

**COUNTY OF SAN MATEO**

**LEASE / CONCESSION AGREEMENT**

(No. 5352)

**MWA-SQL, LLC**

a Nevada Limited Liability Company

San Carlos Airport  
San Carlos, California

**TENANT: MOUNTAIN WEST AVIATION**

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**EXHIBIT A - SITE PLAN OF PREMISES**

**EXHIBIT B - STANDARD PROVISIONS**

**EXHIBIT C - SPECIAL REQUIREMENTS/CONDITIONS**

**EXHIBIT D - INTO AIRCRAFT FUELING CONCESSION**

**EXHIBIT E - TOXIC MATERIALS & ENVIRONMENTAL RESPONSIBILITIES**

## **LEASE / CONCESSION AGREEMENT**

(No. 5352)

San Carlos Airport

San Carlos, California

MWA-SQL, LLC a Nevada Limited Liability Company

**This is intended to be a legally binding contract**

**Read it carefully and consult an attorney.**

### **1. BASIC LEASE INFORMATION**

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date:	July 9, 2013
Landlord:	County of San Mateo
Building (Section 4):	San Carlos Airport Administration Building, 620 Airport Drive, San Carlos, CA 94070
Premises (Section 4):	Portion of the building commonly known as Suite 1 as shown on the attached Exhibit A (Site Plan of Premises).
Rentable Area of Premises (Section 4):	Approximately 1,600 square feet of gross building area, together with the non-exclusive use of the building's common areas and parking facilities, and approximately 3,546 square feet of vacant land.
Term (Section 5):	Estimated commencement date: January 1, 2014  Expiration date: December 31, 2023  There are three options to renew for an additional five (5) years under the same terms and conditions.

Monthly Base Rents (Section 6):	\$3,600.00 - Monthly Office Rent <u>\$ 355.00 - Monthly Land Rent</u> \$3,955.00 - Total Monthly Base Rent
Rent Adjustment Dates (Section 8):	Each 1st day of July, beginning on July 1, 2014 and each successive year thereafter.
Use and Concession (Section 12):	\$500 minimum per month or 1% of Gross Revenues, whichever is greater. \$100 per aircraft sold.
Tenant Improvements (Section 13):	Tenant shall, at its sole cost and expense, complete the Improvements as set forth in Section 13 (Tenant Improvements) hereof and in compliance with Section 28 (Alterations and Additions).
Utilities and Services (Section 16):	Paid by County
Security Deposit (Section 23):	None
Notice Address of County (Section 41):	County Manager Attn: Real Property Services 400 County Center Redwood City, California 94063 Fax No.: (650) 363-4832
with a copy to:	County of San Mateo Department of Public Works Airports Division 620 Airport Drive San Carlos, California 94070 Fax No. 650-593-3762
and to:	Office of County Counsel 400 County Center, 6 <sup>th</sup> Floor Redwood City, California 94063 Fax No.: (650) 363-4034
Key Contact for County:	Gretchen Kelly
Telephone/Fax Nos.:	Phone: 650-573-3700 Fax: 650-593-3762
Alternate Contact for County:	Christopher St. Peter

Telephone/Fax Nos.: Phone: 650-573-3700  
Fax: 650-593-3762

Address for Tenant (Section 41): Mountain West Aviation  
P.O. Box 11192  
Truckee, California 96162-1192

Key Contact for Tenant: Michael Golden

Telephone/Fax Nos.: Phone: 530-582-1717  
Phone: 650-349-7661  
FAX: 530-582-1242  
FAX: 650-349-2394

Other Noteworthy Provisions: N/A

## **2. PARTIES**

This Lease and Concession Agreement ("Lease"), dated, for reference purposes only, this 9<sup>th</sup> day of July, 2013 is made by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California ("Landlord" or "County") whose address is:

County of San Mateo  
Real Property Division  
455 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

and MWA-SQL, LLC, a Nevada Limited Liability Company ("Tenant") whose address is:

620 Airport Drive, Suite 1  
San Carlos, CA 94070

Both Parties agree as follows:

## **3. TERMS, COVENANTS AND CONDITIONS**

This Lease is subject to the terms, covenants and conditions herein set forth. Each party covenants, as a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions that are to be performed, and that this Lease is made upon the condition of said performance.

## **4. PREMISES**

Landlord does hereby lease to Tenant and Tenant hereby leases from Landlord the following:

## **A. Office**

All that certain real property described as a portion of the San Carlos Airport Administration Building, Suite 1, San Carlos, California, consisting of approximately 1,600 square feet of office space as shown on the attached Exhibit A-2 ("Site Plan of Premises - Office"), which office space is a portion of the San Carlos Airport Terminal Building ("Building") at the San Carlos Airport ("Property").

## **B. Land**

For the purposes of constructing a fuel storage facility as set forth in Exhibit D (Into Aircraft Fueling Concession) All that certain real property described as a portion of the San Carlos Airport, San Carlos, California, consisting of approximately 3,546 square feet of vacant land as shown on the attached Exhibit A-3 ("Site Plan of Premises - Land"), which vacant land space is a portion of the Building's parking lot at the Property.

The Office and Land space are hereby known as the "Premises".

## **5. TERM**

The term of this Lease shall commence on that date which is 90 days subsequent to the last of the following to occur: (i) delivery to Tenant of an original, fully executed counterpart of this Lease, (ii) Landlord's delivery of actual physical possession of the Premises to Tenant; (iii) Tenant's receipt of Landlord's written approval of Tenant's final working drawings, (iv) receipt by Tenant of a building permit; (v) receipt of all other government licenses, authorizations, and approvals required for Tenant to store & dispense aviation grade fuel at the Property; (vi) receipt of all governmental licenses, authorizations and approvals required for Tenant to operate at the Premises & precedent to the construction by Tenant in the Premises in accordance with the final working drawings approved by Landlord (this 90 day period is referred to as the "Fixturization Period"); provided, however, the Fixturization Period will be extended on a day for day basis for construction delays caused by *force majeure* events including delays caused by governmental entities or Landlord. Tenant must use reasonable, diligent efforts to obtain a building permit, including without limitation, Tenant must apply for a building permit within fourteen (14) days after Tenant's receipt of Landlord's written approval of Tenant's final working drawings.

Notwithstanding anything contained herein, the term of this Lease shall commence no later than one hundred eighty (180) days following delivery to Tenant of an original, fully executed counterpart of this Lease and Landlord's delivery of actual physical possession of the Premises to Tenant. The Lease shall expire on that date which is one hundred twenty (120) months subsequent to the Commencement date.

There are three (3) options to renew for an additional five years each under the same terms and conditions as set forth in Section 7 (Extension Option).

## 6. MONTHLY RENTAL

### A. Base Rent

i. Office: Subject to the Rental Adjustments specified in Section 8, Tenant agrees to pay to Landlord as rental, without prior notice or demand, for the office space the sum of \$3,600.00 (the "Office Rent") on or before the first day of the first full calendar month of the term hereof, and a like sum on or before the first day of each and every successive calendar month thereafter. The Base Rent shall be subject to adjustment as set forth in Section 8 (Rental Adjustments) hereof.

ii. Land: Subject to the Rental Adjustments specified in Section 8, Tenant agrees to pay to Landlord as rental, without prior notice or demand, for the vacant land the sum of \$355.00 (the "Land Rent") on or before the first day of the first full calendar month of the term hereof, and a like sum on or before the first day of each and every successive calendar month thereafter; except that when the Flowage Fee set forth in Section 6C exceeds the Land Rent, Tenant shall pay the Flowage fee in lieu of the Land Rent.

The Office Rent and Land Rent are hereby known as the "Base Rent" or "Total Monthly Base Rent", which Base Rent shall be subject to adjustment as set forth in Section 8 (Rental Adjustments) hereof.

### B. Concession Fee

Tenant shall pay to County, for the rights and privileges received from the concession activities permitted under this Agreement as set forth in Section 12 (Use and Concession) below, the following fee, collectively referred to as the "Concession Fee":

<b><u>Concession Activity</u></b>	<b><u>Minimum Monthly Fee</u></b>
Product Sales	
Air Taxi/Charter Service	
Aerial Photography/Surveying/Scenic Tours	
Aircraft Management	
<b>Total:</b>	<b>\$500 per Month</b>
Aircraft Sales	\$100 per Aircraft Sold



The monthly Concession Fee shall be the greater of \$500.00 (the "Minimum Monthly Fee") or 1% of monthly Gross Revenues (as defined in Section 9) for the above concession activities (the "Percentage Rent"). If the Percentage Rent exceeds the Minimum Monthly Fee, the Percentage Rent will be the Concession Fee owed for that month. Concession Fees shall exclude: (a) aircraft sales, if any, which shall be paid separately as set forth above and (b) fuel sales, if any, which shall be paid separately as set forth in Subsection C (Flowage Fee) below.

Percentage Rent shall be paid monthly on or before the first day of the second calendar month following the month for which the payment is due. (Example: Percentage Rent based on the Gross Revenues for March shall be due and payable on the first day of May together with the minimum monthly fee for May.)

Tenant shall, in addition to and concurrent with the Percentage Rent payments set forth in this Section, furnish to County a written report of its business activities and Gross Revenues during the month for which Percentage Rent is paid on a form provided by County or approved by the Airport Manager.

#### **C. Flowage Fee**

Except as set forth in Section 6A (Base Rent), Tenant shall pay to County, for the rights and privileges received from the concession activities permitted under this Agreement as set forth in Section 12 (Use and Concession) the sum of \$0.10 (ten cents) per gallon (the "Flowage Fee") for all aviation fuel sold or delivered to any person or entity by the Tenant on the Airport.

The Flowage Fee shall be paid monthly on or before the first day of the second calendar month following the month for which the payment is due. (Example: The Flowage Fee for March shall be due and payable on the first day of May.)

The Flowage Fee shall be subject to adjustment by the County Board of Supervisors. In the event the Flowage Fee is adjusted, County shall notify Tenant of within thirty (30) days of said adjustment. Notwithstanding the foregoing, any increase in the Flowage Fee shall be applicable to all tenants on the airport and such increase(s) shall not exceed the industry norm for the Northern California region.

#### **D. Payment of Rent**

The Base Rent, Concession Fee and other amounts due hereunder are sometimes collectively referred to herein as "Rent".

Rent for any period during the term hereof which is for less than one (1) month shall be a prorated portion of the monthly installment herein on a per diem basis, based upon a thirty (30) day month. Said rental shall be paid to Landlord at:

County of San Mateo  
Department of Public Works (Ref. 5352)  
Airports Division  
620 Airport Drive  
San Carlos, CA 94070

or to such other person or at such other place as Landlord may from time to time designate in writing.

Landlord shall not be required to invoice Tenant for payment of rent or other fees due hereunder. Tenant shall be responsible for payment of all fees due without prior notice or demand. Any amount due which is not paid shall be subject to late fees as set forth in Section 6E (Interest on Late Payment) and Section 11 (Late Charges and Returned Check Charge).

#### **E. Interest on Late Payment**

Any Rent, if not paid within ten (10) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per annum (the "Interest Rate"). However, interest shall not be payable on late charges incurred by Tenant as set forth in Section 11 (Late Charges And Returned Check Charge) hereof, nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant.

### **7. EXTENSION OPTION**

Tenant shall have the right to extend the Initial Term of this Lease (the "Extension Options") for three (3) additional terms of five (5) years each (the "Extended Term"). Such Extension Options shall be on all of the terms and conditions contained in this Lease except that, at Landlord's election, the Base Rent may be adjusted to an amount equal to the Prevailing Market Rate as set forth below. Tenant may exercise the Extension Option, if at all, by giving written notice to Landlord no earlier than two hundred ten (210) and no later than ninety (90) days prior to expiration of the term to be extended; provided, however, if Tenant is in material default hereunder on the date of giving such notice and fails to cure such default as provided herein, Landlord may reject such exercise by delivering written notice thereof to Tenant promptly after such failure to cure.

