



MONTHLY AIRCRAFT TIE-DOWN LEASE AGREEMENT

THIS MONTHLY AIRCRAFT TIE-DOWN LEASE AGREEMENT (the "Lease") entered into this ____ day of _____, 20____, by and between the **PORT OF BELLINGHAM**, a municipal corporation hereinafter called "Lessor", and _____, hereinafter called "Lessee".

ARTICLE I
Summary of Lease Terms and Definitions

Lessor: Port of Bellingham
Lessor's Address: 1801 Roeder Avenue
Bellingham, WA 98225

Lessee: _____
Lessee's Address: _____

Lessee's Home/Cell Phone: _____
Lessee's Business Phone: _____
Lessee's Email: _____

Aircraft Make & Model: _____
Registration Number: _____

Premises: Tie-Down# _____

Use of Premises: Aircraft storage and related uses

Commencement Date: _____
Term: Month to Month

Base Rent: Pursuant to Airport Tariff Schedule

Amount of Deposit: \$ _____

ARTICLE II
Premises, Term, Renewals

2.1 **PREMISES:** Lessor, in consideration of the rents hereinafter reserved and of the covenants and conditions herein set forth to be performed by Lessee, does hereby lease to Lessee Tie Down #_____ at the Bellingham International Airport in Whatcom County, Washington (the "Premises").

2.2 **TERM:** The term of this Lease shall be month to month commencing on _____, 20__ (the "Commencement Date"). If Lessee takes possession of the Premises before the Commencement Date set forth above, Lessee shall pay the pro rata rent for the period prior to commencement of the Lease term.

2.3 **TERMINATION:** Either party may terminate this Lease by giving written notice to the other party not less than thirty (30) days prior to such termination. This Lease may be terminated other than at the end of any calendar month, and in such case the Lessee shall be liable for Rent for any portion of a month on a per diem basis.

ARTICLE III
Compensation, Rental Adjustment

3.1 **RENT:** The term "Rent" as used herein includes Base Rent plus applicable Washington State leasehold excise tax, and other fees and charges assessed herein. The Base Rent shall be determined pursuant to the Airport tariff schedule published by Lessor (the "Tariff"). The Lessor may amend the Tariff to increase the Base Rent from time to time, without prior written notification to the Lessee. Without limiting the foregoing, Lessor will provide Lessee reasonable notification prior any increased Base Rent is applied to the Premises hereunder. In the event the Base Rent is modified and Lessee has paid rent more than one month Base Rent in advance, the Lessor shall be obligated to refund Lessee any sums due in the event of a rental decrease and the Lessee shall be obligated to pay additional sums due in the event of a rental increase. All Base Rent adjustments shall be determined on a per diem basis for the effective day of rent change and are due the appropriate party within 30 days of notification of the change.

3.1.1 **Rent Paid in Advance – Late Charges.** Rent shall be paid monthly in advance on or before the first (1st) day of each month beginning on the Commencement Date. A late charge of one percent (1%) per month will be assessed against past due Rent from the date such Rent became due. All accrued interest and late charges shall be paid no later than the first (1st) day of the month following that month in which such interest or late charges accrued. Except as expressly provided elsewhere herein, Rent and all other sums payable by Lessee pursuant to this Lease shall be paid without the requirement that Lessor provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement.

ARTICLE IV
Use of Premises, Condition of Premises,
Improvements, Removal of Property, Maintenance, and Utilities,
Federal Aviation Requirements, and Fire Protection

4.1 **LESSEE'S USE OF PREMISES:** Lessee shall only conduct the following activity on the Premises: storage of the aircraft set forth in Article I of this Lease and related personal aeronautical uses (the "Authorized Use"). Without limiting the generality of the foregoing, Lessee shall not: (i) utilize the Premises to repair and/or overhaul any aircraft or equipment, except as authorized under the Federal Aviation Regulations and Bellingham Airport Rules and Regulations, as now adopted or hereinafter amended, a copy of which are available at the Airport Administration Office or online at www.flybli.com (the "Rules"), or (ii) conduct any charter, rental, repair, instruction service, or any other commercial activity in or from the Premises.

