

Declaration of Restrictive Covenants For Crosswinds Aviation Hangar Homes

This Declaration of restrictive covenants (“Declaration”) is made and declared on the **28th** day of **December**, 2015, by Crosswinds Aviation, Inc., a Kansas Corporation, (“Declarant”),

Witnesseth as follows:

Whereas, the Declarant is the owner of the real estate, located in Sedgwick County, Kansas, that is described on **Exhibit A** to this Declaration (“Hangar Home Parcels”); and

Whereas, the Declarant intends to sell and convey the three (3) Hangar Home Parcels; and

Whereas, the Hangar Home Parcels will be subject to the restrictive covenants, agreements, conditions, easements, reservations and changes described in this Declaration; and

Whereas, Declarant intends to generally develop the adjoining property that is owned by the Declarant as an airport community for residential purposes, common airport, and recreational uses to the benefit of certain owners, members, licensees and guests;

Now, therefore, know all persons by these presents:

ONE General Provisions

The word “restriction”, shall mean restrictive covenants, agreements, conditions, provisions, easements and charges set forth in this Declaration.

The word “Declarant” shall mean and include Crosswinds Aviation, Inc. and its successors and assigns.

The word “Parcel” shall mean each of the three parcels described on **Exhibit A** to this Declaration.

The words “Hangar Home” shall include both the main portion of a structure built on a Hangar Home Parcel and all additions and attachments thereto.

TWO Enforcement and Interpretation of Restrictions

The Declarant, its successors and assigns, shall have the right to enforce the restrictions and other provisions of the Declaration.

The Declarant shall have the right to construe and interpret these restrictions. Declarant's interpretations shall be final and binding as to all persons or property benefited or bound by such restrictions.

THREE
Each Parcel Subject to Restrictions

Each of the Hangar Home Parcels is subject to the restrictions and covenants set forth in this Declaration.

FOUR
Restrictions Run With the Land

Each of the restrictions in this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them until Declarant shall adopt and record a notice of repeal with the Register of Deeds of Sedgwick County, Kansas.

FIVE
Declarant Approval of All Construction, Improvements and Modifications

Declarant Approval Required. As used in this Article Five, "construction" means any of the following acts:

- (a) landscaping, devegetation, excavation or grading work; or
- (b) the construction, erection or installation of any improvement.

"Modification" means an addition, alteration, repair, change or other work that in any way alters the appearance of any part of a parcel or the exterior appearance of any improvement located on a parcel.

No construction or modification shall be made or done without the prior written approval of the Declarant. Any owner of a parcel desiring approval of the Declarant for any construction or modification shall submit to the Declarant a written application for approval specifying in detail the nature and extent of the construction or modification which the owner desires to perform. The application for approval must be accompanied by plans and specifications showing the nature, kind, color, shape, height, materials and location of the improvements and such other information as may be required by the Declarant. The Declarant shall have the right to charge a reasonable fee in connection with an application.

Any owner applying for the approval of the Declarant for any construction or modification shall also submit to the Declarant any additional information, plans and specifications which the Declarant may request.

Time for Consideration of Application. The Declarant shall approve or disapprove an application for approval within forty-five (45) days after the Declarant's receipt of all of the following: (a) the application; (b) any fee payable; and (c) all supporting information, plans and specifications requested by the Declarant. If the Declarant does approve or disapprove the application within such 45 day period, then approval will not be required and this Article will be deemed to have been complied with by the owner who requested approval of such construction or modification. Notwithstanding the foregoing, the Declarant may extend the time period to approve or disapprove an application by giving written notice of such extension to the owner requesting approval within such forty-five (45) day period.

The approval by the Declarant of any construction or modification shall not be deemed a waiver of the Declarant's right to withhold approval of any similar construction or modification subsequently submitted for approval.

