

**EXCERPT FROM MINUTES OF BOARD OF TRUSTEES  
OF STATE INSTITUTIONS OF HIGHER LEARNING  
At Its Regular Meeting  
Held on November 19-20, 2008**

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**CONSENT AGENDA**

On motion by Mr. Blakeslee, seconded by Dr. Neely, with Mr. Patterson, Ms. Pickering, Ms. Robinson and Mr. Smith absent and not voting, it was

**RESOLVED**, That the Board hereby approved the following Consent Agenda.

BT Minutes Page 2

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13. **USM** - Pending changes to the lease recommended by the Attorney General's Office and receipt of a revised lease payment schedule, the Board approved the request to enter a five-year lease agreement with the University of Southern Mississippi Foundation to lease a Beechcraft King Air 200 aircraft (N777AQ). The term of the lease is effective upon USM Foundation's acquisition of the aircraft projected to be December 1, 2008 to November 30, 2013. Lease payments will be issued monthly with the first 59 payments in equal monthly installments of \$16,662.98 and the 60<sup>th</sup> payment including a final balloon payment of \$907,053.85. The total cost for the lease is \$1,890,169.67. A copy of the lease is included in the *November 19-20, 2008 Board Working File*.

BT Minutes Page 4

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**I, the undersigned, Bridget Breithaupt, Executive Assistant to the Commissioner of Higher Education and Certified Paralegal, Mississippi Board of Trustees of State Institutions of Higher Learning, do hereby certify that the above and foregoing is a true and correct copy of a section of pages 2 and 9 of the minutes of said Board in its meeting November 19-20, 2008, and the same appears in the official record. The original of these minutes is maintained in the office of the Board of Trustees of State Institutions of Higher Learning.**

*Bridget Breithaupt*  
Bridget Breithaupt

8.17.10  
Date



STATE OF MISSISSIPPI

COUNTY OF FORREST

COPY

**EXCLUSIVE DRY LEASE AGREEMENT**

**THIS EXCLUSIVE DRY LEASE AGREEMENT** (Lease) is made and entered into by and between The University of Southern Mississippi Foundation, a Mississippi nonprofit corporation (Foundation) and The University of Southern Mississippi, a state supported institution of higher learning of the State of Mississippi (USM).

**WHEREAS**, the Foundation is acquiring an aircraft as an investment described as a Beechcraft King Air 200, Registration No. N777AQ S/N BB-583 (Aircraft);

**WHEREAS**, USM has recognized a need to have access to a private aircraft to further the general purposes of USM;

**WHEREAS**, USM will inspect the Aircraft prior to the commencement of this Lease and determine whether it desires to accept the condition of the Aircraft;

**WHEREAS**, the Foundation and USM are desirous of entering into an Agreement whereby USM would exclusively lease and have operational control over the Aircraft to be acquired by the Foundation for use by USM.

**NOW, THEREFORE**, in consideration of the promises, mutual covenants and agreements herein contained, it is hereby agreed as follows:

**I**  
**TERMS OF THE LEASE**

1.1 Foundation shall exclusively lease the Aircraft to USM and USM shall rent the Aircraft from Foundation for the term of this Lease. This Lease shall be for a five (5) year term beginning on the date of acquisition of the Aircraft by the Foundation and delivery to USM, and shall automatically renew for one-year terms thereafter, unless either party hereto terminates the agreement thirty (30) days in advance of the anniversary date of the agreement, although any termination by USM without cause shall be subject to USM paying a termination fee as provided below. However, in no event shall this agreement with renewals extend beyond ten (10) years in length.

1.2 Notwithstanding the above paragraph, either party may terminate this agreement upon sixty (60) days written notice, although any termination by USM without cause shall be subject to USM paying a termination fee as provided below.

- a. Upon termination of the Agreement by either USM other than due to a breach that is not timely cured by Foundation (as provided in this Lease), USM shall be a termination fee of twenty percent (20%) of the balance due

by USM to Foundation under the Lease including all past due Rent and Additional Rent (as provided in this Lease) as liquidated damages and not as a penalty. Both parties agree that this termination fee is a fair and reasonable estimation of damages that Foundation may incur as a result of termination of the Lease by USM. The balance due under the Lease shall be that shown on Schedule 1.3, attached hereto and incorporated herein by reference.

- b. Upon written agreement between USM and Foundation, part or all of the termination fee may be waived by the Foundation.

## **II** **PAYMENTS**

2.1 Rent. USM shall pay the Foundation for the lease of the Aircraft the total sum of \$1,607,800 being payable in sixty (60) equal monthly installments of \$16,662.98 per month, beginning on the 1<sup>st</sup> day of December, 2008, and a like amount on the same day of each month thereafter for fifty-nine (59) consecutive months with the final sixtieth (60<sup>th</sup>) payment including a final balloon payment of \$907,053.85 as a full and final payment unless otherwise agreed to by the parties. The parties acknowledge that this rent is based on the purchase price of the Aircraft, transaction costs, a return to the Foundation and an estimate of closing and escrow costs. Should the estimate be incorrect, USM will pay the difference (if the estimate is too low) with the first payment or the first payment shall be reduced by the excess (if the estimate is too high).

2.2 Additional Rent. USM shall pay the Foundation as additional rent upon demand any sums expended by the Foundation due to a breach of a term, condition or provision of this Lease by USM.

## **III** **OBLIGATIONS OF FOUNDATION**

The Foundation's obligations, duties and responsibilities under the Lease are as follows:

3.1 Tender the aircraft to USM for inspection and testing by USM at USM's sole cost prior to the commencement of the Lease.

3.2 Notify Seller of any defects in or objections to the Aircraft raised by USM and not accept the Aircraft until the Aircraft is accepted by USM.

3.3 Deliver the Aircraft, a copy of Foundation's bill of sale for the Aircraft, and all Aircraft Documents (as defined in that Aircraft Purchase Agreement between Foundation and Pollard Aircraft Sales, Inc.) to USM at KHBG at or before the commencement of the Lease.

IV  
**OBLIGATIONS OF USM**

USM's obligations, duties and responsibilities under the Lease are as follows:

- 4.1 Inspect the Aircraft when tendered to it by the Foundation and notify the Foundation within three (3) days of receipt of any inspection of any defects in or objections to the Aircraft and if accepted by USM to thereafter keep the Aircraft in airworthy and safe operating condition and oversee scheduled and unscheduled maintenance on the Aircraft. Should USM accept the Aircraft and not execute this Lease in time for the Foundation to close on the acquisition of the Aircraft, USM shall pay to the Foundation the Fifty Thousand Dollars (\$50,000.00) Earnest Money advanced by the Foundation, provided the Foundation loses the Earnest Money under the Aircraft Purchase Agreement with the Seller. If the Aircraft fails the inspection, USM will pay the fuel cost for Seller to retrieve the Aircraft.
- 4.2 Hire, fire, and schedule flight crew(s) and staff.
- 4.3 Provide all required documentation to the Federal Aviation Administration (FAA), manufacturer, Internal Revenue Service (IRS), and Institution of Higher Learning (IHL).
- 4.4 Oversee hangar and storage requirements for the Aircraft and necessary supplies.
- 4.5 Develop operations and training manuals for the flight department, if necessary.
- 4.6 Maintain appropriate navigation maps and charts.
- 4.7 Maintain and utilize appropriate sources for weather and flight planning to safely and efficiently plan all flights.
- 4.8 Attend annual flight training required by the FAA and the Aircraft insurance carrier.
- 4.9 Utilize fueling services as required to safely maintain and operate the Aircraft.
- 4.10 USM shall be deemed to have retained "possession, command and control" over the Aircraft within the meaning of Internal Revenue Service Revenue Ruling 58-215.
- 4.11 Review all invoices for expenses to verify the work billed for has been accomplished in a reasonable and prudent manner within industry standards and FAA and manufacturer's specifications. All such expenses for Aircraft operation, servicing, repair and maintenance shall be billed to and timely paid by USM.
- 4.12 Pay all Rent and Additional Rent as and when due and reimburse Foundation for any actual third party payments by Foundation or out-of-pocket expenses of Foundation.



4.13 Take such reasonable actions as are necessary to carry out the terms, conditions and provisions of this Lease and provide further assurances to the Foundation as are appropriate under the circumstances.

4.14 Provide an estoppel agreement to any lender to Foundation or assurances to Foundations' auditors as to the Lease being in full force and effect, there being no amendment, there being no breach, there being no advance payments or past due obligations for rent or additional rent by USM, and other reasonable assurances requested by the Foundation.

4.15 Not directly or indirectly create, incur, assume or suffer to exist any lien or with respect to the Aircraft.

4.16 Base the Aircraft at USM's cost at KHBG and will not base the Aircraft, or permit it to be based outside the limits of the United States of America, without the written consent of Foundation.

4.17 Repair and maintain the Aircraft during the term of this Lease so as to keep it in as good and safe operating condition as when delivered by Foundation to USM, ordinary wear and tear from use and ordinary deterioration accepted. USM shall pay all costs and expenses of parts and accessories for replacement, including transportation charges thereon. USM shall be entitled to any and all salvage from broken or worn out parts.