4.1.1 **Airport Rules and Regulations.** The Lessee shall faithfully observe the Rules, which are incorporated herein and made a part of this Lease. The Lessee warrants that it has read and is familiar with the Rules. Lessee understands that these rules and regulations are subject to change and Lessee shall maintain familiarity with all current Rules.

4.1.2 **Tie-Down Obligation.** Lessee shall be solely responsible to secure and unsecure its aircraft at the Premises. The Lessor shall not provide any tie-down or wheel chock services. Lessee shall use the tie-down ropes provided by Lessor, if any, or personal gear of equal or greater tensile strength. In the event there shall be insufficient quantity of Lessor provided ropes available, Lessee shall obtain proper tie-down ropes at Lessee's sole cost and expense. Nothing herein obligates Lessor to provide any tie-down ropes to Lessee, and any such ropes provided by Lessor are provided for Lessee's convenience and not due to any obligation of Lessor. Lessee shall inspect all ropes utilized to secure aircraft at the Premises to insure the adequacy and condition of the same, regardless if such ropes are provided by Lessor or Lessee. Lessee shall be solely responsible for determining the adequacy of any ropes utilized at the Premises and for properly securing aircraft at the Premises including, but not limited to, setting breaks, placing chocks, tying down or otherwise securing its aircraft in a safe manner and in addition to, and not limitation of, Lessee's other indemnification obligations herein, Lessee shall defend, indemnify, and hold harmless Lessor from any and all losses (whether personal injury or property damage) related to or arising out of Lessee's breach of its obligations in this paragraph.

4.1.3 **Default - Unauthorized Use.** Lessee shall be in default under this Lease if it conducts any other business or activity on the Premises without first obtaining a validly executed Lease modification.

4.1.4 **No Flammable or Dangerous Materials.** Notwithstanding the foregoing described use, the Premises shall not be used to store, distribute or otherwise handle flammable or dangerous materials, except as may be permitted by the Rules. At the request of Lessor, Lessee shall provide a list of all flammable or dangerous materials stored or used on the Premises.

4.2 **TENANT IMPROVEMENTS:** The Lessee shall not make any improvements to the Premises without the Lessor's prior written consent, which consent may be denied, conditioned, or delayed at Lessor's sole discretion.

4.3 REMOVAL OF PERSONAL PROPERTY AND TENANT IMPROVEMENTS AT END OF LEASE: Prior to the conclusion of the Lease, at Lessor's option, Lessee shall remove all equipment and personal property from the Premises.

4.3.1 Lessor's Remedies. If any of the foregoing items are not removed from the Premises by the conclusion of the Lease or when Lessor has the right of re-entry, then Lessor may, at its sole option, elect any or all the following remedies:

- a. To remove any or all the items and to dispose of them without liability to Lessee. Lessor shall not be required to mitigate its damages, to dispose of the items in a commercially reasonable manner, or to make any effort whatsoever to obtain payment for such items. Lessee agrees to pay Lessor's costs and damages associated with Lessee's failure to remove such items, including, but not limited to, the following: storage, demolition, removal, transportation and lost rent (collectively "Disposal Costs"); provided, however, that any net proceeds recovered by Lessor in excess of its Disposal Costs will be deducted from Lessee's financial obligation set forth herein. Lessee's financial obligations herein shall survive the termination of this Lease.
- b. To have the title to any or all such items revert to Lessor.
- c. To commence suit against Lessee for damages or for specific performance.

The foregoing remedies are cumulative and in addition to any other remedies provided by law, and Lessor shall not be required to elect its remedies.

4.5 MAINTENANCE OF PREMISES: Lessee shall be solely and exclusively liable for any damage caused to any portion of the Premises or Lessor's property by Lessee, its employees, agents, licensees, invitees or anyone on the Premises or Lessor's property as a result of Lessee's activities.

4.6 FEDERAL AVIATION REQUIREMENTS: The Lessee agrees that its use of the Premises will be accomplished in accordance with the following covenants.

4.6.1 Takeoff/Landing Interference. Lessee shall prevent any use of the Premises which would interfere with the landing or taking off of aircraft at the Bellingham International Airport, or otherwise constitute an airport hazard.

