

Prepared by and return to:
City Attorney's Office
22 Lincoln Street
Hampton, Virginia 34669 (BNB)
757-727-6127

Properties: 100 Stilwell Drive (LRSN 1300219)
Portions of Recreation Center and
Law Enforcement Lease Areas

REVOCABLE LICENSE AGREEMENT Extension

THIS REVOCABLE LICENSE AGREEMENT ("Agreement") is between the **CITY OF HAMPTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, (the "City" or "Licensor") and **THE LONGBOW GROUP, LLC**, a Virginia limited liability company with a principal office at 1100 Exploration Way Suite 316H, Hampton, Virginia 23666 (the "Licensee") (collectively, the "Parties").

RECITALS

- a. The City leases from the Fort Monroe Authority ("FMA") certain real property addressed as 100 Stilwell Drive (a portion of LRSN 13003672) containing approximately 11.55+/- acres and a Community Center building (the "Rec Center Lease Property"), pursuant to that certain lease agreement dated October 10, 2011 ("Rec Center Lease"), attached hereto as **Exhibit A** and incorporated herein by this reference.
- b. The City also leases from the FMA certain real property also addressed as 100 Stilwell Drive (a portion of LRSN 13003672) containing approximately 0.14+/- acres and a building (the "Law Enforcement Lease Property"), pursuant to that certain lease agreement dated October 10, 2011 ("Law Enforcement Lease"), attached hereto as **Exhibit B** and incorporated herein by this reference.
- c. The Licensee is in the process to establish an Unmanned Systems Research & Test Center ("USRTC") at the former Bowling Center building at Fort Monroe. This new research center is intended to be used by NASA Langley, Hampton University, Verizon, REaKTOR, National Institute of Aerospace and other universities and private companies as a Center-of-Excellence for Unmanned Systems. The Licensee, in close coordination with the Federal Aviation Administration ("FAA"), plans to facilitate Unmanned Systems research at USRTC with its research partners in a "Crawl, Walk, Run" process to support the implementation of a new Beyond Visual Line Of Sight ("BVLOS") UAS research flight corridor over the Chesapeake Bay. The renovation and transformation of the Bowling Center into a research center could potentially take up to six (6) to nine (9) months. In the meantime, the Licensee is looking at an interim solution to be able to start initial research and test flights using existing infrastructure.

- d. Accordingly, the Licensee, in cooperation with the REaKTOR Business Technology Innovation Center and Peninsula Technology Incubator, desires to use a portion of the Rec Center Lease Property for unmanned aerial vehicle (“UAV”) test flights, those areas being depicted as “Launch Pad 1” and “Launch Pad 2” on the attached **Exhibit C**, as well as a portion of the Law Enforcement Lease Property for office and storage needs in connection with the UAV test flights, those areas being depicted as “Office & Storage” on the attached **Exhibit C** (collectively, the “Licensed Area” and “Licensed Activity”).

DEFINITIONS

“Licensed Activities”:

Licensed Activities include Unmanned Systems testing and research on Land, Water and in the Air for:

- Education
- Research
- Events, which have been pre-approved by the City
- Commercialization
- Product & Capability Demonstrations

“Licensed Area”: The licensed area includes the following:

- Launch Pad 1
- Launch Pad 2

“Severe Weather Events”: Hurricanes, Tropical Storms and other weather events that would result in the closure of the Community Center, or other severe weather including high winds, lightning in the vicinity, and other severe impacts, as may be determined by the City.

“Special Events”: Any event meeting the criteria of Article XIII, Chapter 2 of the Hampton City Code and all other events that the City deems incompatible with the Licensed Activities based upon the public health, safety and welfare perspective.

NOW, THEREFORE, in consideration of the promises and undertakings of the parties, and other good and valuable consideration, the City grants to Licensee a revocable license to enter upon the Licensed Area and use the Licensed Area for the Licensed Activity, subject to the following terms and conditions:

1. Recitals. The parties acknowledge and agree that the recitals stated above are correct and accurate, and are fully incorporated herein.