## V INSURANCE

5.1 Insurance coverage will be obtained and maintained by Foundation to cover damage, or replacement cost in the amount of the fair market value of the aircraft, and Combined Liability coverage for bodily injury and property damage including passengers and flight crew of not less than \$50,000,000 each occurrence. Insurance shall comply with the provisions of Schedule 5.1 to this Lease. USM shall reimburse the Foundation for such insurance cost as Additional Rent.

5.2 The Aircraft will be operated in accordance with all insurance requirements.

5.3 USM will be listed as an additional insured on the face of the policy.

5.4 USM will provide Foundation with evidence showing applicable workers' compensation coverage for all USM employees.

## VI PILOTS

6.1 USM will use its best efforts to provide pilots when requested and will only use certified pilots.

6.2 USM may hire independent contractor certified pilots from time to time to operate the Aircraft. "Moonlighting" by USM pilots is prohibited unless approved in advance by USM. Although pilot employees may be allowed to "moonlight" as independent contract pilots from time to time for entities other than the Foundation and USM, there shall be no "pilot swapping" permitted to service this agreement.

6.3 USM employees may not depart the continental United States without the specific approval of USM for each such employee.

6.4 USM may operate the Aircraft only for the purposes and within the geographical limits set forth in the insurance policy or policies obtained in compliance with this Lease. The Aircraft shall be operated at all times in accordance with the flight manual and all manufacturers's suggested operating procedures.

## **VII** **COMPLIANCE WITH LAW**

7.1 All USM employees, including crewmembers, must comply with all state, foreign, federal and local laws, and policies of the Board of Trustees of Institutions of Higher Learning and USM.

7.2 USM shall be solely responsible for any fines, penalties or forfeitures occasioned by any violation by USM. If such fines or penalties are imposed on Foundation and paid by Foundation, USM shall reimburse Foundation for the amount thereof within thirty (30) days of receipt by USM of written demand from Foundation. USM shall not be responsible for any fines, penalties, or forfeitures, which are occasioned by others.

## **VIII** **INDEPENDENT CONTRACTOR AGREEMENT**

8.1 USM shall be deemed to be an independent contractor. USM shall utilize its best judgment and discretion in meeting the requirements imposed by this Lease without the Foundation exercising control or the right to control over USM's operations. Nothing contained in this Agreement shall be regarded as creating any relationship (employer/employee, joint venture, partnership) between the parties other than as landlord and tenant being an independent contractor relationship.

8.2 USM shall not be treated as an employee with respect to the services performed hereunder for federal tax purposes.

8.3 No employee of USM will, at any time, represent himself/herself to be an employee of the Foundation. The Foundation shall not employ a pilot employee of USM. Neither a USM employee nor the Foundation will establish a relationship between each other which would either be contrary to that employee's obligations to USM as a USM employee or which would be adverse to the best interests of USM.

**IX**  
**COMMERCIAL OPERATION RESTRICTION**

Neither Foundation nor USM will make or allow the Aircraft to be made available for hire within the meaning of the Federal Aviation Regulations. The Aircraft is to be operated strictly in accordance with 14 C.F.R. Part 91. Neither Foundation nor USM shall make any use of the Aircraft, which would impose the IRC 4261 and/or 4271 excise taxes on the operation of the Aircraft.

**X**  
**NOTICES**

Any notices required hereunder shall be given by hand delivery or certified or registered U.S. Mail, Return Receipt Requested, or by a nationally know courier service with proof of delivery required, or by facsimile or email provided confirmation of receipt is shown or obtained, and in such case notice shall be effective upon receipt as noted by the proof of delivery. Such notice must be given to the respective party as noted below. A party may change its address or facsimile for notice purposes by notice as provided herein to the other party.

**TO FOUNDATION:** The University of Southern Mississippi Foundation  
118 College Drive, #10026  
Hattiesburg, Mississippi 39406  
Attention: David Wolf  
Facsimile: 601-266-5735  
Email: david.wolf@usm.edu

with a copy to: Adams and Reese LLP  
111 East Capitol Street, Suite 350  
Jackson, MS 39201  
Attention: Gee Ogletree  
Facsimile: 601-355-9708  
Email: [gee.ogletree@arlaw.com](mailto:gee.ogletree@arlaw.com)

**TO USM:** The University of Southern Mississippi  
Dr. Martha D. Saunders, President  
118 College Drive, #5001  
Hattiesburg, Mississippi 39406  
Facsimile: 601-266-5756  
Email: Martha.saunders@usm.edu

with a copy to: University of Southern Mississippi  
118 College Drive #5177  
Hattiesburg, MS 39406-0001  
Attention: Joe Morgan  
Facsimile: 601-266-5756  
Email: chad.driskell@usm.edu

**XI**  
**INSPECTION BY FOUNDATION**

USM agrees to permit Foundation or any authorized agent to inspect the Aircraft and all books and records concerning the Aircraft at any reasonable time and to furnish any information in respect to the Aircraft and its use that Foundation may reasonably request.

**XII**  
**ALTERATIONS**

Except in accordance with other written agreements entered into subsequent to the date of this Lease between USM and Foundation regarding maintenance of the Aircraft, USM shall not have the right to alter, modify or make additions or improvements to the Aircraft without the prior written permission of Foundation. All such alterations, modifications, additions, and improvements as are so approved and made shall become the property of Foundation and shall be subject to all of the terms of this Lease.

**XIII**  
**TITLE**

The registration of and title to the Aircraft shall be in the name of the Foundation and the Aircraft at all times during the term of this Lease or any extension, shall bear United States registration markings. All responsibility and obligations in regard to the operating of the Aircraft as above owned, registered, and marked shall be borne by USM during USM's usage of the Aircraft for USM's business.

**XIV**  
**USE BY FOUNDATION**

14.1 Foundation shall have the right to use the Aircraft by subleasing it from USM on a case by case basis but only if such use does not interfere with USM's planned use of the Aircraft and is approved in advance by USM.

14.2 Foundation shall pay USM a fair market rental for use of the Aircraft as agreed upon by Foundation and USM. The rental may be paid in cash by the Foundation to USM or as a credit towards the next Rent payment otherwise due by USM to the Foundation as agreed to by the parties.

**XV**  
**PAYMENT OF TAXES**

15.1 Foundation shall pay or cause to be paid all taxes and fees incurred by reason of ownership of the Aircraft during the term of this Lease including personal property taxes.

**XVI**  
**ASSIGNMENT**

16.1 USM shall not assign this Lease or any interest in the Aircraft or sublet the Aircraft without prior written consent of Foundation.

16.2 Foundation may at any time and without the consent of USM assign this Lease (even before the acquisition of the Aircraft) to a wholly owned subsidiary entity of the Foundation, created by Foundation for the sole purpose of owning the Aircraft and leasing it to USM.

16.3 Should Foundation assign this Lease to its wholly owned subsidiary, Foundation shall ensure the Aircraft is acquired by and titled in the name of its subsidiary and shall furnish notice of the assignment to USM and the information for change of notice pursuant to Section X of this Lease.

16.4 Upon such assignment by Foundation, USM shall release Foundation from any and all obligations, claims and liabilities under this Lease and shall look solely to Foundation's assignee as owner of the Aircraft and lessor under this Lease. All references in the Lease to Foundation shall thereafter be deemed to apply solely to Foundation's assignee.

16.5 Additionally, it is understood that Foundation may decide to use the Aircraft as part of a like-kind exchange under Section 1031 of the Internal Revenue Code. In such event, the Foundation shall promptly notify USM of its decision and USM shall fully cooperate with the electing party in all respects including, but not limited to, executing any and all reasonable documentation and taking any and all reasonably necessary action, to accomplish the like-kind exchange for the benefit of the Foundation, all subject to reasonable review and approval by the Foundation's counsel. Such like-kind exchange shall be at the cost or expense of the Foundation.

**XVII**  
**ACCIDENT AND CLAIM**

17.1 USM shall immediately notify Foundation of each accident involving the Aircraft, which notification shall specify the time, place, and nature of the accident or damage, the names and addresses of parties involved, persons injured, witnesses, and owners of properties damages, and such other information as may be known to USM.

17.2 USM shall advise Foundation and the insurance company carrying coverage on the Aircraft of all correspondence, papers, notices, and documents whatsoever received by USM in connection with any claim or demand involving or related to the Aircraft or its operation, and shall aid in any investigation instituted by Foundation or USM's insurance company and in the recovery of damages from third persons liable therefor.

**XVII**  
**RETURN OF AIRCRAFT TO LESSOR**

18.1 On the termination of this Lease by expiration or otherwise, USM shall return the Aircraft to Foundation at KHBG in as good operating condition and appearance as when received, ordinary wear, tear, and deterioration excepted.

18.2 On the termination of this Lease by expiration or otherwise, USM shall assign all insurance proceeds or rights or claims concerning damages to the Foundation.