4.6.2 Electromagnetic Interference. Lessee shall prevent any operation on the Premises which would produce electromagnetic radiations of a nature which would cause interference with any air navigational or communications aid now or in the future to be installed to serve the Bellingham International Airport, or which would create any interfering or confusing light or cause any restrictions to visibility at the airport.

4.6.3 Airspace Reservation. Lessor retains the public right of flight for the passage of aircraft in the airspace above the surface of the Premises hereinbefore described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in said airspace, and for use of said airspace for landing on, taking off from or operating on the Bellingham International Airport.

4.6.4 **Minority Business Enterprises.** Lessee understands that it is the policy of the U.S. Department of Transportation that minority business enterprises as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of this Lease as defined in 49 CFR, Section 23.5, and that this Lease is subject to 49 CFR, Part 23, as applicable. Lessee hereby assures that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with 49 CFR, Part 23, on the grounds of race, color, national origin, or sex.

ARTICLE V

Insurance and Financial Security

5.1 **CASUALTY LOSS OF LESSEE:** The parties hereto agree that the Lessor, its commissioners and employees, Lessor's insurance carrier and Lessor's casualty policy shall not be responsible to the Lessee for any property loss or damage done to the Lessee's property, whether real, personal or mixed, occasioned by reason of any fire, storm or other casualty whatsoever. It shall be the Lessee's sole responsibility to provide its own protection against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Lessor, Lessee, third party, or act of nature. Lessee hereby releases and discharges the Lessor, its commissioners and employees, Lessor's insurance carrier and Lessor's casualty policy from any claims for loss or damage to Lessee's property.

5.2 **INSURANCE:** Lessee shall procure and maintain an aircraft liability insurance policy with premises liability covering all claims for personal injury (including death) and property damage (including all real and personal property located on the Premises or Lessor's property) arising on the Premises or Lessor's property as a result of, or arising out of, Lessee's operations under this Lease. The limits of liability shall be not less than One Million Dollars (\$1,000,000.00) for each occurrence and in the aggregate or unless the Lessee requests, and Lessor approves in writing, a lesser liability limit. If the Lessee maintains higher insurance limits than the minimums required herein, the Lessor shall be insured for the full available limits of Commercial General and/or Excess or Umbrella liability maintained by the Lessee, irrespective of whether such limits maintained by the Lessee are greater than those required by this Lease or whether any certificate of insurance furnished to the Lessor evidences the lower limits of liability set forth above. The liability policies shall contain a cross-liability provision such that the policy will be construed as if separate policies were issued to Lessee and to Lessor.

5.2.1 **Policy Provisions.** The foregoing insurance policy shall name Lessor as an additional insured by way of a policy endorsement. Lessee shall provide certificates of insurance and, if requested, copies of any policy to Lessor identifying the Port of Bellingham as an additional insured.

Port of Bellingham
1801 Roeder Ave
Bellingham, WA 98227

Receipt of such certificate or policy by Lessor does not constitute approval by Lessor of the terms of such policy. Furthermore, the policy of insurance required herein shall: (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to Lessor except upon thirty (30) days' or less prior written notice from the insurance company to Lessor; (iii) shall endeavor to provide a waiver of subrogation by the insurance company against Lessor and Lessor's elected officials, employees

or agents; (iv) contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit; (v) not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another; and (vi) provide for coverage for damage to the Lessor's property caused by the Lessee.

5.2.2 Failure to Obtain and Maintain Insurance. If Lessee fails to procure and maintain the insurance described above, Lessor shall have the right, but not the obligation, to procure and maintain substitute insurance and to pay the premiums. Lessee shall pay to Lessor upon demand the full amount paid by Lessor. Failure to maintain insurance as required will be a breach of this lease.

5.2.3 Prudent Insurance. The Lessee believes and states that the insurance obligation herein does not exceed that which the Lessee would otherwise normally place upon itself and obtain in order to operate in a prudent manner.

