



Humboldt County
3561 Boeing Avenue
McKinleyville, CA 95519
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General Aviation Lease and Use Agreement

Humboldt County

Airport Full Name (Identifier)

MONTH , 20



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GENERAL AVIATION LEASE AND USE AGREEMENT

This General Aviation Lease and Use Agreement (herein referred to as this “Agreement”) is made and entered into this [] day of [MONTH], 20[] by and between Humboldt County (herein referred to as “Lessor”), a political subdivision of the State of California (herein referred to as the “State”) and [Lessee Full Name], a [State] corporation (herein referred to as “Lessee”). Lessor and Lessee may herein be referred to individually as a “Party” or collectively as the “Parties”.

1. RECITALS

This Agreement is made with respect to the following facts:

- 1.1. WHEREAS, Lessor is a political subdivision, duly organized and validly existing under the laws of the State with the power to carry on its business as it is now being conducted under the statutes of the State;
- 1.2. WHEREAS, Lessor is the owner and operator of the [Airport Full Name] (herein referred to as the “Airport”) located in [City] in Humboldt County, California.
- 1.3. WHEREAS, Lessor is the owner of certain real property described herein as the “Leased Premises”.
- 1.4. WHEREAS, Lessee desires to lease the Leased Premises from Lessor and use the Leased Premises to engage in certain [Commercial/Non-Commercial] Aeronautical Activities (herein referred to as the “Activities”) at the Airport.
- 1.5. WHEREAS, Lessor desires to lease the Leased Premises to Lessee and allow Lessee to use the Leased Premises to engage in certain Activities at the Airport.
- 1.6. WHEREAS, Lessor has adopted applicable local governance previously adopted by the Board of Supervisors and applicable FAA regulations that govern the operation and management of the Airport.
- 1.7. WHEREAS, the terms identified by use of a capital letter in this Agreement are defined in the Appendix A – Definitions and Acronyms attached hereto.

NOW, THEREFORE, for and in consideration of the mutual representations, warranties, covenants, obligations, privileges, conditions, and agreements set forth in this Agreement (herein referred to as the “terms and conditions of this Agreement”), the Parties, intending to incorporate the foregoing Recitals into this Agreement and to be legally bound, hereby agree as follows:



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2. LEASED PREMISES.

2.1. General Description. Lessor hereby leases to Lessee, certain real property located at the Airport in the City, Humboldt County, California, commonly known as [redacted] (herein referred to as the "Leased Premises") and more particularly shown in Exhibit A – Maps of the Leased Premises, attached hereto and by this reference made a part hereof.

2.1.1. The leased premises consist of a total of approximately [redacted] square feet (or approximately [redacted] acres) of Airport land which approximately [redacted] square feet of improvements are situated as outlined in Section 2.2. Elements and Improvements Descriptions, of this Agreement.

2.1.2. The address of the leased premises is [redacted].

2.1.3. No other improvements shall be made to the leased premises by Lessee without the express prior written approval of Lessor.

2.2. Elements and Improvement Descriptions. The Leased Premises consists of the following elements and Improvements:

Table with 3 columns: Elements / Improvements, Square Feet, Notes. Rows include Unimproved Land, Improved Land, Vehicle Parking, Apron, Hangar, Terminal, Office, Shop, Storage, Fuel Storage, and TOTAL.

2.3. Other Elements or Improvements. At the time this Agreement was executed by the Parties, there were no other elements or Improvements located or situated on the Leased Premises.

2.4. Inspection. Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and fully understands Lessee's responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an "as is, where is" condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises.

3. USE OF LEASED PREMISES.

3.1. Permitted Uses and Activities (General). In addition to Lessor leasing the Leased Premises to Lessee, this Agreement grants Lessee the right and privilege to use the Leased Premises to engage (on a non-exclusive basis) for the purpose of [COMMERCIAL LESSEE ONLY] engaging in Commercial Aeronautical Activities [NON-COMMERCIAL LESSEE ONLY] conducting Non-Commercial Aeronautical Activities, as more fully described herein. The Leased Premises may not be used for any other purposes or uses without the prior written consent of Lessor, which consent may be withheld in the sole and absolute discretion of Lessor.

3.2. Permitted Uses and Activities (Commercial Aeronautical Activities).

3.2.1. Lessee shall use the Leased Premises to provide the following Commercial Aeronautical Activities: [redacted].



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- 3.2.2. Lessee **may** use the Leased Premises to provide the following Commercial Aeronautical Activities: _____.
- 3.2.3. The Commercial Aeronautical Activities identified in **Section 3.2.1.** and **Section 3.2.2.** of this Agreement shall be provided in accordance with the County's Airport Minimum Standards.
- 3.2.4. Lessee's right and privilege to use the Leased Premises for engaging in Commercial Aeronautical Activities may be suspended or permanently revoked if Lessee does not comply with the terms and conditions of this Agreement, applicable local governance previously adopted by the Board of Supervisors, applicable FAA regulations, and Lessee's Commercial Operator Permit (herein referred to as "Permit").
- 3.3. **Permitted Uses and Activities (Non-Commercial Aeronautical Activities).**
- 3.3.1. Lessee **may** use the Leased Premises to provide the following Non-Commercial Aeronautical Activities: _____.
- 3.3.2. Lessee's right and privilege to use the Leased Premises for engaging in the Activities identified in **Section 3.3.1.** of this Agreement may be suspended or permanently revoked if Lessee does not comply with the terms and conditions of this Agreement and the applicable .
- 3.4. **Prohibited Uses and Activities.**
- 3.4.1. **[COMMERCIAL LESSEE ONLY]** Lessee shall not use and/or occupy the Leased Premises for any other purpose or engage in any other Activities on or from the Leased Premises other than those specifically permitted in this Agreement and the Lessee's Permit.
- 3.4.2. **[NON-COMMERCIAL LESSEE ONLY]** Lessee shall not use and/or occupy the Leased Premises to engage in any Commercial Aeronautical Activities (or any other commercial uses, occupancy, and/or purposes) from the Leased Premises.
- 3.4.3. Lessee agrees not to use and/or occupy the Leased Premises or engage in Activities in any manner or purpose contrary to this Agreement or any Legal Requirement.
- 3.4.4. Lessee agrees not to use and/or or occupy the Leased Premises for the provision of non-aeronautical products, services, or facilities (or any non-aeronautical uses, occupancy, and/or purposes).
- 3.4.5. In addition to the prohibited uses and activities identified in this Agreement, the County's applicable local governance, and applicable FAA regulations, the following uses, occupancy, and/or purposes are expressly prohibited on the Leased Premises: _____ -

[EXAMPLES – Through-the-Fence Aeronautical Activities, Co-Op Fueling, **[NON-COMMERCIAL LESSEE ONLY]** – Commercial Activities].
- 3.4.6. Lessee shall not create, cause, maintain, or permit any nuisance or waste in, on, or about the Leased Premises, or permit or allow the Leased Premises to be used or occupied for any unlawful or immoral purpose. Lessee shall not do or permit to be done anything in any manner which unreasonably disturbs the users of neighboring properties. Specifically, and without limiting the above, Lessee agrees not to cause any unreasonable odor, noise, vibration, power emission, or other item to emanate from the Leased Premises. No materials or articles of any nature shall be stored outside upon any portion of the Leased Premises. Lessee will not use Leased Premises in a manner that increases the risk of fire or cost of fire insurance for Improvements thereon. No unreasonable sign or placard shall be painted, inscribed, or placed in or on said Leased Premises; and no tree or shrub thereon shall be destroyed or removed (except in connection with Lessee's maintenance of, or modification to, the landscaping) or other waste committed of said Leased Premises. No motorcycles, vehicles, or other mechanical means of transportation shall be placed or stored anywhere on the Leased Premises, provided that the foregoing shall in no way limit Lessee's rights to use the vehicle



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and aircraft parking areas on the Leased Premises for the parking of vehicles and aircraft. No repair, overhaul, or modification of any vehicle or aircraft shall take place on the Leased Premises (unless specifically permitted in this Agreement) or the street in front of said Leased Premises.

3.5. Condition, Use of Leased Premises. Lessor makes no warranty or representation of any kind concerning the condition of the Leased Premises, or the fitness of the Leased Premises for the uses and Activities intended by Lessee and/or permitted by Lessor, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the Parties that Lessee has personally inspected the Leased Premises, knows its condition, finds it fit for Lessee’s intended use and Activities, accepts it as is, and has ascertained that it can be used exclusively for the limited purposes specified in [COMMERCIAL LESSEE ONLY] Section 3.2.1, and Section 3.2.2. of this Agreement [NON-COMMERCIAL LESSEE ONLY] Section 3.3.1. of this Agreement.

3.6. Compliance. Lessee’s use of the Leased Premises and the Airport is subject to the following requirements:

- 3.6.1. As may be promulgated or amended from time to time, Lessee shall comply with all: (a) Legal Requirements; (b) applicable local governance and FAA regulations; (c) Airport policies, standards, rules, and directives; and (d) zoning, building, fire, safety, and other codes, ordinances, statues, and other directives of any Agencies having jurisdiction.
3.6.2. If any provision of this Agreement is found to conflict with Section 3.6.1. of this Agreement, the provision that establishes the higher or stricter standard shall prevail. Additionally, Lessor may modify this Agreement to resolve the conflict.
3.6.3. In the event of an alleged violation of Section 3.6.1. of this Agreement (or initiation of an investigation relating too same), Lessee shall immediately notify Lessor of the alleged violation and describe the action(s) being taken to resolve it.
3.6.4. Any violation of (or failure to comply with) Section 3.6.1. of this Agreement shall be construed as a default or breach of this Agreement.
3.6.5. Lessor may deny access, consistent with Legal Requirements, to the Airport or the Leased Premises to Lessee or its representatives, officers, agents, employees, guests, patrons, suppliers, vendors, invitees, contractors, subcontractors, Sublessees [COMMERCIAL LESSEES ONLY], or any other entity for any violation of (or failure to comply with) Section 3.6.1. of this Agreement.
3.6.6. Lessee shall pay any penalties, fines, costs, and expenses for any violation of (or failure to comply with) Section 3.6.1. of this Agreement.
3.6.7. If penalties or fines are levied against Lessor or costs or expenses are incurred by Lessor relating to Lessee’s violation of (or failure to comply with) Section 3.6.1. of this Agreement, Lessee shall pay Lessor one hundred twenty-five percent (125%) of the penalty, fine, cost, or expense.

4. TERM.

4.1. Original Term. The original term of this Agreement shall be for ____ () years, commencing at 12:00 a.m. on the ____ day of MONTH, 20__ and ending at 11:59 p.m. on the ____ day of MONTH, 20__ (herein referred to as the “Original Term”), unless sooner terminated in accordance with this Agreement.

4.2. Extension of Term. Notwithstanding any provision of this Agreement to the contrary, at Lessor’s option and subject to the terms and conditions of this Agreement (unless otherwise mutually agreed in writing and in advance between the Parties), upon the expiration of the Original Term of this Agreement, Lessor may extend this Agreement for ____ () additional period(s) of ____ () years (herein referred to as the “Renewal Term”), provided that Lessee, in the opinion of Lessor, has been and is Current, has been



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and is in Good Standing, and the Leased Premises have been maintained in compliance with this Agreement.

- 4.2.1. If Lessee desires to extend the term of this Agreement beyond the Original Term or any Renewal Term, Lessee shall, no later than **three hundred sixty-five (365) calendar days** prior to the expiration of the Original Term or any Renewal Term, give written notice to Lessor to such effect.
- 4.2.2. If, in the opinion of Lessor, the Leased Premises are not deemed to have been maintained in compliance with this Agreement, Lessor shall provide Lessee with a list of items requiring maintenance, repair, restoration, replacement, or cleaning by Lessee at Lessee’s sole risk, cost, and expense. The list shall be provided by Lessor to Lessee a minimum **of two hundred seventy (270) calendar days** prior to the expiration of this Agreement. Lessee shall have **ninety (90) calendar days** to complete the items on the list to the satisfaction of Lessor.
- 4.2.3. Lessor shall provide Lessee notice of its intent to extend the term or not extend the term of this Agreement not less than **one hundred eighty (180) calendar days** prior to the scheduled expiration of this Agreement notwithstanding circumstances beyond Lessor’s control.

4.3. Expiration or Termination of Term. Lessee shall, at the expiration of the term of this Agreement, or upon its earlier termination, return the Leased Premises in first-class order, repair, and condition and in a safe, clean, orderly, and sanitary condition to the complete satisfaction of Lessor as it is now at the date of this Agreement, ordinary and reasonable wear and tear expected; vacate the Leased Premises; and remove any and all of Lessee’s personal property, including equipment, furniture, furnishings, and fixtures.

- 4.3.1. Lessee shall allow Lessor to inspect the Leased Premises and complete a walk-through to verify the condition of the Leased Premises.
- 4.3.2. **[COMMERCIAL LESSEE ONLY]** Lessee shall, at the expiration of the term of this Agreement, or upon its earlier termination, if another entity enters into an agreement with Lessor to use and/or occupy the Leased Premises, Lessee shall work with the parties in a cooperative and responsive manner to complete the transition while also ensuring that there is no interruption in the provision of Activities during the transition.

