

LESSOR'S SUBORDINATION

STATE OF TEXAS

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§

COUNTY OF CALDWELL

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THIS AGREEMENT IS made and entered into effective as of the ____ day of _____, 2018, by and among **CITY OF SAN MARCOS, TEXAS**, a Texas Municipal Corporation ("Lessor"), **COMPASS BANK**, an Alabama state chartered bank ("Lender") and **BERRY AVIATION, INC.**, a Texas corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor owns fee simple title to the land more particularly described in Exhibits "A" and "B" attached hereto and made a part hereof located and being a portion of the property locally known as the San Marcos Municipal Airport, San Marcos, Caldwell and Hays Counties, Texas (the "Leased Premises"); and

WHEREAS, Lessor has leased the Leased Premises and the improvements constructed or to be constructed on the Leased Premises to Lessee under that certain Lease of Airport Property dated December 22, 1992 (said Lease of Airport Property, as it may have been or may be further amended, supplemented or restated, being hereinafter called the "Lease"); and

WHEREAS, Lessee has signed (i) a revolving promissory note dated February 1, 2018, and made payable to the order of Lender in the stated principal amount of \$8,000,000.00 and (ii) a promissory note dated February 1, 2018, and made payable to the order of Lender in the stated principal amount of \$30,000,000.00 (such promissory notes, as the same may have been, or may at any time be, modified and amended, being hereinafter called the "Note"); and

WHEREAS, payment of the indebtedness evidenced by the Note is secured by various Aircraft Mortgages (the "Aircraft Mortgages") dated September 12, 2011, July 25, 2013, September 18, 2013, December 15, 2014, April 28, 2015 and February 1, 2018, including any amendments thereto, by which Lessee has granted Lender security interests in Lessee's assets (the "Collateral"), including certain aircraft, propellers and engines as more particularly described therein. The aircraft, propellers and engines are referred to for purposes of this Agreement as "the Aircraft Collateral"; and

WHEREAS, various other documents (the "Credit Documents") have been signed in connection with the Note;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and the transactions to which this Agreement is incident and supplemental, do hereby agree as follows:

1. Lessor agrees that any landlord's lien that Lessor may now or hereafter have, as a result of the Lease, against Lessee's Aircraft Collateral shall be subordinate and inferior to any security interest in, or lien against the Aircraft Collateral that is held by Lender but not

subordinate or inferior as to any other property subject to said landlord's lien pursuant the Lease or under applicable Texas law.

2. Lessor further consents to the location of the Aircraft Collateral on the Leased Premises, and hereby authorizes and empowers Lender, its agents, attorneys, employees, successors and assigns, subject to compliance with applicable law, to enter the Leased Premises and remove the Aircraft Collateral under the provisions of the Aircraft Mortgages and Credit Documents.

3. This Agreement shall bind and benefit the parties hereto and their respective successors and assigns. This Agreement embodies the entire agreement and understanding of Lessor, Lessee and Lender relating to the subject matter hereof and supersedes all prior proposals, negotiations, agreements and understandings related to such subject matter.

4. This Agreement may not be discharged or modified orally or in any manner other than by an agreement in writing specifically referring to this Agreement and signed by the party or parties to be charged thereby.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America. This Agreement may be executed in one or more counterparts which shall be construed together as one document. Any party who executes a counterpart of this Agreement shall be fully liable hereunder, whether or not any other party named herein executes that counterpart or any other counterpart of this Agreement, and the obligations of any party hereunder may be proved by production of the counterpart of this Agreement executed by such party without the production of any other counterparts of this Agreement.

IN TESTIMONY WHEREOF, this instrument is executed, effective as of the date stated above.

LESSOR:
CITY OF SAN MARCOS, TEXAS

LENDER:
COMPASS BANK

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

LESSEE:
BERRY AVIATION, INC.,
a Texas corporation

By: _____

Harry M. Berry, III, Chief Executive
Officer

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____,
2018, by _____, _____ of City of San Marcos, a Texas
Municipal Corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____,
2018, by _____, _____ of Compass Bank, an Alabama state
chartered bank, on behalf of said bank.