Review Standard. The Declarant may disapprove plans and specifications for any construction or modification if the Declarant determines, in Declarant's sole and absolute discretion, that the proposed construction or modification violates any restriction. In addition, the Declarant may disapprove plans and specifications for any construction or modification, even though the plans and specifications may be in compliance with these restrictions, if the Declarant, in Declarant's sole and absolute discretion, determines that the proposed construction or modification, or some aspect or portion thereof, is unsatisfactory with respect to the current or intended uses of airport community or is aesthetically unacceptable.

In reviewing the proposed plans and specifications, the Declarant may consider any and all factors which the Declarant, in its sole and absolute discretion, determines to be relevant including, but not limited to: (i) the harmony of the proposed improvements with existing improvements in the project or with improvements previously approved by the Declarant but not yet constructed; (ii) the proposed location of the proposed improvements in relation to existing topography, finished grade elevations, taxiways, roads, common area and other structures; and (iii) the exterior design, finish materials and the color of the proposed improvements.

The Declarant may approve plans and specifications which fail in some material way to comply with these restrictions if the Declarant, in Declarant's sole and absolute discretion, determines that some particular feature of the parcel or the proposed improvements allows the objectives of the violated restrictions to be substantially achieved. Also, the Declarant may approve plans and specifications which fail to comply with the requirements of these restrictions if Declarant, in its sole and absolute discretion, determines that the failure is not material.

Construction of Improvements. Upon receipt of approval from the Declarant for any construction or modification, the owner who had requested such approval shall (a) proceed to perform the construction or modification as soon as practicable; and (b) shall diligently pursue such work so that the approved construction or modification is

completed as soon as reasonably practicable and within such time as may be prescribed by the Declarants.

No Changes without Approval. Any construction or modification approved by the Declarant must be done or performed in accordance with the plans and specifications approved. No change or modification shall be made without written approval of the Declarant.

No Warranty. The approval by the Declarant of any construction or modification shall not be deemed a warranty or representation as to the quality of such construction or modification or that such construction or modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

Delegation of Review Authority. Declarant reserves the right, from time to time, to delegate Declarant's authority under these restrictions to such person or persons that Declarant deems appropriate.

SIX **Prohibited and Permitted Uses**

1. Owner Use Restrictions. No parcel shall be used for any purpose other than as an owner occupied single-family residence. The residence shall not be leased by the owner. No parcel shall have more than one residence and one hangar. All residences constructed shall be permanent Hangar Homes or Hangar and Home. Hangar Homes shall be used exclusively as single family residences.

2. Additional Owner Use Restrictions. Declarant specifically reserves the right to dedicate, from time to time, some or all of the real parts of the Hangar Home Parcels and any other property used in the airport community to hangar spaces, parking ramps, tie down areas, quasi-commercial areas, and/or a fixed base operation for aircraft use, storage, fueling and repair. Each owner agrees that such use is proper within the subdivision.

3. Occupancy Limitations\Owner Occupancy. In addition to any governmental restrictions on occupancy, no Hangar Home shall have more than four occupants who are not lineal descendants or lineal ancestors or foster children of a person who is an owner.

No Hangar Home shall be occupied by any tenant or tenants under a residential lease.

4. Size Limits. No Hangar Home shall be constructed that is less than 42 x 48 feet of enclosed heated space, exclusive of porches, garages and airplane and automobile shelters. No Hangar Home shall be constructed that is more than 130 x 160 square feet of enclosed heated space, inclusive of porches, garages and airplane and automobile shelters.

5. County Ordinances. No building shall be constructed on a parcel that does not (a) conform to Sedgwick County, Kansas regulations concerning the construction of septic tanks and underground disposal systems; or (b) does not conform to the Sedgwick County, Kansas zoning ordinances.

6. Additional Structures. No building, fence or other structure shall be commenced, erected, or altered on any parcel unless plans for same shall first have been submitted to and approved in writing by the Declarant as provided in Article Five.

7. Completion of Construction. Any construction or modification started on any Hangar Home Parcel in this subdivision must be completed insofar as the exterior finish is concerned within 18 months from the date the plans are approved by the Declarant.