5. RENTS, FEES, AND OTHER CHARGES.

5.1. Annual Rent. The annual rent for the use and occupancy of the Leased Premises for the first year of the Original Term shall be **_____** dollars (**\$_____**). The annual rent is based on the following:

Elements / Improvements	Square Feet	Rate Per Square Foot Per Year	Annual Rent
Unimproved Land			
Improved Land			
Vehicle Parking			
Apron			
Hangar			
Terminal			
Office			
Shop			
Storage			
Fuel Storage			
TOTAL			

5.2. Annual Adjustments. Throughout the Original Term and any Renewal Term, the annual rent shall be adjusted on an annual basis between each Rent Study (defined herein) in compliance with the Consumer



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Price Index (CPI). CPI shall mean the West Region Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor, Bureau of Labor Statistics.

- If a substantial change is made in the method by which the CPI is determined, the CPI shall be adjusted to the figure that would have resulted had no change occurred in the manner of determining the CPI. If the CPI (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information previously used in determining the CPI shall be used instead of the CPI.

Data for the 12-month period prior to the first day of the calendar year prior to this Agreement (January 1, 20) shall be utilized as the base year (which shall be equal to 100). All rents shall be adjusted using the percentage change in the CPI, which shall be calculated using the following formula: CPI (at the time of adjustment) minus CPI (at the time of the last adjustment) divided by CPI (at the time of the last adjustment). In no event shall rent be adjusted less than the rent paid during the immediately preceding year.

- 5.3. Rent Study Adjustments. The annual rent shall be adjusted every fifth (5th) year and every five (5) years thereafter to Market Rent. Adjustments shall be made based on the findings of a Rent Study in accordance with the County's aeronautical Market Rent adjustment schedule (beginning in Calendar Year 2021) and outlined in Appendix B – Rent Study.
- 5.4. Fees and Other Charges. Lessee shall pay the fees and other charges identified in the Rents and Fees Schedule to Lessor when due and owing, which are subject to change from time to time.
- 5.5. Payments. Payment of rents, fees, and other charges shall be made promptly without notice or demand, in legal tender of the United States of America.
 - 5.5.1. Payment of rent shall be made by Lessee to Lessor monthly (in installments equal to 1/12 of the annual rent) in advance on or before the 1st day of each month. The rent for any partial month shall be prorated.
 - 5.5.2. In addition to the payment of rent outlined in Section 5.5.1. of this Agreement, payment from Lessee shall include the prorated cost of the Rent Study outlined in Appendix B which shall not exceed \$100.00 per month.
 - 5.5.3. Payment of fees and other charges shall be made by Lessee to Lessor monthly on or before the 10th day of each month for the previous month.
 - 5.5.4. Payments of rents, fees, and other charges shall be made by check or money order, payable to Lessor. Payments shall be delivered or mailed to Humboldt County, 3561 Boeing Avenue, McKinleyville, CA 95519 or to such other location as may be directed in writing by Lessor. Payments shall be made without any abatement, deductions, reductions, offsets, or counterclaims of any kind.
- 5.6. Performance Bond. [OPTION 1 – PREFERRED OPTION] Prior to taking possession of the Leased Premises, Lessee shall furnish a Performance Bond or personal guarantee in the form acceptable to Lessor in the amount of one hundred percent (100%) of the annual rents, fees, and other charges for the return of the Leased Premises at the expiration of the term of this Agreement in Premises in first-class order, repair, and condition and in a safe, clean, orderly, and sanitary condition as when Lessee took possession of the Leased Premises, ordinary and reasonable wear and tear excepted, as well as the faithful, timely, and complete performance of the terms and conditions of this Agreement.
 - 5.6.1. The Performance Bond may be used in the event of termination of this Agreement. The Parties agree that the Performance Bond may be used to cure any default or breach of this Agreement without prejudice to any other remedies available to Lessor and that Lessor may increase the Performance Bond in the event of default or breach.



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- 5.6.2. The Parties agree that the Performance Bond shall be increased in proportion to any increases in rents, fees, or other charges.
- 5.7. Security Deposit. [OPTION 2] Prior to taking possession of the Leased Premises, Lessee shall deposit (and keep on account throughout the term of this Agreement) with Lessor a security and damage deposit (herein referred to as the "Security Deposit") in the amount of _____ dollars (\$_____) (or equivalent to _____ month's rent) as security for the return of the Leased Premises at the expiration of the term of this Agreement in Premises in first-class order, repair, and condition and in a safe, clean, orderly, and sanitary condition as when Lessee took possession of the Leased Premises, ordinary and reasonable wear and tear excepted, as well as the faithful, timely, and complete performance of the terms and conditions of this Agreement.
- 5.7.1. The Security Deposit may be used in the event of termination of this Agreement. The Parties agree that the Security Deposit may be used to cure any default or breach of this Agreement without prejudice to any other remedies available to Lessor and that Lessor may increase the Security Deposit in the event of default or breach.
- 5.7.2. The Parties agree that the Security Deposit shall be increased in proportion to any increases in rents, fees, or other charges.
- 5.8. Late Charges. A late charge (as identified in the Rents and Fees Schedule) shall be automatically added to any rents, fees, or other charges not received by Lessor by the close of business **five (5) calendar days** after due and owing. Additional late charges shall be imposed for each **thirty (30) calendar day** period payment remains due and owing. Late charges shall become part of the rents, fees, and other charges due and owing to Lessor.
- 5.8.1. In addition to late charges, Lessor shall be entitled to interest at the State judgment rate plus all costs and expenses incurred by Lessor to collect (or attempt to collect) amounts past due, including without limitation, attorney and court fees, costs, and expenses

6. IMPROVEMENTS.

- 6.1. Application to Make Improvements. Any and all Improvements of any kind made or installed on the Leased Premises shall comply with all government regulations as set forth herein and shall be made by Lessee at Lessee's sole cost and expense. Prior to making any Improvements (including any alterations to existing Improvements, removal of existing Improvements, or construction of new Improvements) to the Leased Premises, Lessee shall submit to Lessor for its review and approval two sets of proposed detailed plans, designs, and specifications. Said plans shall include cost estimates, a project schedule, and a list of the contractors selected by Lessee. If applicable, Lessee shall also complete and include FAA 7460-1 Notice of Proposed Construction Alterations form.
- 6.2. Written Consent. Lessee shall not make any Improvements to the Leased Premises without the prior written consent of Lessor.
- 6.2.1. Any Improvements made to the Leased Premises without the prior written consent of Lessor may be removed by Lessor or Lessor may require, by written notice, that Lessee modify the Improvements to Lessor's satisfaction. If Lessee fails to comply with such notice within **thirty (30) calendar days**, Lessor may affect the removal or modification of said Improvements and Lessee shall pay 125% of the costs and expenses thereof within **thirty (30) calendar days** upon receipt of an invoice from Lessor.
- 6.3. Schedule. Within **ninety (90) calendar days** of Lessor's written consent, Lessee shall make Improvements in conformance with the approved plans, designs, specifications, and schedule and any other terms and conditions of Lessor's written consent.



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- 6.3.1. If the Improvements are not completed in accordance with the schedule (or Improvements have only been partially completed), at Lessor's option, the Improvements that have been made may be removed or demolished by Lessor.
- 6.4. Compatibility and Compliance. Any Improvements made to the Leased Premises shall be:
- 6.4.1. Compatible with the Airport and associated airspace,
 - 6.4.2. Consistent with the Airport's Master Plan, Layout Plan, and the Land Use Plan,
 - 6.4.3. In compliance with 14 CFR Part 77 Safe, Efficient Use, and Preservation of the Navigable Airspace, and
 - 6.4.4. In compliance with **Section 3.6.1.** of this Agreement.
- 6.5. Permits. Lessee shall procure all required building, fire, safety, and other permits from federal, state, and local Agencies having jurisdiction.
- 6.6. Insurance. No Improvements shall be made to the Leased Premises until evidence of required insurance satisfactory to Lessor has been provided. Lessee shall be fully liable for any damages related to making any Improvements.
- 6.7. Liens. Lessee shall pay all claims lawfully made against it by its contractors, subcontractors, material men, and workmen, and all claims lawfully made against Lessee by other third persons resulting from, caused by, arising out of, or associated with the Improvements being made to the Leased Premises, and shall cause its contractors, subcontractors, material men, and workmen to pay all such claims lawfully made against them. Lessee shall also pay all liens held by contractors, subcontractors, material men, and workmen and provide proof of payment to Lessor.
- 6.7.1. Notwithstanding circumstances beyond Lessee's control, all Improvements made to the Leased Premises shall be free and clear of liens, claims, or liability for labor or material.
 - 6.7.2. Nothing in this Agreement shall be construed, in any way, to constitute consent to the creation of any lien or claim against the Leased Premises or Lessor.
- 6.8. Indemnity for Claims. Lessee shall defend and indemnify Lessor against all claims, liabilities, and losses of any type arising out of making Improvements on the Leased Premises by Lessee, together with reasonable attorneys' fees and all costs and expenses reasonably incurred by Lessor in negotiating, settling, defending, or otherwise protecting against such claims.
- 6.9. Assurance of Completion. Prior to commencement of any alteration or construction expected to cost more than **twenty-five thousand dollars (\$25,000)**, Lessee shall furnish Lessor evidence that assures Lessor that sufficient funds will be available to complete the proposed Improvements being made to the Leased Premises. The amount of such assurance shall be at least the total estimated cost of Improvements. Evidence of such assurance shall take one of the forms set out below and shall guarantee Lessee's full and faithful performance of all the terms and conditions of this Agreement:
- 6.9.1. Completion bond,
 - 6.9.2. Performance, labor and material bonds, supplied by Lessee's contractor or contractors, provided the bonds are issued jointly to Lessee and Lessor,
 - 6.9.3. Irrevocable letter of credit from a financial institution,
 - 6.9.4. Proof of cash or other liquid assets, or
 - 6.9.5. Any combination of the above.

All bonds and letters of credit must be issued by a company qualified to do business in the State and be acceptable to Lessor. All bonds and letters of credit shall be in a form acceptable to Lessor, and shall



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insure faithful and full observance and performance by Lessee of all of the terms and conditions of this Agreement relating to the Improvements being made to the Leased Premises.

- 6.10. Certificate of Inspection. Upon completion of the Improvements being made to the Leased Premises, Lessee shall submit to Lessor a Certificate of Inspection, verifying that the Improvements were completed in conformance with Title 24 of the California Code of Regulations for non-residential construction.
- 6.11. As-Built Plans. Upon completion of the Improvements being made to the Leased Premises, Lessee shall provide to Lessor a complete set of reproducible as-built plans and specifications in digital (CAD) format reflecting actual alterations or construction within or upon the leased Premises.
- 6.12. Reversion of Improvements. Unless otherwise stated in this Agreement, upon expiration or earlier termination of this Agreement, at Lessor's option, the ownership of Improvements made to the Leased Premises shall revert (transfer) to Lessor or Lessee shall remove and/or demolish any and/or all Improvements (as designated by Lessor) and return the Leased Premises to its original condition and character, ordinary and reasonable wear and tear excepted.

7. LESSEE'S RIGHTS AND PRIVILEGES.

- 7.1. Use of the Airport. Lessee is allowed to use the Airport and its appurtenances together with all Public Areas and facilities, in common with Lessor and others, on a non-exclusive basis and subject to the terms and conditions of this Agreement, except such land and Improvements specifically leased herein and as may be leased by Lessor to others.
- 7.1.1. Lessee shall be liable and shall reimburse Lessor for all costs and expenses incurred by Lessor for the repair of any damage caused by Lessee to the Airport and its appurtenances and/or Public Areas or facilities at the Airport, excluding ordinary and reasonable wear and tear.
- 7.2. Ingress and Egress. Lessee, its representatives, officers, agents, employees, guests, patrons, suppliers, vendors, invitees, contractors, subcontractors, and **Sublessees [COMMERCIAL LESSEES ONLY]**, shall have the right of ingress and egress to and from the Leased Premises. However, if the privileges granted by this provision adversely affect or conflict with others, Lessor shall have the right to restrict and/or limit the manner such ingress and/or egress may be exercised. **[ACV ONLY]** Lessee shall procure necessary access media from Lessor and pay any and all fees outlined on the Rents and Fees Schedule.
- 7.3. Quiet Enjoyment. Subject to the terms and conditions of this Agreement, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises free from hindrance or interruption by Lessor. Lessee agrees temporary inconveniences such as noise, disturbances, traffic detours, and the like resulting from, caused by, arising out of, or associated with Lessor's construction, maintenance, and/or repair of Airport improvements or special events shall not constitute a breach of **Section 7.3. Quiet Enjoyment.** of this Agreement.
- 7.4. New Locks. Lessee may install new locks on all exterior doors. Lessee shall advise Lessor of such action and shall provide Lessor with keys to said locks. Lessee shall also deliver to Lessor the old locks with keys. Upon termination, all locks shall become the property of Lessor.
- 7.5. Fixtures and Equipment. Lessee may install equipment, furniture, furnishings, and fixtures on the Leased Premises and use equipment, tools, machinery, or other items of personal property in connection with the permitted uses of the Leased Premises authorized in this Agreement.
- 7.5.1. Title to all equipment, furniture, furnishings, and trade fixtures placed by Lessee upon the Leased Premises shall remain in Lessee, and replacements, substitutions, and modifications thereof may be made by Lessee throughout the term of this Agreement.
- 7.5.2. Lessor shall have no liability or responsibility for any theft, misappropriation, or damage to any equipment, furniture, furnishings, and trade fixtures placed by Lessee upon the Leased Premises or personal property belonging to Lessee or others.