5.3 FINANCIAL SECURITY: In lieu of providing a rental bond, Lessee shall pay first and last months of Base Rent prior to the Commencement Date. Failure to comply with this requirement shall be grounds for termination of this Lease without notice by Lessor. The deposit shall be increased annually to reflect any adjustments in annual Rent. Upon any default by Lessee in its obligations under this Lease, Lessor may apply the last month's Base Rent to offset the liability of Lessee to Lessor. Collection on the last month's Base Rent shall not relieve Lessee of liability, shall not limit any of Lessor's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

ARTICLE VI

Environmental Liability

6.1 ENVIRONMENTAL INDEMNIFICATION: Lessee shall defend (with legal counsel suitable to Lessor), indemnify and hold Lessor harmless from any and all claims, demands, judgments, orders or damages resulting from Hazardous Substances on the Premises or Lessor's property caused in whole or in part by the activity of the Lessee, its agents, subtenants, or any other person or entity (i) on the Premises as a result of, arising out of, or relating to Lessee's operations under this Lease or any previous lease or agreement or (ii) on the Lessor's property as a result of, arising out of, or relating to Lessee's operations under this Lease or any previous lease or agreement. It is the intent of the parties that Lessee shall be responsible and shall defend and hold Lessor harmless from any Hazardous Substances that have or may occur on the Premises or Lessor's property as a result of, arising out of, or relating to Lessee's operations since Lessee first occupied the Premises or other portion of the Lessor's property through this Lease or any previous lease or agreement with Lessor. The term "Hazardous Substances" as used herein shall mean any substance heretofore or hereafter designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Sec. 6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sec. 1251 et seq.; the Clean Air Act, 42 USC Sec. 7401 et seq.; the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 USC Sec. 9601 et seq.; or the Hazardous Waste Cleanup-Model Toxics Control Act, RCW 70.105D, all as amended and subject to all regulations promulgated thereunder.

6.1.1 Unconditional Environmental Obligations. Lessee's defense and indemnity obligations under this article are unconditional, shall not be discharged or satisfied by Lessor's re-entry of the Premises or exercise of any other remedy for Lessee's default under this Lease, shall continue in effect after any assignment or sublease of this Lease, and shall continue in effect after the expiration or earlier termination of this Lease.

ARTICLE VII

Miscellaneous Provisions

7.1 **LIENS:** Lessee agrees to keep the Premises described herein free and clear of all liens and charges whatsoever. Lessee shall not allow any mechanics' and materialmen's or other liens to be placed upon the leased Premises. If such a lien is placed or recorded, Lessee shall cause it to be discharged of record, at its own expense, within ten (10) days of Lessor's demand. Failure to comply with Lessor's demand within ten (10) days shall be a default under the terms of this Lease.

7.2 **INDEMNIFICATION AND HOLD HARMLESS:** The Lessee agrees that it will defend (with legal counsel acceptable to Lessor), indemnify and hold harmless the Lessor, its officers, employees and agents from any and all demands, claims, judgments or liability for loss or damage arising as a result of accidents, injuries or other occurrences on the Premises or on Lessor's property, (i) occasioned by either the negligent or willful conduct of the Lessee, its agents, or (ii) made by any person or entity holding under the Lessee, or any person or entity on the Premises or on the Lessor's property as a result of Lessee's activity, regardless of who the injured party may be. This indemnification and hold harmless shall not apply to the extent the damages were caused by the gross negligence or willful misconduct of the Lessor.

7.3 **LIMITED WAIVER OF IMMUNITY UNDER WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW AND OTHER SIMILAR INDUSTRIAL INSURANCE SCHEMES:** For purposes of the foregoing indemnification provision, and only to the extent of claims against Lessee by Lessor under such indemnification provision, Lessee specifically waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW, The United States Longshore and Harbor Workers Compensation Act, 33 USC §901-950, or any other similar workers' compensation schemes. The indemnification obligation under this Lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The foregoing provision was specifically negotiated and agreed upon by the parties hereto.

7.4 **LAWS AND REGULATIONS:** Lessee agrees to conform to and abide by all applicable rules, codes, laws, regulations, the Rules, and Port policies in connection with its use of the Premises and not to permit said Premises to be used in violation of any applicable rule, code, law, regulation, Port policy, the Rules, or other authority.