2. Term of Agreement: The term of this Agreement shall be two (2) years from full execution of the Agreement (the “Term”). The Term of the Agreement shall be automatically extended in one (1)-year increments for up to three (3) additional one (1)-year unless a party provides the other party with written notice of its intent not to extend the Term prior to the end of the initial two-year period or any incremental one-year extension thereof. Notwithstanding the foregoing, the City may terminate this Agreement for any reason in writing with 10 days’ written notice to the Licensee. In addition, the City may terminate this Agreement immediately in the event of any violation of federal, state, or local law and any provisions for written notice shall not be applicable.

3. Consideration & Utility Charges. The City shall not charge Licensee rent or other similar charge solely for the use of the Licensed Area as set forth in this Agreement. Licensee shall be responsible for its pro rata share of utility charges, including water, sanitary sewer, drainage, natural gas, and electric service (“Utility Charges”). Licensee shall be billed by the City for Utility Charges using a formula based upon the number of square feet of space constituting the Licensed Area within the Law Enforcement Lease Property, as depicted on Exhibit C, relative to the total square footage of the building. The Utility Charges shall be approximately \$80.00 per month.

4. Use: Licensee shall not be permitted to use any portion of the Rec Center Lease Property or Law Enforcement Lease Property other than the Licensed Area, or as otherwise provided for in this Agreement, for any purpose other than entry and access to the Licensed Area. The Licensed Area shall be used by the Licensee solely for the purposes of the Licensed Activity. In addition, Licensee shall have all rights and privileges to conduct all activities authorized under the terms of this Agreement, provided, however, that this Agreement shall not be construed in any manner to grant Licensee or those claiming under Licensee the exclusive right to use the Licensed Area. In addition, the City reserves the right to conduct and/or authorize others to conduct events in the Licensed Area, upon written notice to Licensee; and Licensee agrees to cooperate with the City as necessary to facilitate any such events.

The following additional requirements shall apply:

(a) Compliance with Applicable Law. The Licensed Activity shall be performed in a manner that is consistent with federal, state, and local law, including but not limited to Federal Aviation Administration (“FAA”) regulations for Small Unmanned Aircraft Systems (14 CFR Part 107 *et seq.*). Proof of any additional authorization needed from the FAA to conduct the Licensed Activity in the Licensed Area shall be provided to the City prior to initiation of the Licensed Activity. Should the terms of any necessary FAA authorization, approval, or regulation or any other law applicable to the Licensed Activity be more restrictive than the terms of this Agreement, then the terms of that FAA authorization, approval, regulation, or any other law shall control.

(b) UAV Technical Requirements. All UAVs flown in connection with the Licensed Activity shall meet the technical specifications required by the FAA for Small Unmanned Aircraft Systems, shall weigh less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft, and shall not carry hazardous materials.

(c) UAV Flight Requirements. All UAV pilots shall be in compliance with FAA remote pilot certification requirements and shall inspect all UAVs before each flight to ensure the UAV is in safe operating condition. No UAV shall be flown under 300 ft over any area in FAA Class G Airspace (except directly over Launch Pads during Vertical Take-off and Landing) on Fort Monroe east or south of Fenwick Road or Patch Road. At no time shall UAVs be flown under 300 ft in FAA Class G Airspace over residential areas, Outlook Beach or any other beach, the Colonies RV and Travel Park. The Fort Monroe marina and the Chamberlin are in FAA restricted airspace and will require authorization using the FAA's Low Altitude Authorization and Notification Capability (LAANC). Any other location where people are gathered, and who are not directly participating in the Part 107 UAV operations, including for special events become restricted no-fly areas following FAA Section 107.39. The Licensed Activity shall only be conducted between the hours of 8:00 AM and 8:00 PM and may not be conducted before sunrise or after sunset unless authorized by the FAA.

(d) UAV Incident Reporting. All incidents involving crashes or damage to a UAV, damage to the Licensed Area or other real or personal property, or injury to Licensee or others shall be reported immediately via 911 if an emergency or to the Hampton Police Division by calling 757-727-6111 if not an emergency.

(e) Prior Notification to City of UAV Flights. Licensee shall provide prior notification of each planned test flight activity from the Licensed Area to the Hampton Police Division at least 24 hours prior to takeoff and shall maintain a takeoff and landing time record of all flights, which shall be provided to the City upon request. An email address to effectuate such notification shall be provided to the Licensee by the Hampton Police Division for this purpose. On the date of a scheduled flight, Hampton Police Division Communications will broadcast a general notice to the Hampton Police and Fire Divisions regarding the impending flight. The City reserves the right to prohibit UAV test flights on certain days and at certain times when it is in the public interest to do so, including but not limited to Severe Weather and Special Event limitations.