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7.5.3. Lessee may remove such equipment, furniture, furnishings, and trade fixtures upon termination of this Agreement if Lessee is not then in default or breach under this Agreement, provided that Lessee shall repair to the satisfaction of Lessor any damage to the Leased Premises and Improvements caused by such removal and provided that usual and customary lighting, plumbing, and heating fixtures shall remain upon the Leased Premises upon termination of this Agreement.

7.6. Other.

7.6.1. Unless otherwise stated in this Agreement, Lessee's rights and privileges are limited strictly to the Leased Premises, no other rights or privileges are being granted by Lessor to Lessee for any other premises at the Airport or any other properties owned or leased by Lessee.

7.6.2. Unless otherwise stated, this Agreement does not: (a) modify any other agreements between the Parties or (b) extend any rights or privileges to Lessee in any other agreements between the Parties.

8. LESSOR'S RIGHTS AND PRIVILEGES.

8.1. Lessor's Rights. Lessor reserves the following rights:

8.1.1. Nothing contained in this Agreement shall be construed, in any way, to limit the use of the Airport by Lessor, its Police Department, Fire Department, FAA, or other Agencies performing official duties at the Airport, or others.

8.1.2. Lessor reserves the right to designate specific areas of the Airport to be used for specific purposes and/or engaging in specific activities.

8.1.3. Lessor reserves the right to develop and make any improvements, repairs, restoration, or replacement on, at, or to the Airport it deems necessary. Lessor will provide advance notice of the date and time of such projects. Lessor shall not be obligated or required to reimburse or compensate Lessee, **Sublessee [COMMERCIAL LESSEE ONLY]**, or any other entities for any cost and/or expense incurred, for any revenue lost, or for any inconvenience that may result from, arise out of, or be associated in any way with such projects.

8.1.4. Lessor (and its representatives, officers, officials, employees, agents, and volunteers) shall not be responsible for loss, injury, or damage to persons or property at the Airport resulting from, caused by, arising out of, or associated in any way with any acts of nature, natural disasters, or illegal activity.

8.1.5. During time of war or declared state of emergency, Lessor shall have the right to enter into an agreement with an Agency for use of part or all the Airport and its facilities. If any such agreement is executed, this Agreement or any other agreement between the Parties, insofar as the agreements may be inconsistent with the agreement between Lessor and the Agency, shall be suspended, without any liability to Lessor.

8.1.6. Lessor will not relinquish the right to take any action Lessor considers necessary to protect the aerial approaches of the Airport against obstruction or to prevent any person from erecting or permitting to be erected any facility or structure which might limit the usefulness of the Airport or constitute a hazard to Aircraft.

8.1.7. Lessor will not waive any sovereign, governmental, or other immunity to which Lessor may be entitled nor shall any provision of this Agreement or any other agreement between the Parties be so construed.

8.1.8. Lessor will not submit to the laws of any state other than those of the State.

8.1.9. Lessor is under no obligation to obtain or provide financing or funding, make any improvements to the Airport, and/or facilitate any development proposed by Lessee or others.



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- 8.1.10. Lessor reserves the right to take such actions as it may deem necessary to protect the safety and security of the public and the integrity of the applicable local governance and FAA regulations.
- 8.1.11. Lessor shall have no responsibility or liability to furnish any services to Lessee, however Lessee may request the provision of services and if agreed upon, shall pay Lessor the amount of compensation agreed upon by the Parties.
- 8.1.12. Nothing contained in this Agreement shall be construed, in any way, as restricting or limiting the powers of Lessor to fully exercise its governmental functions and/or authority or fulfill its obligations under the Airport Sponsor Assurances (or any bond covenants) or comply with applicable Legal Requirements.

8.2. Lessor's Privileges. Lessor shall have the following privileges:

- 8.2.1. Normal Access to the Leased Premises. Lessor shall have the right to enter in, upon, or under the Leased Premises at reasonable times, upon not less than **twenty-four (24) hours** prior notice to Lessee, for reasonable purposes (e.g., to ensure Lessee's compliance with the terms and conditions of this Agreement including, but not limited to, **Section 3.6.1.** of this Agreement). Lessor may at any time during the last **one hundred twenty (120) calendar days** of the term of this Agreement place on or about the Leased Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.
- 8.2.2. Emergency Access to the Leased Premises. Lessor shall have the right to enter the Leased Premises at any time in the event of an apparent or actual emergency (e.g., fire, flood, or failure of an Improvement or utility, etc.).
- 8.2.3. Security Measures. Lessor shall have the right to require a reasonable security system, device, operation, or plan be installed and implemented to protect the Leased Premises, Improvements, and the Airport. Should Lessor, in its sole discretion, require Lessee to install such a security system, Lessee agrees to bear the sole cost and expense of any security system, device, operation, or plan and the installation and implementation thereof. Lessee shall obtain Lessor's prior written consent before installing, implementing, or changing any Lessor approved security system, device, operation, or plan.
- 8.2.4. Performance of Acts. All acts performable under this Agreement by Lessor may, at the option of Lessor and without right of objection by Lessee, be performed by a representative of Lessor.
- 8.2.5. Exercising Rights. No exercise of any rights reserved by Lessor shall be deemed or construed, in any way, as grounds for any abatement of rents, fees, or other charges nor serve as the basis for any claim or demand for damages of any nature whatsoever.

9. LESSEE'S OBLIGATIONS.

- 9.1. Conduct. Lessee shall be responsible for the conduct, demeanor, and appearance of its representatives, officers, agents, employees, guests, patrons, suppliers, vendors, invitees, contractors, subcontractors, **[COMMERCIAL LESSEES ONLY] Sublessees,** or any other entity on the Leased Premises. **[COMMERCIAL LESSEES ONLY]** Lessee's personnel shall: (a) be neat, clean, and courteous, (b) not conduct operations in an objectionable manner, and (c) shall wear attire consistent with industry practices. Upon receipt of a complaint, Lessee shall act to immediately resolve the complaint. Lessee's personnel shall cooperate with Lessor, its representative's or Agencies in dealing with emergencies on the Leased Premises and at the Airport.
- 9.2. Disturbance. Lessee shall conduct its authorized uses and Activities in an orderly and proper manner to not disturb or interfere with others. Lessee agrees that it will not in any manner interfere with Aircraft operations or create a hazard to Aircraft, other lessees, or the public. Lessee shall prevent escape of



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hazardous fumes, odors, smoke, gas, or other hazardous substances from the Leased Premises (or cause or permit to be caused any act that would adversely affect the environment).

9.3. Taxes, Assessments, Levies, Fees, and Other Charges. Lessee shall pay and discharge all taxes, assessments, levies, and other fees, without offset or abatement, whether general or special, ordinary or extraordinary, charged by any government or quasi-governmental entity during the term of this Agreement.

9.3.1. Real Property Taxes Defined. The term “real property taxes” as used herein shall mean all taxes, assessments, levies, fees, and other charges, general and special, foreseen and unforeseen, now or hereafter imposed by any governmental or quasi-governmental authority or special district having the direct or indirect power to tax or levy assessments, which are levied or assessed against or with respect to: (a) value, occupancy, use, or possession of the Leased Premises and/or the Improvements; (b) any improvements, furniture, fixtures, equipment, and other real or personal property of Lessee that are an integral part of the Leased Premises; or (c) use of and Activities on the Leased Premises, Improvements, public utilities, or energy within the Leased Premises. The term “real property taxes” shall also mean all taxes, assessments, levies, fees, or other charges imposed by reason of environmental regulation or other governmental control of the Leased Premises and/or the Improvements, new or altered excise, transaction, sales, privilege, assessment, or other taxes or charges now or hereafter imposed upon Lessor as a result of this Agreement, and all costs and fees (including attorneys’ fees) incurred by Lessor in contesting any real property taxes and in negotiating with public authorities as to any real property taxes affecting the Leased Premises. If any real property taxes are based upon property or rents unrelated to the Leased Premises and/or the Improvements, then only that part of such tax that is fairly allocable to the Leased Premises and/or the Improvements, as determined by Lessor, on the basis of the assessor’s worksheets or other available information, shall be included within the meaning of the term “real property taxes.”

9.3.2. Payment of Real Property Taxes. Lessee shall pay Lessee’s share of all real property taxes (as defined in Section 9.3.1. Real Property Taxes Defined. of this Agreement) which become due and payable to Lessor on or before the later of **ten (10) business days** prior to the delinquency thereof or **fifteen (15) business days** after the date on which Lessee receives a copy of the tax bill and notice of Lessor’s determination hereunder. Lessee’s liability to pay real property taxes shall be prorated on the basis of a three hundred sixty-five (365) calendar day year to account for any fraction or portion of a tax year included in the Agreement term at the commencement or expiration of this Agreement.

9.3.3. Revenue and Taxation Code. Lessee specifically acknowledges it is familiar with Section 107.6 of the California Revenue and Taxation Code. Lessee realizes that a possessory interest subject to property taxes may be created, agrees to pay any such tax, and hereby waives any rights Lessee may have under said California Revenue and Taxation Code Section 107.6.

9.3.4. Personal Property Taxes. Lessee shall pay, before delinquent, or if requested by Lessor, reimburse Lessor for, all taxes, assessments, levies, fees, and other charges associated with the personal property contained in the Leased Premises. Lessee recognizes and understands in accepting this Agreement that its interest therein may be subject to a possible possessory interest tax that Lessor or County may impose on such interest and that such tax payment shall not reduce any rents, fees, or other charges due Lessor hereunder and any such tax shall be the liability of and be paid by Lessee.

9.4. Maintenance and Repair. Lessee shall, at its sole risk, cost, and expense, diligently keep and properly maintain and repair the Leased Premises, the Improvements thereto (or located thereon) including painting, maintenance of landscape areas, pavements, utilities, and its personal property, in first-class order, repair,



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and condition and in a safe, clean, orderly, and sanitary condition to the complete satisfaction of Lessor, and in compliance with all applicable Legal Requirements, throughout the term of this Agreement.

- 9.4.1. Lessee shall be responsible for the maintenance, repair, and replacement, at Lessee's sole risk, cost, and expense, all equipment, furniture, furnishings, and trade fixtures upon the Leased Premises required for the maintenance and conduct of Activities pursuant to this Agreement.
- 9.4.2. Lessee shall be responsible for the maintenance, repair, and replacement, at Lessee's sole risk, cost, and expense, of the structures located on the Leased Premises and all the main support systems exclusively serving the Leased Premises, including plumbing (but excluding the portions of the same that are underground), electrical, HVAC, foundation, framing, exterior walls of the Leased Premises, and structural support systems. Lessee will be responsible for the maintenance and repair of the roof. Notwithstanding the foregoing, except to the extent any maintenance, repair, or replacement is made necessary by the negligence of Lessee, Lessor shall be responsible for the replacement of the roof.
- 9.4.3. Liens. Lessee further agrees that if any repairs, alterations, additions, or betterments shall be made by Lessee as required by Section 9.4. Maintenance and Repair. of this Agreement, Lessee shall promptly pay for all labor done or materials furnished and shall keep the Leased Premises free and clear of any lien or encumbrance of any kind whatsoever.
- 9.4.4. Waiver of Civil Code. Lessee expressly waives the benefit of any statute now or hereinafter in effect, including the provisions of Sections 1941 and 1942 of the Civil Code of California, which would otherwise afford Lessee the right to make repairs at Lessor's expense or to terminate this Agreement because of Lessor's failure to keep Leased Premises in good order, condition, and repair.
- 9.4.5. In the event Lessee fails to comply with the entirety of Section 9.4. Maintenance and Repair. of this Agreement, Lessor may notify Lessee and if Lessee fails to correct the condition within fourteen (14) calendar days of Lessor's written notice, Lessor may enter the Leased Premises and perform any necessary maintenance, repair, restoration, replacement, or cleaning and Lessee shall pay one hundred twenty-five percent (125%) of the costs and expenses thereof to Lessor within fourteen (14) calendar days upon receipt of an invoice from Lessor. The making of such maintenance, repair, restoration, replacement, or cleaning by Lessor shall in no event be construed as a waiver of the duty of Lessee to perform any necessary maintenance, repair, restoration, replacement, or cleaning as provided in Section 9.4. Maintenance and Repair. of this Agreement.
- 9.5. Utilities. Lessee shall pay all fees and charges due and owing for all utilities (including connections) serving the Leased Premises. Such services shall include, but not be limited to water, gas, electricity, sewer, telephone, cable, trash collection, etc.
- 9.6. Costs, Expenses, and Other Charges. Lessee shall pay all other costs, expenses, and other charges of every kind and nature whatsoever relating to the Leased Premises and/or Lessee's Activities during the term of this Agreement.
- 9.7. Licenses, Certificates, And Permits. Lessee, at its sole risk, cost, and expense, shall obtain any and all required licenses, certificates, permits, or other authorizations from any and all Agencies having jurisdiction necessary for the uses and Activities authorized in this Agreement. Lessee shall not engage in or permit others to engage in activities on the Leased Premises in violation of any license, certificate, permit, or other authorization. If the attention of Lessee is called to any such violation, Lessee will immediately notify Lessor and cease and desist from and immediately cause to be corrected such violation. Lessee shall pay all penalties, fines, costs, or expenses associated with any such violation or correction.
- 9.8. Based Aircraft Report. Lessee shall maintain and furnish on or before the 10th of January each year (or upon request of Lessor) a report identifying all Based Aircraft on the Leased Premises. The report shall



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identify the aircraft owner, contact information, registration number, year, make, and model of the Aircraft. Lessee shall immediately provide an updated report of any changes to the Based Aircraft report.