**XIX**  
**DEFAULTS AND REMEDIES**

19.1 If USM defaults under this Lease, Foundation shall deliver to USM a written notice of default, itemizing the default. USM shall have five (5) days from receipt of notice to cure a monetary default and thirty (30) days from receipt of notice to cure a non-monetary default, or solely in the case of a non-monetary default, such longer time as may reasonably be necessary to cure the same provided USM promptly undertakes the cure and thereafter diligently and continuously pursues the cure to completion.

19.2 If Foundation defaults under this Lease, USM shall deliver to Foundation a written notice of default, itemizing the default. Foundation shall have thirty (30) days from receipt of notice to cure a default, or such longer time as may reasonably be necessary to cure the same provided Foundation promptly undertakes the cure and thereafter diligently and continuously pursues the cure to completion.

19.3 Each party shall have all rights and remedies available at law or in equity.

**XX**  
**ACCEPTANCE OF CONDITION OF AIRCRAFT**

Upon acceptance of the condition of the Aircraft by USM as provided in Paragraph 4.1 of this Lease, and delivery by Foundation to USM under this Lease, USM shall be deemed to have accepted the Aircraft in its "AS-IS" "WHERE-IS" condition with all faults and shall not look to Foundation for any reason concerning the condition of the Aircraft.

**XXI**  
**MISCELLANEOUS**

21.1 The terms and conditions of this Lease constitute the entire agreement of the parties hereto and supersede all previous negotiations, representations, and agreements between the parties. This Lease may not be varied, amended, or supplemented except by an instrument in writing signed by both the parties.

21.2 Each party to this Lease agrees to execute such further documents, and to do all such further acts and things, as may be required by law, or as will reasonably be requested to carry out the intent of this Lease.

21.3 This Lease will be governed by and construed in accordance with the laws of the State of Mississippi without regard to conflicts of laws principles.

21.4 All headings in this Lease are for convenience only and will not be used in interpreting or construing this Lease.

21.5 Any failure at any time of either party to enforce any provision of this Lease shall not constitute a waiver of such provision or prejudice the right of such party to enforce such provision at any subsequent time. No delay or omission in the exercise of any power or remedy herein provided or otherwise available to either party shall impair or affect either party's rights thereafter to exercise same. Any extension of time or other indulgence granted by one party to the other shall not otherwise alter or affect the other party's rights or the obligations of the other party hereunder.

21.6 This Lease is conditioned upon: (a) Foundation (or its assignee's) acquisition of the Aircraft; and, (b) approval of this Lease by the Board of the Institutions of Higher Learning.

21.7 This Lease may be executed by the Parties hereto in separate counterparts, and by facsimile, each fully executed set of which when so executed and delivered will be an original but all of such counterparts will together constitute but one and the same instrument.

**XXII**  
**TRUTH IN LEASE STATEMENT**

22.1 The Aircraft, Beechcraft King Air 200, Registration N777AQ Serial Number BB-583, is currently registered with the Federal Aviation Administration and has been maintained and inspected under FAR Part 91 during the twelve-month period preceding the date of this Lease.

22.2 The Aircraft will be maintained and inspected under FAR Part 91.409 (f) (3) for operations to be conducted under this Lease. During the duration of this Lease, the University of Southern Mississippi, 118 College Drive #5001, Hattiesburg, Mississippi 39406 is considered responsible for operational control of the Aircraft under this Lease.

22.3 An explanation of factors bearing on operational control and pertinent Federal Aviation Regulations can be obtained from the nearest FAA Flight Standards District Office.

22.4 The "Instructions for Compliance with Truth in Leasing Requirements" attached hereto as Schedule 17.4 are incorporated herein by reference.

22.5 "I, the undersigned Martha Saunders, as President of the University of Southern Mississippi, 118 College Drive, # 5001, Hattiesburg, Mississippi 39406, certify that the University of Southern Mississippi is responsible for operational control of the Aircraft and that the University of Southern Mississippi understands the responsibilities for compliance with applicable Federal Aviation Regulations."

[Signature Pages to Follow]



IN WITNESS WHEREOF, the Parties hereto, after reading this Lease Agreement, have executed this Lease Agreement in duplicate originals on the day and year set forth below.

OWNER: The University of Southern Mississippi Foundation, Inc.      USM: The University of Southern Mississippi

By: *D. W. J.*  
Title: Exec. Director

By: *Y. Arthur J. J. J.*  
Title: PRESIDENT

Date: 11.21.08

Date: 11.21.08

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
1	12/1/2008	\$1,607,800.00	\$16,662.98	\$1,597,166.27
2	1/1/2009	\$1,597,166.27	\$16,662.98	\$1,586,492.66
3	2/1/2009	\$1,586,492.66	\$16,662.98	\$1,575,779.03
4	3/1/2009	\$1,575,779.03	\$16,662.98	\$1,565,025.22
5	4/1/2009	\$1,565,025.22	\$16,662.98	\$1,554,231.08
6	5/1/2009	\$1,554,231.08	\$16,662.98	\$1,543,396.47
7	6/1/2009	\$1,543,396.47	\$16,662.98	\$1,532,521.23
8	7/1/2009	\$1,532,521.23	\$16,662.98	\$1,521,605.20
9	8/1/2009	\$1,521,605.20	\$16,662.98	\$1,510,648.24
10	9/1/2009	\$1,510,648.24	\$16,662.98	\$1,499,650.19
11	10/1/2009	\$1,499,650.19	\$16,662.98	\$1,488,610.90
12	11/1/2009	\$1,488,610.90	\$16,662.98	\$1,477,530.21
13	12/1/2009	\$1,477,530.21	\$16,662.98	\$1,466,407.97
14	1/1/2010	\$1,466,407.97	\$16,662.98	\$1,455,244.02
15	2/1/2010	\$1,455,244.02	\$16,662.98	\$1,444,038.21
16	3/1/2010	\$1,444,038.21	\$16,662.98	\$1,432,790.37
17	4/1/2010	\$1,432,790.37	\$16,662.98	\$1,421,500.35
18	5/1/2010	\$1,421,500.35	\$16,662.98	\$1,410,168.00
19	6/1/2010	\$1,410,168.00	\$16,662.98	\$1,398,793.15
20	7/1/2010	\$1,398,793.15	\$16,662.98	\$1,387,375.64
21	8/1/2010	\$1,387,375.64	\$16,662.98	\$1,375,915.32
22	9/1/2010	\$1,375,915.32	\$16,662.98	\$1,364,412.02
23	10/1/2010	\$1,364,412.02	\$16,662.98	\$1,352,865.59
24	11/1/2010	\$1,352,865.59	\$16,662.98	\$1,341,275.86
25	12/1/2010	\$1,341,275.86	\$16,662.98	\$1,329,642.66
26	1/1/2011	\$1,329,642.66	\$16,662.98	\$1,317,965.84
27	2/1/2011	\$1,317,965.84	\$16,662.98	\$1,306,245.23
28	3/1/2011	\$1,306,245.23	\$16,662.98	\$1,294,480.67
29	4/1/2011	\$1,294,480.67	\$16,662.98	\$1,282,671.99
30	5/1/2011	\$1,282,671.99	\$16,662.98	\$1,270,819.03

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
31	6/1/2011	\$1,270,819.03	\$16,662.98	\$1,258,921.62
32	7/1/2011	\$1,258,921.62	\$16,662.98	\$1,246,979.60
33	8/1/2011	\$1,246,979.60	\$16,662.98	\$1,234,992.79
34	9/1/2011	\$1,234,992.79	\$16,662.98	\$1,222,961.03
35	10/1/2011	\$1,222,961.03	\$16,662.98	\$1,210,884.15
36	11/1/2011	\$1,210,884.15	\$16,662.98	\$1,198,761.99
37	12/1/2011	\$1,198,761.99	\$16,662.98	\$1,186,594.37
38	1/1/2012	\$1,186,594.37	\$16,662.98	\$1,174,381.12
39	2/1/2012	\$1,174,381.12	\$16,662.98	\$1,162,122.07
40	3/1/2012	\$1,162,122.07	\$16,662.98	\$1,149,817.05
41	4/1/2012	\$1,149,817.05	\$16,662.98	\$1,137,465.88
42	5/1/2012	\$1,137,465.88	\$16,662.98	\$1,125,068.40
43	6/1/2012	\$1,125,068.40	\$16,662.98	\$1,112,624.43
44	7/1/2012	\$1,112,624.43	\$16,662.98	\$1,100,133.79
45	8/1/2012	\$1,100,133.79	\$16,662.98	\$1,087,596.31
46	9/1/2012	\$1,087,596.31	\$16,662.98	\$1,075,011.82
47	10/1/2012	\$1,075,011.82	\$16,662.98	\$1,062,380.13
48	11/1/2012	\$1,062,380.13	\$16,662.98	\$1,049,701.08
49	12/1/2012	\$1,049,701.08	\$16,662.98	\$1,036,974.48
50	1/1/2013	\$1,036,974.48	\$16,662.98	\$1,024,200.15
51	2/1/2013	\$1,024,200.15	\$16,662.98	\$1,011,377.92
52	3/1/2013	\$1,011,377.92	\$16,662.98	\$998,507.61
53	4/1/2013	\$998,507.61	\$16,662.98	\$985,589.03
54	5/1/2013	\$985,589.03	\$16,662.98	\$972,622.01
55	6/1/2013	\$972,622.01	\$16,662.98	\$959,606.36
56	7/1/2013	\$959,606.36	\$16,662.98	\$946,541.90
57	8/1/2013	\$946,541.90	\$16,662.98	\$933,428.45
58	9/1/2013	\$933,428.45	\$16,662.98	\$920,265.83
59	10/1/2013	\$920,265.83	\$16,662.98	\$907,053.85
60	11/1/2013	\$907,053.85	\$16,662.98	\$893,792.32

