings or improvements of the Terminal or any part thereof.

5. As a condition of use, \_\_\_\_\_ shall provide to the Airport Manager a copy of all valid and current licenses of shuttle drivers using the Leased Premises as well as its permits to operate the shuttle service. \_\_\_\_\_ will update this information as necessary.
6. QUIET ENJOYMENT. \_\_\_\_\_, upon performing and observing all the covenants and agreements to be performed and observed by it, shall and may peaceably and quietly have and enjoy the Leased Premises during the term of this Lease.
7. EXCLUSIVE POSSESSION. As of the commencement date of this Lease, \_\_\_\_\_ shall remain in the exclusive possession subject to the occasional users set out in Paragraph 4 and the provision of Paragraph 11 of the Leased Premises for the duration of this Lease.
8. ASSIGNMENT AND SUBLETTING. \_\_\_\_\_ will not sublet all or any portion of the Leased Premises, nor assign or transfer this right of occupancy, or modify the permitted use, without prior written consent of the County.
9. UTILITY CHARGES. \_\_\_\_\_ agrees to pay all charges for the hookup (if any) and its actual usage of electricity, gas, trash, waste, sewage, water, telephone, cable TV and internet during the term of the Lease related to the Leased Premises and all operations therein. Payments shall be made as provided in paragraph 3.
10. ALTERATIONS, MAINTENANCE AND REPAIRS. No structural changes, alterations or additions to the Leased Premises shall be made by \_\_\_\_\_ without prior written consent of the County, both as to whether the alterations may be made and as to how and when they will be made. All costs associated with said alterations and/or improvements shall be the sole responsibility of \_\_\_\_\_. Any approved change, alteration or addition shall remain for the benefit of and become property of the County, unless otherwise provided in writing.
11. ENTRY AND INSPECTION. \_\_\_\_\_ shall permit the County and its employees, agents, and contractors at all reasonable times during normal business hours and at any time in case of emergency, in such manner as to cause as little disturbance to \_\_\_\_\_ as reasonably practicable: (i) to enter into and upon the Leased Premises for the purpose of inspecting the same; and (ii) deliver all required materials and equipment into the Leased Premises to perform all required work therein, for the purpose of making alterations or repairs to the Leased Premises as may be provided for by this Lease, or as may be mutually agreed upon by the parties, or as the County may be required to make by law, or for maintaining any service provided by County to \_\_\_\_\_ hereunder.
12. DAMAGE OR DESTRUCTION. If any portion of the Leased Premises is damaged or destroyed by fire or other casualty (whether or not insured against), \_\_\_\_\_ shall give immediate written notice thereof to the County. If such damage or destruction is covered by insurance, the County shall file all necessary proofs of claim with the insurers and the proceeds of such insurance policy(ies) shall be paid to the County. The County may, in the first instance, elect to repair, restore or reconstruct, at its own expense, the Leased Premises to its condition at the time immediately preceding the casualty and may apply and disburse any insurance proceeds for that purpose. In such event, this Lease shall continue in full force and effect. County shall inform the \_\_\_\_\_ within fifteen (15) days of this intention. If, however, County elects not to repair, restore or reconstruct the Leased Premises, then, in such event, this Lease shall be terminated as of the date notice is sent to \_\_\_\_\_. \_\_\_\_\_ is responsible for insuring its personal property.
13. AIRPORT RULES AND MINIMUM STANDARDS. \_\_\_\_\_ hereby represents that it and all personnel occupying these Leased Premises shall, prior to occupancy, review and understand all Airport Rules and Minimum Standards in effect and subsequently in effect as amended from time to time. All of \_\_\_\_\_'s activities on the Leased

Premises and at the Terminal shall be conducted consistent with all such Rules, Standards, and other protocols in effect from time to time.