- 9.9. Business Status. [COMMERCIAL LESSEE ONLY] Lessee shall notify Lessor immediately of any changes to Lessee's business or corporate structure or status or if Lessee's authorization to conduct business at the Airport, in the State, or in the United States will be (or has been) suspended or revoked.
- 9.10. Signage and Lighting. All signage must be approved in writing by Lessor and shall conform to **Section 3.6.1.** of this Agreement.
- 9.11. Special Events. Lessee shall not conduct or hold special events without obtaining (a) appropriate permits and approval from the Agencies having jurisdiction and (b) the prior written consent of Lessor.

10. REQUIRED FAA CLAUSES.

10.1. Non-Exclusive Use.

- 10.1.1. This Agreement and all of the provisions hereof shall be subject to whatever right the United States Government has now or may have in the future or may acquire affecting the control, operation, regulation, and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States Government during the time of war or national emergency. If any such agreement is executed, the terms and conditions of this Agreement shall be subordinate to the provisions of any agreement between Lessor and the United States relative to the Airport.
- 10.1.2. It is clearly understood by Lessee that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating Aircraft at the Airport from performing any services on its own Aircraft with its own Employees (including but not limited to, fueling, maintenance, and repair) that it may choose to perform.
- 10.1.3. Nothing in this Agreement shall be construed, in any way, as Lessor granting Lessee an Exclusive Right to engage in any Aeronautical Activity at the Airport.

10.2. Non-Discrimination.

- 10.2.1. Lessee, for itself, its heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event Improvements are constructed, maintained, or otherwise operated on the Leased Premises described in this Agreement for a purpose for which a Department of Transportation (herein referred to as the "DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such Improvements in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the DOT, Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Executive Order 11375 and 41 C.F.R. Part 60 and as said Legal Requirements may be promulgated or amended from time to time.
- 10.2.2. Notwithstanding any other provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, successors, and assigns, as part of the consideration of this Agreement does hereby agree, as a covenant running with the land, that: (a) no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use



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of the Leased Premises; (b) in the construction of any Improvements on, over, or under the Leased Premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion or religious creed, sex including, without limitation, gender identity and expression, age, over forty (40) years of age, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, cancer and genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; familial status, national origin, or any other classifications protected by any and all applicable local, state or federal laws, regulations or standards, all as may be amended from time to time shall be excluded from participation in, or denied the benefits of, such activities, or otherwise be subjected to discrimination; (c) in the breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Agreement and to reenter and repossess the Leased Premises and hold the same as if this Agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights for DOT program or activity; (d) Lessee, for itself, its heirs, successors, and assigns, as a part of the consideration hereof, does hereby agree as a covenant running with the land that in the event Improvements are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the DOT, and as said Regulations may be amended.

- 10.2.3. Lessee will comply with pertinent statutes, Executive Orders, and such rules as are promulgated or amended from time to time to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates Lessee or its transferee for the period during which federal assistance is provided or is in the form of personal property or real property or interest therein or structures or Improvements thereon. In these cases, this provision obligates Lessee or any transferee for the longer of the following periods: (a) the period during which the Leased Premises is used by the sponsor or any transferee for a purpose for which federal assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which Lessor or any transferee retains ownership or possession of the Leased Premises.
- 10.2.4. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.
- 10.2.5. Lessee agrees it will practice non-discrimination in its activities and will provide Disadvantaged Business Enterprise (herein referred to as a "DBE") participation as required by the sponsor, in order to meet Lessor's goals, or required by the FAA.
- 10.2.6. Lessee shall not discriminate in any manner against any employee or Applicant for employment because of political or religious opinion or affiliation, race, creed, color, national origin, sex, age, or disability and further, Lessee shall include a similar clause in all subcontracts. Lessee agrees Lessor has the right to take such action against Lessee as the government may direct to enforce this provision of this Agreement.
- 10.2.7. **COMMERCIAL LESSEE ONLY** Lessee shall insert **Section 10.2.1** through **Section 10.2.6** of this Agreement in any Sublease through which said Lessee grants a right or privilege to any person, firm, or corporation to render accommodations to the public on the Leased Premises.



11. DEFAULTS AND REMEDIES.

11.1. Defaults. In addition to the defaults and breaches identified in this Agreement, the occurrence of any of the following events shall constitute a material default or breach of this Agreement by Lessee:

- 11.1.1. The filing by Lessee of a voluntary petition in bankruptcy.
- 11.1.2. The making by Lessee of any general arrangement or assignment for the benefit of creditors; Lessee's becoming a "debtor" as defined in 11 USC §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within **sixty (60) calendar days**); the appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Leased Premises or of Lessee's interest in this Agreement where possession is not restored to Lessee within **thirty (30) calendar days**; or the attachment, execution, or other judicial seizure of all or substantially all of Lessee's assets located at or on the Leased Premises or of Lessee's interest in this Agreement, where such seizure is not discharged within thirty (30) calendar days.
- 11.1.3. The filing of any lien against the Leased Premises resulting from any act, error, omission, or negligence of Lessee which is not discharged or contested in good faith as determined by Lessor by proper legal proceedings within **fourteen (14) calendar days** of receipt of actual notice by Lessee, unless Lessee posts a bond within this time period equal to the amount of the lien.
- 11.1.4. The abandonment by Lessee of the Leased Premises (as defined by California Civil Code Section 1951.3), the Lessee's absence from the Leased Premises for **fourteen (14) consecutive calendar days**, or Lessee's failure to maintain **[COMMERCIAL LESSEE ONLY] an on-going business on** the Leased Premises or at the Airport for a period of **fourteen (14) calendar days** or more, notwithstanding circumstances beyond Lessee's control.
- 11.1.5. The transfer of Lessee's interest herein by other operation of law.
- 11.1.6. Lessee becomes in arrears in the payment of rent, fees, or other charges required to be made by Lessee hereunder, as provided in this Agreement, where such failure shall continue for a period of **ten (10) business days** after written notice thereof from Lessor to Lessee. In the event Lessor serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.
- 11.1.7. The falsification by Lessee of any of its records to deprive Lessor of any of its rights, privileges, rents, fees, or other charges under this Agreement or any other agreement between the Parties.
- 11.1.8. The failure by Lessee to observe or perform any of the terms and conditions of this Agreement or any other agreement between the Parties in any material respect where such failure shall continue for a period of **thirty (30) calendar days** after written notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than **thirty (30) calendar days** are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said **thirty (30) calendar day** period and thereafter diligently prosecutes such cure to completion.
- 11.1.9. A sale of stock in Lessee's corporation which divests the present stockholders of controlling interest.
- 11.1.10. The sale, assignment, or transfer or the attempted sale, assignment, or transfer of this Agreement by Lessee. Negotiations by Lessee for the sale, assignment, or transfer of this Agreement shall not be construed as an "attempted transfer".



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- 11.1.11. Any default or breach of this Agreement by Lessee shall constitute a default or breach by Lessee of all other agreements between the Parties.
- 11.2. Remedies. In the event of any material default or breach by Lessee, Lessor may at any time thereafter, following any notice required by statute, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such default or breach:
- 11.2.1. Terminate Lessee's right to possession of the Leased Premises by any lawful means, in which case this Agreement shall terminate and Lessee shall immediately and peacefully surrender possession of the Leased Premises and Improvements to Lessor in the same condition as when received, with the exception of ordinary and reasonable wear and tear.
- 11.2.2. In the event of termination, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee's material default or breach including but not limited to: (a) the cost of recovering possession of the Leased Premises and Improvements; (b) expenses of reletting, including necessary renovation and alteration of the Leased Premises and Improvements; (c) reasonable attorneys' and court fees, costs, and expenses; (d) the worth at the time of the award of the unpaid rent, fees, or other charges that had been earned at the time of termination of this Agreement; (e) the fees, costs, and expenses associated with the removal, storage, and/or disposal of personal property from the Leased Premises at Lessee's sole risk, cost, and expense and without any liability to Lessor for resulting damage; and (f) the amount of unpaid rent, fees, and other charges for the balance of the term.
- 11.2.3. Maintain Lessee's right to possession, in which case this Agreement shall continue in effect whether Lessee shall have abandoned the Leased Premises. In such event, Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Agreement, including the right to recover rent, fees, and other charges as they become due hereunder.
- 11.2.4. Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the State. Lessor shall have all remedies provided by law and equity.
- 11.3. Non-Performance or Delay Default. No failure to perform or delay in performance which is caused by any war, national emergency, act of nature, or natural disaster shall be deemed an event of default or breach.
- 11.4. Continuing Obligations. No termination shall relieve Lessee of the obligation to deliver and perform any outstanding requirements and agreements prior to the effective date of the termination and/or continue to be liable under this Agreement.
- 11.5. No Relief from Forfeiture After Default. Lessee waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, and any other present or future law, in the event Lessee is evicted or Lessee otherwise lawfully takes possession of the Leased Premises by reason of any default or breach of this Agreement by Lessee.

12. TERMINATION BY LESSEE.

- 12.1. If Current, in Good Standing, and if the Leased Premises and Improvements are in good condition and subject to providing written notice to Lessor, Lessee may terminate this Agreement after the occurrence of one (1) or more of the following events:
- 12.1.1. Permanent abandonment or closure of the Airport,
- 12.1.2. The lawful assumption by the United States Government, or any authorized Agency of the operation, control, use, or occupancy of the Airport, or any substantial part or parts thereof, in such manner as to substantially restrict Lessee from conducting the uses or Activities authorized in this Agreement for a period of at least **ninety (90) calendar days**,



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- 12.1.3. The default or breach by Lessor of any of the terms and conditions of this Agreement required to be performed by Lessor and the failure of Lessor to remedy such default or breach for a period of **sixty (60) calendar days** after receipt from Lessee of written notice, and
- 12.1.4. In the event of substantial Condemnation or eminent domain which prevents or substantially impairs the conduct of Lessee's Activities and equates to fifty percent (50%) or more of the total Leased Premises. If terminating this Agreement, Lessee shall notify Lessor of termination within **thirty (30) calendar days** of receiving notice of Condemnation or eminent domain. If Lessee does not notify Lessor of termination, the Condemnation or eminent domain shall be considered a partial acquisition.

13. CONDEMNATION OR EMINENT DOMAIN.

- 13.1. General. In the event of the acquisition by Condemnation or the exercise of the power of eminent domain (by any governmental or other permitted Agency to take property for public use) of interest in all or a portion of the Leased Premises, Lessee shall not institute any action or proceeding or assert any claim against Lessor for Compensation or consideration of any nature whatsoever and any provision contained herein contrary to the provisions of **Section 13. Condemnation or Eminent Domain**, shall have no force or effect.
- 13.1.1. All Compensation or consideration awarded or paid upon a total or partial acquisition of the Leased Premises (which for these purposes shall not include Compensation or consideration from Lessor) shall belong to and be the Property of Lessor without any participation by Lessee.
- 13.1.2. Nothing contained herein shall be construed or preclude Lessee from recovering directly from the condemning Agency the value of any claim, that may exist, for loss of business, or depreciation, damage, or costs or expenses of removal, or for the value of Lessee's personal Property; provided, however, that no such claim shall diminish or otherwise adversely affect Lessor's award.
- 13.2. Total. In the event of the acquisition by Condemnation or eminent domain of all interest in the Leased Premises, Lessee's obligation to pay rents, fees, or other charges and the leasehold estate created shall cease and terminate as of the date title of the Leased Premises is transferred to the governmental or other permitted Agency taking the Leased Premises for public use.
- 13.3. Substantial and Partial. In the event of the acquisition by Condemnation or eminent domain of a portion of interest in the Leased Premises, Lessee's obligation to pay rents, fees, or other charges shall cease and terminate as it pertains to the specific portion of the Leased Premises taken as of the date title of the Leased Premises is transferred to the governmental or other permitted Agency taking the Leased Premises for public use. In the event of partial Condemnation or eminent domain, rent shall be adjusted accordingly.

14. FORCE MAJEURE.

- 14.1. General. If either Party shall be delayed, hindered in, or prevented from, the performance of the terms and conditions of this Agreement by reason of strikes, lockouts, labor disputes, acts of nature, inability to obtain labor, inability to obtain materials or reasonable substitutes, governmental restrictions, governmental regulation, governmental controls, judicial orders, enemy or hostile governmental actions, civil commotion, fire or other casualty, pandemics, and other causes beyond the reasonable control of the Party (herein referred to as "Permitted Delay"), such Party shall be excused for the period of time equivalent to the delay caused by such Permitted Delay.
- 14.1.1. Notwithstanding the foregoing, any extension of time sought by Lessee for a Permitted Delay shall be conditioned upon it providing written notice of such Permitted Delay to Lessor within **fourteen (14) calendar days** of the event causing the Permitted Delay.