(f) Use of Law Enforcement Lease Property. Licensee shall coordinate with the Hampton Police Division to secure, via installation of new door locks, the entrance to the Law Enforcement Lease Property at City expense and prior start of the Term. Licensee shall limit its use of the building to those areas highlighted in orange on **Exhibit C**, and shall comply with all building security and use regulations as may be required by the Hampton Police Division.

(g) Use of the Rec Center Lease Property. Licensee shall follow all building security and use regulations as may be required by the Hampton Department of Parks, Recreation, and Leisure Services in its use of the Rec Center Lease Area. Licensee may use the pier extending into Mill Creek from the Rec Center Lease Property for the launching of boats to enable the Licensed Activity, except during times that Youth Sailing Virginia is occupying the pier, during City-approved events on the pier, and any other time that a "Reserved" sign is placed at the entrance of the pier by the City.

5. Risk Management: Licensee shall provide for or perform regular inspections of the Licensed Area and its facilities for cleanliness, safety, and need for repair, which shall be in addition to inspections that may be conducted by the City. Licensee shall report any accidents or injuries to the Hampton Department of Risk Management within 24 hours of occurrence, except for injuries requiring transport to an emergency facility which shall be reported immediately.

6. Risk of Loss to Licensee Property. The City shall not be responsible or liable for the damage, destruction, theft, or other loss of personal property of the Licensee, including, but not limited to UAVs or other equipment that may be used or otherwise stored in the Licensed Area.

7. Rights of the City; Health, Safety, and Welfare. The City has the right to prohibit or otherwise limit access to the Licensed Area, without notice, in situations that threaten the public health, safety, and welfare, which shall be determined at the sole discretion of the City. Such situations include, but are not limited to, hurricanes, tropical storms, and other severe weather events, unruly or violent crowds, and crowds in excess of property capacity. The City shall not be liable for any costs or expenses incurred by Licensee as a result of any such closure or limited access.

8. Indemnification. Licensee shall be responsible for all actions of its volunteers, employees, agents, invitees, representatives, and any other party for which Licensee is or may be held liable and shall indemnify and hold harmless the City, and its agents, employees, and officials from and against any and all claims, loss, damage, injury, and liability whatsoever caused by, resulting from, arising out of, or in any way connected with the Licensed Activity or the use or occupation of the Licensed Area and all losses, costs, damages and expenses (including, without limitation, reasonable attorneys' fees and other costs of defending against such claims, suits, actions and proceedings), unless such injuries or damages (including, without limitation, death) result from, or are claimed to have resulted from the sole gross negligence of the City. Licensee shall assume on behalf of the City, and all entities claiming by, through or under the City, and conduct with due diligence and in good faith, the defense of all such claims, suits, actions and proceedings against the City or any entity claiming by, through or under the City, whether or not Licensee is joined therein, even if such claims, suits, actions or proceedings be groundless, false or fraudulent. Licensee shall bear the costs of all judgments and settlements in connection therewith. Maintenance of the insurance referred to in this Agreement shall not affect Licensee's obligations under this Section, and the limits of such insurance shall not constitute a limit on the liability of Licensee under this Section 8.

In connection with Licensee's use of the Licensed Area, any costs associated with violations of the law including, but not limited to, remediation, clean-up costs, fines, administrative, criminal or civil penalties or charges, and third party claims imposed on the City by any regulatory agency or by any third party as a result of the noncompliance with federal, state or local environmental laws and regulations or nuisance statutes by Licensee or by volunteers, employees, agents, invitees, representatives, and any other party for which Licensee is or may be held liable shall be paid by Licensee.

The provisions of this Section 8 shall survive the termination or expiration of this Agreement.