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
61	12/1/2013	\$893,792.32	\$16,662.98	\$880,481.06
62	1/1/2014	\$880,481.06	\$16,662.98	\$867,119.88
63	2/1/2014	\$867,119.88	\$16,662.98	\$853,708.60
64	3/1/2014	\$853,708.60	\$16,662.98	\$840,247.03
65	4/1/2014	\$840,247.03	\$16,662.98	\$826,734.98
66	5/1/2014	\$826,734.98	\$16,662.98	\$813,172.26
67	6/1/2014	\$813,172.26	\$16,662.98	\$799,558.68
68	7/1/2014	\$799,558.68	\$16,662.98	\$785,894.05
69	8/1/2014	\$785,894.05	\$16,662.98	\$772,178.17
70	9/1/2014	\$772,178.17	\$16,662.98	\$758,410.86
71	10/1/2014	\$758,410.86	\$16,662.98	\$744,591.92
72	11/1/2014	\$744,591.92	\$16,662.98	\$730,721.16
73	12/1/2014	\$730,721.16	\$16,662.98	\$716,798.38
74	1/1/2015	\$716,798.38	\$16,662.98	\$702,823.39
75	2/1/2015	\$702,823.39	\$16,662.98	\$688,796.00
76	3/1/2015	\$688,796.00	\$16,662.98	\$674,716.01
77	4/1/2015	\$674,716.01	\$16,662.98	\$660,583.22
78	5/1/2015	\$660,583.22	\$16,662.98	\$646,397.43
79	6/1/2015	\$646,397.43	\$16,662.98	\$632,158.44
80	7/1/2015	\$632,158.44	\$16,662.98	\$617,866.05
81	8/1/2015	\$617,866.05	\$16,662.98	\$603,520.07
82	9/1/2015	\$603,520.07	\$16,662.98	\$589,120.29
83	10/1/2015	\$589,120.29	\$16,662.98	\$574,666.51
84	11/1/2015	\$574,666.51	\$16,662.98	\$560,158.53
85	12/1/2015	\$560,158.53	\$16,662.98	\$545,596.14
86	1/1/2016	\$545,596.14	\$16,662.98	\$530,979.15
87	2/1/2016	\$530,979.15	\$16,662.98	\$516,307.34
88	3/1/2016	\$516,307.34	\$16,662.98	\$501,580.51
89	4/1/2016	\$501,580.51	\$16,662.98	\$486,798.46
90	5/1/2016	\$486,798.46	\$16,662.98	\$471,960.97

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
91	6/1/2016	\$471,960.97	\$16,662.98	\$457,067.84
92	7/1/2016	\$457,067.84	\$16,662.98	\$442,118.86
93	8/1/2016	\$442,118.86	\$16,662.98	\$427,113.83
94	9/1/2016	\$427,113.83	\$16,662.98	\$412,052.53
95	10/1/2016	\$412,052.53	\$16,662.98	\$396,934.75
96	11/1/2016	\$396,934.75	\$16,662.98	\$381,760.28
97	12/1/2016	\$381,760.28	\$16,662.98	\$366,528.90
98	1/1/2017	\$366,528.90	\$16,662.98	\$351,240.40
99	2/1/2017	\$351,240.40	\$16,662.98	\$335,894.57
100	3/1/2017	\$335,894.57	\$16,662.98	\$320,491.19
101	4/1/2017	\$320,491.19	\$16,662.98	\$305,030.05
102	5/1/2017	\$305,030.05	\$16,662.98	\$289,510.93
103	6/1/2017	\$289,510.93	\$16,662.98	\$273,933.62
104	7/1/2017	\$273,933.62	\$16,662.98	\$258,297.89
105	8/1/2017	\$258,297.89	\$16,662.98	\$242,603.53
106	9/1/2017	\$242,603.53	\$16,662.98	\$226,850.31
107	10/1/2017	\$226,850.31	\$16,662.98	\$211,038.02
108	11/1/2017	\$211,038.02	\$16,662.98	\$195,166.43
109	12/1/2017	\$195,166.43	\$16,662.98	\$179,235.32
110	1/1/2018	\$179,235.32	\$16,662.98	\$163,244.47
111	2/1/2018	\$163,244.47	\$16,662.98	\$147,193.66
112	3/1/2018	\$147,193.66	\$16,662.98	\$131,082.66
113	4/1/2018	\$131,082.66	\$16,662.98	\$114,911.24
114	5/1/2018	\$114,911.24	\$16,662.98	\$98,679.18
115	6/1/2018	\$98,679.18	\$16,662.98	\$82,386.25
116	7/1/2018	\$82,386.25	\$16,662.98	\$66,032.22
117	8/1/2018	\$66,032.22	\$16,662.98	\$49,616.86
118	9/1/2018	\$49,616.86	\$16,662.98	\$33,139.94
119	10/1/2018	\$33,139.94	\$16,662.98	\$16,601.23
120	11/1/2018	\$16,601.23	\$16,662.98	\$0.00



SCHEDULE 17.4

**INSTRUCTIONS FOR COMPLIANCE WITH  
"TRUTH IN LEASING" REQUIREMENTS**

1. Mail a copy of the Lease to the following address via certified mail, return receipt requested, immediately upon executed of the Lease (14 C.F.R. 91.23 required that the copy be sent within twenty-four (24) hours after it is signed).\

Federal Aviation Administration  
Aircraft Registration Branch  
Attn: Technical Section  
P.O. Box 25724  
Oklahoma City, Oklahoma 73125

2. Telephone the nearest Flight Standards District Office at least forty-eight (48) hours prior to the first flight under this Lease.

3. Carry a copy of the Lease in the Aircraft at all times.

COPY

### Assignment of Exclusive Dry Lease Agreement

This Assignment of Exclusive Dry Lease Agreement ("Assignment"), dated as of the 21 day of November, 2008, is made and entered into by and between The University of Southern Mississippi Foundation, a Mississippi nonprofit corporation ("Assignor") and Foundation Aviation Holdings, LLC, a Mississippi limited liability company ("Assignee").

Whereas, Assignor entered into an Aircraft Purchase Agreement ("the Agreement") with Pollard Aircraft Sales, Inc., a Texas corporation ("Owner"), for the sale and purchase of a Beechcraft King Air 200, Registration N777AW Serial Number BB-583 (the "Aircraft") as more particularly defined in the Agreement.

Whereas, the Agreement provides in paragraph 12.01 that Assignor may assign its rights as Buyer under the Agreement to a limited liability company or other entity wholly owned by Buyer.

Whereas, Assignor has formed Assignee as a wholly owned limited liability company for the purpose of acquiring the Aircraft and leasing it to the University of Southern Mississippi ("Lessee").

Whereas, Assignor has assigned its right, title and interest in the Aircraft Purchase to Assignee with Assignee assuming all the obligations of Buyer under that Agreement.

Whereas, Assign entered into an Exclusive Dry Lease Agreement ("Lease") with Lessee for the lease of the Aircraft as described in the Lease.

Whereas, the Lease provides in paragraph 16.2 that Assignor may assign the Lease to a wholly owned subsidiary entity of Assignor, created by Assignor for the purpose of owning the Aircraft and leasing it USM.

NOW THEREFORE, for and in consideration of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee covenant and agree:

1. Assignment: Pursuant to paragraph 16.2 of the Lease, Assignor assigns all Assignor's right, title and interest as Lessor under the Lease to Assignee.
2. Closing: Provided the transaction contemplated by the Agreement closes, Assignee shall acquire the Aircraft at the Closing contemplated in the Agreement in Assignee's name and shall receive title to the Aircraft and Bills of Sale concerning the Aircraft in the name of Assignee and shall deliver possession to Lessee as required by the Lease and perform all other duties as Lessor under the Lease.
3. Release: Assignee releases Assignor from any obligations of the Lease and specifically agrees to assume all obligations of Lessor under the Lease as if Assignee had executed the Lease as Lessor.

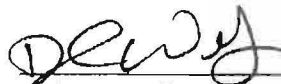




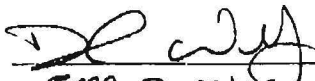
IN WITNESS WHEREOF, the Parties acknowledge that they have read this Assignment, understand and accept all provisions thereof, and have caused this Assignment to be duly executed as of the date first above written.