At the commencement of the Extended Term, the Base Rent shall be adjusted as set forth in Section 8 (Rental Adjustments) hereof or, at the election of Landlord delivered to Tenant in writing within thirty days of receipt of Tenant's notice, shall be adjusted to the Prevailing Market Rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location and quality to the Premises; provided, however, in no event shall the Base Rent be reduced below the Base Rent for the lease

year prior to commencement of such Extended Term. As used herein, the term "Prevailing Market Rate" shall mean the base rental for such comparable space, taking into account (i) any additional rental and all other payments and escalations payable hereunder, (ii) location and size of the premises covered by leases of such comparable space, (iii) the duration of the renewal term and the term of such comparable leases and (iv) tenant improvement allowances and other allowances given under such comparable leases.

If Tenant disputes Landlord's determination of the Prevailing Market Rate, Tenant shall so notify Landlord within fourteen (14) days following Landlord's notice to Tenant of the Prevailing Market Rate and such dispute shall be resolved as follows:

- i. Within thirty (30) days following Landlord's notice to Tenant of the Prevailing Market Rate, Landlord and Tenant shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.
- ii. If within this thirty (30) day period Landlord and Tenant cannot reach agreement as to the Prevailing Market Rate, they shall each select one appraiser to determine the Prevailing Market Rate. Each such appraiser shall arrive at a determination of the Prevailing Market Rate and submit their conclusions to Landlord and Tenant within thirty (30) days of the expiration of the thirty (30) day consultation period described in (A) above.
- iii. If only one appraisal is submitted within the requisite time period, it shall be deemed to be the Prevailing Market Rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the Prevailing Market Rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will, within thirty (30) days of his or her selection, make a determination of the Prevailing Market Rate and submit such determination to Landlord and Tenant. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the Prevailing Market Rate.
- iv. All appraisers specified herein shall be members of the American Institute of Real Estate Appraisers (MAI) with not less than five (5) years' experience appraising leases of commercial properties similar to the Premises in the area. Landlord and Tenant shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser plus one-half of any other costs incurred in the determination.

## **8. RENTAL ADJUSTMENTS**

Beginning on July 1, 2014, and on the 1<sup>st</sup> day of July of each year of the term of this lease, including any extended term or holdover period as set forth herein (the "Adjustment Date"), the Total Monthly Base Rent as set forth in Section 6 (Base Rent) for the following twelve month period shall be adjusted to equal one hundred three percent (103%) of the Base Rent for the lease year preceding such Adjustment Date.

## **9. GROSS REVENUES**

Gross revenues shall include:

- all gross charges, sales, rentals, fees and commissions made or earned, and all gross sums received, bartered, exchanged or earned by Tenant, its assignees, sublessees, licensees, and permittees, whether collected or accrued, for any business, use, or operation, or any combination thereof, originating, transacted or performed, in whole or in part, on the Airport pursuant to this Concession, including but not limited to flight training and charter activities, rentals, performance of maintenance and repairs, the rendition or supplying of services, and the sale of goods, wares, parts, accessories, engines and merchandise to anyone including employees;
- the total charge to the trainee for aircraft, instructors, overhead and profit, surcharges, and shall include sums received as "flight club dues" or similar charges;
- in the case of (i) aircraft rental or (ii) air taxi/charter/scenic trips for air taxi/charter/scenic trips originating from or coming to the San Carlos Airport, including subsequent legs of the same trip, management fees related to scheduling maintenance, accounts receivable and accounts payable, scheduling cleaning, purchasing of equipment and all other related services;
- those revenues: (i) originating at the Airport, (ii) made by Operator or Tenant's sales people or independent commissioned representatives utilizing the Airport as a point of contact, or by Tenant at the home, place of business or other location of an employee or a customer, shall be considered as made and completed therein, even though bookkeeping and payment of the account may be transferred to another place for collection and even though actual filling of the sale or service order and actual delivery of the merchandise may be made from a place other than the Airport;

Gross Revenues shall not include:

- Gratuities paid to service personnel in the form of tips;
- Sales tax, income taxes of all kinds and excise taxes applicable thereto, required to be collected by Tenant, its assignees, sub-lessees, licensees or permittees, in connection with the rendition or supplying of services or the sales of goods, wares or merchandise, federal & state excise taxes, merchant fees, sales of aviation grade fuel, gift certificates until redeemed;
- Any and all commissions paid for financing or discounts to be paid by Tenant to secure financing for any of the business conducted or sales of any kind or nature by Tenant;
- Proceeds from the sale of capital equipment used to conduct Tenant's business.

## **10. ACCOUNTS AND RECORDS**

Tenant shall maintain a system of accounts, reports, statements and records available to Landlord covering the transactions and operations under this agreement, which shall be preserved during the life of this Agreement and for three (3) years thereafter. In addition, Landlord shall have the right to inspect and audit the books and records of Tenant from which the statement of Gross Revenues is prepared at any reasonable time upon request. Expenses of such audit shall be borne by Landlord, unless such examination shall disclose an additional amount owing to the Airport of greater than One Thousand (\$1,000.00) for any one year, in which event all costs of audit shall be paid by Tenant.

## **11. LATE CHARGES AND RETURNED CHECK CHARGE**

Tenant hereby acknowledges that late payment by Tenant to Landlord of rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices and accounting charges. Accordingly, if any installment of rent or of a sum due from Tenant is not received by Landlord within ten (10) days after said amount is due, that payment shall be delinquent and Tenant shall pay to Landlord, in addition to interest as set forth in Section 6 hereof, a late charge equal to six percent (6%) of the total balance due at that time or Fifty Dollars (\$50.00), whichever is greater. A late charge shall be applied for each month rent is delinquent. The parties hereby agree that such late charges represent a fair and reasonable estimate of the cost that Landlord will incur by reason of the late payment by Tenant. Acceptance of late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

Tenant agrees to pay Landlord a special handling charge of Fifty Dollars (\$50.00) for any check dishonored by the bank for any reason. This charge shall be added to and become part of Tenant's obligations hereunder, and shall be in addition to any charge for late payment provided for herein. Tenant agrees to pay Landlord immediately upon request any and all charges for dishonored checks.

In the event any two payments are delinquent in a twelve-month period, Landlord may require Tenant to make future payments quarterly in advance for a 24-month probationary period.

If Tenant fails to make any payments on time during the probationary period, such failure shall constitute a default as defined in Section 29 (Default) of this agreement.

## **12. USE AND CONCESSION**

The concession shall be limited to: (1) Product Sales, which authorizes Tenant to provide on a non-exclusive basis, the sale of products and supplies related to aircraft and aviation activities; (2) Air Taxi/Charter Service, which authorizes Tenant to provide

on a non-exclusive basis air taxi/charter service under FAR Part 135; (3) Aerial Photography/Surveying/Scenic Tours, which authorizes Tenant to provide on a non-exclusive basis commercial aerial services including aerial photography/surveying/scenic tours under appropriate FAA regulations and authorizations; (4) Aircraft Sales, which authorizes Tenant to conduct on a nonexclusive basis the sale of new and used aircraft at the San Carlos Airport; (5) Aircraft Management, which authorizes Tenant to conduct on a nonexclusive basis the management and storage of non-owned aircraft at the San Carlos Airport; (5) Operation of a Fixed Based Operation, which authorizes Tenant to conduct on a nonexclusive basis the following services:

- Arrange for minor maintenance and repair services, such as lights, tires and parts replacement, as may be reasonably possible. Such arrangements shall be made with based businesses having concession agreements permitting aircraft maintenance at the Airport.
- Provide into-plane fueling, lubricants, fluids, and related services in accordance with all requirements and restrictions contained within this Agreement.
- Provide aircraft line services, including marshalling aircraft, ramp service for parking and towing of aircraft, luggage loading, and arranging for aircraft cleaning, in accordance with all requirements and restrictions contained within this Agreement.
- Provide suitable hard surface aircraft parking, tiedown and hangar facilities.
- Provide an adequate waiting lounge, pilot briefing room, or quiet area where pilots may rest, conference rooms to be used by customers, restrooms, at least one public telephone, and related facilities consistent with other Fixed Base Operations in Northern California servicing the general aviation market.
- Provide public facilities for flight planning, including weather briefing, maps, charts, telephones for filing flight plans, plotters, radar, and time and distance measurements.
- Engage in the sale of parts and accessories for aircraft, aircraft engines, propellers, and appliances.
- Using Tenant's personnel and equipment, provide first-class ground-handling of transient aircraft, including "Follow Me" service, to ensure the highest and best usage of the varying weight-bearing structures of the aircraft ramp area, subject to Exhibit D.
- Engage in the sale of airmen supplies and general merchandise.
- Engage in the hangaring and storage of aircraft.
- Operate an aeronautical advisory service (UNICOM) in cooperation with other operators that may now or in the future operate on the Airport.
- Repair, maintain, sell, and install aircraft electronic equipment and avionics.
- Provide aircraft food catering services.

Tenant shall provide to the County in writing the names and descriptions of any assignees, licensees, commercial businesses and/or activities performing commercial aeronautical activities under the Tenant's Concession Agreement ("Sub-Tenant") PRIOR to such Sub-Tenant's commencing operations on the Airport. Tenant shall ensure the commercial aeronautical activities of its Sub-Tenants are being conducted under the Tenant's Concession Agreement (if such aeronautical activity is permitted under Tenant's concession Agreement) OR in compliance with a separate Concession or Permit Agreement with the County. Commercial aeronautical activities permitted under the Tenant's Concession Agreement include those activities listed in Section 6A of this Agreement.

Prior to any Sub-Tenant conducting commercial aeronautical activities under Tenant's Concession Agreement, Tenant shall in writing to the County state that said Sub-Tenant will be conducting its commercial aeronautical activities at the Airport under and in accordance with Tenant's Concession Agreement. Tenant shall also state that it agrees to be responsible for all Sub-Tenant's activities while on the Airport and shall provide proof of insurance coverage for the Sub-Tenant meeting County requirements for the type of commercial activities being conducted. Further, Tenant shall cause Sub-Tenant to agree, in writing, to be bound by the terms of this Concession Agreement. Revenue generated by Tenant's Sub-Tenants shall be reported to County in accordance with Section 6 "Monthly Fees" and Section 8 "Gross Revenues" of this Agreement.

Tenant shall not do or permit anything to be done in or about the Airport nor bring or keep anything therein which will in any way increase the existing rate of or affect any fire or other insurance upon the Airport or any of its contents, or cause cancellation of any insurance policy covering the Airport or any part thereof or any of its contents. Tenant shall not use or allow the Airport to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Airport. Tenant shall not commit or suffer to be committed any waste in or upon the Airport.

The Use and Concession activities listed herein are subject to restrictions as described and outlined in this Agreement.

### **13. TENANT IMPROVEMENTS**

#### **A. Office**

County hereby approves the interior space plan as shown in Exhibit A-2. Tenant shall be responsible, at no cost to the County, for making the improvements (the "interior Improvements") in accordance with Section 28 (Alterations and Additions). Tenant shall further be responsible, at no cost to the County, for obtaining all permits and licenses required in connection with the Interior Improvements. Tenant shall not make any material change to the approved plans without first obtaining County's written approval.

## **B. Land**

Tenant, through its general contractor approved by Landlord, may modify the Premises, perform the work and make the installations in the Premises at Tenant's sole cost pursuant to the Construction Documents (as defined in this Section below) approved by Landlord, and in accordance with the provisions of this Section below. Such work and installations are referred to as the "Tenant Improvement Work" and "Tenant Improvements."