8. Paint/Maintenance. All buildings, including hangars, must be kept painted and properly maintained. All parcels must be kept free of unused items, trash and other unsightly accumulations. Failure to comply with this section shall constitute a nuisance, which may be abated by any of the remedies otherwise set out in this Declaration.

9. Height Restrictions of Antenna/Dishes. No wires, antenna aerials, satellite dishes or other equipment shall be installed upon the exterior of any building at a height of more than eight (8) feet above such building.

10. Right to Remove. Declarant reserves the right to enter any parcel and remove any structure, which is in violation of these restrictions. Such removal shall be at the expense of the owner. Any such entry or removal shall not be deemed a trespass.

11. Hangar Restrictions. The airplane hangar space on each Hangar Home Parcel shall be incorporated into the residence and shall be limited to strictly private use by the owner of the parcel on which the hangar is located. All hangars must be approved by the Declarant in the same manner as other structures. A hangar must not exceed square footage of the residential space and must be aesthetically compatible with the residential space.

12. Tie Downs Parcel. Parcel owners shall have the right to tie an aircraft owned by them outside of a hangar only if it is "in current license". Failure to keep such outside aircraft in current license shall constitute a nuisance, which may be abated by removal of the aircraft at the cost of the owner.

13. Runway/Taxiway Use and Fees. All roads, taxiways, runways, easements, overrun areas, and other common areas are reserved by Declarant. Fees will be charged for the use of said facilities. This provision, notwithstanding, each Hangar Home Parcel owner shall have and by these presents is granted: (a) a non-exclusive mutual easement to use any and all subdivision roads, streets and thorough fares for ingress and egress to any parcel; and (b) a non-exclusive easement to use any taxi way and runway for

customary aircraft uses, such as ground movement of aircraft and take-off and landing of aircraft. Use and enjoyment of any such easement is conditioned upon the owner being paid up and current on any and all fees and assessments.

14. Vehicles on Taxiways/Runways. No motor vehicle or aircraft of any kind shall at any time be parked on any of the taxiways, overruns or runways. The violation of this section shall constitute a nuisance.

15. Control of Runway. Declarant reserves the right to control the use of the taxiways, overruns or runways and may prohibit the use of the taxiways, overruns or runways by any aircraft deemed unsafe to the condition and maintenance of the field by virtue of its size, design or state of repair.

16. Parcel Maintenance. Each owner of a Hangar Home Parcel will maintain such parcel in a clean and well maintained condition at such owner's own expense.

17. Signage. The erection of signs by Hangar Home Parcel owners is expressly prohibited except that the owner may display on such owner's parcel a name and address sign referring only to the premises on which displayed, if the form and size of such sign be first approved in writing by the Declarant. However, nothing contained in these restrictions shall preclude Declarant from erecting such signs as may be deemed necessary and proper incident to the utilization of the easements, taxiways and airstrips and related facilities.

18. Nuisances. No nuisance shall be erected, constructed, suffered, permitted, committed, maintained, used or operated on any parcel any nuisance of any kind or character.

19. Trash Disposal. Rubbish, garbage, debris, junk or unsightly material shall not be kept or deposited on any parcel except building material during the course of construction on the parcel. All residents will use a common trash receptacle supplied by Crosswinds Aviation, Inc. Cost of pick-up will be prorated between all users.

20. Vehicle Parking and Motorized Equipment. All hangars shall be sufficient to garage all of the parcel owner's vehicles and any other motorized equipment (such as riding lawn mowers). No planes, vehicles or motorized equipment shall be parked in taxiways at anytime. No inoperable vehicles of any kind shall be permitted on a Hangar Home Parcel. Failure to comply with this section shall constitute a nuisance, which may be abated by the removal of the vehicle by the Declarant at the cost of the owner.