Assignor:  
University of Southern Mississippi Foundation

Assignee:  
Foundation Aviation Holdings,  
LLC

By:   
Its: Exec. Director

By: University of Southern Mississippi  
Foundation  
Its: Sole Member

By:   
Its: Exec. Director

JOINDER FOR THE PURPOSE OF RELEASE

The University of Southern Mississippi joins in this Assignment solely for the purpose of acknowledging its obligations under paragraph 16.4 of the Lease and hereby releases Assignor from any and all obligations, claims and liabilities under the Lease and agrees to look solely to Assignee as owner of the Aircraft and Lessor under the Lease.

**The University of Southern Mississippi**

By: *Garrett J. Anderson*  
Its: \_\_\_\_\_

STATE OF MISSISSIPPI

COUNTY OF FORREST

**ADDENDUM #1 TO EXCLUSIVE DRY LEASE AGREEMENT**

**THIS ADDENDUM #1 TO EXCLUSIVE DRY LEASE AGREEMENT** (Addendum) is made and entered into by and between The University of Southern Mississippi Foundation, a Mississippi nonprofit corporation (Foundation) and The University of Southern Mississippi, a state supported institution of higher learning of the State of Mississippi (USM) as an addendum to and amendment of that certain Exclusive Dry Lease Agreement (Lease) of even date by and between Foundation and USM for the lease of an Aircraft (as defined in the Lease).

**WHEREAS**, the Foundation is acquiring an aircraft as an investment described as a Beechcraft King Air 200, Registration No. N777AQ S/N BB-583 (Aircraft);

**WHEREAS**, the Lease provides for a fixed payment schedule for rents which is based upon a return of four and one-half percent (4 ½%) to the Foundation, being agreed by the parties as a reasonable return;

**WHEREAS**, because of uncertain economic conditions and the potential for the Lease to cover a term of up to ten (10) years, the parties agree that the Schedule 1.3 of payments due under the Lease shall be recalculated at the end of the first five (5) years of the Lease and each year thereafter to recognize upward and downward changes in the financial markets using the Wall Street Journal Prime for the index rate as set forth in this Addendum.

**NOW THEREFORE**, in consideration of the promises, mutual covenants and agreements herein contained, it is hereby agreed as follows:

1. Amendments – The following paragraphs in the Lease are amended by substituting or adding the language below as new language or in substitution for the existing language as applicable.

- Subparagraph 1.2 a. (Substitution of language below for existing language.)
  - a. Upon termination of the Agreement by either USM other than due to a breach that is not timely cured by Foundation (as provided in this Lease), USM shall pay Foundation a termination fee of twenty percent (20%) of the balance due by USM to Foundation under the Lease including all past due Rent and Additional Rent (as provided in this Lease) as liquidated damages and not as a penalty. Both parties agree that this termination fee is a fair and reasonable estimation of damages that Foundation may incur as a result of termination of the Lease by USM. The balance due under the

Lease shall be that shown on Schedule 1.3, attached hereto and incorporated herein by reference. Should the payments be restructured after the fifth (5<sup>th</sup>) year of the Lease due to a change in the Wall Street Journal Prime Rate (as set forth in this Addendum), the parties agree that the balance due on the revised and then current Schedule 1.3 shall govern.

- Subparagraph 2.1. (Substitution of language below for existing language.)

Rent. USM shall pay the Foundation for the lease of the Aircraft the total sum of \$1,607,800 plus a return, (being the total of \$1,890,169.67 at 4 ½% return for the first five (5) years), payable in sixty (60) equal monthly installments of \$16,662.98 per month, beginning on the 1<sup>st</sup> day of December, 2008, and a like amount on the same day of each month thereafter for fifty-nine (59) consecutive months with the final sixtieth (60<sup>th</sup>) payment including a final balloon payment of \$907,053.85 as a full and final payment unless otherwise agreed to by the parties. The parties acknowledge that this rent is based on the purchase price of the Aircraft, transaction costs, a return to the Foundation of four and one-half percent (4 ½%) and an estimate of closing and escrow costs. Should the estimate be incorrect, USM will pay the difference (if the estimate is too low) with the first payment, or the first payment shall be reduced by the excess (if the estimate is too high). The four and one-half percent (4 ½%) return is determined by the parties to be a reasonable return based upon current economic conditions. Should economic conditions change after the first five (5) years of the Lease as provided in paragraph 2.3 of this Lease (as amended), the return shall be revised resulting in a revision in the amounts for monthly payments, the balloon payment and the balance due on Schedule 1.3.

- Subparagraph 2.3. (Addition of language below as a new subparagraph)

The four and one-half percent (4 ½%) return to Foundation set forth in paragraph 2.1 above shall be the initial return and a guaranteed minimum return to the Foundation for the first five (5) years of the Lease based upon the economic condition as of the date of acquisition of the Aircraft by the Foundation and delivery to USM (Guaranteed Minimum Rate of Return).

After the first five (5) years, the return to the Foundation shall be calculated at a per annum rate being the higher of the Guaranteed Minimum Rate of Return or the Wall Street Journal Prime Rate, as determined by Foundation based upon published information ("WSJ Prime Rate"). The return rate change is based on changes in the WSJ Prime Rate. This rate shall be reviewed annually on the anniversary date of the Lease beginning on the fifth (5<sup>th</sup>) anniversary of the Lease, and on each Lease anniversary thereafter during the term of the Lease (the "Change Date"),

based on the WSJ Prime rate in effect on such Anniversary Date. The Foundation will determine the WSJ Prime Rate that will be in effect as of the Change Date; however, if the Change Date is not a Business Day, then the Foundation will determine the WSJ Prime Rate that will be in effect as of the Business Day immediately following the Change Date. Changes in the rate of return to the Foundation will be effective as of the Change Date. As used herein, "Business Day" means a day of the year on which banks are not required or authorized to close in Hattiesburg, Mississippi, and a day on which dealings are carried on in the New York City market.

The base Rent Payment for the first five (5) years of the Lease shall be fixed at Guaranteed Minimum Rate of Return (four and one-half percent [4 ½%] return to the Foundation) set forth on Schedule 1.3 and shall not be affected by any change in the WSJ Prime Rate. Thereafter the following year's monthly payment calculation shall be made by the Foundation annually as set forth above (Calculation of Monthly Payments). Foundation shall annually notify USM of the Calculation of the Monthly Payments which shall be determined by re-amortizing the then current payoff reflected on Schedule 1.3 using the NYJ Prime Rate or four and one-half percent (4 ½%) whichever is greater. The Calculation of Monthly Payments shall be delivered by Foundation to USM after the completion of the first five (5) years of the Lease, notifying USM: (i) of any change in the WSJ Prime on the anniversary date of the Lease and whether that change requires a readjustment of payments under the Lease; (ii) the calculation of any change in the monthly payment under the Lease with such revised payments (if applicable) to begin December 1 following the Anniversary Date (or subsequent Anniversary Dates) and continuing in effect until a subsequent Calculation of Monthly Payments is made as set forth in this Addendum; and (iii) attaching an updated Schedule 1.3 reflecting the balances due under the Lease which shall replace the existing Schedule 1.3 as an amendment to the Lease without further action by either party and continuing in effect until a subsequent updated Schedule 1.3 is delivered by the Foundation as set forth in this Addendum.

By way of example but not limitation, if the WSJ Prime Rate on the fifth (5<sup>th</sup>) anniversary of the Lease is 4.25%, the Calculation of Monthly Payments shall reflect that there shall be no change in the monthly payment amount or the balance due on the Lease reflected on Schedule 1.3 with the rate of return to the Foundation remaining at four and one-half percent (4 ½%).

By way of example, but not of limitation, if the WSJ Prime Rate on the sixth (6<sup>th</sup>) anniversary of the Lease is 4.75%, then the Calculation of Monthly Payments shall reflect that there shall be a change in the monthly payment amount (as re-amortized at 4.75%) and a change in the balance due on the Lease reflected on Schedule 1.3.

2. Remainder of Lease. The rest and remainder of the Lease shall be and remain unchanged and in full force and effect as originally written.

3. Effective Date. This Addendum shall be effective simultaneously with the execution of the Lease and this Addendum.

4. Interpretation. All terms used in this Addendum shall have the meaning set forth in the Lease and in this Addendum.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto, after reading this Addendum # 1 to Dry Lease Agreement, have executed this Addendum in duplicate originals on the day and year set forth below.