Notary Public in and for the State of Texas

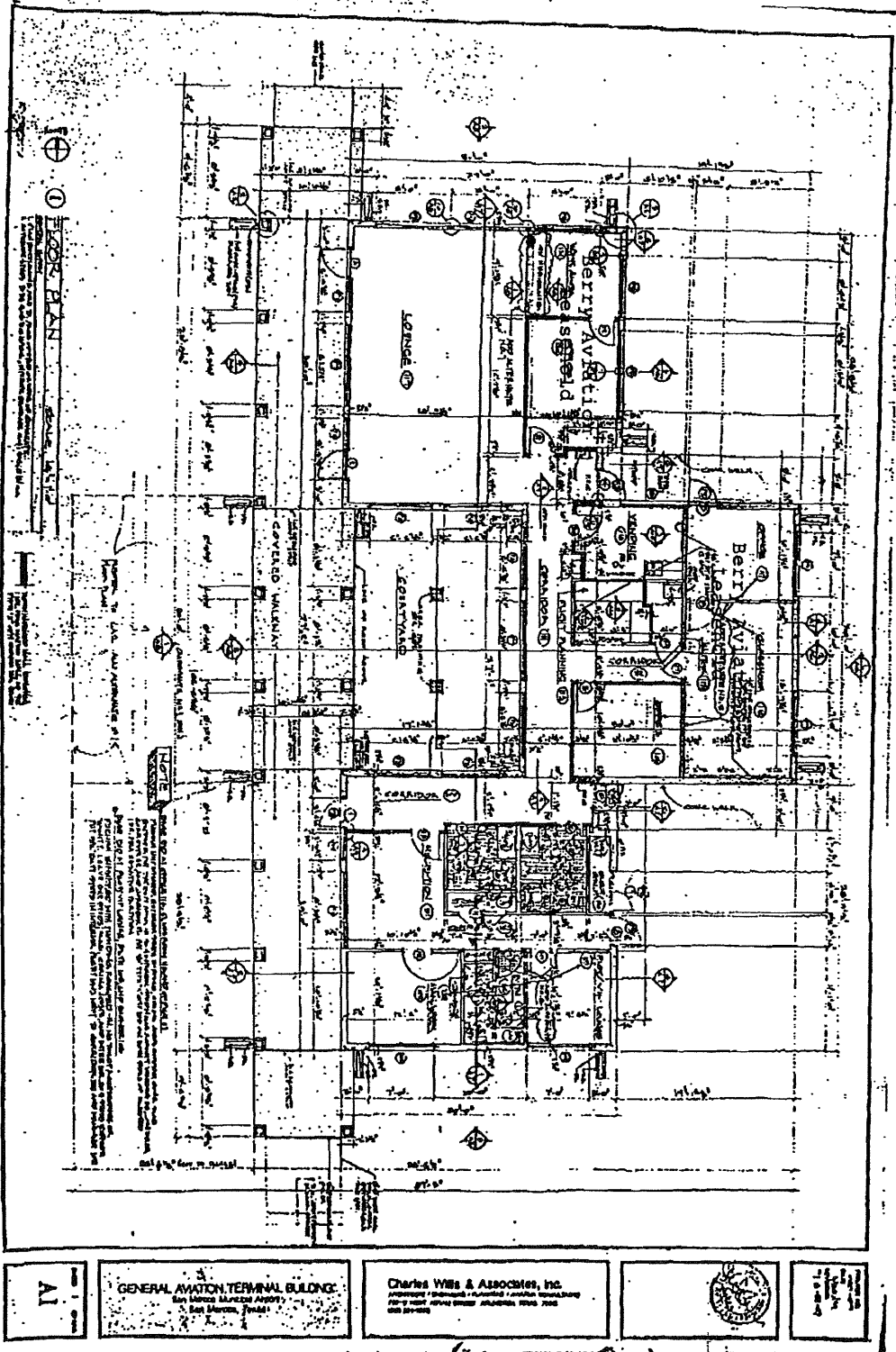
STATE OF TEXAS §
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COUNTY OF _____ §