21. Type of Residences. No mobile homes, modular homes, industrial building, trailers, temporary residences, or home substantially constructed anywhere other than on a parcel shall be allowed on a parcel. Only steel or natural building materials such as wood, brick, stone, or other natural materials shall be used in constructing a Hangar Home. No aluminum, vinyl, plywood, pressboard or other similar material shall be allowed, unless approved in writing by Declarant.

22. Commercial Business. No commercial business activity of any type shall be permitted on a Hangar Home Parcel. However, nothing contained in this Declaration shall be construed as preventing Declarant or its assigns from (a) erecting and maintaining facilities of a recreational or community nature or facilities incident to the use of the runways, taxiways and easements; and (b) constructing hangars, shops, fuel depots, aircraft washing facilities, and other facilities for use by others. Bona fide home business or home office use shall be allowed, but no signs or outward appearance of commercial activity is allowed.

23. Pets/Animals. No animals or insects, except dogs, cats or other household pets, shall be kept or maintained on any parcel. All pets must be kept primarily indoors. No commercial or agricultural business enterprise involving the use of animals will be permitted on any parcel. The Declarant may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any parcel. The owners shall strictly comply with the regulations.

23. Monthly Airplane Fee. A monthly fee shall be paid to Declarant by each parcel owner. Such fee will cover the expense of the owner's plane or planes kept on a parcel. Only one fee will be charged for planes that are either owned by a parcel owner or owned by an entity that is controlled by a parcel owner (or planes owned by a combination of such persons or entities).

An additional monthly fee shall be charged for each plane located on a parcel that is not owned by an owner or owned by an entity controlled by an owner.

24. Insurance Requirements. All parcel owners agree to be bound by and to abide by the terms of any and all provisions of any insurance policies upon the common roads, easements, runways, airport and other common areas, if any.

25. Rules and Regulations. Declarant reserves the right for itself, and its successors and assigns, to make rules and regulations, from time to time, for the use of Hangar Homes, easements, taxiways, runways, grounds and related facilities. Parcel owners are subject to, and agree to comply with, such rules and regulations, including any such rules and regulations that may be added or amended from time to time. Declarant reserves the right to include in any contract or deed hereafter made, any additional restrictive covenants or conditions not inconsistent with these restrictions.

26. Use of Taxiway Easement and Portion of Parcel West of Taxiway Easement. No parcel owner shall interfere with the use of the taxiway easement described in the legal description for each Hangar Home Parcel. In addition, the parcel owner's use of the portion of the parcel west of such easement shall be limited to installing a septic disposal system that complies with the rules and regulations of Sedgwick County, Kansas, as amended from time to time, and for use in connection with skydiving operations.

The parcel owner shall have no rights for any other use of such portion of the parcel west of the taxiway. Declarant reserves the right to use such portion for the benefit of the airport community, the common airport, and other owners, members, licensees and guests (such as establishing a skydiving drop zone).

Declarant, and Declarant's successors and assigns, shall have the right to the use of the runways, taxi space way, and drop zone easements as shown on the plat attached as **Exhibit "_____"**.

27. Private Enforcement. If any owner shall violate any of the restrictions, any other owner of Hangar Home Parcel shall have the right to prosecute any proceedings at law or in equity against such owner to enjoin such owner from violating these restrictions or to recover damages for such violation.

28. Severability. Invalidation of any of these restrictions shall in no way affect any of the other restrictions, which shall remain in full force and effect.

SEVEN

Rights to Runway, Taxiways and Pond

Use of Runway and Taxiway. Each Hangar Home Parcel owner shall have and by these presents is hereby granted, a non-exclusive easement for the joint use and enjoyment of the runway and taxiways, as described and set out on various plats for Downwind Estates, as amended from time to time. The runway and taxiways shall be owned by the Declarant, which may prescribe rules for their use, subject only to the easement rights reserved in this Declaration.

Easement Use Condition. Use of any easement is conditioned upon (a) all assessments being current and fully paid; (b) compliance with this Declaration; and (c) compliance with all rules prescribed by Declarant.