7.4.1 **Environmental Laws and Regulations.** Lessee's obligations herein shall include, but in no way be limited to, the obligation to comply with all State and Federal environmental laws and regulations. Lessee shall defend (with legal counsel acceptable to Lessor), indemnify and hold harmless the Lessor from any fine, penalty or damage which may be imposed by any lawful authority, which may arise as a result of the Lessee's failure to comply with the obligations of this article.

7.5 **WASTE AND REFUSE:** Lessee agrees not to allow conditions of waste and refuse to exist on the Premises and to keep the Premises in a neat, clean and orderly condition.

7.6 **TAXES AND ASSESSMENTS:** Lessee agrees to pay all taxes assessed against the leasehold interest whether now existing or hereinafter adopted.

7.7 **SIGNS:** No signs shall be installed without the prior written permission of Lessor. In the event that an unauthorized sign has been installed and after twenty-four (24) hours' notification to remove the sign by the Lessor, Lessee shall pay the Lessor a penalty of \$100 per day for each day the sign remains in place after such notification. The penalty shall automatically

resume, without notice, if the sign is reinstalled after having been removed. The penalty accrued shall be paid with the next month's Base Rent. In addition, the Lessor reserves the right to provide notice of, and treat an unauthorized sign as, a non-monetary default of this Lease.

7.8 **LITIGATION:** In the event Lessor shall be made a party to any litigation commenced by or against Lessee (other than actions commenced by Lessee or Lessor concerning the interpretation or enforcement of any of the terms and conditions of this Lease), then Lessee agrees to pay all costs, expert witness fees, and attorneys' fees, including all customary charges incurred by Lessor in connection with such litigation. However, if Lessor is made a party defendant and Lessee undertakes the defense of the action on behalf of Lessor, then no obligation for costs and attorneys' fees will be chargeable against Lessee by Lessor for costs arising out of such undertaking.

7.9 **ASSIGNMENT OF LEASE:** Lessee shall not assign, rent or sublease any portions of this Lease or any extension thereof, without the prior written consent of Lessor, and no rights hereunder in or to said Premises shall pass by operation of law or other judicial process, or through insolvency proceedings.

7.10 **ADDITIONAL LESSEE OBLIGATIONS:** Promptly notify Lessor of any updated information on the aircraft and Lessor's addresses, phone numbers, or other appropriate information, and (vi) provide a photocopy of Lessee's aircraft registration with the State of Washington pursuant to RCW 47.68.250 prior to the mutual execution of this Lease.

7.11 **DEFAULT, CROSS DEFAULT, AND REMEDIES:**

7.11.1 **Monetary Defaults.** Failure to pay Rent or any other monetary obligations by the first day of each month shall constitute a default under the terms of this Lease. If Lessee is in default in the payment of Rent or other monetary obligations then, at Lessor's sole option, upon ten (10) days' written notice, this Lease may be terminated, and Lessor may enter upon and take possession of the Premises and any property located therein. Without limiting the generality of the foregoing, Lessee expressly authorizes Lessor to obtain a prejudgment writ of restitution in the event of default by Lessee. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.11.2 **Non-monetary Defaults.** If Lessee shall fail to perform any term or condition of this Lease, other than the payment of Rent or other monetary obligations, then Lessor, upon providing Lessee twenty (20) days' written notice of such default, may terminate this Lease and enter upon and take possession of the Premises. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.11.3 **Other Defaults.** The following shall also constitute a default under the terms of this Lease: A default by Lessee under any other agreement or lease with the Lessor; insolvency of Lessee; an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of an involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within twenty (20) days after filing; attachment of or the levying of execution on the leasehold interest; and failure of Lessee to secure a discharge of the attachment or release of the levy of execution within ten (10) days.

7.11.4 **Cross-Default.** A default under this Lease shall constitute a default under any other lease or agreement which Lessee has with Lessor (hereinafter such other agreements shall be referred to as "Collateral Agreements"). Likewise, any material breach or default under a Collateral Agreement shall be deemed a material breach or default under the terms of this Lease. If a Collateral Agreement is terminated for a material breach or default of Lessee, then Lessor shall, without limiting any other remedies it may have, be entitled to terminate this Lease upon five (5) days' written notice to Lessee.