### **i. Plans and Specifications**

Immediately following the approval and execution of this Lease, Tenant shall cause its architect or space planner to prepare and submit to Landlord for its approval a preliminary architectural plan (the "Space Plan"), based on Tenant's program requirements for use of the Land Premises shown in the attached Exhibit A-3 (Land Premises).

Based on the approved Space Plan, Tenant shall cause final plans, specifications and working drawings ("Final Plan") for the Tenant Improvements to be prepared. Tenant shall submit a copy of the Final Plan to Landlord prior to commencing work. Such Final Plan shall be subject to Landlord's approval, which approval shall not be unreasonably withheld or delayed. If Landlord disapproves such Final Plan, or any portion thereof, then Landlord shall promptly notify Tenant thereof and of the revisions that Landlord reasonably requires in order to obtain Landlord's approval. Tenant shall submit to Landlord a revised Final Plan incorporating the revisions reasonably required by Landlord. Such revisions shall be subject to Landlord's approval, which shall not be unreasonably withheld or delayed. The Final Plan with any agreed upon revisions for the Tenant Improvements approved by Landlord shall be referred to as the "Construction Documents."

### **ii. Permits**

Tenant shall secure and pay for any building and other applicable and necessary permits and approvals, government fees, licenses and inspections necessary for the proper performance and completion of the Tenant Improvement Work shown on the approved Construction Documents. Tenant shall be responsible for arranging for all inspections required by the applicable local building inspection division.



**iii. Construction**

Tenant shall cause all work performed on the Tenant Improvements to be completed in a good and professional manner in accordance with sound building practice. Tenant shall comply with and give notices required by all laws, rules, regulations, ordinances, building restrictions and lawful orders of public authorities bearing on construction of the Tenant Improvements.

Tenant shall be responsible, at no cost to the Landlord, for performing the Tenant Improvement Work in accordance with Section 28 (Alterations and Additions) herein. Tenant shall not make any material change to the approved plans or consent to any change order during the course of construction without first obtaining Landlord's written approval. Tenant shall ensure that all work is performed in a manner that does not obstruct access to or through the Property, other tenant's use of their premises or with any other work being undertaken on or about the Property.

No approval by Landlord or any of its Agents of the plans, any changes thereto or of any Alterations for purposes of this Lease shall be deemed to constitute approval of any federal, state or local regulatory authority with jurisdiction over the Premises or Tenant's use hereunder, and nothing herein shall limit Tenant's obligation to obtain all such regulatory approvals at no cost to the Landlord.

**14. USE OF AIRPORT FACILITIES**

Landlord shall allow Tenant full use of all facilities on the Airport, which are normally open to and usable by the public, subject to Airport rules and regulations. The right to use Airport facilities shall be non-exclusive and shall allow Tenant to use the runway, taxiways, loading and transient aprons, fueling facilities, parking areas and any other facilities as required, if they are normally furnished to the public. If Landlord normally receives payment for use of the facilities, Tenant shall pay Landlord in accordance with fees charged users of the facilities.

**15. MOTOR VEHICLES/PARKING**

Tenant shall ensure that its vehicles and those of its agents and customers are parked in areas and locations as approved by the Landlord. Tenant shall have the non-exclusive use of the general parking areas of the Property for the reasonable use of its employees, invitees, and other guests. All such parking shall be subject to the limitation, rules and regulations established from time to time by Landlord. No vehicle offered for sale by Tenant shall be parked or stored in the general parking areas of the Property.

Camper trucks, trailers and/or other temporary living facilities may not be parked overnight in any area of the Property without written authorization from the Landlord. No overnight camping is permitted.

## **16. UTILITIES**

Landlord shall, at its sole cost and expense, furnish to the Premises reasonable quantities of gas, water, sewer, electricity, heating, and trash collection as required for Tenant's use of the Premises. Such utilities and services shall be furnished to the Premises at all times during the term and the cost thereof included in the monthly rental. Landlord shall not be required to construct new or additional utility installations, including, without limitation, wiring, plumbing, conduits, and mains, resulting from Tenant's changed or increased utility requirements.

Landlord shall not be liable for failure to furnish utilities to the Premises when the failure results from causes beyond Landlord's reasonable control, but in case of failure Landlord shall immediately take all reasonable steps to restore the interrupted utilities.

## **17. JANITORIAL SERVICES**

Tenant shall provide janitorial services sufficient to maintain the Premises in a clean and well-maintained condition.

## **18. ASSESSMENTS/TAXES**

Tenant shall pay all federal, state and local taxes that are levied or required with respect to its employees, such as, but not limited to, social security and workers' compensation. As between Tenant and Landlord, Tenant shall be responsible for the payment of all sales or excise taxes on its operation. Tenant shall also be liable for any special assessments levied against the property. Tenant reserves the right to challenge any tax and special assessments.

Tenant shall pay, or cause to be paid, before delinquency, any and all taxes and assessments levied against Tenant's personal property in the Premises.

## **19. POSSESSORY INTEREST TAX**

Tenant recognizes and understands in executing this Lease that its interest in the Premises created herein may be subject to a "possessory interest tax" that the County Assessor may impose on such interest, and any such tax would be the liability of and be paid solely by Tenant in addition to Rent and other charges due hereunder. Tenant agrees to pay promptly when due, any possessory interest tax imposed on its interest in the Premises.

## **20. MAINTENANCE AND REPAIRS**

### **A. Office Premises**

Landlord shall maintain the Office Premises as shown in Exhibit A-2 (Site Plan of Premises – Office), in good repair and tenantable condition, so as to minimize breakdowns and loss of Tenant's use of the Building and Premises caused by deferred or inadequate maintenance, including, but not limited to:

- i. Generally maintaining the Premises in good, vermin free operating condition and appearance, including all landscaped areas.
- ii. Furnishing prompt, good quality repair of the Premises, equipment and appurtenances.
- iii. Furnishing preventive maintenance, including but not limited to, manufacturer's recommended servicing of equipment such as electrical, heating and ventilating equipment, and fixtures.
- iv. Furnishing and promptly replacing any inoperative light bulbs, fluorescent tubes, ballasts, starters, and filters for any heating, ventilating, or air conditioning equipment, if installed by Landlord, as required.
- v. Furnishing remedial painting as necessary to keep the Premises in a neat, clean and orderly condition.
- vi. Annual testing and maintenance of all fire extinguishers in or adjacent to the Premises.
- vii. Repair and replace parking lot bumpers and paving as necessary, and remove water, etc., from parking and paved areas.

Landlord shall provide prompt repair or correction of any damage except damage arising from a willful or negligent act of Tenant, its agents, employees or invitees.

In such case Landlord, after five (5) days' notice from Tenant requiring Landlord to comply with the requirements of this section in regard to a specified condition, shall fail, refuse or neglect to comply with such notice, or in the event of an emergency constituting a hazard to the health or safety of Tenant, its employees, property, or invitees, Tenant may perform such maintenance or make such repair at its own cost and, in addition to any other remedy Tenant might have, may deduct the amount thereof, including necessary costs incurred by Tenant required for the administration of such maintenance and repairs, from the rent that may then be or thereafter become due hereunder.

## **B. Land Premises**

Tenant shall maintain the Land Premises as shown in Exhibit A-3 (Site Plan of Premises – Land), at Tenant's sole cost and expense, in a safe, clean, wholesome, and sanitary condition, to the reasonable satisfaction of Landlord and in compliance with all laws, rules, and regulations applicable to Tenant's specific use thereof.

Tenant shall not allow any offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable or unlawful fire hazard, nor any material detrimental to the public health to accumulate or remain on the Premises. It is expressly understood that Landlord shall have no responsibility whatsoever to make any improvements or repairs (except for repairs necessitated by Landlord's negligence or willful misconduct) or perform any maintenance to Landlord's Premises.

### **21. EARLY TERMINATION**

Not used.

### **22. DAMAGE OR DESTRUCTION**

If, during the term of this Lease, any improvements that are a part of the Premises are damaged from any cause, rendering the Premises totally or partially inaccessible or unusable, Landlord, at its election, may either terminate this Lease or restore such improvements within a reasonable time and, if so restored, this Lease shall continue in full force and effect. If then existing laws do not permit restoration, either party may terminate this Lease immediately by giving notice to the other party.

In case of damage there shall be an abatement or reduction of rent, except any concession fee (if any), between the date of the damage and the date of completion of restoration, based on the extent to which the damage interferes with Tenant's use of the Premises. If any damage to said improvements is due to the fault or neglect of Tenant, its agents, contractors, employees or invites, there shall not be an abatement or reduction of rent. Additionally, tenant shall be responsible for the cost of any required restoration or repairs.

Landlord shall not be required to restore or replace any panels, decoration, office fixtures, railings, floor covering, partitions, or any other property installed in the Premises by Tenant. Tenant shall not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises, Tenant's personal property, loss of revenue, or any inconvenience or annoyance occasioned by such damage or restoration.

### **23. SECURITY DEPOSIT**

Not used.

### **24. SURRENDER OF PREMISES**

At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Premises. Tenant shall leave the surrendered Premises in good condition, subject to ordinary wear and tear and/or damage from causes beyond the reasonable control of Tenant excepted. All property that Tenant is required to surrender shall become Landlord's property at the expiration or termination of this Lease. All property, including Tenant's personal property that Tenant is not required to surrender but that Tenant abandons, shall, at Landlord's election, become Landlord's property at the expiration or termination of this Lease.

### **25. ENTRY BY LANDLORD**

Landlord reserves and shall at any and all reasonable times, with the accompaniment by authorized County personnel, have the right to enter the Premises, upon reasonable notice (minimum of 24 hours unless under emergency circumstances) to Tenant, inspect the same, supply any services to be provided by Landlord to Tenant hereunder, to show the Premises to prospective purchasers or tenants, to post notices of non-responsibility, and to alter, improve, repair or restore the Premises as Landlord may deem necessary or desirable, without abatement of rent. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults, cabinets, safes and files, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to Tenant except for any failure to exercise due care for Tenant's property. Any entry to the Premises obtained by Landlord by any of said means, or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into the Premises, or an eviction of Tenant from the Premises or any portion thereof.

### **26. RESERVATIONS**

This Lease shall at all times be subject to such easements or rights-of-way for such sewers, pipe lines, conduits, and for such telephone, telegraph, light, heat or power lines, as shall have been duly established or as may from time to time be reasonably determined by Landlord.

This Lease is subsequent to and subject to all prior exceptions, reservations, grants, easements, leases or licenses of any kind whatsoever as the same appear on record in the office of the County Recorder, County of San Mateo, State of California, or in the official records of said County and of the various departments thereof. Tenant

covenants not to disturb the quiet and peaceful enjoyment of any and all parties having any legal right, title, interest or privilege in and to the Premises and that the use of the Premises by Tenant shall at all times be conducted with proper regard for such rights, titles, interests and privileges.

It is specifically understood and agreed that any and all of the terms and conditions of this Lease are subordinate to all rights of the United States Government to use the Airport in times of war or national emergency.

## **27. CONSENT OF PARTIES**

Whenever the consent, approval or permission of either party is required, that party shall not unreasonably delay or withhold such consent, approval or permission.