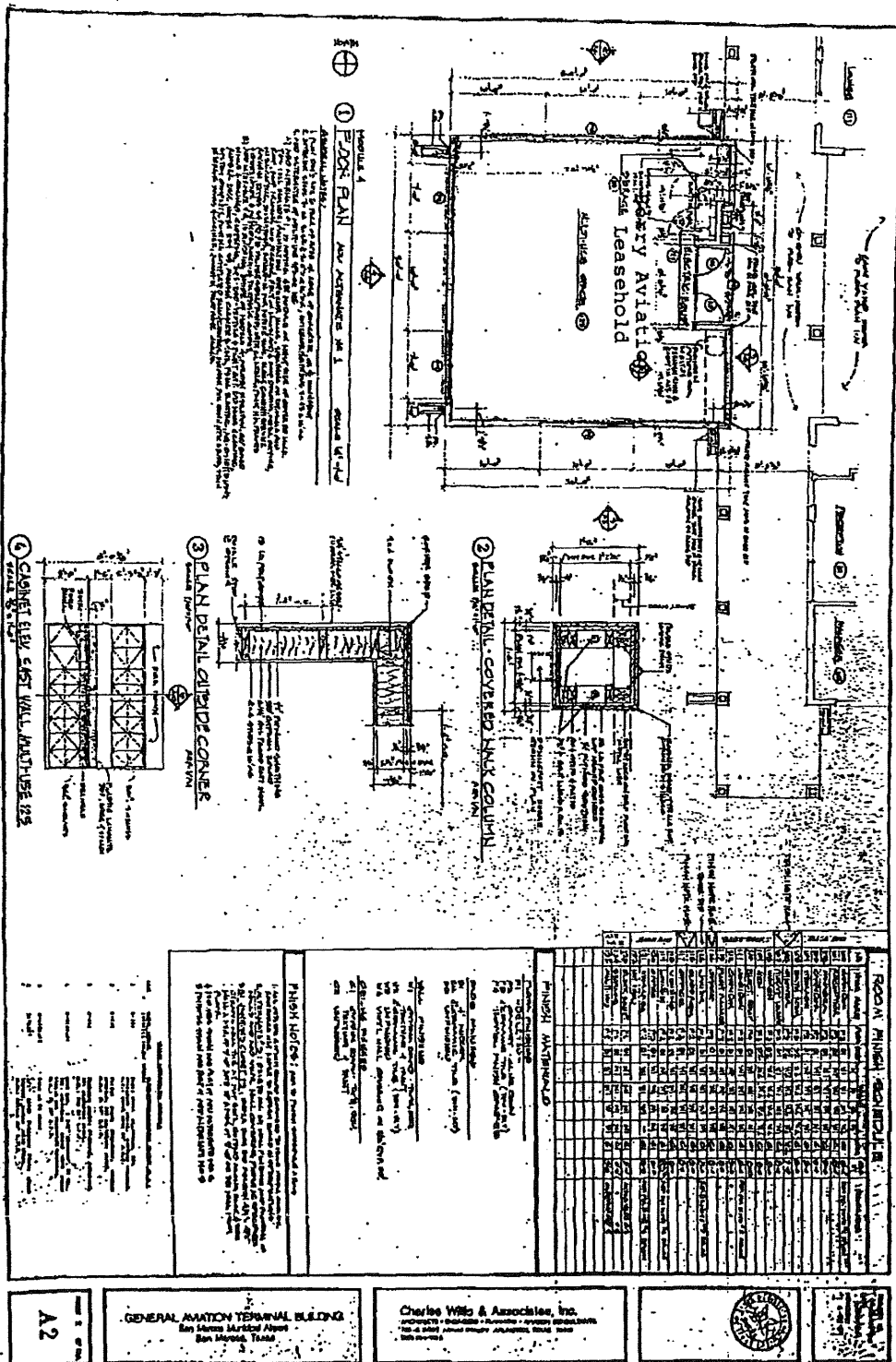
This instrument was acknowledged before me on the _____ day of _____,
2018, by Harry M. Berry, III, Chief Executive Officer of Berry Aviation, Inc., a Texas
corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

WRT: (\$30.0MM Loan-1-18)
Lessor's Subordination-12-22-1992

Exhibit A (Part 1)





THE SAN MARCOS AIRPORT,
WILLIAM PETIUS SURVEY,
CALDWELL COUNTY, TEXAS

SCALE: 1" = 40'

POINTS 122, 123, 124, AND 125
AT EACH OF THESE POINTS A SET A 5/8"
DIAMETER IRON BAR, 20' LONG, WITH A
1/2" DIAMETER ALUMINUM CAP WELDED
TO EACH END.
1983

AND WITH THE IDENTIFYING NUMBERS CITED
IN THE FIELD NOTES AND SURVEY RECORD
POINTS 122, 123, AND 124, AT EACH OF
THESE POINTS A SET A 5/8"
DIAMETER IRON BAR, 20' LONG, WITH A
1/2" DIAMETER ALUMINUM CAP WELDED
TO EACH END.
1983

STATE OF TEXAS
County of Travis

I, CHARLES W. JONES, a Public Surveyor registered under
the laws of the State of Texas, do hereby certify that
the foregoing is a true and correct copy of the original
survey map and field notes on file in my office and that
the same are correct and true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 12th day of October, 1983.

Charles W. Jones
Public Surveyor

Notary Public in and for the State of Texas
My Commission Expires 12-31-1984

Berry Aviation Leasehold

CONCRETE
PARKING
RAUP

FROM POINT 122, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 122, A 20' DIAMETER
CIRCLE WIDE POINT, THIS BEARS
N 67°-27' 11" E, 2.00 FT.

FROM POINT 123, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 124, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 125, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 126, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 127, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 128, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 129, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 130, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 131, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 132, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 133, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 134, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.

FROM POINT 135, THE POINT OF
BEGINNING OF THE BERRY AVIATION
LEASEHOLD, BEARS S 27°-25' 31" E,
2212.12 FT.