7.11.5 **Other Remedies.** In addition to the foregoing remedies specified in this article, Lessor may exercise any remedies or rights under the laws of the State of Washington including, but not limited to, recovering damages for past due rent, future rent, costs to re-let the Premises, and costs to restore the Premises to its prior condition (reasonable wear and tear excepted). Under no circumstances shall Lessor be held liable in damages or otherwise by reason of any lawful re-entry or eviction. Lessor shall not, by any re-entry or other act, be deemed to have accepted any surrender by Lessee of the Premises or be deemed to have otherwise terminated this Lease or to have relieved Lessee of any obligation hereunder. Lessor shall be under no obligation to observe or perform any covenant of this Lease after the date of any material default by Lessee unless and until Lessee cures such default. A fee of Five Hundred Dollars (\$500.00) shall be assessed to Lessee for each Default Notice issued to Lessee to defray the costs associated with preparing, issuing, and serving such notice. This fee shall be payable on the first (1st) day of the month following the issuance of the Default Notice.

7.12 **TERMINATION:** This Lease shall terminate for default if Lessee fails to cure any default within the time provided for herein. Upon termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereon, as herein provided, Lessee shall surrender to Lessor the Premises peaceably and quietly. Lessee shall restore the Premises to the condition existing at the time of initiation of this Lease, except for: (i) normal wear and tear, and (ii) any improvements which Lessor permits to remain on the Premises.

7.13 **NON-WAIVER:** Neither the acceptance of Rent nor any other act or omission of Lessor after a default by Lessee or termination shall operate as a waiver of any past or future default by Lessee, or to deprive Lessor of its right to terminate this Lease or be construed to prevent Lessor from promptly exercising any other right or remedy it has under this Lease. Any waiver by Lessor shall be in writing and signed by Lessor in order to be binding on Lessor.

7.14 **NOTICES:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing addressed to the other party at the addresses as follows:

TO LESSOR: Port of Bellingham
1801 Roeder Ave.
Bellingham, WA 98225

TO LESSEE: _____

or such address as may have been specified by notifying the other party of the change of address. Notice shall be deemed served on the date of actual delivery or the first attempted delivery as shown on the return receipt if mailed with the United States Postal Service by certified mail, return receipt requested.

7.15 **AGENT FOR SERVICE:** Lessee agrees that if Lessee is in unlawful detainer, pursuant to Chapter 59.12 RCW, and Lessor is unable to serve Lessee with the unlawful detainer pleadings after one service attempt, then Lessor shall be deemed to have complied with the service requirements of Chapter 59.12 RCW if it mails such pleadings via certified mail to the address set forth in the notice section of this Lease and posts such pleadings in a conspicuous location on the Premises. Service shall be deemed complete on the third (3rd) day following the day of posting or day of mailing, whichever is later.

7.16 **SECURITY:** Lessee specifically acknowledges that Lessor has no duty to provide security for any portion of the Premises or Property. Lessee assumes sole responsibility and liability for the security of itself, its employees, customers, and invitees, and their respective property in or about the Premises or Property. Lessee agrees that to the extent Lessor elects to provide any security, Lessor is not warranting the effectiveness of any such security personnel, services, procedures or equipment and that Lessee is not relying and shall not hereafter rely on such security personnel, services, procedures or equipment. Lessor shall not be responsible or liable in any manner for failure of any such security personnel, services, procedures or equipment to prevent or control, or apprehend anyone suspected of personal injury or property damage in, on or around the Premises or Property.

7.17 **QUIET ENJOYMENT:** Lessor acknowledges that it has ownership of the Premises and that it has the legal authority to lease the Premises to Lessee. Lessor covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Lease so long as Lessee complies with this Lease and subject to Lessor's right of entry onto the Premises as set forth herein.

7.17.1 **Easements.** The Lessor reserves the right to grant easements and other land uses on the Premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the Premises or interfere unduly with the approved plan of development for the Premises.