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- 14.1.2. In the event any work performed by Lessee or Lessee's contractors results in a strike, lockout, and/or labor dispute, the strike, lockout, and/or labor dispute shall not excuse the performance by Lessee of the terms and conditions of this Agreement.
- 14.1.3. In no event shall Lessee be relieved of its obligations to pay Lessor the rents, fees, or other charges due and owing, as set forth in this Agreement.

15. WAIVER.

- 15.1. Waiver by Lessor of one (1) or more term or condition of this Agreement or any default or breach of a term or condition of this Agreement shall not be construed as a waiver of any other term or condition of this agreement or subsequent default or breach. The subsequent acceptance by a Party of the performance of any term or condition of this Agreement by another Party shall not be deemed to be a waiver of any term or condition of this Agreement.
- 15.2. The exercise of any remedy, right, option, or privilege hereunder by Lessor shall not preclude Lessor from exercising the same or any and all other remedies, rights, options, and privileges hereunder and Lessor's failure to exercise any remedy, right, option, or privilege at law or equity, or otherwise which Lessor may have, shall not be construed as a waiver.
- 15.3. Failure on the part of Lessor to enforce any of the terms and conditions of this Agreement shall not be construed as or deemed to be a waiver or a relinquishment of the right to enforce such terms and conditions.
- 15.4. The acceptance by Lessor of any payment of rents, fees, or other charges shall not be construed as or deemed to be a waiver by Lessor of any default or breach by Lessee of any condition, obligation, privileges, or agreement contained herein and shall not be construed as or deemed to be a waiver of Lessor's right to terminate this Agreement.
- 15.5. Lessee waives any claims against Lessor for loss of anticipated profit in any suit or proceeding involving this Agreement or any part thereof.

16. HAZARDOUS MATERIALS.

- 16.1. Hazardous Materials Defined. The term "Hazardous Materials" shall mean any toxic or hazardous substance, material, or waste; pollutant or contaminant; or infectious or radioactive material, including but not limited to, those substances, materials, or wastes regulated now or in the future under any of the following Legal Requirements and any and all of those substances included within the definitions of "hazardous substances", "hazardous waste", "hazardous chemical substance or mixture", "imminently hazardous chemical substance or mixture", "toxic substances", "hazardous air pollutant", "toxic pollutant", or "solid waste" in the (a) CERCLA or Superfund as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Section 6901 et seq., (c) CWA., 33 U.S.C. Section 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Section 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq. (h) Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, California Health & Safety Code Section 25300 et seq., (k) California Hazardous Waste Control Act, California Health & Safety Code Section 25100 et seq., (l) Porter-Cologne Act, California Water Code Section 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, California Health & Safety Code Section 25220 et seq., (n) Proposition 65, California Health and Safety Code Section 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, California Health & Safety Code Section 25280 et seq., (p) California Hazardous Substance Act, California Health & Safety Code Section 28740 et seq., (q) Air Resources Law, California Health & Safety Code Section 39000 et seq., (r) Hazardous Materials Release Response Plans and Inventory, California Health & Safety Code Sections 25500-25541, (s) TCPA, California Health and Safety Code Sections 25208 et seq., and (t) regulations promulgated pursuant to said Legal Requirements or any replacement thereof, or as similar terms are defined in the federal, state, and local Legal Requirements. Hazardous Materials shall also mean any and all other substances, materials, and wastes which are, or in the future



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become, regulated under applicable federal, state, or local Legal Requirements for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal, state, or local Legal Requirement or by common law decision, including without limitation: (a) trichloroethylene, tetrachloroethylene, perchloroethylene, and other chlorinated solvents; (b) any petroleum products or fractions thereof; (c) asbestos, (d) polychlorinated biphenyls; (e) flammable explosives; (f) urea formaldehyde; and (g) radioactive materials and waste.

- 16.2. Compliance with Legal Requirements. Lessee shall not cause or permit any Hazardous Materials to be brought upon, kept, discharged, disposed, released or used in or about the Leased Premises by Lessee, its agents, employees, contractors, or invitees.
- 16.3. Termination of Agreement. Lessor shall have the right to terminate the Agreement in Lessor's sole and absolute discretion in the event that: (a) any anticipated use of the Leased Premises involves the generation or storage, use, treatment, disposal, discharge, or release of Hazardous Materials in a manner or for a purpose prohibited or regulated by any Agency, authority, or Hazardous Materials Legal Requirements; (b) Lessee has been required by any lender or Agency to take remedial action in connection with Hazardous Materials contaminating the Leased Premises, if the contamination resulted from use of the Leased Premises; or (c) Lessee is subject to an enforcement order issued by any Agency in connection with the release, use, disposal, or storage of a Hazardous Materials on the Leased Premises, if the contamination resulted from use of the Leased Premises.
- 16.4. Assignment and Subleasing. It shall not be unreasonable for Lessor to withhold its consent to an assignment or subleasing to such proposed assignee or sublessee if: (a) any anticipated use of the Leased Premises by any proposed assignee or sublessee involves the generation or storage, use, treatment, disposal, or release of Hazardous Materials in a manner or for any purpose; (b) the proposed assignee or sublessee has been required by any prior landlord, lender, or Agency to take remedial action in connection with Hazardous Materials contaminating a property, if the contamination resulted from such party's action or use of the property in question; or (c) the proposed assignee or sublessee is subject to an enforcement order issued by any Agency in connection with the release, use, disposal, or storage of Hazardous Materials.
- 16.5. Hazardous Materials Indemnity. Lessee shall indemnify, defend (by counsel reasonably acceptable to Lessor), protect, and hold Lessor harmless from and against any and all claims, liabilities, penalties, forfeitures, losses, and/or expenses, including without limitation, diminution in value of the Leased Premises or Improvements, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Leased Premises, damages arising from any adverse impact or marketing of the Leased Premises and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys' fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death of or injury to any person, or damage to any property whatsoever (including, without limitation, groundwater, sewer systems, and atmosphere), arising from, caused, or resulting, either prior to or during the Agreement term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under, or about the Leased Premises by Lessee, Lessee's agents, employees, licensees, or invitees or at Lessee's direction, of Hazardous Materials, or by Lessee's failure to comply with any Hazardous Materials Legal Requirements, whether knowingly or by strict liability. For purposes of the indemnity provided herein, any acts or omissions of Lessee or its employees, agents, customers, sublessees, assignees, contractors, or subcontractors of Lessee (whether or not they are negligent, intentional, willful, or unlawful) shall be strictly attributable to Lessee. Lessee's indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup, or detoxification or decontamination of the Leased Premises, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the Agreement term.
- 16.6. Right to Perform Tests. At any time prior to the termination of the Agreement, Lessor shall have the



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right to enter upon the Leased Premises to conduct tests of water and soil.

17. RESERVATION OF AVIGATIONAL EASEMENT.

17.1. Avigation Easement. Lessor hereby reserves to itself and its successors and assignees, for the use and benefits of the public, a right of avigation over the Leased Premises for the passage of aircraft landing at, taking off, or operating from the Airport. This public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operating on the Airport. For the purpose of this Agreement, all rights reserved pursuant to **Section 17. Reservation of Avigation Easement.** of this Agreement are referred to collectively herein as the “Avigation Easement.” This Avigation Easement shall not operate to deprive Lessee, its agents, contractors, directors, employees, officers, and representatives, of any rights which Lessee, its agents, contractors, directors, employees, officers, and representatives, may from time to time have against any operator of aircraft or third parties responsible for any act or omission respecting the operation of aircraft.

17.2. Lessee’s Assumption of Risk. As between Lessee and Lessor, Lessee agrees to voluntarily assume all risk of loss, damage, or injury to the person and property of Lessee (including the right of Lessee to occupy the Leased Premises), its agents, contractors, directors, employees, officers, and representatives, in or about the Airport or the Leased Premises which may be caused by or arise or occur in any manner:

17.2.1. From the flight of any aircraft of all kinds now or hereafter flown in, through, across, or about any portion of the air space over the Airport or the Leased Premises or

17.2.2. From noise, vibration, currents, and other effects of air, illumination, and fuel consumption, or fear thereof, arising or occurring from or during such flight, or from or during the use by aircraft of the Airport, including but not limited to, landing, storage, repair, maintenance, operation, run-up, and take-off of such aircraft, and the approach and departure of aircraft to or from the Airport.

This provision does not waive Lessee’s right against third parties arising from such third parties’ action or inaction.

17.3. Waiver and Release. Lessee hereby waives and releases Lessor, its agents, contractors, directors, employees, officers, and representatives, from any and all claims or causes of action which it may now or hereafter have against Lessor, its agents, contractors, directors, employees, officers, and representatives, for any such loss, damage, or injury as it pertains to this reservation of Avigation Easement.

18. AMERICANS WITH DISABILITIES ACT.

18.1. Lessee shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 (herein referred to as the “ADA”), as amended from time to time, with respect to the Leased Premises and its Activities at the Airport. Lessee shall develop a workplan to correct or avoid any violations or non-compliance with the ADA. Lessee shall deliver to Lessor, upon Lessor’s request, a copy of each such workplan. Lessor’s approval of or acceptance of any aspect of Lessee’s Activities under this Agreement shall not be deemed or construed in any way as a representation that such item, activity, or practice complies with the ADA. Pursuant to **Section 21. Hold Harmless and Indemnification.** of this Agreement, Lessee agrees to indemnify, defend, and hold Lessor harmless from any and all costs incurred by Lessor with respect to Lessee’s failure to comply with the ADA as it applies to Lessee’s uses of the Leased Premises and Activities at the Airport.

19. INSURANCE.

19.1. Procurement. Lessee shall procure, maintain, and pay, at Lessee’s sole cost and expense, all premiums throughout the term of this Agreement for the applicable insurance coverages and limits required by this Agreement, applicable local governance adopted by the Board of Supervisors, applicable local FAA regulations, and Legal Requirements.



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- 19.1.1. Lessee's responsibility for the Leased Premises and associated uses and Activities begins immediately upon delivery.
- 19.1.2. The procuring of such insurance coverages and limits shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification terms and conditions of this Agreement. Notwithstanding the policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Agreement or with use or occupancy of the Leased Premises, except to the extent caused by the active negligence or willful misconduct of Lessor or Lessor's representatives, officers, officials, employees, agents, and volunteers.
- 19.1.3. The insurance company(ies) underwriting the required policies shall be authorized to write such insurance in the State (with a Best rating of A or above) or be approved in writing by the County.
- 19.1.4. When coverages or limits are not commercially available, appropriate replacement coverages or limits must be approved in writing by the County at least 30 calendar days before commencing Activities at the Airport.
- 19.2. Coverages. Insurance coverages shall be kept in full force and effect at all times during the term of this Agreement in limits and in a form acceptable to Lessor as set forth in the applicable local governance as approved by the Board of Supervisors, as may be amended from time to time. The policies shall include the required endorsements, Certificates of Insurance, and coverage verifications as follows:
- 19.2.1. Lessor retains the right at any time to review the coverage, form, and limits of the insurance required hereby. If, in the opinion of Lessor's Risk Manager (or comparable official), the insurance terms and conditions in this Agreement do not provide adequate protection for Lessor and for members of the public using the Leased Premises, Lessor may require Lessee to obtain insurance sufficient in coverage, form, and limits to provide adequate protection as determined by Lessor's Risk Manager. Lessor's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk that exists at the time a change in insurance is required.
- 19.2.2. Lessor shall notify Lessee in writing of changes in the insurance requirements. If Lessee does not deposit copies of acceptable insurance policies with Lessor incorporating such changes within **sixty (60) calendar days** of receipt of such notice, or in the event Lessee fails to maintain in effect any required insurance coverage, Lessee shall be in default under this Agreement without further notice to Lessee. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Agreement at the option of Lessor.
- 19.3. Endorsements. All insurance policies, which Lessee is required to carry and keep in full force and effect, shall contain, or be endorsed to contain, the following provisions.
- "Humboldt County and/or the Board of Supervisors, individually and collectively, and its representatives, officers, officials, employees, agents, and volunteers are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of entity; premises owned, leased, occupied, or used by entity; or vehicles, equipment, or aircraft owned, leased, hired, borrowed, or operated by entity. Such insurance shall provide primary coverage and shall not seek any contribution from any insurance or self-insurance carried by agent or Humboldt County."
 - "Such insurance, as to the interest of Humboldt County only, shall not be invalidated by any act or neglect or breach of contract of entity. Any failure to comply with reporting or other provisions of the policies, including any breach of warranty, shall not affect coverage provided to Humboldt County and/or the Board of Supervisors, individually and collectively, and its representatives, officers, officials, employees, agents, and volunteers. Entity's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability."



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- “Coverage shall not be suspended, voided, or canceled by either party or reduced in coverage or in limits except after **30 calendar days** prior written notice, **14 calendar days** prior written notice for cancellation for non-payment of premium, by certified mail, return receipt requested, has been given to Humboldt County.”