OWNER: The University of Southern Mississippi Foundation, Inc.      USM: The University of Southern Mississippi

By: [Signature]  
Title: Exec. Director

By: [Signature]  
Title: President

Date: 11.21.08

Date: 11.21.08



SCHEDULE I.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
1	12/1/2008	\$1,607,800.00	\$16,662.98	\$1,597,166.27
2	1/1/2009	\$1,597,166.27	\$16,662.98	\$1,586,492.66
3	2/1/2009	\$1,586,492.66	\$16,662.98	\$1,575,779.03
4	3/1/2009	\$1,575,779.03	\$16,662.98	\$1,565,025.22
5	4/1/2009	\$1,565,025.22	\$16,662.98	\$1,554,231.08
6	5/1/2009	\$1,554,231.08	\$16,662.98	\$1,543,396.47
7	6/1/2009	\$1,543,396.47	\$16,662.98	\$1,532,521.23
8	7/1/2009	\$1,532,521.23	\$16,662.98	\$1,521,605.20
9	8/1/2009	\$1,521,605.20	\$16,662.98	\$1,510,648.24
10	9/1/2009	\$1,510,648.24	\$16,662.98	\$1,499,650.19
11	10/1/2009	\$1,499,650.19	\$16,662.98	\$1,488,610.90
12	11/1/2009	\$1,488,610.90	\$16,662.98	\$1,477,530.21
13	12/1/2009	\$1,477,530.21	\$16,662.98	\$1,466,407.97
14	1/1/2010	\$1,466,407.97	\$16,662.98	\$1,455,244.02
15	2/1/2010	\$1,455,244.02	\$16,662.98	\$1,444,038.21
16	3/1/2010	\$1,444,038.21	\$16,662.98	\$1,432,790.37
17	4/1/2010	\$1,432,790.37	\$16,662.98	\$1,421,500.35
18	5/1/2010	\$1,421,500.35	\$16,662.98	\$1,410,168.00
19	6/1/2010	\$1,410,168.00	\$16,662.98	\$1,398,793.15
20	7/1/2010	\$1,398,793.15	\$16,662.98	\$1,387,375.64
21	8/1/2010	\$1,387,375.64	\$16,662.98	\$1,375,915.32
22	9/1/2010	\$1,375,915.32	\$16,662.98	\$1,364,412.02
23	10/1/2010	\$1,364,412.02	\$16,662.98	\$1,352,865.59
24	11/1/2010	\$1,352,865.59	\$16,662.98	\$1,341,275.86
25	12/1/2010	\$1,341,275.86	\$16,662.98	\$1,329,642.66
26	1/1/2011	\$1,329,642.66	\$16,662.98	\$1,317,965.84
27	2/1/2011	\$1,317,965.84	\$16,662.98	\$1,306,245.23
28	3/1/2011	\$1,306,245.23	\$16,662.98	\$1,294,480.67
29	4/1/2011	\$1,294,480.67	\$16,662.98	\$1,282,671.99
30	5/1/2011	\$1,282,671.99	\$16,662.98	\$1,270,819.03

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
31	6/1/2011	\$1,270,819.03	\$16,662.98	\$1,258,921.62
32	7/1/2011	\$1,258,921.62	\$16,662.98	\$1,246,979.60
33	8/1/2011	\$1,246,979.60	\$16,662.98	\$1,234,992.79
34	9/1/2011	\$1,234,992.79	\$16,662.98	\$1,222,961.03
35	10/1/2011	\$1,222,961.03	\$16,662.98	\$1,210,884.15
36	11/1/2011	\$1,210,884.15	\$16,662.98	\$1,198,761.99
37	12/1/2011	\$1,198,761.99	\$16,662.98	\$1,186,594.37
38	1/1/2012	\$1,186,594.37	\$16,662.98	\$1,174,381.12
39	2/1/2012	\$1,174,381.12	\$16,662.98	\$1,162,122.07
40	3/1/2012	\$1,162,122.07	\$16,662.98	\$1,149,817.05
41	4/1/2012	\$1,149,817.05	\$16,662.98	\$1,137,465.88
42	5/1/2012	\$1,137,465.88	\$16,662.98	\$1,125,068.40
43	6/1/2012	\$1,125,068.40	\$16,662.98	\$1,112,624.43
44	7/1/2012	\$1,112,624.43	\$16,662.98	\$1,100,133.79
45	8/1/2012	\$1,100,133.79	\$16,662.98	\$1,087,596.31
46	9/1/2012	\$1,087,596.31	\$16,662.98	\$1,075,011.82
47	10/1/2012	\$1,075,011.82	\$16,662.98	\$1,062,380.13
48	11/1/2012	\$1,062,380.13	\$16,662.98	\$1,049,701.08
49	12/1/2012	\$1,049,701.08	\$16,662.98	\$1,036,974.48
50	1/1/2013	\$1,036,974.48	\$16,662.98	\$1,024,200.15
51	2/1/2013	\$1,024,200.15	\$16,662.98	\$1,011,377.92
52	3/1/2013	\$1,011,377.92	\$16,662.98	\$998,507.61
53	4/1/2013	\$998,507.61	\$16,662.98	\$985,589.03
54	5/1/2013	\$985,589.03	\$16,662.98	\$972,622.01
55	6/1/2013	\$972,622.01	\$16,662.98	\$959,606.36
56	7/1/2013	\$959,606.36	\$16,662.98	\$946,541.90
57	8/1/2013	\$946,541.90	\$16,662.98	\$933,428.45
58	9/1/2013	\$933,428.45	\$16,662.98	\$920,265.83
59	10/1/2013	\$920,265.83	\$16,662.98	\$907,053.85
60	11/1/2013	\$907,053.85	\$16,662.98	\$893,792.32

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
61	12/1/2013	\$893,792.32	\$16,662.98	\$880,481.06
62	1/1/2014	\$880,481.06	\$16,662.98	\$867,119.88
63	2/1/2014	\$867,119.88	\$16,662.98	\$853,708.60
64	3/1/2014	\$853,708.60	\$16,662.98	\$840,247.03
65	4/1/2014	\$840,247.03	\$16,662.98	\$826,734.98
66	5/1/2014	\$826,734.98	\$16,662.98	\$813,172.26
67	6/1/2014	\$813,172.26	\$16,662.98	\$799,558.68
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84	11/1/2015	\$574,666.51	\$16,662.98	\$560,158.53
85	12/1/2015	\$560,158.53	\$16,662.98	\$545,596.14
86	1/1/2016	\$545,596.14	\$16,662.98	\$530,979.15
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SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
91	6/1/2016	\$471,960.97	\$16,662.98	\$457,067.84
92	7/1/2016	\$457,067.84	\$16,662.98	\$442,118.86
93	8/1/2016	\$442,118.86	\$16,662.98	\$427,113.83
94	9/1/2016	\$427,113.83	\$16,662.98	\$412,052.53
95	10/1/2016	\$412,052.53	\$16,662.98	\$396,934.75
96	11/1/2016	\$396,934.75	\$16,662.98	\$381,760.28
97	12/1/2016	\$381,760.28	\$16,662.98	\$366,528.90
98	1/1/2017	\$366,528.90	\$16,662.98	\$351,240.40
99	2/1/2017	\$351,240.40	\$16,662.98	\$335,894.57
100	3/1/2017	\$335,894.57	\$16,662.98	\$320,491.19
101	4/1/2017	\$320,491.19	\$16,662.98	\$305,030.05
102	5/1/2017	\$305,030.05	\$16,662.98	\$289,510.93
103	6/1/2017	\$289,510.93	\$16,662.98	\$273,933.62
104	7/1/2017	\$273,933.62	\$16,662.98	\$258,297.89
105	8/1/2017	\$258,297.89	\$16,662.98	\$242,603.53
106	9/1/2017	\$242,603.53	\$16,662.98	\$226,850.31
107	10/1/2017	\$226,850.31	\$16,662.98	\$211,038.02
108	11/1/2017	\$211,038.02	\$16,662.98	\$195,166.43
109	12/1/2017	\$195,166.43	\$16,662.98	\$179,235.32
110	1/1/2018	\$179,235.32	\$16,662.98	\$163,244.47
111	2/1/2018	\$163,244.47	\$16,662.98	\$147,193.66
112	3/1/2018	\$147,193.66	\$16,662.98	\$131,082.66
113	4/1/2018	\$131,082.66	\$16,662.98	\$114,911.24
114	5/1/2018	\$114,911.24	\$16,662.98	\$98,679.18
115	6/1/2018	\$98,679.18	\$16,662.98	\$82,386.25
116	7/1/2018	\$82,386.25	\$16,662.98	\$66,032.22
117	8/1/2018	\$66,032.22	\$16,662.98	\$49,616.86
118	9/1/2018	\$49,616.86	\$16,662.98	\$33,139.94
119	10/1/2018	\$33,139.94	\$16,662.98	\$16,601.23
120	11/1/2018	\$16,601.23	\$16,662.98	\$0.00

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** ("MOU") is made and entered into by and between Foundation Aviation Holdings, LLC, a Mississippi nonprofit corporation ("Foundation Aviation") and the University of Southern Mississippi, a state supported institution of higher learning of the State of Mississippi ("USM").

WHEREAS, Foundation Aviation is the successor in interest to the University of Southern Mississippi Foundation under that certain Dry Lease Agreement dated November 21, 2008 ("Lease") entered into by and between the University of Southern Mississippi Foundation as lessor and USM as lessee of that certain aircraft described as a Beechcraft King Air 200, Registration N777AQ S/N BB-583 (the "Aircraft");

WHEREAS, the Lease anticipated the necessity of revising Lease terms concerning rent and other matters based upon the final purchase price;

WHEREAS, the inspection period for the acquisition of the Aircraft took more time than originally anticipated and resulted in changes in the price of the Aircraft, escrows for certain work to be performed on the Aircraft, and a delay in the commencement of the Lease;

WHEREAS, the form of the insurance policies desired to be obtained by the parties under the Lease can be obtained but with slightly different provisions due to some of the original required language in the Lease not being commercially available; and,

WHEREAS, for the above reasons, the parties believe that the execution of this MOU will aid in recording minor changes necessitated in the Lease that should be set forth in writing by this MOU but that do not arise to the level of requiring a formal amendment to the Lease that would need the approval of the Board of the Institutions of Higher Learning.