## **28. ALTERATIONS AND ADDITIONS**

Tenant shall not make any structural or exterior alterations to the Premises without Landlord's prior written consent. Tenant, at its cost, shall have the right to make, with Landlord's consent, alterations to the interior of the Premises that Tenant requires in order to conduct its business on the Premises. Tenant shall not be required to obtain permission from Landlord to make minor, non-structural alterations to Premises including interior painting, installation of display cases and cabinets, and installation of office equipment. In making any alterations, Tenant shall comply with the following:

- i. Tenant shall submit detailed final plans and specifications and working drawings of the proposed alterations and the name of its contractor at least thirty (30) days before the date it intends to commence the alterations.
- ii. The alterations shall not be commenced until ten (10) days after Landlord has received notice from Tenant stating the date the installation of the alterations is to commence so that Landlord can post and record an appropriate notice of non-responsibility.
- iii. The alterations shall be approved by Landlord and all appropriate government agencies, and all applicable permits and authorizations shall be obtained before commencement of the alterations.
- iv. All alterations shall be completed with due diligence in compliance with the plans and specifications and working drawings, applicable laws and airport construction requirements.
- v. Any alterations made shall remain on and be surrendered with the Premises on expiration or termination of this Lease, except that Landlord can elect within thirty (30) days before the expiration of the term, or within ten (10) days after termination of the term, to require Tenant to remove any alterations that Tenant has made to the Premises. If Landlord so elects, Tenant at its cost shall restore the Premises to the condition designated by Landlord in its election, before the

last day of the term, or within thirty (30) days after notice of election is given, whichever is later.

## **29. DEFAULT**

### **A. Default by Tenant**

The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Tenant:

- (i) The vacating or abandonment of the Premises by Tenant. (Failure to use or occupy the Premises for fifteen (15) consecutive days shall be deemed a vacation or abandonment.)
- (ii) The failure by Tenant to make any payment of rental, or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days after notice thereof by Landlord to Tenant.
- (iii) The failure by Tenant to observe or perform any of the terms, covenants or conditions of this Lease to be observed or performed by Tenant, other than described in Sub-sections (A (i)) and (A (ii)) hereinabove, where such failure shall continue for a period of thirty (30) days after notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default and breach is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default and breach if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion within ninety (90) days.
- (iv) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's personal property at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of a Tenant's personal property at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

### **B. Landlord's Remedies**

In the event of any such default and breach by Tenant described hereinabove, Landlord may at any time thereafter:

- (i) Terminate Tenant's right to possession of the Premises by any lawful

means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In the event Tenant shall have abandoned the Premises, Landlord shall have the option to either (1) take possession of the Premises and recover from Tenant the amount specified in this Section, or (2) proceed under the provisions of the following Sub-section (ii).

- (ii) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.
- (iii) Pursue any other remedy now or hereafter available to Landlord under applicable laws and judicial decisions.

#### **C. Default by Landlord**

Landlord shall be in material default and breach of this Lease if it fails or refuses to perform any of the terms, covenants or conditions of this Lease that it is obligated to perform if the failure to perform is not cured within thirty (30) days after written notice of the default and breach has been given by Tenant to Landlord; provided, however, that if the default and breach of Landlord is such that more than thirty (30) days are reasonably required for its cure, then, Landlord shall not be deemed in default and breach if Landlord commences to cure the default within thirty (30) days after the written notice and thereafter diligently prosecuted such cure to completion within ninety (90) days.

#### **D. Tenant's Remedies**

In the event of any such material default and breach by Landlord described hereinabove, Tenant may at any time thereafter: (a) Terminate this Lease with a written notice to Landlord and vacate the Premises on the date of termination; and/or (b) Pursue any other remedy now or hereafter available to Tenant under the applicable laws and judicial decisions.

#### **E. California Law Notice Requirements**

The notice requirements set forth in this Section modifies and supersedes the notice requirements of the unlawful detainer statutes of California.

#### **F. Airport Regulations**

Landlord shall apply the provisions of Section 29 prior to enforcing any remedies as provided by the Airport Regulations.



### **30. INDEMNIFICATION AND INSURANCE**

#### **A. Hold Harmless**

Tenant shall at all times relieve, indemnify, protect and hold harmless, Landlord, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of injuries to or death of any person, including Tenant, or damage to property of any kind whatsoever and to whomever belonging, that may in whole or in part arise from, or be caused by:

- (i) The operation, maintenance, use, or occupation of the Premises and defects on the property in which the Landlord has no control;
- (ii) The acts or omissions of Tenant, its officers, agents, employees, servants, invitees or permittees; or
- (iii) The failure of Tenant, its officers, agents, employees, servants, invitees or permittees, to observe or abide by any of the terms, covenants and conditions of this Lease or any applicable federal, state, county or municipal law, rule, or regulation.
- (iv) Any other loss or cost, including but not limited to, the concurrent active or passive negligence of County, its officers, agents, employees, or servants resulting from the performance of any work required of Tenant or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which the County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.
- (v) Tenant's use of Toxic/Hazardous Materials on the Leased Premises, or the presence of Toxic/Hazardous Materials in the soil, subsoil, or groundwater located in, on, or under the Premises, or the effect of Toxic/Hazardous Materials migrating to other real property from the Premises, but only to the extent that the liabilities are, or are likely to be, the result of or caused by Tenant's Contamination. The indemnification by Tenant under this section shall survive the termination or cancellation of this Agreement.

The duty of Tenant to relieve, indemnify, protect and hold harmless, as set forth hereinabove, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

#### **B. Fire legal Insurance**

Tenant at its sole cost shall maintain fire legal insurance on the Premises with a limit of at least One Hundred Thousand Dollars (\$100,000); with water damage and debris clean up provisions to be included. The insurance policy shall name Landlord as additional insured.

### **C. Fire and Extended Coverage Insurance**

Tenant at its cost shall maintain on the improvements that are a part of the Premises a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of at least the replacement value of the improvements, which are a part of the Premises. The insurance policy shall be issued in the names of Landlord and Tenant as their interests appear. The insurance policy shall name Landlord as additional insured..

Tenant shall secure, and shall maintain at all times during the term of this Lease, insurance against damage or destruction by fire, windstorm, riot or civil commotion on Tenant's improvements at the Premises, if any, in the full amount of their replacement value, with such provision in the policies issued to cover the same, or in riders attached thereto, as shall provide for payment for losses thereunder sustained by Tenant; the proceeds of said policies to be held in trust by any reputable bank or trust company. Landlord shall release all proceeds from insurance policy.

### **D. Liability and Property Damage Insurance**

Tenant at its cost shall maintain Comprehensive Liability insurance for the following coverage with the following limits insuring against all liability of Tenant and its authorized representatives arising out of and in connection with Tenant's use or occupancy of the Premises:

- (i) Airport Premises Liability with a minimum limit of \$1,000,000 Combined Single Limit (CSL) each occurrence; and
- (ii) For Tenants who operate aircraft, Aircraft Liability with a minimum limit of \$1,000,000 CSL each occurrence with a minimum sub-limit \$100,000 each person. The policy shall include coverage for Owned, Non-Owned or Leased aircraft;
- (iii) For Tenants who operate vehicles on the airport, Commercial Automobile Liability for all Owned, Non-Owned and Hired automobiles with a minimum limit of \$1,000,000 each accident;
- (iv) For Tenants who take control of customers aircraft, Hangarkeepers' Liability with a minimum limit of \$100,000 each aircraft and \$300,000 each occurrence;
- (v) For Tenants who provide repair or maintenance services, fuel service, or sales, Products and Completed Operations Liability with a minimum limit of \$1,000,000 CSL each occurrence;
- (vi) All Comprehensive Liability insurance shall insure performance by Tenant of the Hold Harmless Sub-section of this Lease;
- (vii) Landlord shall be named as "additionally insured";
- (viii) All required insurance shall contain a Separation of Insureds or Severability of Interests provision; and

- (ix) The policy shall not be cancelled or non-renewed unless the Landlord has received 30 days prior written notice. (Ten days prior notice in the event of cancellation for nonpayment of premium is acceptable). Written notice shall be sent to: County of San Mateo, Attn: Airport Manager, 620 Airport Drive, San Carlos, CA 94070.

#### **E. Workers' Compensation and Employer's Liability Insurance**

During the entire term of this Lease, Tenant shall have in effect Workers' Compensation coverage providing full statutory benefits and employer's liability in the minimum amount of \$1,000,000. In executing this Lease, Tenant makes the following certification:

*I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer (1) to be insured against liability for Workers' Compensation or (2) to undertake self-insurance in accordance with the provisions of the Code. I will comply with such provisions.*

#### **F. Miscellaneous Insurance Provisions**

Tenant shall pay the premiums for maintaining the insurance required hereinabove. All the insurance required under this Lease shall:

- (i) Be issued by insurance companies authorized to do business in the State of California, with a financial rating of at least an AV status as rated in the most recent edition of Best's Insurance Reports. Coverage provided by State Fund Insurance shall satisfy this requirement.
- (ii) Be issued as a primary policy.
- (iii) Contain an endorsement requiring thirty (30) days' notice from the insurance company to both parties before cancellation or change in the coverage, scope, or amount of any policy.
- (iv) Landlord shall be named as "additionally insured" on each policy.

#### **G. Certificate of Insurance**

A certificate of insurance, together with evidence of payment of premium, shall be deposited with Landlord at the commencement of this Lease, and on renewal of the policy not less than thirty (30) days subsequent to the expiration of each policy.

In the event Tenant fails to deliver the certificate of insurance verifying insurance coverage as required in this Section, Landlord shall have the option, after a ten (10) day notice to Tenant requesting a certificate to take out all or part of the required insurance and pay the premium thereon on behalf of Tenant. If Landlord opts to take out the insurance on behalf of Tenant, the cost of the

premium paid by Landlord shall be deemed additional rent due and payable by Tenant with the next regular rent payment.

#### **H. Increase in Coverage**

Landlord reserves the right to require at any time that the required public liability and property damage insurance minimum coverage be increased in accordance with standard County of San Mateo Risk Management practice in effect at the time the increase is required. Tenant shall be given at thirty (30) days' notice of the required increase.

### **31. HAZARDOUS MATERIALS ACTIVITY**

Tenant may not store, handle or generate hazardous materials/waste/underground tanks on the property unless Tenant has completed and filed a San Mateo County Hazardous Materials Release Response Plan and Inventory ("Business Plan") with the San Mateo County Environmental Health Department.

Hazardous material means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the work place or the environment. Hazardous materials include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the work place or the environment. Examples of such hazardous materials are, but are not limited to: waste oil, grease, solvents, gasoline and compressed gases.

If Tenant does store, handle or generate hazardous materials/waste, or operate an underground storage tank, Tenant must do so in compliance with all state and federal regulations regarding hazardous materials, including but not limited to, California Health and Safety Code, Chapters 6.5, Sections 25100-25249, California Code of Regulations Title 26 and Code of Federal Regulations Section 40 Parts 240-281. Tenant shall be in default hereunder in the event of Tenant's failure to (1) file the Business Plan, (2) follow the Business Plan, and (3) comply with applicable State and Federal statutes regarding the handling of hazardous materials/waste/underground tanks. In addition, Landlord may exercise any rights applicable under State and Federal law, in regards to requiring Tenant to be responsible for disposal or removal of the hazardous materials/waste/underground tanks in a safe manner.

Subject to Section 21 herein, Landlord shall have the right to inspect the Premises to ensure Tenant's compliance, and charge inspection fees, in accordance with applicable State and Federal statutes.

If Tenant does not intend to and will not store, handle hazardous materials/underground tanks or general hazardous waste, then Tenant must complete and file a "Hazardous Materials Negative Response Form" to that effect with the San Mateo County Environmental Health Department. If, at any time during the term of this Agreement, Tenant commences activity that would involve the handling, storage or generation of hazardous materials/waste/underground tanks, Tenant must follow the directives set forth above.

### **32. COMPLIANCE WITH AIRPORT RULES AND REGULATIONS AND FAA STANDARD PROVISIONS**

Tenant agrees to comply with all San Mateo County Airport ordinances, rules and regulations, and at all times to cooperate with County in its operation and management of said airport. Tenant shall notify all users of its facilities of all applicable rules and regulations.

Tenant shall comply with the standard provisions for all leases of airport land promulgated by the Federal Aviation Administration, as set forth in the attached Exhibit B, and as those provisions may be revised from time to time.