14. AIRPORT SECURITY. \_\_\_\_\_ shall keep records of the traffic its service generates traffic in and out of the airport terminal and property as part of its occupancy and use of the Leased Premises. \_\_\_\_\_ also agrees to notify the County if another company is observed operating out of the terminal or parking area on a routine basis.
15. USE OF PARKING AREAS. All automobile parking areas, driveways, entrances and exits to the Terminal, and other facilities furnished by the County shall at all times be subject to the exclusive control and management of the County, and the County shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all such facilities and areas. The County shall from time to time designate areas to be used by \_\_\_\_\_ for passenger loading/unloading, parking, or related activities.
16. WAIVER. Failure of any party to insist upon the strict performance of any of the terms, conditions, and covenants herein shall not be deemed a waiver of any right or remedies that such party may have, nor shall a waiver on one occasion constitute or be construed as a waiver of any subsequent breach or default in the terms, conditions, and covenants herein contained.
17. INDEMNIFICATION.
  - a. \_\_\_\_\_ agrees to indemnify, defend and hold the County harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly or indirectly out of the use, maintenance, or repair of the Leased Premises or \_\_\_\_\_'s breach of any provision of this Lease, except to the extent attributable to the negligent or intentional act or omission of the County, its employees, agents or independent contractors.
  - b. The County agrees to indemnify, defend and hold \_\_\_\_\_ harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly out of the actions or failure to act of the County or its employees or agents, or the County's breach of any provision of this Lease, except to the extent attributable to the negligent or intentional act or omission of \_\_\_\_\_, its employees, agents or independent contractors.
  - c. Notwithstanding anything to the contrary in this Lease, each of \_\_\_\_\_ and the County hereby waives any claims that each may have against the other with respect to consequential, incidental or special damages.
  - d. The County's obligations under this section are contingent upon: (i) its receiving prompt written notice of any event giving rise to an obligation to indemnifying the other party, and (ii) the \_\_\_\_\_ granting the County the right to control the defense and settlement of the same.
18. INSURANCE.
  - a. In requesting access to the Leased Premises, or allowing its agents, employees or contractors to request to the Leased Premises, \_\_\_\_\_ affirmatively states that \_\_\_\_\_ has in force with insurance companies Leased to do business in the State of Maryland a least the following insurance coverage with respect to all of \_\_\_\_\_'s activities at the Leased Premises pursuant to this Lease:
    - (i) Worker's compensation coverage for employees as provided by law;
    - (ii) Commercial General Liability (Broad From Comprehensive General Liability) coverage for contractual liability, personal injury, broad form property damage and products completed operations coverage with limits not less than \$1,000,000.00 per occurrence for personal injury an property damage combined, and \$2,000,000.00 in the aggregate combined single unit;

(iii) Contractor's Pollution Liability with a limit not less than \$1,000,000.00 per occurrence for personal injury and property damage combined and \$2,000,000.00 in the aggregate.

b. Prior to \_\_\_\_\_ obtaining access to the Leased Premises, the County shall be named as insured on all policies of insurance as provided above, (except worker's compensation), and Certificates of Insurance, which shall contain a provisions that coverage afforded shall not be canceled, materially modified or allowed to expire until thirty (30) days' prior notice has been given to the County, shall be sent to the County.

19. NOTICES. All notices and other communications to be given hereunder by either party shall be in writing and shall be mailed to the respective party as follows.

If to \_\_\_\_\_: \_\_\_\_\_ (Lessee Name)  
\_\_\_\_\_ (Address)  
\_\_\_\_\_  
Attention: (Contact Person)

If to the County: Board of County Commissioners for St. Mary's County  
Attn: County Administrator  
P.O. Box 653  
Leonardtown, MD 20650

and

Director  
Department of Public Works and Transportation  
44825 St. Andrews Church Road  
P. O. Box 508  
California, MD 20619

Any notice so sent shall be deemed to have been given or made on the date the same was deposited with the United States Postal Service as Certified Mail, return receipt requested, with postage thereon fully prepaid.

20. DEFAULT AND RIGHT TO CURE.

a. The following will be deemed a default by \_\_\_\_\_ and a breach of this Lease: (i) non-payment of Rent, or the actual cost of utilities or expenses; or (ii) \_\_\_\_\_'s failure to perform any other term or condition under this Lease. No such failure, however, will be deemed to exist if \_\_\_\_\_ has commenced to cure such default within thirty (30) days of the event of default and provided that such efforts are prosecuted to completion with reasonable diligence. If \_\_\_\_\_ remains in default beyond any applicable cure period, the County will have the right to exercise any and all rights and remedies available to it under law and equity.

b. The County shall be deemed in default and breach of this Lease if it fails to perform any term or condition or breaches any warranty or covenant under this Lease and such failure or breach remains uncured thirty (30) days after receipt of written notice from \_\_\_\_\_ specifying the failure or breach. No such failure, however, will be deemed to exist if the County has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of the County. If the County remains in default beyond any applicable cure period, \_\_\_\_\_ shall have the sole remedy set forth at Section 2 hereto.