- 19.4. Certificates of Insurance. Lessee shall deposit with Lessor, on or before the effective date of this Agreement, Certificates of Insurance necessary to satisfy Lessor that the insurance provisions of this Agreement have been complied with, and to keep such insurance in effect and the certificates therefore on deposit with Lessor during the entire term of this Agreement. Should Lessee not provide evidence of such required coverage at least **three (3) calendar days** prior to the expiration of any existing insurance coverage, Lessor may purchase such insurance, on behalf of and at the expense of Lessee to provide **six (6) months** of coverage.
- 19.5. Recourse. Companies issuing the insurance policies shall have no recourse against Lessor for payment of premiums or assessments for any deductibles that are the responsibility of Lessee.
- 19.6. Waiver. Lessee and Lessor each waives any and all rights of recovery against the other, or against the representatives, officers, officials, employees, agents, and volunteers of the other, for the loss of or damage to such waiving party or the Property of others under its control, where such loss or damage is insured against under any Property insurance policy in force at the time of such loss or damage. Lessee and Lessor shall give notice to respective insurance carriers that the foregoing mutual waiver of subrogation is contained in the Agreement.

20. DAMAGE, DESTRUCTION, AND TERMINATION.

- 20.1. Nontermination and Nonabatement. Except as provided herein, no destruction or damage to the Leased Premises by fire, windstorm, earthquake, or other casualty, whether insured or uninsured, shall entitle Lessee to terminate this Agreement. Lessor and Lessee waive the provisions of any statutes which relate to termination of an Agreement when leased property is destroyed and agree that such event shall be governed by the terms of this Agreement.
- 20.2. Damage or Destruction by Lessee. If any part of the Leased Premises, the Airport, or associated Improvements is damaged or destroyed by Lessee, its representatives, officers, agents, employees, guests, patrons, suppliers, vendors, invitees, contractors, subcontractors, or **COMMERCIAL LESSEE ONLY Sublessees**, Lessee shall diligently, properly, and promptly repair, restore, or replace to the condition and character of the Leased Premises, the Airport, or associated Improvements immediately prior to damage.
- 20.2.1. If Lessee fails to comply with **Section 20.2. Damage or Destruction by Lessee**, of this Agreement Lessor may, at its own discretion, repair, restore, or replace the Leased Premises, the Airport, or associated Improvements. Lessee shall pay Lessor, upon demand, one hundred twenty-five (125%) of the amount that Lessor expended to repair, restore, or replace the damaged or destroyed part of the Leased Premises, the Airport, or associated Improvements.
- 20.3. Lessor Responsibility. If at any time during the term of this Agreement, any part of the Leased Premises is damaged or destroyed, Lessor shall be under no obligation to repair, restore, or replace the damaged or destroyed portion of the Leased Premises unless Lessor is responsible for such damage or destruction.
- 20.4. Destruction Due to Risk Covered by Insurance. If, during the term of this Agreement, the Leased Premises are totally or partially destroyed from a risk covered by the insurance described in **Section 19. Insurance**, of this Agreement, rendering the Leased Premises totally or partially inaccessible or unusable, Lessee shall restore the Leased Premises to substantially the same condition as it was in immediately before destruction. Such destruction shall not terminate this Agreement. If the laws existing at that time do not permit the restoration, either Party can terminate this Agreement immediately by giving notice to the other Party.
- 20.4.1. Minor Loss. If, during the term of this Agreement, the Leased Premises are damaged from a risk covered by the insurance described in **Section 19. Insurance**, of this Agreement, and the



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total amount of loss does not exceed [OPTION 1]one hundred thousand dollars (\$100,000)[OPTION 2]50% of the replacement cost, Lessee shall make the loss adjustment with the insurance company insuring the loss. The proceeds shall be paid directly to Lessor for the sole purpose of making the restoration of the Leased Premises in accordance with this Agreement.

20.4.2. Major Loss-Insurance Trustee. If, during the term of this Agreement, the Leased Premises are damaged from a risk covered by the insurance described in Section 19. Insurance. of this Agreement, and the total amount of loss exceeds the amount set forth in Section 20.4.1. Minor Loss. of this Agreement, Lessee shall make the loss adjustment with the insurance company insuring the loss and on receipt of the proceeds shall immediately pay them to an institutional lender or title company as may be jointly selected by the Parties (herein referred to as the "Insurance Trustee"), and funds shall be disbursed by the Insurance Trustee pursuant to the procedures set forth in Section 20.5. Destruction Due to Risk Not Covered by Insurance. of this Agreement.

20.5. Destruction Due to Risk Not Covered by Insurance. If, during the term of this Agreement, the Leased Premises are totally or partially destroyed from a risk not covered by the insurance described in Section 19. Insurance., rendering the Leased Premises totally or partially inaccessible or unusable, Lessee shall restore the Leased Premises to substantially the same condition as it was in immediately before destruction, whether or not the insurance proceeds are sufficient to cover the actual cost of restoration. Such destruction shall not terminate this Agreement. If the laws existing at that time do not permit the restoration, either party can terminate this Agreement immediately by giving notice to the other party.

20.5.1. If the cost of restoration exceeds ten percent (10%) of the replacement value of the Leased Premises totally or partially destroyed, Lessee can elect to terminate this Agreement by giving notice to Lessor within sixty (60) calendar days after determining the restoration cost and replacement value. If Lessee elects to terminate this Agreement, Lessor, within thirty (30) calendar days after receiving Lessee's notice to terminate, can elect to pay to Lessee, at the time Lessor notifies Lessee of its election, the difference between ten percent (10%) of the replacement value of the Leased Premises and the actual cost of restoration, in which case Lessee shall restore the Leased Premises. On Lessor's making its election to contribute, each Party shall deposit immediately the amount of its contribution with an Insurance Trustee. If the Destruction does not exceed ten percent (10%) of the then replacement value of the Leased Premises but does exceed [OPTION 1]one hundred thousand dollars (\$100,000)[OPTION 2]50% of the replacement cost, Lessee shall immediately deposit the cost of restoration with the Insurance Trustee. This Agreement shall terminate if Lessee elects to terminate this Agreement and Lessor does not elect to contribute toward the cost of restoration as provided in Section 20.5.1. of this Agreement.

20.5.2. If the Leased Premises are destroyed from a risk not covered by the insurance described in Section 19. Insurance. of this Agreement, and Lessee has the obligation to restore the Leased Premises as provided in Section 20.4.2. Major Loss-Insurance Trustee. of this Agreement, both Parties shall deposit with the Insurance Trustee their respective contributions toward the cost of restoration. All sums deposited with the Insurance Trustee shall be held for the following purposes and the Insurance Trustee shall have the following powers and duties:

- The sums shall be paid in installments by the Insurance Trustee to the contractor retained by Lessee as construction progresses, for payment of the cost of Restoration. A ten percent (10%) retention fund shall be established that will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the Leased Premises are free of all mechanics' liens and lienable claims.
- Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Lessee showing the amount due. If the Insurance Trustee, in its



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reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Lessee, the Insurance Trustee shall have the right to appoint an architect or an engineer to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by the Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by the Insurance Trustee shall be paid by the insurance trustee out of the trust fund. The Parties shall promptly execute all documents and perform all acts reasonably required by the Insurance Trustee to perform its obligations under **Section 20.5.2.** of this Agreement.

- If the sums held by the Insurance Trustee are not sufficient to pay the actual cost of restoration Lessee shall deposit the amount of the deficiency with the Insurance Trustee within fifteen (15) calendar days after request by the Insurance Trustee indicating the amount of the deficiency. Any undisbursed funds after compliance with the provisions of **Section 20.5.2.** of this Agreement shall be delivered to Lessor to the extent of Lessor's contribution to the fund, and the balance, if any, shall be paid to Lessee. All actual costs and charges of the Insurance Trustee shall be paid by Lessee.
- If the Insurance Trustee resigns or for any reason is unwilling to act or continue to act, a new trustee shall be jointly selected by the Parties and shall be substituted in the place of the designated Insurance Trustee. The new trustee must be an institutional lender or title company.

20.6. **Procedure for Restoring Leased Premises.** When Lessee is obligated to restore the Leased Premises, within ninety (90) days Lessee at its cost shall prepare final plans, specifications, and working drawings complying with applicable Legal Requirements that will be necessary for restoration of the Leased Premises and shall deliver the same to Lessor for approval. The plans, specifications, and working drawings must be approved by Lessor, such approval not to be unreasonably withheld, conditioned, or delayed. Lessor shall have thirty (30) days after receipt of the plans, specifications, and working drawings to either approve or disapprove the plans, specifications, and working drawings and return them to Lessee. If Lessor disapproves the plans, specifications, and working drawings, Lessor shall notify Lessee of its objections and Lessor's proposed solution to each objection. Lessee acknowledges that the plans, specifications, and working drawings shall be subject to approval of the appropriate Agencies and that they will be prepared in such a manner as to obtain that approval. The restoration shall be accomplished as follows:

- 20.6.1. Lessee shall make commercially reasonable efforts to complete the restoration within one hundred eighty (180) calendar days after final plans, specifications, and working drawings have been approved by the appropriate Agencies and all required permits have been obtained (subject to a reasonable extension for delays resulting from causes beyond Lessee's reasonable control).
- 20.6.2. Lessee shall retain a licensed contractor that is bondable. The contractor shall be required to carry public liability and property damage insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction in accordance with **Section 19. Insurance.** of this Agreement. Such insurance shall contain waiver of subrogation clauses in favor of Lessor and Lessee in accordance with the provisions of **Section 19. Insurance.**
- 20.6.3. Lessee shall notify Lessor of the date of commencement of the restoration at least ten (10) business days before commencement of the restoration to enable Lessor to post and record notices of non-responsibility. The contractor retained by Lessee shall not commence construction until a completion bond and a labor and materials bond have been delivered to Lessor to insure completion of the construction.



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- 20.6.4. Lessee shall accomplish the restoration in a manner that will cause the least inconvenience, annoyance, and disruption on the Leased Premises and at the Airport.
- 20.6.5. On completion of the restoration Lessee shall immediately record a notice of completion in the county in which the Leased Premises are located.
- 20.6.6. If funds are required to be deposited with an Insurance Trustee as required by **Section 20. Damage, Destruction, and Termination.** of this Agreement, the restoration shall not be commenced until sums sufficient to cover the cost of restoration are placed with the Insurance Trustee.

21. HOLD HARMLESS AND INDEMNIFICATION.

21.1. **General Indemnification.** Lessee shall defend, indemnify, save, protect, and hold harmless Lessor, individually and collectively, and its representatives, officers, officials, employees, agents, and volunteers from and against (and reimburse Lessor for) any and all actual or alleged claims, demands, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, environmental costs, and/or penalties (collectively referred to as costs) which may be imposed upon, claimed against or incurred or suffered by Lessor and which, in whole or in part, directly or indirectly, arise from or are in any way connected with any of the following, except to the extent resulting from Lessor's sole negligence or willful misconduct: (a) any act, error, omission, or negligence of Lessee or Lessee's partners, officers, directors, agents, employees, invitees, or contractors, (b) any use or occupation, management, or control of the Leased Premises, whether or not due to Lessee or Lessee's own act, error, omission, or negligence (c) any condition created in, on, or about the Leased Premises after the effective date, and (d) any breach, violation, or nonperformance of the Lessee or the Lessee's obligations under this Agreement or any other agreement between the Parties.

21.1.1. In the event a party indemnified hereunder is responsible, in part, for the loss, the indemnitor shall not be relieved of the obligation to indemnify; however, in such a case, liability shall be shared in accordance with the State's principles of comparative fault.

21.2. **Environmental Indemnification.** In the event of an environmental Legal Requirement violation or an environmental contaminating accident or incident caused by Lessee or Lessee's employees, vendors, suppliers, contractors, or any other entity associated with Lessee or in the event any of these entities violates any environmental Legal Requirement, Lessee shall accept total responsibility and shall defend, indemnify, save, protect, and hold harmless Lessor, individually and collectively, and its representatives, officers, officials, employees, agents, and volunteers.

21.3. **Waiver of Claims.** Lessee waives any claims against Lessor for injury to Lessee's business or any loss of income therefrom, for damage to Lessee's property, or for injury or death of any person in or about the Leased Premises, from any cause whatsoever, except to the extent caused by the active negligence or willful misconduct of Lessor or Lessor's officers, agents, contractors, volunteers, and employees.

21.4. **Non-Waiver of Protections.** Nothing herein shall constitute a waiver of any protection available to Lessor, individually and collectively, and its representatives, officers, officials, employees, agent, and volunteers under the State's sovereign, governmental, or other immunity acts or similar statutory provisions.

22. NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF LESSOR.

22.1. No official or employee of Lessor shall be personally liable for any default or liability under this Agreement.

23. SUBLEASING.

23.1. **COMMERCIAL LESSEE ONLY** Lessee shall not sublease any portion of the Leased Premises without the prior written consent of Lessor.