Tenant shall comply with Standards for Fixed Base Operators adopted from time to time by the Board of Supervisors affecting all operators on County Airports holding concessions similar to Tenant's. The standards currently in effect are set forth in County of San Mateo, Airport Business Operating Standards dated May 1994. Tenant recognizes that it has full responsibility for meeting these Standards.

Tenant shall notify all users of its facilities and pilots of aircraft as to all applicable rules and regulations and require users and pilots to comply with them.

### **33. NON-ABROGATION OF UNITED STATES GOVERNMENT RIGHTS**

The provisions of this Agreement in no way abrogate any rights vested in the United States of America relative to the airport as such rights exist between the United States of America and the County of San Mateo.

### **34. HOLDING OVER**

If Tenant holds over after the expiration or earlier termination of the term hereof without the express written consent of Landlord, Tenant shall become a tenant at sufferance only, at the monthly rental rate of one hundred fifty per cent (150%) of the rent in effect upon the date of such expiration and otherwise upon the terms, covenants and conditions herein specified, so far as applicable. Acceptance by Landlord of monthly payments after such expiration or earlier termination shall not constitute a holdover hereunder or result in a renewal. The foregoing provisions of this paragraph are in

addition to and do not affect Landlord's right of re-entry or any other rights of Landlord hereunder or as otherwise provided by law.

### **35. ASSIGNMENT AND SUBLETTING**

Tenant shall not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without the written consent of Landlord first had and obtained, which consent shall not be unreasonably withheld, and a consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be voidable, and shall, at the option of Landlord, constitute a default under this Lease.

If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock of Tenant, or the sale of at least 51 percent of the value of the assets of Tenant, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 10% of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to corporations the stock of which is traded through an exchange or over the counter.

### **36. SAN MATEO COUNTY NO SMOKING ORDINANCE**

Tenant is aware that on April 18, 2006, the County of San Mateo modified its Ordinance Code, adopting Section 4.96.040, which prohibits smoking in all County facilities whether owned or leased. Tenant understands that said Ordinance authorizes County to enforce the provisions contained therein and Tenant agrees to enforce the provisions of said ordinance on the Premises.

### **37. OPERATION OF RADIO EQUIPMENT**

Tenant shall not operate any radio equipment at the airport transmitting electronic signals, which might interfere with operations of the Airport Control Tower, UNICOM, County Radios or other electronic transmissions essential to the operation of the airport.

### **38. CLOSING OF AIRPORT FOR MAINTENANCE AND CONSTRUCTION**

Landlord may from time to time be required to close the runway, taxiways, roads, parking lots, buildings and other facilities for purposes of necessary maintenance, repair or new construction. Tenant shall not be entitled to any compensation or damages from

Landlord for loss of the use of the whole or any part of the Premises, Airport facilities, loss of revenue, or any inconvenience or annoyance as a result of such maintenance or construction.

### **39. LAWS, RULES, REGULATIONS AND PERMITS**

Tenant shall construct any improvements, use, maintain and occupy the Premises in compliance with all applicable laws, rules, and regulations. These include, but are not limited to the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "Disabilities Laws"), Chapter 4.106 of the San Mateo County Ordinance Code which regulates the use of disposable food service ware and any other applicable City, County, State or Federal ordinances, rules, policies, laws and regulations. Tenant is responsible for ascertaining the need for and obtaining all required permits, licenses, etc., for all of its activities on the Premises. The cost for all permits, licenses, etc., shall be borne solely by Tenant.

### **40. PERSONAL PROPERTY**

Tenant's personal property shall include equipment, furniture, merchandise, and movable property placed in the Premises by Tenant, including trade fixtures, fuel tanks and associated equipment. Trade fixtures include any property installed in or on the Premises by Tenant for purposes of trade, manufacture, ornament, or related use.

### **41. NOTICES**

Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid mail, and if given by mail shall be deemed sufficiently given when sent by registered or certified mail. Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give by mail to the other party shall be addressed to the other party at the address set forth in Section 1 [Basic Lease Information] of this Lease. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this Section.

### **42. LIENS**

Tenant shall keep the Premises, free from any liens arising out of the work performed, materials furnished or obligations incurred by Tenant.

### **43. PAYMENT OF PERCENTAGE SHARE OF OPERATING EXPENSES**

Not used.

#### **44. GENERAL PROVISIONS.**

##### **A. Compliance with Law**

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

##### **B. Authority of Parties**

- (i) Corporate Authority. If either party hereto is a corporation, each party executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted Resolution of the Board of Directors of the corporation or in accordance with the By-Laws of the corporation, and that this Lease is binding upon the corporation in accordance with its terms.
- (ii) Partnership. If either party hereto is a partnership or other unincorporated association, each party executing this Lease on behalf of the partnership or other association represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the partnership or association, in accordance with the partnership agreement or the agreement of said association.
- (iii) Authorized Lease Representative of the County of San Mateo. The County Manager, or the designee of the County Manager, shall be the only authorized agent of the County of San Mateo for purposes of giving any notices or exercising any rights, options, privileges or obligations of the County of San Mateo under this Lease. This Lease shall not be valid unless executed by the President of the Board of Supervisors of the County of San Mateo pursuant to a Resolution adopted in accordance with the California Government Code.



### **C. Other Terms**

Clauses, plats, exhibits and riders, if any, initialed and dated by Landlord and Tenant and endorsed on or affixed to this Lease are a part hereof.

### **D. Waiver**

The waiver by either party of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of the acceptance of such rent.

### **E. Joint Obligation**

"Party" shall mean Landlord or Tenant; and if there be more than one Tenant or Landlord, the obligations hereunder imposed upon Tenants or Landlords shall be joint and several.

### **F. Time**

Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.

### **G. Successors and Assigns**

The terms, covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

### **H. Recordation**

Neither Landlord nor Tenant shall record this Lease.

### **I. Quiet Possession**

Upon Tenant paying the rent and other fees or charges reserved hereunder and observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof, subject to all the provisions of this Lease.

### **J. Prior Agreements**

This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose.

No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

**K. Inability to Perform**

This Lease and the obligations of Tenant hereunder shall not be affected or impaired because Landlord is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of God, or any other cause beyond the reasonable control of Landlord.

**L. Negation of Partnership**

Landlord shall not become or be deemed a partner or a joint venturer with Tenant by reasons of the provisions of this Lease.

**M. Sale or Transfer of Premises**

In the event of any sale or transfer of the Premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale or transfer; and the purchaser or transferee, at such sale or transfer or any subsequent sale or transfer of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties or their successors in interest or between the parties and any such purchaser or transferee, to have assumed and agreed to carry out any and all of the covenants and obligations and agreed to carry out any and all of the covenants and obligations of Landlord under this lease.

**N. Name**

Tenant shall not use the name of the Premises or of the development, building or facility in which the Premises may be situated for any purpose other than as an address of the business to be conducted by Tenant in the Premises.

**O. Cumulative Remedies**

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**P. Signs and Auctions**

Tenant shall not place any sign upon the Premises or conduct any auction thereon without Landlord's prior written consent.

#### **Q. Provisions, Covenants and Conditions**

All provisions herein, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

#### **R. Captions, Table of Contents**

The captions and the Table of Contents of this Lease (if any) shall have no effect on the interpretation of this Lease.

#### **S. Payments in U.S. Money**

Rent and all sums payable under this Lease must be paid in lawful money of the United States of America.

#### **T. Singular and Plural**

When required by the context of this Lease, the singular shall include the plural.

#### **U. Choice of Law**

This Lease shall be construed, interpreted and governed in accordance with the laws of the State of California.

#### **V. Brokers**

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein except as identified in the Basic Lease Information, whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the party through which such broker contracted. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

#### **W. Severability**

If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

**X. Venue**

The Venue for any court action to interpret or enforce this agreement or to litigate any claim arising out of this agreement shall be had in State Court of the County of San Mateo.

**Balance of Page Intentionally Blank**

IN WITNESS WHEREOF, County and Tenant have executed this Lease as of the date and year first above written.

TENANT

**MWA-SQL, LLC, a Nevada Limited Liability Company**

**By: Mountain West Equities, Incorporated, its Manager**

By 

Michael Golden  
President, Mountain West Equities, Incorporated

LANDLORD

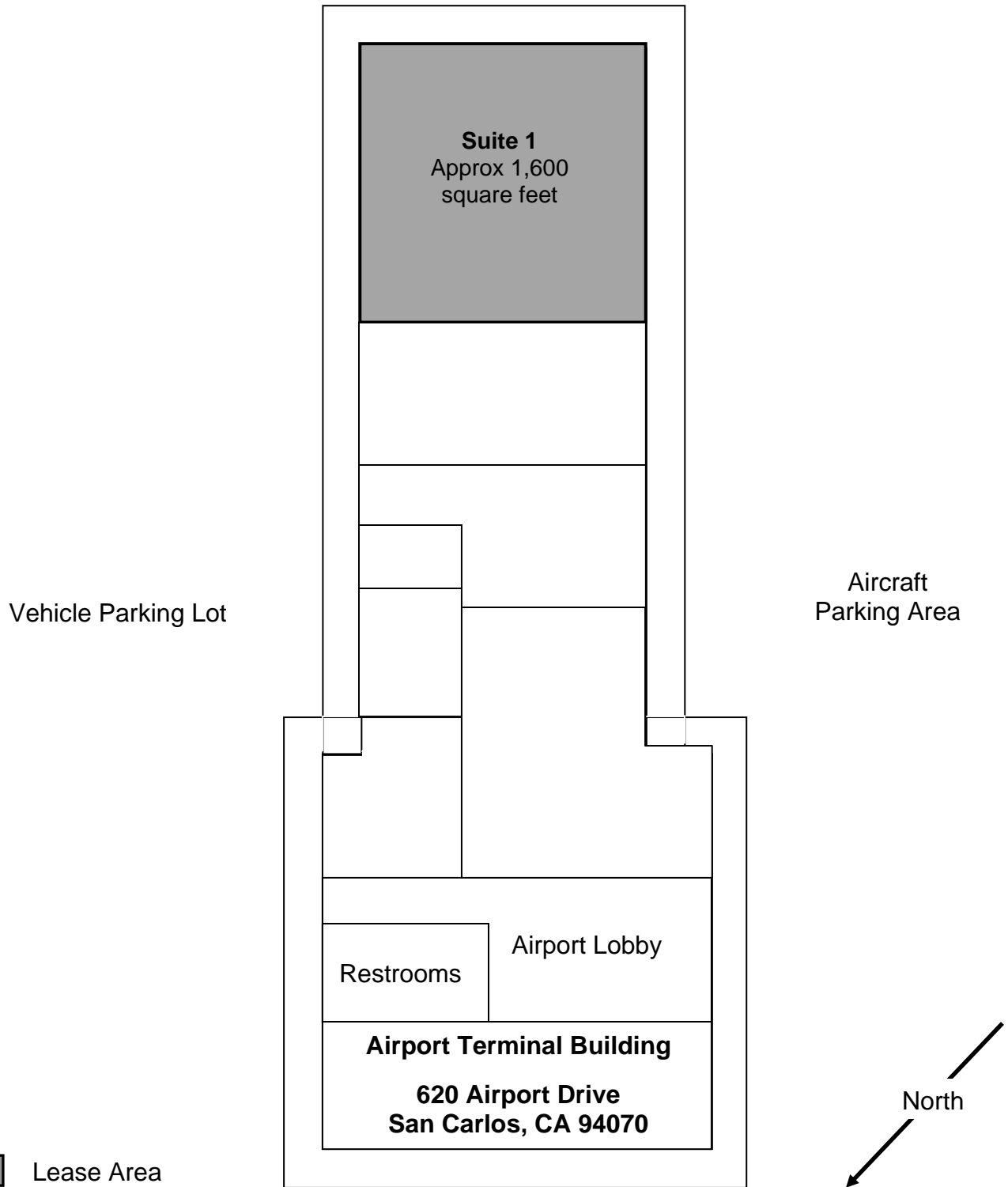
**COUNTY OF SAN MATEO, a Political Subdivision of the State of California**