**NOW, THEREFORE**, in consideration of the promises, mutual covenants and agreements herein contained, the parties execute this MOU reflecting the following:

1. **Term and Amortization Schedule.** The term of the Lease and the amortization schedule is reflected on Schedule 1.3 attached to this MOU.
2. **Escrow Repair Funds.** The repairs anticipated to be performed by Auric Avionics in the approximate amount of \$6,500.00 are held in escrow with AIC Title Services, LLC of Oklahoma City, Oklahoma. These funds shall be available for use by USM as provided in the Lease. USM shall cooperate in good faith with Foundation Aviation pertaining to the repair of the Aircraft, use of the funds as necessary, and the return of any unused funds to the seller, Pollard Aircraft Sales, Inc. Should the costs and expenses anticipated by the \$6,500.00 escrow fund be exceeded, USM shall pay the additional costs necessary to repair the Aircraft.
3. **Insurance.** The parties acknowledge that the insurance policy originally anticipated to be acquired by Foundation Aviation was not commercially available and all the terms specified in the Lease. Therefore, insurance that is commercially available has been

obtained by Foundation Aviation with the understanding that certain insurance provisions in the Lease were required to be modified as set forth in revised Section V Insurance and revised Schedule 5.1 attached hereto and incorporated by reference.

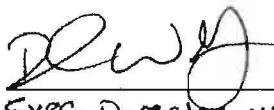
4. Execution of MOU in Lieu of Formal Amendment. The parties acknowledge that this MOU is executed in lieu of a formal amendment to the Lease. Should it subsequently be determined that a formal amendment should be obtained, the parties agree to work together to seek the approval of the Board of Trustees of the Institutions of Higher Learning or to take any and all other actions necessary to accomplish a formal amendment to the Lease.


5. Affect of MOU. All other terms and conditions of the Lease shall remain in full force and effect except as revised by this MOU. Any revisions to this MOU that are contrary to the Lease shall take precedence over the Lease as an instrument in writing signed by both parties pursuant to Paragraph 21.1 of the Lease.

IN WITNESS WHEREOF, the parties hereto, after reading this MOU, have executed this Memorandum of Understanding in duplicate originals on the day and year set forth below.

OWNER: Foundation Aviation Holdings, LLC

USM: The University of Southern

By:   
Title: EXEC. Director USM F  
Date: 3.23.09

By:   
Title: CFO USM  
Date: 3.23.09

SCHEDULE 1.3

LEASE PAYMENTS

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
1	2/1/2009	\$1,585,165.39	\$16,428.40	\$1,574,681.36
2	3/1/2009	\$1,574,681.36	\$16,428.40	\$1,564,158.02
3	4/1/2009	\$1,564,158.02	\$16,428.40	\$1,553,595.21
4	5/1/2009	\$1,553,595.21	\$16,428.40	\$1,542,992.79
5	6/1/2009	\$1,542,992.79	\$16,428.40	\$1,532,350.61
6	7/1/2009	\$1,532,350.61	\$16,428.40	\$1,521,668.52
7	8/1/2009	\$1,521,668.52	\$16,428.40	\$1,510,946.38
8	9/1/2009	\$1,510,946.38	\$16,428.40	\$1,500,184.03
9	10/1/2009	\$1,500,184.03	\$16,428.40	\$1,489,381.32
10	11/1/2009	\$1,489,381.32	\$16,428.40	\$1,478,538.10
11	12/1/2009	\$1,478,538.10	\$16,428.40	\$1,467,654.22
12	1/1/2010	\$1,467,654.22	\$16,428.40	\$1,456,729.52
13	2/1/2010	\$1,456,729.52	\$16,428.40	\$1,445,763.86
14	3/1/2010	\$1,445,763.86	\$16,428.40	\$1,434,757.07
15	4/1/2010	\$1,434,757.07	\$16,428.40	\$1,423,709.01
16	5/1/2010	\$1,423,709.01	\$16,428.40	\$1,412,619.52
17	6/1/2010	\$1,412,619.52	\$16,428.40	\$1,401,488.44
18	7/1/2010	\$1,401,488.44	\$16,428.40	\$1,390,315.62
19	8/1/2010	\$1,390,315.62	\$16,428.40	\$1,379,100.90
20	9/1/2010	\$1,379,100.90	\$16,428.40	\$1,367,844.13
21	10/1/2010	\$1,367,844.13	\$16,428.40	\$1,356,545.15
22	11/1/2010	\$1,356,545.15	\$16,428.40	\$1,345,203.79
23	12/1/2010	\$1,345,203.79	\$16,428.40	\$1,333,819.90
24	1/1/2011	\$1,333,819.90	\$16,428.40	\$1,322,393.32
25	2/1/2011	\$1,322,393.32	\$16,428.40	\$1,310,923.89
26	3/1/2011	\$1,310,923.89	\$16,428.40	\$1,299,411.45
27	4/1/2011	\$1,299,411.45	\$16,428.40	\$1,287,855.84
28	5/1/2011	\$1,287,855.84	\$16,428.40	\$1,276,256.90
29	6/1/2011	\$1,276,256.90	\$16,428.40	\$1,264,614.46
30	7/1/2011	\$1,264,614.46	\$16,428.40	\$1,252,928.36
31	8/1/2011	\$1,252,928.36	\$16,428.40	\$1,241,198.44
32	9/1/2011	\$1,241,198.44	\$16,428.40	\$1,229,424.53
33	10/1/2011	\$1,229,424.53	\$16,428.40	\$1,217,606.47
34	11/1/2011	\$1,217,606.47	\$16,428.40	\$1,205,744.09
35	12/1/2011	\$1,205,744.09	\$16,428.40	\$1,193,837.23
36	1/1/2012	\$1,193,837.23	\$16,428.40	\$1,181,885.72
37	2/1/2012	\$1,181,885.72	\$16,428.40	\$1,169,889.39
38	3/1/2012	\$1,169,889.39	\$16,428.40	\$1,157,848.08



Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
39	4/1/2012	\$1,157,848.08	\$16,428.40	\$1,145,761.61
40	5/1/2012	\$1,145,761.61	\$16,428.40	\$1,133,629.82
41	6/1/2012	\$1,133,629.82	\$16,428.40	\$1,121,452.53
42	7/1/2012	\$1,121,452.53	\$16,428.40	\$1,109,229.58
43	8/1/2012	\$1,109,229.58	\$16,428.40	\$1,096,960.79
44	9/1/2012	\$1,096,960.79	\$16,428.40	\$1,084,645.99
45	10/1/2012	\$1,084,645.99	\$16,428.40	\$1,072,285.01
46	11/1/2012	\$1,072,285.01	\$16,428.40	\$1,059,877.68
47	12/1/2012	\$1,059,877.68	\$16,428.40	\$1,047,423.82
48	1/1/2013	\$1,047,423.82	\$16,428.40	\$1,034,923.26
49	2/1/2013	\$1,034,923.26	\$16,428.40	\$1,022,375.82
50	3/1/2013	\$1,022,375.82	\$16,428.40	\$1,009,781.33
51	4/1/2013	\$1,009,781.33	\$16,428.40	\$997,139.61
52	5/1/2013	\$997,139.61	\$16,428.40	\$984,450.48
53	6/1/2013	\$984,450.48	\$16,428.40	\$971,713.77
54	7/1/2013	\$971,713.77	\$16,428.40	\$958,929.30
55	8/1/2013	\$958,929.30	\$16,428.40	\$946,096.88
56	9/1/2013	\$946,096.88	\$16,428.40	\$933,216.34
57	10/1/2013	\$933,216.34	\$16,428.40	\$920,287.50
58	11/1/2013	\$920,287.50	\$16,428.40	\$907,310.18
59	12/1/2013	\$907,310.18	\$16,428.40	\$894,284.19
60	1/1/2014	\$894,284.19	\$16,428.40	\$881,209.36
61	2/1/2014	\$881,209.36	\$16,428.40	\$868,085.50
62	3/1/2014	\$868,085.50	\$16,428.40	\$854,912.42
63	4/1/2014	\$854,912.42	\$16,428.40	\$841,689.94
64	5/1/2014	\$841,689.94	\$16,428.40	\$828,417.88
65	6/1/2014	\$828,417.88	\$16,428.40	\$815,096.05
66	7/1/2014	\$815,096.05	\$16,428.40	\$801,724.26
67	8/1/2014	\$801,724.26	\$16,428.40	\$788,302.33
68	9/1/2014	\$788,302.33	\$16,428.40	\$774,830.06
69	10/1/2014	\$774,830.06	\$16,428.40	\$761,307.27
70	11/1/2014	\$761,307.27	\$16,428.40	\$747,733.77
71	12/1/2014	\$747,733.77	\$16,428.40	\$734,109.37
72	1/1/2015	\$734,109.37	\$16,428.40	\$720,433.88
73	2/1/2015	\$720,433.88	\$16,428.40	\$706,707.11
74	3/1/2015	\$706,707.11	\$16,428.40	\$692,928.86
75	4/1/2015	\$692,928.86	\$16,428.40	\$679,098.94
76	5/1/2015	\$679,098.94	\$16,428.40	\$665,217.16
77	6/1/2015	\$665,217.16	\$16,428.40	\$651,283.32
78	7/1/2015	\$651,283.32	\$16,428.40	\$637,297.23
79	8/1/2015	\$637,297.23	\$16,428.40	\$623,258.69
80	9/1/2015	\$623,258.69	\$16,428.40	\$609,167.51
81	10/1/2015	\$609,167.51	\$16,428.40	\$595,023.49
82	11/1/2015	\$595,023.49	\$16,428.40	\$580,826.43



Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Ending Balance
83	12/1/2015	\$580,826.43	\$16,428.40	\$566,576.13
84	1/1/2016	\$566,576.13	\$16,428.40	\$552,272.39
85	2/1/2016	\$552,272.39	\$16,428.40	\$537,915.01
86	3/1/2016	\$537,915.01	\$16,428.40	\$523,503.79
87	4/1/2016	\$523,503.79	\$16,428.40	\$509,038.53
88	5/1/2016	\$509,038.53	\$16,428.40	\$494,519.02
89	6/1/2016	\$494,519.02	\$16,428.40	\$479,945.07
90	7/1/2016	\$479,945.07	\$16,428.40	\$465,316.46
91	8/1/2016	\$465,316.46	\$16,428.40	\$450,633.00
92	9/1/2016	\$450,633.00	\$16,428.40	\$435,894.47
93	10/1/2016	\$435,894.47	\$16,428.40	\$421,100.67
94	11/1/2016	\$421,100.67	\$16,428.40	\$406,251.40
95	12/1/2016	\$406,251.40	\$16,428.40	\$391,346.44
96	1/1/2017	\$391,346.44	\$16,428.40	\$376,385.59
97	2/1/2017	\$376,385.59	\$16,428.40	\$361,368.64
98	3/1/2017	\$361,368.64	\$16,428.40	\$346,295.37
99	4/1/2017	\$346,295.37	\$16,428.40	\$331,165.58
100	5/1/2017	\$331,165.58	\$16,428.40	\$315,979.05
101	6/1/2017	\$315,979.05	\$16,428.40	\$300,735.57
102	7/1/2017	\$300,735.57	\$16,428.40	\$285,434.93
103	8/1/2017	\$285,434.93	\$16,428.40	\$270,076.91
104	9/1/2017	\$270,076.91	\$16,428.40	\$254,661.30
105	10/1/2017	\$254,661.30	\$16,428.40	\$239,187.88
106	11/1/2017	\$239,187.88	\$16,428.40	\$223,656.43
107	12/1/2017	\$223,656.43	\$16,428.40	\$208,066.74
108	1/1/2018	\$208,066.74	\$16,428.40	\$192,418.59
109	2/1/2018	\$192,418.59	\$16,428.40	\$176,711.76
110	3/1/2018	\$176,711.76	\$16,428.40	\$160,946.03
111	4/1/2018	\$160,946.03	\$16,428.40	\$145,121.18
112	5/1/2018	\$145,121.18	\$16,428.40	\$129,236.98
113	6/1/2018	\$129,236.98	\$16,428.40	\$113,293.22
114	7/1/2018	\$113,293.22	\$16,428.40	\$97,289.67
115	8/1/2018	\$97,289.67	\$16,428.40	\$81,226.11
116	9/1/2018	\$81,226.11	\$16,428.40	\$65,102.31
117	10/1/2018	\$65,102.31	\$16,428.40	\$48,918.04
118	11/1/2018	\$48,918.04	\$16,428.40	\$32,673.08
119	12/1/2018	\$32,673.08	\$16,428.40	\$16,367.20
120	1/1/2019	\$16,367.20	\$16,429.05	(\$0.00)

V  
INSURANCE

5.1 Insurance coverage will be obtained and maintained by Foundation to cover damage, *in the amount of 1,500,000* replacement cost in the amount of the fair market value of the aircraft, and Combined Liability coverage for bodily injury and property damage including passengers and flight crew of not less than \$50,000,000 each occurrence. Insurance shall comply with the provisions of Schedule 5.1 to this Lease. USM shall reimburse the Foundation for such insurance cost as Additional Rent.

5.2 The Aircraft will be operated in accordance with all insurance requirements.

5.3 USM will be listed as an <sup>NAME</sup>additional insured on the face of the policy.

5.4 USM will provide Foundation with evidence showing applicable workers' compensation coverage for all USM employees.

SCHEDULE 5.1

INSURANCE PROVISIONS

At all times during the term of this Lease, Foundation shall cause to be carried and maintained, with USM to reimburse it as Additional Rent, physical damage insurance with respect to the Aircraft in at least the minimum amounts set forth below:

Aircraft Physical Damage

\$(the amount which will be sufficient to remain  
Constantly equal to the ~~total value~~ of the Aircraft)

\$1,500,000

No Deductible While in Motion or Not in Motion

At all times during the term of this Lease, Foundation shall also cause to be carried and maintained, with USM to reimburse it as Additional Rent, third party aircraft liability insurance, passenger liability insurance, property damage liability insurance, and medical expense insurance in at least the minimum amounts set forth below:

Combined Liability Coverage for  
Bodily Injury and Property Damage  
Including Passengers

Each Occurrence \$50,000,000.00

Medical Expense Coverage - Each Person \$10,000.00

The cost of the above insurance is not included in USM's lease payments to the Foundation.

USM shall also bear the cost of paying as Additional Rent any deductible amount on any policy of insurance in the event of a claim or loss.

All policies of insurance carried in accordance with this Lease: (i) shall name the State of Mississippi, the Board of Trustees of Institutions of Higher Learning, ~~the individual board members, the University of Southern Mississippi, the President of the University of Southern Mississippi, the University of Southern Mississippi Foundation, Inc.,~~ the owner of the Aircraft (if different from the Foundation), and all officers, employees and ~~agents~~ <sup>Named</sup> of the foregoing entities, each in their official and individual capacities as ~~additional~~ insured; (ii) shall contain a ~~waiver~~ <sup>waiver</sup> by the underwriter thereof of any right of subrogation against USM and Foundation; and, (iii) shall provide that if the insured cancels insurance for any material reason whatsoever, or the same is allowed to lapse for non-payment of premium, or if there is any material change in policy terms and conditions, such as a cancellation, lapse or change shall not be effective as to USM or Foundation without thirty (30) days prior written notice. ~~Each liability policy shall be primary without right of contribution from any other insurance, which is carried by USM and Foundation and shall expressly provide that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured~~

10 days  
For  
Non-  
pay

Foundation shall submit this Lease for approval to the insurance carrier for each policy of insurance of the Aircraft. Foundation shall arrange for a Certificate of Insurance evidencing appropriate coverage as to the Aircraft and the satisfaction of the requirements set forth above, to be given by its insurance carriers to USM prior to USM's use of the Aircraft under this Lease.

**Eddie Weathersby**

**From:** Beverly Lee [Beverly.A.Lee@usm.edu]  
**Sent:** Tuesday, April 21, 2009 1:50 PM  
**To:** Eddie Weathersby  
**Subject:** FW: Foundation Aviation Holdings, LLC  
**Attachments:** Exclusive Dry Lease Agreement - Executed.pdf; Assignment of Exclusive Dry Lease Agreement - Executed.pdf; Addendum #1 to Exclusive Dry Lease - Executed.pdf; Final Memorandum of Understanding.pdf

Beverly Lee  
Executive Secretary  
Vice President for Business & Finance  
University of Southern Mississippi  
601-266-5005  
(601-266-6313 fax)

Confidentiality Note: The information contained in this e-mail and/or document(s) attached is for the exclusive use of the individual named above and may contain confidential, privileged, and non-disclosable information. If you are not the intended recipient, you are hereby notified that you are strictly prohibited from reading, photocopying, distributing or otherwise using this e-mail or contents in any way. If you have received this transmission in error, please notify me immediately.

**From:** Jennifer Boucher  
**Sent:** Wednesday, April 08, 2009 3:41 PM  
**To:** Beverly Lee  
**Subject:** RE: Foundation Aviation Holdings, LLC

Hello Beverly,

Thanks for the email. I have attached the following executed documents:

- 1) Exclusive Dry Lease Agreement
- 2) Assignment of Exclusive Dry Lease Agreement
- 3) Addendum #1 to Exclusive Dry Lease
- 4) Final Memorandum of Understanding

Let me know if you need any other information.

Thanks,

Jennifer