9. Insurance. Licensee shall secure and maintain in full force and effect at all times during the period this Agreement is in effect comprehensive general liability insurance in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, an aggregate limit of not less than Two Million and 00/100 Dollars (\$2,000,000.00), and medical expense coverage of not less than Ten Thousand and 00/100 per person injured. Prior to the commencement of this Agreement, Licensee must provide to the City's Risk Management Administrator all required certificates of insurance issued by an insurance company licensed to conduct the business of insurance in the Commonwealth of Virginia. The certificates of insurance shall list the City as additional insureds in the endorsement box for general liability and the excess/umbrella liabilities policies. Failure to produce the required certificates of insurance and the above-referenced endorsements to the policy will constitute a breach of this Agreement which may result in the immediate termination of this Agreement and the revocation of the underlying license granted.

10. Condition of Licensed Area. Upon the end of the Term, the Licensee shall restore the Property to its original condition to the greatest extent practicable, free of trash, material, equipment, and debris. In addition, upon the end of the Term, the Licensee shall withdraw all persons from the Property and cease any further use of the Property.

11. Notice. A notice, communication, or request under this Agreement by the City to Licensee or by Licensee to the City, other than the notice required in paragraph 4(e), shall be sufficiently given or delivered if dispatched by either (a) certified mail, postage prepaid, return receipt requested or (b) hand-delivery (if receipt is evidenced by a signature of the addressee or authorized agent), and addressed to the applicable parties as follows:

To the City: City of Hampton, Virginia
Attn: City Manager
22 Lincoln Street, 8th Floor
Hampton, Virginia 23669

With a copy to (which shall not constitute notice):
City of Hampton, Virginia
Attn: City Attorney
22 Lincoln Street, 8th Floor
Hampton, Virginia 23669

To the Licensee: The Longbow Group LLC
Attn: Marco Sterk - President
1100 Exploration Way, Ste 316H
Hampton, Virginia 23666

With a copy to (which shall not constitute notice):

REaKTOR
Attn: Daniel R. Morris
1100 Exploration Way, Ste 302x
Hampton, Virginia 23666

Any notice, communication, or request so sent shall be deemed to have been "given" (a) as of the next business day after being sent, if sent by nationally recognized express mail service or (b) upon receipt, if sent by hand delivery. Either party may change its address for notice purposes by giving notice thereof to the other parties, except that such change of address notice shall not be deemed to have been given until actually received by the addressee thereof.

12. Assignment or Sublease. Licensee shall not assign or sublease its rights and duties under this Agreement or permit another party access to or use of the Licensed Area without the prior written consent of the City.

13. Authorizations. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

14. Entire Agreement; Amendment; Counterparts. This Agreement constitutes the entire agreement between the parties hereto and there are no other prior or contemporaneous agreements, oral or written, and this Agreement may not be supplemented, altered, modified, or otherwise amended in any way except in writing, signed by all parties. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original without production of any other counterpart. Any signature delivered via facsimile or other electronic means shall be deemed an original signature hereto.

15. Effective Date. The effective date of this Agreement shall be the date on which the City Manager signs the Agreement ("Effective Date").

16. Applicable Law; Venue; Construction. This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia. Any and all suits for any

claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Hampton, Virginia.

17. Failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the provisions. No waiver by either party of any condition, or the breach of any term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed a further or continuing waiver of any condition or covenant, representation or warranty of this Agreement. No provision in this Agreement shall constitute or be deemed to be a waiver of the sovereign immunity of the City.

[Signatures on the Following Page.]

WITNESS the following signatures:

CITY OF HAMPTON, VIRGINIA

By: _____
Its: City Manager
Date: _____

COMMONWEALTH OF VIRGINIA
CITY OF HAMPTON, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, as City Manager and on behalf of the City of Hampton, Virginia who is duly authorized to act on its behalf and is personally known to me.

Notary Public

My commission expires: _____

Registration Number: _____

APPROVED AS TO CONTENT:

APPROVED AS TO CONTENT:

Director, Parks, Recreation, & Leisure Services

Chief of Police

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

Deputy City Attorney

[Signatures Conclude on Following Page]

THE LONGBOW GROUP, LLC.

By: _____

Its: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY OF HAMPTON, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, in his capacity as _____ of The Longbow Group, LLC. and who is personally known to me or provided _____ as identification.

Notary Public

My commission expires: _____

Registration Number: _____

Exhibit A

Exhibit B



Exhibit C

Fort Monroe UAS Research & Testing Center (FMTC)



View from Mill Creek



Fort Monroe UAS Research & Testing Center (FMTC)

Hampton Police Department @ Fort Monroe