By \_\_\_\_\_  
Don Horsley  
President, Board of Supervisors

Resolution No. \_\_\_\_\_

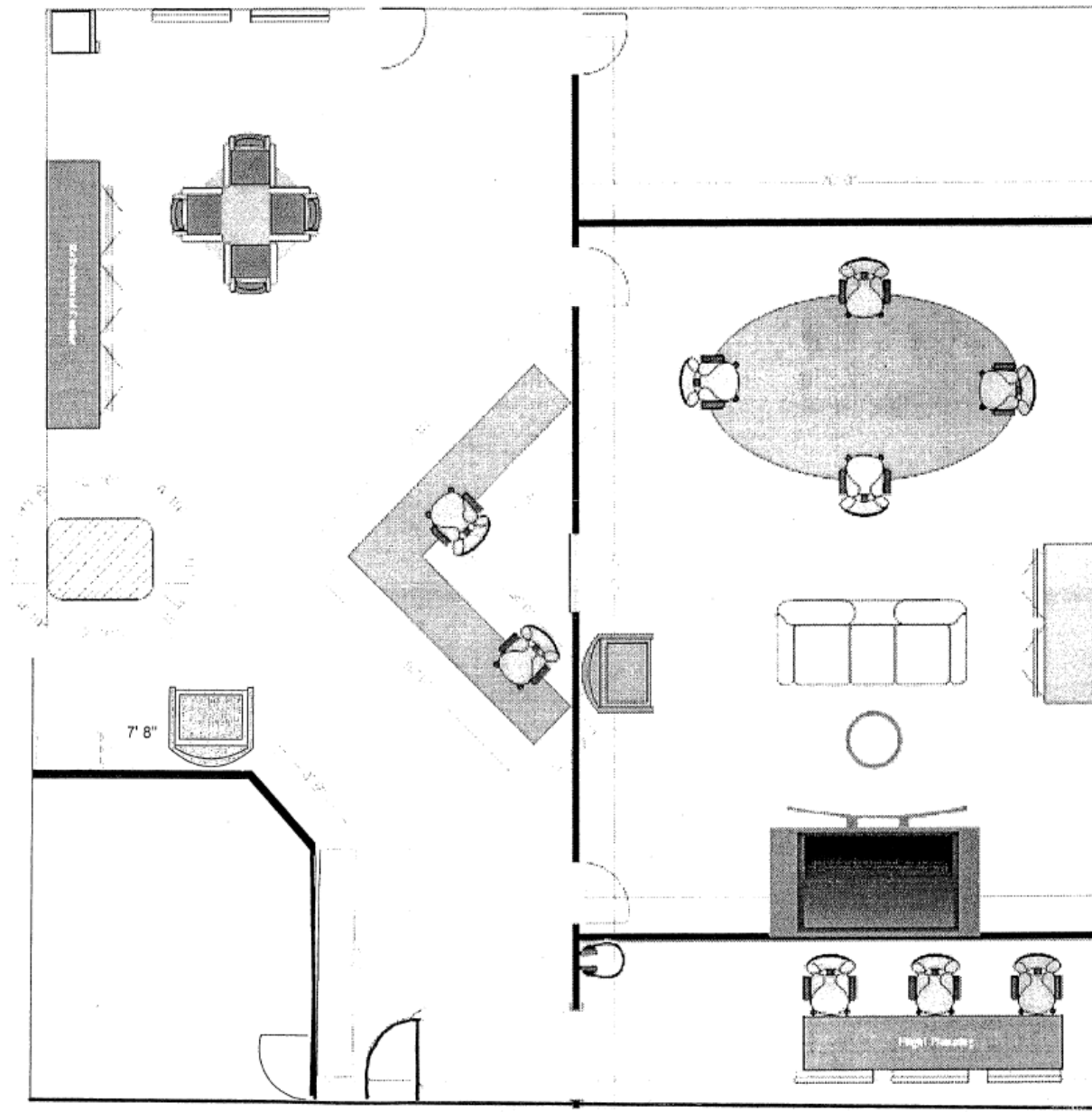
ATTEST: \_\_\_\_\_  
Clerk of said Board

**EXHIBIT A**  
**SITE PLAN OF PREMISES**

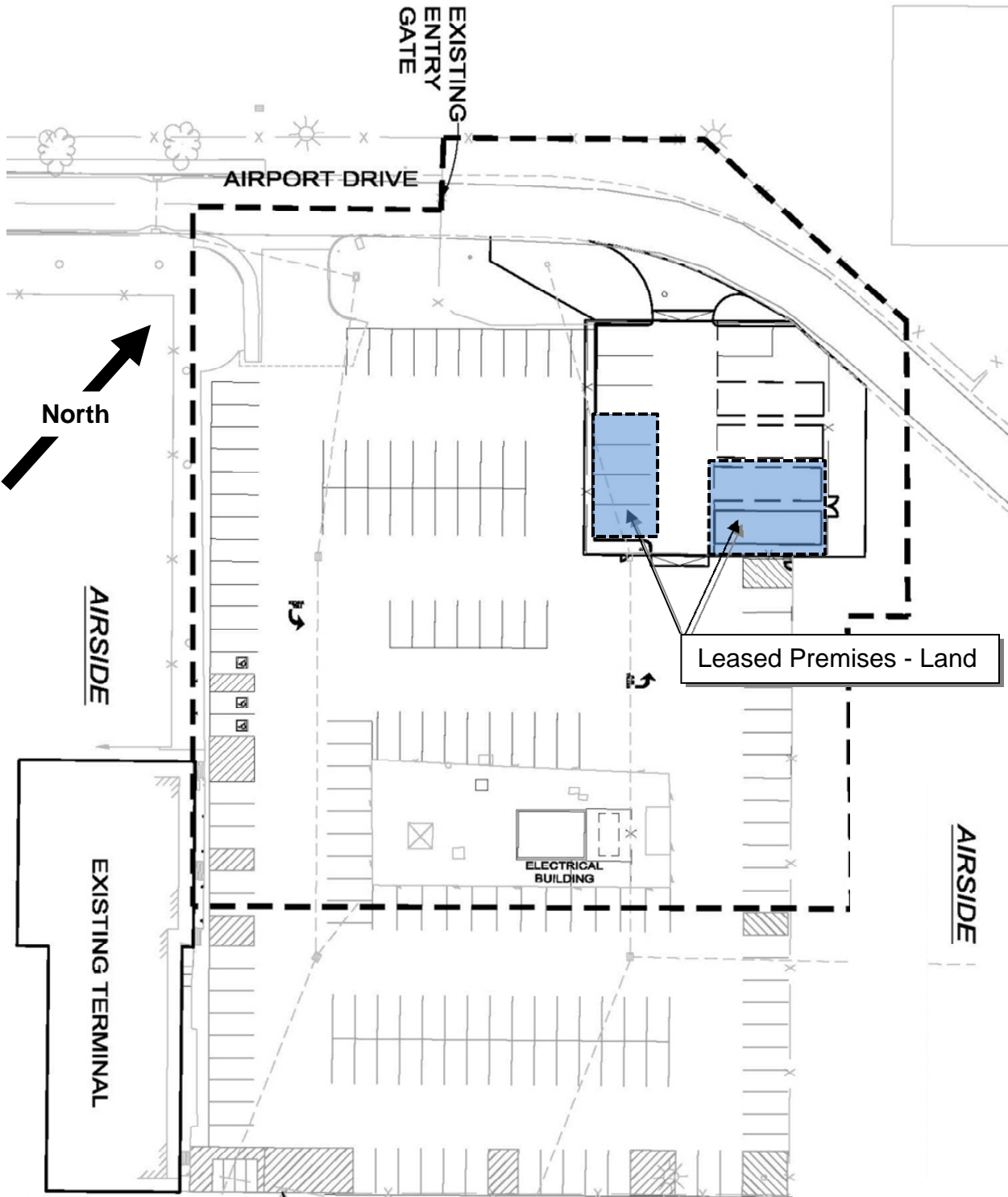


## SITE PLAN OF PREMISES - OFFICE

Mountain West Aviation – San Carlos Airport  
Office & Pilot Lounge Floor Plan  
620 Airport Drive Suite 1  
San Carlos, California 94070



SITE PLAN OF PREMISES - LAND





**EXHIBIT B**  
**STANDARD PROVISIONS FOR ALL LEASES,**  
**USE, AND OTHER AGREEMENTS AND PERMITS**  
**SAN MATEO COUNTY AIRPORTS**

1. Tenant for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree "as a covenant running with the land" that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, agreement or permit for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
2. Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, sex, sexual orientation, color, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the lands and furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
3. In the event of breach of any of the above nondiscrimination covenants, Landlord may terminate the lease, agreement or permit and re-enter and repossess the land and the facilities thereon and hold them as if the lease, agreement or permit had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.
4. Tenant shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that Tenant may make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach of the lease, agreement or permit. In the event of such non-compliance, Landlord may terminate this lease, agreement or permit and the estate hereby created without liability thereof; or, at the election of Landlord or the United States either or both of these governments may judicially enforce the provision.
6. Landlord may further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Tenant and without interference or hindrance.
7. Landlord may, but shall not be obligated to Tenant to, maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport. Landlord also may direct and control the activities of Tenant in this regard.
8. The lease, agreement or permit shall be subordinate to the provisions and requirements of any existing or future agreement between County and the United States relative to the development, operation or maintenance of the airport.
9. There is hereby reserved to Landlord, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises covered by the lease, agreement or permit. This public right of flight shall include the right to cause in this airspace any noise inherent in the operation of any aircraft used for navigation of flight through the airspace or to land at, take off from or operate on the San Carlos or Half Moon Bay Airport, as the case may be.
10. Tenant shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations if future construction of a building is planned for the premises covered by the lease, agreement or permit or in the event of any planned modification or alteration of any present or future building or structure on the premises.
11. Tenant, by accepting this lease, agreement or permit, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on any land leased that would be in conflict with the provisions of Part 77 of the Federal Aviation regulations. If these covenants are breached, County may enter upon the land and remove the offending structure or object and cut the offending tree, all of which shall be at Tenant's expense.
12. Tenant, by accepting this lease, agreement or permit, agrees for itself, its successors and assigns that it will not make use of the premises covered by the lease, agreement or permit in any manner which might interfere with the landing and taking off of aircraft from the airport or otherwise constitute a hazard. If this covenant is breached, County may enter upon the premises and cause the abatement of such interference at Tenant's expense.

13. Nothing contained in the lease, agreement or permit shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349A).
14. The lease, agreement or permit and all its provisions shall be subject to whatever right the United States Government now has or in the future may have or 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 during the time of war or national emergency.
15. Tenant will conduct its programs and operate its facilities in accordance with the requirements of the Americans with Disabilities Act of 1992 and will assure that no qualified disabled person shall, solely by reason of his or her disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment. Tenant will conduct its programs and operate its facilities in compliance with all the requirements imposed by or pursuant to **49 CFR Part 27**.
16. Tenant shall insert the above provisions in any lease, agreement, contract, permit, etc., by which it grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises covered by the lease, agreement or permit, including any subleases, and hereby assures that the above provisions will be included in any agreement, contract, permit or further sub-lease granted or entered into by any sub-lessee of the Tenant.