Guests. Guests of parcel owners shall not have use of the runway and taxiway unless approved by the Declarant.

Pond. The Declarant retains sole title to the parcel east of the Hangar Home Parcels. Each parcel owner shall have a revocable license to use the pond located on such parcel for limited recreational purposes. Such license may be terminated by Declarant at any time.

EIGHT

Right to Assign

Declarant reserves the right to assign all rights and obligations under this Declaration. The Declarant does not anticipate formation of an association of the parcel owners.

The Declarant shall perform all maintenance and purchase all insurance deemed appropriate by the Declarant for the common use of the runway, taxiways and roads.

NINE
Hangar Requirement

Each Hangar Home Parcel owner shall construct and use a hangar and hangar space on the parcel. Such ownership shall include the right to use the Declarant's roads, taxiways and runway for aircraft and ground transportation purposes, subject to the restrictions in Article Five.

The hangar shall be constructed as part of the Hangar Home on the Hangar Home Parcel.

TEN
Right to Modify

The Declarant reserves the right in Declarant's absolute discretion at any time to supplement and/or amend or modify any of the restrictions and conditions listed herein, or to add additional property to these restrictions.

ELEVEN
Utilities and Utility Easement Reserved

Declarant, its successors and or assigns, shall have and there is hereby reserved, common easements for utilities, including but not limited to, electric lines, telephone lines, water lines, television cable and other utility infrastructure, which shall be installed underground, within the right of way of any taxiway, easement, street or along the several property lines of the several lots, including the parcels. Declarant and its successors reserve a license to cross any Hangar Home Parcel if necessary for the successful use, repair and installation of any utility within the easement. All utilities, including propane tanks, shall be underground.

TWELVE
Covenants Concerning Assessments and Liens

General Assessments. For the purpose of providing funds for the operation and maintenance of the roads, taxiways and runways, and for the operating, maintaining, caring, insuring, improving and conducting such other activities and taking such other actions pertaining to the pond and other facilities and easements, the Declarant shall have the right, in each year, to assess against each parcel a monthly assessment. The general assessment shall subject each parcel to a lien to secure payment thereof.

The monthly assessment effective January 1, 2016, shall be \$35.00 for each aircraft. The obligation of each Hangar Home Parcel owner to pay assessments hereunder shall commence on the date title is conveyed to such owner and is not dependent upon there being a residence erected on the parcel.

The monthly assessment for each parcel shall be due and payable in full on the first day of each month by all owners of that parcel. If the assessment is not paid by the first day of each month, in full, then a late fee in the amount of \$5.00 shall be assessed for each day that the payment is not made in full (including late fees). For example, if the assessment is not paid until day 15, then the total amount due shall be \$75.00. Payment shall be "made" when it is delivered to the treasurer of the Declarant. The late fee shall not exceed \$90.00 on any monthly assessment.

Liability and Transfer Assessment. Each Owner of a parcel shall be jointly and severally liable for payment of all assessments and late fees.

At any time legal title to a parcel transfers, the transferee shall pay at the time of the closing of such transfer a fee to the Declarant an amount equal to Two Hundred Dollars (\$200.00). Removal or addition of joint tenants shall not trigger payment of the fee if one or more persons have an ownership interest both before and after such transfer. Filing of a transfer-on-death deed shall not trigger payment of the fee; however, upon the death of the surviving grantor, the fee shall be due and payable.

Limitations on General Assessments.

- A. The Declarant shall have authority to increase the monthly assessment. The monthly assessment may not be increased from year-to-year by the Declarant, by more than \$15.00.
- B. The monthly assessment may be increased to an amount greater than that permitted by subparagraph A. of this section only with the written consent of the owners of the vote of the Hangar Home Parcels.
- C. The Declarant may not fix the annual assessment at an amount in excess of the amounts permitted under this Article.

Special Assessments. In addition to monthly assessments, the Declarant may, from time to time, establish a special assessment to be levied equally against each Hangar Home Parcel for the purpose of providing additional funds (not available through monthly assessments) to maintain the roads, easements, taxiways and runways.