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- 23.1.1. Lessee shall submit the written agreement between Lessee and the sublessee to Lessor for review and evaluation. Lessor may require that an application be completed and all relevant and applicable information relating to the requested sublease be provided to Lessor for review and evaluation.
 - 23.1.2. A sublease made contrary to the requirements of **Section 23. Subleasing**, shall be null and void. Unless otherwise stated in the written consent, a sublease is subordinate and subject to all the terms and conditions of this Agreement.
 - 23.1.3. Sublessee may not occupy the Leased Premises before Lessor consents to the sublease in writing.
- 23.2. **[NON-COMMERCIAL LESSEE ONLY]** Lessee shall not sublease any portion of the Leased Premises.

24. SALE, ASSIGNMENT, OR TRANSFER.

- 24.1. Lessor Consent. Lessee shall not sell, assign, transfer, or hypothecate its interest in the Leased Premises or this Agreement, in whole or in part, without the prior written consent of Lessor.
 - 24.1.1. Consent by Lessor to one sale, assignment, transfer, or hypothecation shall not be deemed to be consent to any subsequent sale, assignment, transfer, or hypothecation.
 - 24.1.2. Any such sale, assignment, transfer, or hypothecation without Lessor's prior written consent shall be null and void and, at Lessor's option, shall constitute a default or breach of this Agreement.
 - 24.1.3. Dissolution of Lessee or the transfer of thirty-three percent (33%) or more of its outstanding stock, equity, or certificates of membership or interest to any single entity or party shall be deemed a sale, assignment, or transfer under this Agreement.
- 24.2. Lessee's Continued Liability. In the event Lessee's interest in the Leased Premises or this Agreement is sold, assigned, transferred, hypothecated, in whole or in part, Lessee shall remain liable to Lessor for the payment of rents, fees, and/or other charges not paid by the assignee when due and owing for a period of five (5) years.
- 24.3. Assignee Restrictions. The assignee shall not sell, assign, transfer, or hypothecate its interest in the Leased Premises or this Agreement without the prior written consent of Lessor and any sale, assignment, transfer, or hypothecation by Lessee shall contain a provision to this effect. Any assignee of Lessee shall be bound by the terms and conditions of this Agreement.
- 24.4. Lessor's Assignment. Lessor may sell, assign, transfer, or hypothecate any of its rights hereunder without notice to Lessee.

25. ENCUMBRANCES.

- 25.1. Lessee shall have no authority, express or implied, to create (or consent to the creation of) any lien, charge, or encumbrance upon the Leased Premises or mortgage, pledge, assign as collateral, voluntarily or otherwise, its interest in the Leased Premises or this Agreement and Lessee shall not permit the Leased Premises to be or become subject to any lien (including mechanic's liens), charge, or encumbrance whatsoever without the prior written consent of Lessor.

26. RELOCATION.

- 26.1. Lessee understands Lessor has the right to replace the Leased Premises, in whole or in part, with equivalent premises similarly situated at the Airport. If the change is solely for the benefit of Lessor, Lessor agrees to pay all reasonable relocation costs and expenses associated with relocating Lessee.

27. BOOKS AND RECORDS.



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- 27.1. Lessee's Obligations. Lessee shall maintain complete books and records containing the accounting and other financial records of Lessee's Activities on the Leased Premises and at the Airport including rents, fees, and other charges paid by Lessee for the current year and previous five (5) years.
- 27.1.1. All books and records shall be kept by Lessee in accordance with generally accepted accounting principles and shall reflect all amounts due and owing to Lessor.
- 27.1.2. In the event of an audit, Lessee shall provide the auditor access to and shall furnish the auditor with information, records, reports, or other documentation regarding financial transactions, conduct of Activities on the Leased Premises and at the Airport or any other information, records, reports, or other documentation that relates to the Activities being conducted by Lessee on the Leased Premises and at the Airport. Lessee shall also provide access for the auditor to inspect all Improvements, facilities, vehicles, equipment, and aircraft used by Lessee on the Leased Premises and at the Airport.
- 27.2. Lessor's Rights. Lessor may, at all reasonable times, audit records to enable verification and/or confirmation of the amount of rents, fees, and other charges due and owing to Lessor.
- 27.2.1. If Lessor is not satisfied with the findings of any audit conducted by Lessor, Lessor shall serve notice to Lessee.
- 27.2.2. If Lessee agrees with Lessor's audit findings, Lessee shall, within **thirty (30) calendar days** after receipt of notice, make known Lessee's agreement with Lessor's findings in writing and pay one hundred twenty-five percent (125%) of all monies due and owing to Lessor. If Lessee does not agree with Lessor's findings, Lessee shall, within **sixty (60) calendar days** after receipt of notice from Lessor, furnish to Lessor, at Lessee's sole cost and expense, an audit made by an independent Certified Public Accountant (CPA) mutually agreeable to both Parties.
- 27.2.3. All costs and expenses of Lessor's audit shall be paid by Lessee if the report of the independent CPA certifies Lessor's audit contained a finding prejudicial to Lessor's receipt of rents, fees, and/or other charges as described herein, in an amount equal to or greater than **two percent (2%)** of the amount of rents, fees, and other charges reported by Lessee.
- 27.2.4. The final audit of the independent CPA made under **Section 27.2. Lessor's Rights** of this Agreement shall be conclusive upon the Parties and Lessee shall pay to Lessor, within **fourteen (14) calendar days** after a copy of the independent CPA's final report has been delivered to Lessee, **one hundred twenty-five (125%)** of the amount, if any, identified as due and owing to Lessor. The failure of Lessee to make payment within **fourteen (14) calendar days** shall constitute a default under this Agreement and shall give cause to Lessor for immediate termination of this Agreement.

28. SURRENDER LEASED PREMISES.

- 28.1. Upon expiration of the term of this Agreement or earlier termination of this Agreement, Lessee shall vacate and surrender possession of the Leased Premises to Lessor. If Lessee fails to do so, Lessor may immediately commence eviction proceedings at its sole discretion.
- 28.2. Lessee shall return the Leased Premises to Lessor in as good condition as when Lessee took possession, ordinary and reasonable wear and tear excepted. Any deterioration or damage caused by incident, accident, abuse, carelessness, negligence, or misconduct shall not be considered ordinary and reasonable wear and tear. In the event that Lessee fails to return the Leased Premises to Lessor in good condition, Lessor may perform any work necessary to return the Leased Premises to good condition including maintenance, repair, restoration, replacement, and cleaning and deduct the cost of the work from the Security Deposit or file a claim against Lessee's Performance Bond or personal guarantee. If the Security Deposit, Performance Bond, or personal guarantee is insufficient to cover the work performed, Lessee shall be obliged to pay the additional balance to Lessor.



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- 28.3. Provided Lessee is not in default or breach of this Agreement, Lessee shall also remove all personal property from the Leased Premises upon expiration of the term of this Agreement or earlier termination of this Agreement. If Lessee fails to do so, Lessor may remove or caused to be removed, at Lessee's sole risk, cost, and expense and without any liability to Lessor, all personal property. Lessor may dispose of any personal property removed from the Leased Premises in accordance with applicable local governance adopted by the Board of Supervisors or applicable FAA regulations, or other directives of Lessor, and Legal Requirements and deduct the cost of doing so from the Security Deposit or file a claim against Lessee's Performance Bond or personal guarantee. If the Security Deposit, Performance Bond, or personal guarantee is insufficient to cover the work performed, Lessee shall be obliged to pay the additional balance to Lessor.
- 28.4. The Security Deposit or the portion not applied pursuant to the terms and conditions of this Agreement shall be returned to the Lessee without interest no later than **thirty (30) calendar days** after the expiration of the term of this Agreement provided the Lessee has vacated and surrendered possession of the Leased Premises to Lessor.
- 28.5. Surrender of Agreement or Leased Premises. The voluntary or other surrender of this Agreement or the Leased Premises by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Lessor, terminate all or any existing subleases or subtenancies, or may, at the option of Lessor, operate as an assignment of any and all such subleases or subtenancies.

29. REPRESENTATIONS AND WARRANTIES OF LESSEE.

- 29.1. Lessee represents and warrants to Lessor that:
- 29.1.1. Lessee is duly organized and validly existing under the laws of its jurisdiction, incorporation, or establishment,
 - 29.1.2. Lessee has the power and the authority to enter and perform the terms and conditions of this Agreement and to pay the rents, fees, or other charges required under this Agreement,
 - 29.1.3. This Agreement has been duly authorized, executed, and delivered by Lessee and assuming the due authorization, execution, and delivery hereof by the Parties hereto, constitutes a legal, valid, and binding obligation of it enforceable against it in accordance with the terms and conditions of this Agreement, subject to applicable bankruptcy, insolvency, and similar laws affecting creditor's rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law,
 - 29.1.4. Lessee's execution and delivery of this Agreement and its performance of the terms and conditions of this Agreement do not and will not constitute or result in a default, breach, or violation of, or the creation of any lien or encumbrance on the Leased Premises under, its charter or bylaws (or equivalent organizational documents), or any other agreement, instrument, law, ordinance, regulation, judgment, injunction, or order applicable to Lessee or the Leased Premises,
 - 29.1.5. All consents, authorizations, and approvals requisite for Lessee's execution, delivery, and performance of this Agreement have been obtained and remain in full force and effect and all conditions, obligations, privileges, and agreements thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or Agency is required for such execution, delivery, or performance, and
 - 29.1.6. There is no proceeding pending or threatened against Lessee at law or in equity, or before any governmental instrumentality or in any arbitration, which would materially impair Lessee's ability to perform the terms and conditions of this Agreement and there is no such proceeding pending against Lessee which purports or is likely to affect the legality, validity, or enforceability of this Agreement.



30. MISCELLANEOUS PROVISIONS.

- 30.1. Independent Entities. Nothing in this Agreement is intended to nor shall it be construed, in any way, as creating or establishing a relationship of partners between the Parties or as constituting Lessee as a representative, officer, official, employee, agent, or volunteer of Lessor for any purpose or in any manner whatsoever.
- 30.2. Binding Effect. This Agreement shall be binding on and inure to the benefit of the heirs, successors, and assigns of the Parties. Whenever a reference is made to either Party, such reference shall be deemed to include, wherever applicable, a reference to the heirs, successors, and assigns of such Party, as if in every case so expressed.
- 30.3. Conflict of Interest. Lessee shall avoid conflict of interest or appearance of conflict of interest in performance of this Agreement. Lessee warrants and covenants that no official or employee of Lessor nor any business entity in which any official or employee of Lessor is interested: (a) has been employed or retained to solicit or aid in the procuring of this Agreement or (b) will be employed in the performance of this Agreement without the divulgence of such fact to Lessor. In the event that Lessor determines that the employment of any such official, employee, or business entity is not compatible with such official's or employee's duties as an official or employee of Lessor, Lessee upon request of Lessor shall immediately terminate such relationship or employment. Violation of this provision constitutes a serious breach of this Agreement and Lessor may terminate this Agreement because of such violation.
- 30.4. Memorandum of Agreement. Following execution of this Agreement, either Party, at its sole expense, shall be entitled to record a Memorandum of Agreement in the official records of Humboldt County. Upon termination or expiration of this Agreement, Lessee shall execute and record a quitclaim deed as to Lessee's leasehold interest.
- 30.5. Nuclear-Free Humboldt County Ordinance Compliance. By executing this Agreement, lessee certifies that it is not a Nuclear Weapons Contractor, in that lessee is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear-Free Humboldt County Ordinance. Lessee agrees to notify lessor immediately if it becomes a Nuclear Weapons Contractor as defined above. Lessor may immediately terminate this Agreement if it determines that the foregoing certification is false or if lessee subsequently becomes a Nuclear Weapons Contractor.
- 30.6. Subordination. This Agreement is subject and subordinate to the provisions of any existing or future agreements between Lessor and the United States, including Grant Assurances required by the Federal Aviation Administration, the State of California, or any other entity pertaining to the planning, development, operation (including maintenance and repair), and management of the Airport.
- 30.7. Dispute Resolution. Unless otherwise mutually agreed to, any controversies between Lessee and Lessor regarding the construction or application of this Agreement, and claims arising out of this Agreement or its defaults or breaches shall be submitted to mediation within thirty (30) calendar days of the written request of one (1) Party after the service of that request on the other Party.
- 30.7.1. The Parties may agree on one (1) mediator. If they cannot agree on one (1) mediator, the Party demanding mediation shall request the Superior Court of Humboldt County to appoint a mediator. The mediation meeting shall not exceed one (1) day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- 30.7.2. The costs of mediation shall be borne by the Parties equally.
- 30.7.3. Mediation under Section 30.7. Dispute Resolution of this Agreement is a condition precedent to filing an action in any court. In the event of litigation arising out of any dispute related to this Agreement, the prevailing party shall be entitled to recover their reasonable attorney's fees, expert witness costs, and cost of suit.