7.17.2 **Closure by Government Order.** Lessee understands that various federal agencies, including the Department of Homeland Security and U.S. Coast Guard, have the authority to restrict access to certain areas on property owned by Lessor in order to counter a terrorist or other threat. Such restrictions could impact Lessee's ability to access the Premises for an indefinite period of time. Since such restrictions on access are outside the control of Lessor, Lessee agrees that such interruptions shall not be deemed a violation of this Lease or the Covenant of Quiet Enjoyment.

7.18 **TIME:** It is mutually agreed and understood that time is of the essence of this Lease and that a waiver of any default of Lessee shall not be construed as a waiver of any other default.

7.19 **INTERPRETATION:** This Lease has been submitted to the scrutiny of the parties hereto and their counsel, if desired. In any dispute between the parties, the language of this Lease shall, in all cases, be construed as a whole according to its fair meaning and not for or against either the Lessor or the Lessee. If any provision is found to be ambiguous, the language shall not be construed against either the Lessor or Lessee solely on the basis of which party drafted the provision. If any word, clause, sentence, or combination thereof for any reason is declared by a court of law or equity to be invalid or unenforceable against one party or the other, then such finding shall in no way affect the remaining provisions of this Lease.

7.20 **HOLDING OVER:** If the Lessee remains in possession of said Premises after the date of expiration of this Lease without Lessor's prior written consent, such holding over shall

constitute and be construed as tenancy at sufferance only, at a monthly rent equal to one hundred fifty percent (150%) of the Base Rent owed during the final month of the Term of this Lease and otherwise upon the terms and conditions in this Lease. If Lessee holds over with Lessor's prior written consent, then until such time as a new written Lease is executed by the parties hereto, Lessee shall continue to make payments to Lessor on a month-to-month basis as provided for in this Lease. Such authorized holdover tenancy may be terminated by either party at the end of any such monthly period by sending written notice not less than five (5) days before the end of such period. Such authorized holdover tenancy shall be subject to all terms and conditions contained herein.

7.21 **SURVIVAL**: All obligations of the Lessee, as provided for in the Lease, shall not cease upon the termination of this Lease and shall continue as obligations until fully performed. All clauses of this Lease which require performance beyond the termination date shall survive the termination date of this Lease.

7.22 **GOVERNING LAW**: This Lease, and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action jurisdiction and venue shall lie exclusively in Whatcom County, Washington and not in any federal court.

7.23 **ATTORNEY FEES - LEASE ENFORCEMENT**: The prevailing party in any action to enforce any term or condition of this Lease shall be entitled to an award of their reasonable costs and attorney fees.

7.24 **ATTORNMEN**T: In the event the Premises are sold, Lessee shall attorn to the purchaser upon the sale provided that the purchaser expressly agrees in writing that, so long as Lessee is not in default under the Lease, Lessee's possession and occupancy of the Premises will not be disturbed and that such purchaser will perform all obligations of Lessor under the Lease.

7.25 **COUNTERPARTS AND ELECTRONIC TRANSMISSION:** This Agreement may be signed in counterparts. Electronic transmission of any signed original document, and retransmission of any signed electronic transmission shall be the same as delivery of an original document.

7.26 **ENTIRE AGREEMENT:** This Lease contains all of the understandings between the parties. Each party represents that no promises, representations or commitments have been made by the other as a basis for this Lease which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by the Commission of the Port of Bellingham.

7.27 **VALIDATION:** IN WITNESS WHEREOF, Lessor has caused this instrument to be signed by its Director of Aviation by authority of the Commission of the Port of Bellingham, and this instrument has been signed and executed by Lessee, the day and year first above written.

THIS LEASE CONTAINS INDEMNIFICATIONS FROM THE LESSEE TO THE LESSOR, RELEASES BY THE LESSEE AND A LIMITED WAIVER OF IMMUNITY UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW, OR ANY OTHER SIMILAR WORKERS' COMPENSATION SCHEMES

LESSEE:

By:
Its:

LESSOR:

PORT OF BELLINGHAM

By: Kip Turner
Its: Director of Aviation
Or: Designee