**EXHIBIT C**  
**SPECIAL REQUIREMENTS/CONDITIONS**  
**TO AIRPORTS LEASE / CONCESSION AGREEMENT WITH**  
**MOUNTAIN WEST AVIATION**

**In the event of any conflict between any provision of the Lease and this Exhibit C, the Lease provision shall prevail.**

**1. SAFETY**

Safety shall be paramount at all times. Tenant shall ensure that its agents, employees and customers safely coordinate all movements and activities on the airport to the satisfaction of the County. Tenant shall ensure that its operations and activities comply with local, state and federal requirements and are in accordance with safe and acceptable practices and procedures.

**2. LICENSES AND CERTIFICATIONS**

Tenant shall obtain all required licenses, certifications and authorizations from all appropriate agencies for work performed and activities conducted under this Agreement.

**3. TRAINING**

Tenant shall properly educate and train all agents, employees and customers regarding airport safety and operating procedures prior to allowing access onto the airfield.

**4. COMPLIANCE WITH NOISE ABATEMENT**

Not Used.

**5. PARKING**

Tenant shall ensure that its vehicles and those of its agents and customers are parked in areas and locations as approved by the County and are in compliance with Airport Parking Policies.

Parking lots are provided for the general use of all airport users. Tenant shall not control or restrict the use of the parking lot adjacent its facility to other airport tenants or users.

Camper trucks, trailers and/or other temporary living facilities may not be parked overnight in any area of the Airports without written authorization from the County. No overnight camping is permitted.

**6. STORAGE OF EQUIPMENT, VEHICLES AND MATERIALS**

Unless otherwise authorized herein, Tenant shall not store equipment, vehicles, boats, materials, pallets, boxes, etc. on the airport other than in designated storage areas or buildings as approved by the County. Tenant shall keep all walkways and staircases free of clutter, trash, contaminants or any other personal items and equipment.

## **7. REPAIRS**

Tenant shall repair, at its own expense, any and all damage to the property of the County or to the property of others on the Airport, and damage which has been caused by Tenant, its agents or customers who may be on the Airport for any purpose connected with the Tenant's business.

## **8. STORMWATER COMPLIANCE**

The County has obtained a National Pollutant Discharge Elimination System ("NPDES") Permit from the Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB"), regarding stormwater discharge from the Airport, which includes stormwater discharge and runoff from the Airport. Without limitation of any other obligation of Tenant hereunder, Tenant shall comply with all laws, rules, regulations, requirements, administrative orders and/or programs imposed upon Tenant or County by the RWQCB or any other governmental entity, regarding runoff and stormwater discharge on the Airport. Tenant shall pay any cost that County incurs to take any compliance action on the Airport as a result of Tenant's failure to comply with such laws, regulations, requirements, administrative orders and/or programs. Tenant shall also pay, to the extent caused by Tenant's business on the Airport, County's costs to take any compliance action imposed upon County by the RWQCB or any other governmental entity.

Nothing in this section shall be interpreted as a waiver of any NPDES permits required by the RWQCB for activities not covered by the County's permit.

## **9. DISCHARGE OF CONTAMINANTS**

Tenant, its agents and customers shall at no time discharge any hazardous material or substance onto the Airport. Waste oil and other contaminants shall be properly disposed of and at no time shall the Tenant use the waste oil tanks the County has provided for the non-commercial use of airport tenants.

## **10. SECURITY/ACCESS**

Airport security shall be maintained at all times. Tenant shall take all reasonable steps to restrict unauthorized access onto airport property, including controlling thoroughfare access through the Premises. All access and security procedures shall be coordinated with and approved by the County. Tenant shall ensure that all gates it uses remain closed and locked at all times and that any mechanical problems with the gates are promptly reported to the County. Access codes shall only be provided with discretion to persons wishing to enter airport property. First-time visitors should be directed to the airport office for instructions and to receive access codes. Tenant shall monitor and report any misuse of airport security codes immediately.

## **11. SIGNAGE AND WINDOWS**

No permanent banners or signs of any kind may be installed or displayed outside on the airport without the written approval of the County. All signage shall comply with applicable Local and County requirements. Signs and banners installed without the

written approval of the County will be removed and disposed of at Tenant's sole cost and expense.

Tenant shall be limited to one exterior sign. The total sum of the surface area of this sign shall not exceed 64 square feet. All signage shall be mounted securely to the parapet above the Tenant's portion of the premises and no portion of the signage shall exceed the existing dimensions of the parapet. Appropriate signage may also be added to the entry and exit doors. All draft styles, materials, size, proposed locations and installation methods of all new and replacement signage on parapets and doors shall be approved in advance by the Airport Manager and conform to all requirements herein. Any signage placed in locations other than the parapets or doors must be approved by the Airport Manager prior to installation or construction.

Tenant shall keep all exterior and shared interior windows free of any signs, advertisements, posters, fliers, stickers and/or other articles which are unrelated to the business or operation of the business that would otherwise prevent a clear and unobstructed view through the window. Articles placed on windows must be confined to one 24 inch by 24 inch area on one exterior and/or interior window. Landlord reserves the right to remove any object found to be in non-compliance within 24 hours after delivery of written notification to the tenant. Tenant, at its sole cost and expense, shall have the right to install neutral colored curtains, blinds or shades, or other window coverings with Landlord's prior written approval.

## **12. HOUSEKEEPING**

Tenant shall collect and remove from the airport all debris, trash, garbage, or other rubbish generated by Tenant, its agents or customers who may be on the Airport for any purpose connected with the Tenant's operation. Tenant shall ensure other areas where business is conducted are kept as clean and orderly as is reasonably possible at all times. Tenant shall ensure that walkways and areas adjacent to their Premises are clean and kept clear of oil, grease or other contaminants associated with Tenant's operation.

Tenant shall regularly dispose of pallets, crates and other shipping supplies at its facility. Tenant shall not dump waste or refuse on airport property or in facilities leased by another Tenant or vendor.

## **13. TRASH AND RECYCLING REMOVAL**

Tenant shall dispose of recyclable materials in County provided recycling receptacles or, if Tenant has set-up its own recycling program, through Tenant's own receptacles. Tenant shall not dispose of trash or place other non-recyclable materials in the recycling receptacles. To the extent possible, Tenant shall not dispose of recyclable materials in dumpsters or other trash receptacles.

Dumpsters and other trash and recycling receptacles may not block or obstruct in any way hangars or taxiways.

#### **14. AIRCRAFT WASHRACK**

Washing or cleaning any automobile, boat, trailer, or any other type of vehicle or equipment at the washrack or on airport property is prohibited.

#### **15. OPERATIONS**

The County shall approve all operations and activities. Tenant shall take all reasonable steps to ensure that its operations and activities create minimal impact and inconvenience to the airport and other airport users. Tenant shall not block or obstruct taxiways, roads or access routes at any time.

Tenant shall limit the weight of all vehicles it operates on the Airport to 12,500 pounds. This maximum weight shall include the weight of fuel and occupants.

Initial MG

**EXHIBIT D**  
**SPECIAL REQUIREMENTS/CONDITIONS**  
**TO INTO-PLANE FUELING SERVICES CONCESSION AGREEMENT WITH**  
**MOUNTAIN WEST AVIATION**

**In the event of any conflict between any provision of the Lease and this Exhibit E, the Lease provision shall prevail.**

**1. FUEL STORAGE SAFETY/DISPENSING REGULATIONS**

At all times during the term of this Agreement, Tenant must comply with all laws, rules and regulations promulgated by County and/or by any governmental authority having jurisdiction over the storage and dispensing of all aviation fuels and hazardous materials. The County has the right to amend any rules and regulations promulgated by it from time to time, at its sole discretion, without notice.

Tenant shall furnish good, prompt, and efficient service and shall maintain an adequate supply of aviation fuel, oil, and lubricants sufficient to meet the demands of military and civilian aircraft. Tenant shall purchase and distribute a nationally recognized brand of aviation fuel. Tenant must make accommodations for the storage and distribution of both Avgas and Jet fuel. Total available storage of both fuels at the Airport shall not be less than 12,000 gallons, combined.

**2. VEHICLES**

All tank trucks, automotive equipment, machinery, appliances, and other equipment used by Tenant in its operations under this Agreement shall, at no cost to County, be maintained in good mechanical condition and appearance and shall be modern, up-to-date equipment that shall at all times meet all applicable Federal Aviation Administration requirements and additional requirements that are necessary or lawfully required for fire protection and the enhancement of the safety of operations.

Tenant shall limit the weight of all vehicles it operates on the Airport to a maximum weight of 12,500 pounds. This maximum weight shall include the weight of all fuel, cargo and employees.

**3. SERVICE & EMPLOYEE CONDUCT**

Tenant shall ensure that all employees are trained according to all applicable laws and regulations related to on-Airport activities of the Tenant.

Tenant shall control the conduct, demeanor and appearance of its officers, employees, agents and representatives and shall require all employees to wear clean and neat appearing clothing and shall take all actions necessary to ensure courteous, polite and inoffensive conduct. Upon objection from Landlord concerning the conduct, demeanor



or appearance of any such person, Tenant shall take steps necessary to correct or to remove the cause of the objection.

Tenant shall furnish good, prompt, and efficient service so as not to reflect any discredit on County and shall, within available quantities, maintain an adequate supply of aviation fuel, oil, and lubricants sufficient to meet the demands of military and civilian aircraft serving the Airport.

Tenant shall not marshal, direct or service aircraft arriving the Airport unless the aircraft's pilot has previously requested service from Tenant either in advance, via UNICOM or via the Airport's ground control frequency upon arrival to the Airport. Notwithstanding the foregoing, Tenant shall have the right to offer assistance to patrons on the transient apron.

#### **4. ACCESS TO TENANT LEASED PREMISES**

County is under no obligation to permit or obtain access for Tenant to enter upon premises occupied or leased by any other tenant of the Airport. In all cases, such right of access or entry must be arranged for or obtained by Tenant from those tenants.

#### **5. SHARED FUEL STORAGE FACILITY**

Tenant acknowledges the fuel storage facility that is part of their Premises may be co - located with another airport tenant and Fuel Storage Facility access may be shared with another tenant. Whenever possible, Tenant shall confine their Activities to their Premises, and coordinate delivery, maintenance or other activities with co-tenants so as to minimize the inconvenience to other Tenants or users or the obstruction of those areas shared by co-tenant. Tenant shall ensure all gates and doors to the Fuel Storage Facility remain closed and locked when the Fuel Storage Facility is not in use.

Initial MG

**EXHIBIT E**  
**TOXIC MATERIALS & ENVIRONMENTAL RESPONSIBILITIES**

1.     Compliance with Environmental Laws.

Tenant shall comply, at Tenant's sole cost, with all Environmental Laws applicable to all Toxic Materials and to the lawful conduct of the Tenant's business to the extent performed on or about the Leased Premises. It is the sole obligation of Tenant to obtain any permits and approvals required for the operation of the Tenant's business pursuant to the Environmental Laws. To the extent such action is necessary because of any Tenant's Contamination (as defined in Section 12i), Tenant shall or shall cause any responsible party to investigate the site conditions and perform to completion, in the manner provided in Section 3 of this Appendix any and all investigation, clean-up, remediation, removal or restoration work: (i) necessary to bring the Leased Premises into compliance with the Environmental Laws; (ii) necessary to bring any other real property into compliance with the Environmental Laws in the event of any migration of Toxic Materials from the Leased Premises to such other real property; (iii) necessary to maintain the Leased Premises in compliance with the Environmental Laws; or (iv) required by any federal, state, or local governmental agency or political subdivision at any time during or after the term of this Agreement; or (v) necessary to restore the condition of the Leased Premises to a level below regulatory action levels. The obligations of Tenant under this section shall survive the termination of this Agreement.

2.     Business Plan.

If Tenant's business conducted or to be conducted in, on, under, or about the Premises requires the establishment and implementation of a business plan pursuant to California Health and Safety Code sections 25500, et seq., concerning the handling of hazardous materials, Tenant shall immediately give written notification to County that the Tenant's business is subject to the business plan requirement of that Code and that the business is in compliance with that Code. A copy of the plan shall be delivered to County with such notification.