GENERAL AVIATION LEASE AND USE AGREEMENT

- 30.8. Governing Law and Venue. This Agreement shall be deemed to have been made in, and shall be construed in, accordance with the statutes and laws of the State without regard to conflicts of law principles.
- 30.8.1. The Superior Court of Humboldt County (Court) shall have exclusive jurisdiction and venue with respect to all disputes, actions, and proceedings arising from or under this Agreement, regardless of the nature or basis of the dispute.
- 30.8.2. Lessee consents to the jurisdiction and venue of the Court and waives personal service of any and all process upon Lessee in all such actions or proceedings, and consents that all such service or process shall be made by certified mail, return receipt requested, directed to Lessee at the address herein stated, and service so made shall be completed **two (2) calendar days** after the same shall have been posted.
- 30.8.3. If any legal action is brought about by either Party to enforce this Agreement or any part thereof, the prevailing Party shall be entitled to recover attorney and court fees, costs, and expenses.
- 30.9. Holding Over. If Lessee, upon expiration of the term of this Agreement remains in possession of the Leased Premises, such holding over shall be regarded as a month-to-month tenancy (not as a renewal or extension of this Agreement) which may be terminated at any time by Lessor or Lessee by providing not less than thirty (30) calendar days written notice. The rents, fees, and other charges that shall be paid during the holding over period shall be equal to **one hundred fifty percent (150%)** of the monthly rents, fees, and other charges that were being charged by Lessor at the time the term of this Agreement expired. The holdover period shall be subject to all the terms and conditions of this Agreement. This provision shall not be construed as Lessor's permission for Lessee to hold over. Acceptance of rents, fees, and other charges shall not constitute a renewal or extension of this Agreement.
- 30.10. Compliance with Legal Requirements. The Parties hereto shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state and local governments (herein referred to as "Legal Requirements") in the performance of their rights, duties, and obligations under this Agreement.
- 30.11. Interpretations. In construing or interpreting this Agreement, the word "or" shall not be construed as exclusive and the word "including" shall not be limiting. The Parties agree that this Agreement shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against any other Party.
- 30.12. Captions. The captions of the various sections, paragraphs, and subparagraphs of this Agreement are inserted only as a matter of convenience or reference only, and are not intended to define, limit, or describe the scope of this Agreement or any provision contained herein.
- 30.13. Severability. If any provision in this Agreement is held to be illegal, invalid, or unenforceable in full or in part, for any reason, by any court of competent jurisdiction, then such provision shall be modified to the minimum extent necessary to make the provision legal, valid, and enforceable. The illegality, invalidity, or unenforceability of any such provision shall in no way affect any other provisions in this Agreement, provided that the illegality, invalidity, or unenforceability of any such provision does not materially prejudice either Party with regard to the respective rights and obligations of each Party contained in the valid terms and conditions of this Agreement.
- 30.14. Brokers. Each Party represents that is has not had dealings with any real estate broker, finder, or other person, with respect to this Agreement in any manner. Each Party shall hold harmless the other Party from all damages resulting from any claims that may be asserted against the other Party by any broker, finder, or other person with whom the Indemnifying Party has or purportedly has dealt.
- 30.15. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



GENERAL AVIATION LEASE AND USE AGREEMENT

30.16. Amendments. The Parties acknowledge no oral agreements regarding this Agreement have been entered into by and between the Parties and that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing, agreed to, and signed by the Parties.

30.17. Time of Essence. It is mutually agreed by the Parties that time is of the essence in the performance of the terms and conditions to be kept and performed under this Agreement.

30.18. Entire Agreement. This Agreement, including any exhibits attached hereto, contains and embodies the entire understanding and agreement between the Parties and supersedes and replaces any and all prior understandings and agreements, written or oral, expressed or implied, relating to this Agreement.

30.19. Notices. Whenever any notice or communication is required by this Agreement to be made, given or transmitted to the Parties, such notice shall be hand delivered or sent by certified mail (postage prepaid), courier, or overnight carrier, and addressed to:

Lessor:

With a Copy to:

Entity Name

Entity Name

Address

Address

City, State and Zip

City, State and Zip

Lessee:

With a Copy to:

Entity Name

Entity Name

Address

Address

City, State and Zip

City, State and Zip

30.19.1. The date of service of notice shall be the date such notice is delivered to the intended Party or the date delivery is refused by the intended Party.

30.19.2. The Parties may, from time to time, designate to each other in writing a different address or different entity or entities to which all such notices, communications, or payments shall be given or made.

30.20. Signing Authority. If this Agreement is not signed by all Lessees named herein, the person signing warrants that he/she has the authority to sign for the others.

30.21. Exhibits and Appendix. The following exhibit and appendix items are attached hereto and made a part of this Agreement:

30.21.1. Exhibit A – Map of the Leased Premises

30.21.2. Appendix A – Definitions and Acronyms

30.21.3. Appendix B – Rent Study

30.21.4. Exhibit B – Grant Assurances Required by the Federal Aviation Administration



GENERAL AVIATION LEASE AND USE AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year set forth herein. This Agreement is effective as of the last date signed by either party.

SPONSOR FULL NAME:

ATTEST:

[NAME], [TITLE]

[NAME OF SECRETARY], Secretary

NOTARY:

Date:

[NAME OF NOTARY]

Approved as to form and legality by:

Commission Expires: _____

SEAL

[NAME OF LESSOR ATTORNEY]
Attorney for Humboldt County

[NAME OF LESSEE]:

ATTEST:

[NAME], [TITLE]
[NAME OF LESSEE]

[NAME], [TITLE]

NOTARY:

Date: _____

[NAME OF NOTARY]

Commission Expires: _____

SEAL



EXHIBIT A – MAP OF THE LEASED PREMISES

Insert map identifying lease boundary and components



APPENDIX A GENERAL AVIATION LEASE AND USE AGREEMENT

APPENDIX A – DEFINITIONS AND ACRONYMS

Agency – Any federal, state, or local governmental entity, unit, organization, or authority.

Aeronautical Activity (or Activity) – Any activity or service that involves, makes possible, facilitates, is related to, assists in, or is required for the operation of aircraft. Any activity which contributes to, or is required for, the safety of such operations. Any activities which have a direct relationship to the operation of aircraft or the operation of the Airport.

Airport – All land, Improvements, and appurtenances within the legal boundaries as it now exists on the Airport Full Name Layout Plan (or exhibit of the most recent FAA grant) and as it may hereinafter be modified from time-to-time.

Airport Layout Plan, (or ALP) – The FAA approved, and County adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and County depicting the physical layout of the Airport and identifying the location and configuration of current and proposed Runways, Taxiways, buildings, roadways, utilities, nav aids, etc.

Airport Sponsor Assurances – Those contractual obligations that are described by law in 49 U.S.C. 47107 and are undertaken by a public airport sponsor as a condition of receipt of federal airport development grants or federal surplus Property.

Based Aircraft – An aircraft identified in a written aircraft storage Agreement with the County, FBO, or SASO.

Certificates of Insurance – A certificate provided by and executed by an Operator's, Lessee's, or Sublessee's insurance company providing evidence of the insurance coverages and policy limits of the Operator, Lessee, or Sublessee.

Co-Op Fueling – The fueling of an aircraft by the Owner of the aircraft or the Owner's Employee using vehicles, equipment, and resources owned by an approved Association.

Code of Federal Regulation (or CFR) – The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government, divided into 50 titles that represent broad areas subject to federal regulation, updated once each calendar year and issued quarterly, as may be amended from time to time.

Commercial – For the purpose of securing earnings, income, Compensation (including exchange or barter of goods and services), and/or profit.

Commercial General Liability – For damages due to bodily injury, personal injury, Property damage, contractual liability, products and completed operations and, if applicable, use of unlicensed Vehicles that in any way arise from the use of the Leased Premises and operations or Activities of the entity. Unlicensed Vehicles operated on the Movement Area will require coverage in an amount not less than that identified for combined single limit per occurrence for bodily injury, personal injury, and Property damage.

Compensation – Any form of reimbursement for goods or services such as monetary, exchange, barter, favors, gratuity, etc.

Current – All rents, fees, and other charges required to be paid under all Agreements are paid in full.

Employee – Any individual employed by an entity whereby said entity collects and pays all associated taxes on behalf of Employee. The determination of status between an Employee and an independent contractor shall be made according to current IRS codes.

Environmental Protection Agency (or EPA) – The Agency within the United States Government having responsibility for enforcing the environmental regulations or laws enacted by Congress.



APPENDIX A GENERAL AVIATION LEASE AND USE AGREEMENT

Exclusive Right – A power, privilege, or other right excluding or preventing another from enjoying or exercising a like power, privilege, or right. An Exclusive Right may be conferred either by express agreement, by imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties but excluding others from enjoying or exercising a similar right or rights, would be an Exclusive Right. An Exclusive Right to conduct an Aeronautical Activity, which is forbidden by federal regulation, is distinguished from an Exclusive Right to occupy real estate, which is permitted by federal regulation under certain conditions.

Federal Aviation Administration (or FAA) – The Agency within the Department of Transportation of the United States Government that has the responsibility of regulating Aeronautical Activities.

General Aviation – All aviation with exception of Air Carriers and the military.

General Aviation Minimum Standards (or Minimum Standards) – Those qualifications, standards, and criteria set forth as the minimum requirements to be met as a condition for the right to engage in Activities at the Airport, as may be amended from time to time.

Good Standing – Full compliance with all applicable Legal Requirements and not in default of any Agreement with the County.

Hangar – Any fully or partially enclosed storage facility for an aircraft.

Hangar Keeper's Legal Liability – To include Property damage for all non-owned aircraft under the care, custody, and control of the Operator.

Hazardous Materials – A substance, item, or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

Improvements – All buildings, structures, additions, and facilities including pavement, fencing, and landscaping constructed, installed, or placed on, under, or above any land on the Airport.

Legal Requirements – All applicable federal, state, county, and local laws, codes, ordinances, policies, and regulations.

Market Rent – The rent that land or Improvements would command in the open market as indicated by rents asked and paid for at comparable land or improvements as of the date of determination.

Non-Commercial – Not for the purpose of securing earnings, income, Compensation (including exchange or barter of goods and services), and/or profit.

Owner – The registered legal owner of an aircraft according to FAA records.

Ramp – Those Paved areas of the Airport within the AOA designated by the County for parking, loading, unloading, fueling, or servicing of aircraft.

Rules and Regulations – The rules and regulations set forth by the County for the safe, secure, orderly, and efficient use of the Airport, as may be amended from time to time.

Sublease – An agreement entered by an entity with an Operator or Lessee that transfers rights or interests in the Operator's or Lessee's Leased Premises and for which, the County has given proper consent.

Sublessee – An entity that has entered a Sublease with an Operator or Lessee who is authorized (by the County) to engage in Commercial Aeronautical Activities at the Airport.

Through-the-Fence – County approved ground access by an aircraft across the Airport's property boundary to the Airport's airside infrastructure (commonly through-the-fence) and permission to engage in associated activities from property adjacent to the Airport.



APPENDIX A
GENERAL AVIATION LEASE AND USE AGREEMENT

ACRONYMS

AC	Advisory Circular	EPA	Environmental Protection Agency
ALP	Airport Layout Plan	FAA	Federal Aviation Administration
AOA	Air Operations Area	FAR	Federal Aviation Regulation
CFR	Code of Federal Regulation	FBO	Fixed Base Operator
CPA	Certified Public Accountant	NOTAM	Notice to Airmen
CPI	Consumer Price Index	SASO	Specialized Aviation Service Operator
DHS	Department of Homeland Security	U.S.C.	United States Code
DOT	Department of Transportation		



APPENDIX B – RENT STUDY

Market Rent for Airport land and County-owned Improvements will be established in accordance with the County’s schedule beginning in Calendar Year 2021 and occurring every five (5) years thereafter (i.e., 2026, 2031, 2036, etc.) based on the findings of a Rent Study. On an annual basis between each Rent Study (i.e., 2022, 2023, 2024, 2025), all rents shall be adjusted by the CPI in accordance with **Section 5.2.** of this Agreement.

The objective of the Rent Study is to establish Market Rent for the Leased Premises based on a comparative analysis of the rents being charged for similar properties at comparable airports.

The Lessor shall engage an independent entity (i.e., aviation consultant or appraiser) with the following background and experience to conduct a Rent Study:

- working knowledge of the aviation industry,
- familiarity with federal and state Legal Requirements and FAA regulations, obligations, and guidance pertaining to setting rents for aeronautical land and Improvements being used for General Aviation purposes, and
- experience providing Rent Studies at similar locations.

Rents and related information shall then be obtained (from airports determined to be comparable) and analyzed to derive the Market Rent for the Leased Premises. Each component of the Leased Premises shall be analyzed independently.

- The Lessor and Lessee may suggest airports to the independent entity considered to be comparable, however the independent entity shall not be obligated to use such recommended locations.

To ensure consistency in the determination of Market Rent for the Leased Premises, the independent entity may categorize, and group similarly situated components of the Leased Premises by use and attributes. In determining the Market Rent for the Leased Premises, the independent entity shall use such categorizations and groupings with consideration given to the functional utility or limitations of the Leased Premises. This shall include, but not necessarily be limited to, any limitations or restrictions on the development, the availability of utilities, and/or the ability of the Leased Premises to support the aircraft that normally frequent the Airport.

The independent entity shall consider properties at the Airport that are similar to the Leased Premises and, if appropriate, the independent entity may also consider properties located at competitive facilities and general real estate market conditions and trends in the local market.

If the rents charged for similar properties at the Airport, comparable airports, and/or competitive facilities are impacted by the fees being charged or if fees are charged in lieu of rent, the relationship between the rents and fees shall be considered and addressed by the independent entity.