Any special assessments shall become a lien against each Hangar Home Parcel in the same manner otherwise provided for in this Article.

Further, the Declarant shall have the authority to establish and fix a special assessment on any parcel to secure the liability of the owner of such parcel to the Declarant for any breach by such owner of any of the provisions of this Declaration, which breach shall result in expenditure by the Declarant for repair or remedy. Any special assessments shall be payable on the first day of each calendar month next following the date that the same shall be established by the Declarant.

Collection and Expenditures. The Declarant shall have the sole authority to collect and enforce the collection of all monthly and special assessments provided for in this Declaration. The Declarant may, in addition to such assessments, charge and assess costs, including reasonable attorneys' fees, and penalties and interest for the late payment or nonpayment of such assessments or failure to comply with any restriction. The Declarant shall have the authority to expend all monies collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Declarant as provided for in this Declaration. However, the Declarant shall not be obligated to spend in any year all the sums collected in such year by way of monthly assessments, or otherwise, and may carry forward, as surplus or in reserves, any balances remaining. The Declarant shall not be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year.

Assessments and Liens; Delinquency. If any monthly or special assessment, together with any costs, penalties and interest as herein provided, is not fully paid within three months, then the balance due, plus any costs, penalties and interest as herein provided, shall become a lien on the parcel. Such liens shall remain until the obligation has been fully paid or otherwise satisfied. Such lien shall be foreclosed within five years after filing.

Notice of Delinquency. At any time after any monthly or special assessment or fine against any parcel has become delinquent, the Declarant may record in the office of the Register of Deeds, Sedgwick County, Kansas, a notice of delinquency as to such parcel. Such notice shall state the following: (a) amount of such delinquency; (b) that it is a lien; (c) the interest, costs (including attorneys' fees) and penalties which have accrued thereon; (d) a description of the parcel against which the same has been assessed; and (e) the name of the owner of the parcel. Such notice shall be signed by an officer of the Association. Upon payment or other satisfaction of said assessment, interest, penalties and costs in connection with which notice has been recorded, the Declarant shall record a further notice stating the satisfaction and the release of the lien of the Declarant.

Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a notice of delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. In any action to foreclose any such lien, the Declarant shall be entitled to costs, including reasonable attorneys' fees, and such penalties for delinquent charges and assessments as shall have been established by the Declarant. Any foreclosure action shall be brought within 5 years after filing.

Subordination to Mortgages. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide mortgage which has been, or may hereafter be, given in good faith and for value on any interest of any owner covered by this Declaration. Any subsequent owner of any parcel purchased at foreclosure shall be bound by the

restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale.

Personal Liability. In addition to the covenants and agreements heretofore set forth herein, each owner of each parcel, by the acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to have agreed to be personally liable for the payment of each general or special assessment or fine levied against such parcel during the period of ownership. Such liability shall be joint and several. Each owner shall be jointly and severally liable for compliance with the restrictions.

Interest on Delinquent Assessments. All assessment charges (general or special) which remain due and unpaid thirty (30) days after the same are due shall thereafter be subject to interest at the rate of fifteen (15%) percent per annum, or such other rate as may be established from time to time by the Declarant; provided, however, that such interest rate shall never exceed the maximum allowed by law.

In witness whereof, the Declarant has duly adopted, and approved, and executed this Declaration, this **28th** day of **December**, 2015.

“Declarant”

Crosswinds Aviation, Inc.

By: _____
Gregory O. Thomas, President

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

On the _____ day of _____, 2015, before me, a Notary Public in and for the county and state aforesaid, came Gregory O. Thomas, President of Crosswinds Aviation, Inc., who is personally known to me to be the same person who executed the above instrument and duly acknowledged execution of the same.

In witness whereof, I have hereunto set my hand and seal on the date last above written.

My appointment expires: _____
Notary Public