3.     Cleanup.

Tenant shall take all action that any federal, state, regional, municipal or local governmental agency ("Agency") lawfully requires to be taken to investigate, clean-up, remediate or remove Tenant's Contamination (the "Necessary Action"). In addition to any notification to County required by Section 4 of this Exhibit, Tenant shall promptly furnish County with a copy of all correspondence between the Tenant or its environmental consultants and each involved agency concerning the Necessary Action. On or before ten (10) business days prior to Tenant's submittal of any work plans or descriptions of the Necessary Action to each involved agency, Tenant shall furnish County with a draft copy of said document for County's review and comment. County shall have the right to submit written comments on all aspects of the work plan to the

Tenant and to each involved agency, including without limitation, comments on the remediation methodology and appropriateness of clean-up levels. Tenant shall provide County with written notice of all meetings with agencies concerning the Necessary Action, which notices shall be provided where possible ten (10) business days in advance of the meeting. County and its consultants shall have the right to attend and participate actively in all meetings with agencies concerning the Necessary Action. Except in the case of an emergency, no Necessary Action shall be commenced without:

- (i) written approval by the lead agency, if one exists, or by all agencies having and asserting jurisdiction over the Necessary Action and
- (ii) where practical, ten (10) business days written notice to County. County shall have the right to have a representative present on the Leased Premises at all times during the implementation of the Necessary Action by the Tenant. Tenant agrees that the Necessary Action will be supervised by and certified by a registered professional engineer. Tenant releases the County from responsibility for, and indemnifies the County (with counsel approved by the County) against any Liability in connection with the Necessary Action. If Tenant fails to take the Necessary Action on a timely basis, County may, but shall not be obligated to, take the Necessary Action and in such event, all costs incurred by County with respect thereto shall be for the account of Tenant and recoverable as additional rent hereunder.

4. Notice of Contamination.

If Tenant is required by statute or regulation to give notice to any agency about any Contamination, Tenant shall immediately give the County's Airport Manager the same notice by telephone, which shall be confirmed by written notice not later than the next business day. This obligation to notify County shall also extend to any personal injuries or property damage to third parties resulting directly or indirectly from said Contamination. If Tenant becomes aware of the presence of or use of any Toxic Materials not authorized in accordance with the terms of this Agreement, or of any Contamination not subject to the notification provisions of the first sentence of this section, Tenant shall immediately give written notice of such condition to County to the extent required by California Health and Safety Code section 25359.7.

5. Storage and Use of Toxic Materials.

All Toxic Materials permitted in, on, under or about the Leased Premises pursuant to this Agreement shall be stored and used in strict compliance with all Environmental Laws. There shall be no ponding or uncovered surface storage whatsoever of Toxic Materials in, on or about the Premises. No underground storage tanks shall be constructed, installed or used without County's prior written consent, which consent may be withheld by County in its sole and absolute discretion. If Tenant

is not in substantial compliance with Environmental Laws concerning underground storage tanks, or has failed to take Necessary Action when required to do so under Section 3 of this Exhibit, County shall have the right to enter the Leased Premises for the purpose of removing any underground storage tank, if any, at Tenant's sole expense in accordance with a closure plan approved by regulatory authorities. If Tenant's Contamination is detected at the time of the tank removal, clean-up shall proceed in accordance with Section 3 of this Exhibit.

6. Disposal of Toxic Materials.

Tenant shall not release or dispose of any Toxic Material, in the drains, storm drains, sewers, plumbing, or any other drainage facility within the Premises or the Airport that will cause or contribute to a violation of Environmental Laws or Contamination. The offsite disposal of Toxic Materials shall be in strict compliance with all Environmental Laws and at Tenant's sole expense.

7. Safety.

Tenant shall maintain Material Safety and Data Sheets for each and every item or product containing any regulated amount of Toxic Material brought onto the Premises. Such information shall be kept current at all times.

8. Fees, Taxes and Fines.

Tenant shall pay, prior to delinquency, any and all fees, taxes (including excise taxes) and fines that are charged upon or incident to Tenant's activities related to Toxic Materials, provided that Tenant shall have the right to contest the validity or amount of any such fees, taxes or fines, so long as (i) Tenant establishes a reserve in the amount thereof on its financial statements, and (ii) Tenant does not allow such obligations to become a lien or charge against the Leased Premises or the Airport or upon County.

9. Delivery of Documentation.

Tenant shall deliver to County true and correct copies of the following documents related to compliance with Environmental Laws concurrently with the receipt from or submission to an agency: (i) permit applications; (ii) permits and approvals; (iii) notices of violations of Environmental Laws and Tenant's responses thereto; (iv) environmental assessments, and (v) any other documents related to compliance with Environmental Laws that the County may reasonably request from time to time.

10. Annual Site Investigation.

In addition to County's right of access to the Premises set forth in this Agreement, County shall have the right, but not the obligation, to conduct annually an environmental inspection and assessment of the Premises during each year of the term

of this Agreement, either alone or in conjunction with other areas of the Airport, and to engage the services of an environmental consultant or consulting firm for such inspection and assessment. Should County conduct an environmental inspection, County shall pay, one hundred percent (100%) of the reasonable cost of each such annual inspection applicable to the Premises. If the environmental inspection and assessment of the Premises discloses the existence of any Tenant's Contamination, Tenant shall take any and all Necessary Action as provided in Section 3 of this Exhibit and be responsible for reimbursing County for all costs of the environmental inspection. If County elects not to conduct an annual environmental inspection and assessment, or if County's environmental inspection and assessment fails to discover or disclose any Tenant's Contamination, Tenant shall not be excused from performing its obligations or relieved from liability to County under Section 3 of this Exhibit.

11. Expiration of Term of Agreement/Environmental Assessment.

On or before the expiration or termination of this Agreement, Tenant shall take any and all action required to be taken under the Environmental Laws in order to:

- (i) surrender the Premises to County free of any and all Toxic Materials present in amounts exceeding then applicable agency action levels as a result of Tenant's Contamination; and
- (ii) close or remove any storage tanks in, on, or around the Premises, unless otherwise directed in writing by County.

Such closure or removal shall be deemed to constitute Necessary Action within the meaning of Section 3 of this Exhibit, and all the provisions of Section 3 of this Exhibit relating to Necessary Action shall be applicable to such closure and removal. Unless waived in writing by County, Tenant, within 90 days of commencement of this Agreement and within ninety (90) days prior to the expiration or termination of this Agreement, or prior to any authorized assignment or subletting of all or any portion of the Premises, shall provide to County a written report certifying that Tenant is in compliance with the Environmental Laws, or, if this Agreement is expiring or terminating, that the Tenant has complied with the provisions of this Section 1 of this Exhibit. This report shall contain the following information:

- (i) a list of all permits issued under Environmental Laws regulating Tenant's business on the Premises and a description of all such permits;
- (ii) for each permit on the list, a description of the particular area or operation that requires compliance with such permit by the Tenant;
- (iii) for each permit on the list, a description of Tenant's compliance program for the Environmental Law or corresponding regulatory program;

- (iv) for each permit on the list, a list of all alleged violations for the prior calendar year or Annual Period, or an affirmative statement that there were no alleged violations during said period;
- (v) copies of environmental assessments or compliance audits done during the prior calendar year; and
- (vi) a certification. The certification shall be signed and notarized by an appropriate corporate manager of the Tenant who has direct responsibility for environmental compliance at the Premises. The certification shall state as follows: "I, (name), am an employee of (Tenant's name). My title is (Title). My job responsibilities include direct responsibility for monitoring and assessing environmental compliance at (Leased Premises). This report has been prepared by me or under my direct supervision during the course of my employment for (Tenant's name). I certify that I have personal knowledge of the facts in the report and that said facts are true, accurate and complete. I also certify that (the Premises) are in compliance with all applicable federal, state and local Environmental Laws except to the extent otherwise disclosed in this report. (Signature, notary seal, and date.)" Tenant shall bear all costs of such reports and shall reimburse County for any and all reasonable out-of-pocket costs incurred by County in connection with its review of such reports. From time to time during the Agreement term, but no more often than once per Annual Period, County shall have reasonable access to the Premises to conduct an environmental assessment to audit Tenant's compliance with Environmental Laws.

12. Definitions under this Exhibit

The following definitions shall apply to all terms contained within this Exhibit.

i. Contamination.

The term "Contamination" means any spilling, discharging, releasing or disposing of Toxic Materials on, in, under or about the Leased Premises, or any other contamination or deterioration of groundwater, subsoil or soil in, on, under or originating from the Leased Premises.

ii. Tenant's Contamination.

The term "Tenant's Contamination" means any spilling, discharging, releasing or disposing of Toxic Materials on, in, under or about the Leased Premises from and after the Commencement Date and until the termination of this Agreement and the surrender

of possession of the Leased Premises to County, but shall not include any discharge or release migrating to the Leased Premises from other land.

iii. Environmental Laws.

The term "Environmental Laws" means any and all laws, rules, regulations, judgments, orders, permits, licenses, agreements, covenants, restrictions, requirements, policies or the like enacted now or hereafter relating to or governing in any way the environmental condition of soil, air, water, groundwater or the presence of Toxic Materials in or affecting all or any portion of the Leased Premises, including, without limitation, the statutes described in the definition of Toxic Materials.

iv. Toxic Materials.

The term "Toxic Materials" means any hazardous or toxic materials, pollutants, effluents, contaminants, radioactive materials, flammables, explosives, pesticides, chemicals known to cause cancer or reproductive toxicity, emissions, wastes or any other chemicals, materials or substances, whose handling, storage, release, transportation or disposal is or becomes prohibited, limited or regulated by any federal, state, county, regional or local authority or, even if not so regulated, is or becomes known to pose a hazard or potential threat to the health and safety of any person or to the environment. The term "Toxic Materials" includes, without limitation, the following compounds:

- (i) asbestos;
- (ii) petroleum, petroleum by-products, and petroleum degradation products;
- (iii) polychlorinated biphenyls;
- (iv) all substances now or hereafter defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, section 101 (14), 42 U.S.C. section 9601(14), including petroleum, crude oil, and any fractions thereof;
- (v) (v) all substances now or hereafter defined as "extremely hazardous substances" pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, section 302(a), 42 U.S.C. section 11002(a);
- (vi) all substances now or hereafter defined as "hazardous waste" by Section 25117 of the California Health and Safety Code;
- (vii) all substances now or hereafter designated by the Governor of the State of California as substances known to the state to cause cancer or

reproductive toxicity pursuant to California Health and Safety Code section 25249.8;

- (viii) all substances now or hereafter defined as an “economic poison” pursuant to California Health and Safety Code section 12753; and
- (ix) all substances now or hereafter defined as “extremely hazardous waste” pursuant to California Health and Safety Code section 25115.

v. Liabilities.

The term “Liabilities” means any and all claims arising out of, resulting from or caused by the release, discharge, storage, handling, use, accumulation, transportation, generation, migration, disposal, investigation, clean-up, remediation or removal of any Toxic Materials caused by Tenant or any of its licensees, permittees or invitees, including, without limitation, the following:

- (i) diminution in value of the Airport or the Premises;
- (ii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Airport or the Leased Premises;
- (iii) damages arising from any adverse impact on marketing of space at the Airport or the Premises;
- (iv) sums paid in settlement of Claims (including, without limitation, attorneys’ fees, consultant fees and expert witness fees);
- (v) damages caused by the breach or nonperformance by Tenant of any covenant or other provision of this Agreement; and
- (vi) costs incurred in connection with any investigation of site conditions and any cleanup, remediation, removal or restoration work necessary should the Tenant fail to comply with Section 3 of this Exhibit.