21. MISCELLANEOUS PROVISIONS.

- a. This Lease contains the entire understanding between the parties hereto with respect to the Leased Premises and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between and among the parties hereto with respect to the property other than as set forth herein. No change or modification of the Lease shall be valid unless the same is in writing and signed by all parties hereto. No purported or alleged waiver of any of the provisions of this Lease shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced.
- b. The Lease shall be governed by and construed in accordance with the laws of the State of Maryland without regard to choice of law provisions. Captions herein are for convenience or reference only and in no way define, limit or expand the scope or intent of this Lease. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female, and vice versa. This Lease may be executed in two or more counterparts, all of which together shall constitute but one and the same Lease. In the event that one or more of the provisions hereof shall be held to be illegal, invalid or enforceable, such provisions shall be deemed severable and the remaining provisions hereof shall continue in full force and effect.
- c. By entering into this Lease, the County and its “employees,” as defined in the Local Government Tort Claims Act, §§ 5-301 *et seq.* of the Courts and Judicial Proceedings Article, do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability as may be provided for by law. No provision of this Lease modifies and/or waives any provision of the Local Government Tort Claims Act.
- d. It is specifically agreed between the parties executing this Lease that it is not intended by any of the provisions of this Lease to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein without the written consent of the \_\_\_\_\_, and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof in fulfilling the obligations of the Lease.
- e. No elected official, appointed official, employee, servant, agent or law enforcement officer shall be held personally liable under this Lease and any extension or renewals thereof because of its enforcement or attempted enforcement, provided they are acting within the course and scope of their employment or governmental duties and responsibilities.
- f. It is not the intent of the County to require rent payments at this time, apart from the nominal rent required in paragraph 3. It is the parties’ intent to review this Lease one (1) year after the Commencement Date to determine whether Rent should be required at that time. If the parties decide that it is not desirable and feasible to require Rent, this Lease may be renewed for an additional one (1) year period.
- g. \_\_\_\_\_ understands that all operations, uses and occupancy of the Leased Premises must be in strict compliance with all grant requirements, rules and regulations, and related provisions for airport use and operations without restrictions or limitations. \_\_\_\_\_ further agrees that, in the event there is a question of interpretation, it will comply with the County’s interpretation of such requirements, rules, laws and regulations, as and when notified by the County of its interpretation, time being of the essence. This provision supercedes any other provision of this Lease which may be in conflict therewith. Any default by \_\_\_\_\_ shall permit the County to immediately terminate the Lease and license to occupy as a non-exclusive remedy.
- h. All furniture, equipment, and other personal property to be used by \_\_\_\_\_ shall be provided and maintained by \_\_\_\_\_ at

\_\_\_\_\_’s cost. \_\_\_\_\_ shall insure such personal property as set forth in Paragraph 17. Storage of furniture, equipment or other materials elsewhere at the Terminal or on the Captain Walter F. Duke Regional Airport at St. Mary’s shall be solely as permitted by the County from time to time.

- i. Basic office cleaning shall be provided by County as determined necessary by County in its sole, absolute and unreviewable discretion. \_\_\_\_\_ may supplement the Count’s efforts in this regard.
- j. The County shall define and determine reasonable access to the Leased Premises. Use of spaces within the Terminal, other than the Leased Premises or the Common Area, such as the conference room, shall be coordinated with the County based on availability and standards as specified by the County.
- k. In the event any portion of this Lease is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the County and \_\_\_\_\_ to sever only the invalid portion or provisions, and that the remainder of the Lease shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Lease, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the County or \_\_\_\_\_ in entering into this Lease.
- l. A default by \_\_\_\_\_ in the performance of any provisions of this Lease may, as a non-exclusive remedy, permit County to terminate this Lease and license to occupy the Leased Premises immediately or any time thereafter.

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

**ATTEST:**

**LESSEE:**

\_\_\_\_\_

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

**ATTEST:**

**COUNTY COMMISSIONERS FOR  
ST. MARY’S COUNTY, MARYLAND**

\_\_\_\_\_  
(Name)  
County Administrator

By: \_\_\_\_\_  
Commissioner President

**APPROVED FOR FORM  
AND LEGAL SUFFICIENCY:**

\_\_\_\_\_  
(Name)  
County Attorney