

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 23-140

AUTHORIZING THE EXECUTIVE TO EXECUTE AN OPTION TO LEASE LAND TO
SALIRE, LLC AT THE SNOHOMISH COUNTY AIRPORT

WHEREAS, the County owns 84,404 square feet of land on the east side of Snohomish County Airport; and

WHEREAS, Salire, LLC desires to obtain an exclusive option to lease real property at the Snohomish County Airport at Paine Field on the east side of the general aviation runway runway 16L-34R to develop the site for uses compatible with aircraft storage, general aviation hangars, aeronautical services and restaurant which is consistent with the FAA-approved Airport Layout Plan; and

WHEREAS, the term of the Option is twelve (12) months with one (1) six month extension, provided certain milestones are accomplished to conduct engineering, soil, and sustainability studies on the land before developing the land and entering into a final lease; and

WHEREAS, a final lease, if executed, will be at the current appraised fair market value. If the Option was exercised immediately, it would generate \$100,780.56 per year for the Airport Fund; and

WHEREAS, the Snohomish County Executive is authorized to enter, sign and amend leases pursuant to SCC 2.10.010(12) and SCC 15.04.040(3), which provide, among other items, the county executive may recommend individual licenses or leases for approval by the County Council;

NOW, THEREFORE, ON MOTION, the Snohomish County Council authorizes the Snohomish County Executive to execute an Option to Lease Land to Salire, LLC at Snohomish County Airport in the form attached hereto.


PASSED this 26th day of April, 2023.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Deputy Clerk of the Council

**SALIRE LLC
OPTION TO LEASE LAND
AT THE SNOHOMISH COUNTY AIRPORT**

This Exclusive Option to Lease Land at the Snohomish County Airport ("Option") is entered this ____ day of March, 2023 ("Effective Date"), by and between Snohomish County ("County") and Salire LLC ("Salire" or "Optionee"), a Washington limited liability company.

WHEREAS, Salire desires to obtain an exclusive option to lease certain real property set forth herein within the Snohomish County Airport, Paine Field ("Airport") for purposes of developing the site for uses compatible with aircraft storage, general aviation hangars, aeronautical services, office space, and a restaurant.

NOW, THEREFORE, in consideration of the benefits to Salire and the County and the mutual covenants of the parties set forth herein and other goods and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereby covenant and agree as follows:

1. Grant of Option. During the "Term" (defined below), and subject to all terms and conditions set forth herein, the County grants to Optionee, an exclusive right and option to negotiate and enter into a lease (the "Lease") of the following Airport real property consisting of approximately **88,404 square feet**; or **2.03 acres** as written in **Exhibit A**, Lease Option Area hereinafter referred to as the "Property" which is contained within:

Property Description: A portion of tax parcel 28042300200400 which consists of approximately **88,404** square feet. That portion of the Northwest Quarter of Section 23 Township 28 Range 04 East, W.M., measuring approximately **88,404** square feet

Parcel Numbers: A portion of 28042300200400

1.1 Exclusive Right. The option rights granted by County to Optionee hereunder be exclusive during the Term. From the date of this Agreement through the Term, County covenants and agrees that it will not sell, agree to sell, transfer, lease, assign or encumber the Property except with respect to a lease transaction with Optionee, with the exception of any federal government right of reverter.

2. Term; Exercise; Termination. The term of this Option shall commence on the Effective date set forth above and shall continue for a period of twelve (12) months from the Effective Date of this Lease Option (the "Term") subject to extension as set forth in Section 2.1. Exercise of this Option by Optionee is subject to the decision-making authority of the County Executive (or Airport Director) under Title 15 SCC, which authority shall be exercised following completion of environmental review as provided in 8 herein. To exercise this Option, Optionee and the County Executive (or Airport Director) must reach mutual agreement on all terms and conditions of a final lease (the "Final Lease") of the Property and Optionee must deliver an executed and completed Final Lease to the County not later than on or before the expiration of the Term.

2.1 Special Lease Option Extension. This option may be extended at the County's sole discretion one (1) time for an additional six (6) months with written notice and submission of a conceptual project site plan with 30% of the design completion and copies of all due diligence reports, plans and or studies to the County no later

than fifteen (15) business days prior to the end of the initial term. The extension determination and any variances shall be at the sole discretion of the Airport Director.

As used herein the term "Final Lease" shall mean a commercially reasonable, mutually agreed upon written lease of the Property, subject to the provisions herein and in paragraph 7 herein, with lease exhibits describing the premises and the improvements to be constructed (to the extent then reasonably known), which have been approved in writing by the County Executive (or the Airport Director) and fully executed by Optionee. County and Optionee acknowledge that the Snohomish County Airport's standard form lease in draft is attached hereto as **Exhibit C (Exhibit C - Land Lease Construction by Lessee Form)** and shall be subject to modifications once specific details of lease and construction are known and finalized. The Final Lease must be personally served upon the Airport Director or mailed as set forth in paragraph 11 below. If Optionee fails to execute and deliver such a Lease, this Option shall terminate without penalty to either party, but such termination shall not preclude the parties from subsequently negotiating and executing a lease of the Property on terms acceptable to both parties.

3. Fees for Option. Option fees payable to County by Optionee for the Option shall be in the amount of \$839.84 per month for the term of this Option (an amount equal to ten percent (10%) of the initial monthly land rent for the Property commencing on the Effective date. The current initial full land lease rate for the use of this Property as aircraft storage, general aviation hangars, aeronautical services, office space, and a restaurant is \$100,780.56 per year, plus utilities fees (Storm Water Facilities, Surface Water Management, Sewer) as written in **Exhibit B**. The Final Lease rate will be at the then current appraisal rate at the time of Final Lease execution. If Section 2.1, Special Lease Option Extension, is exercised for an additional six (6) months, payment is adjusted to equal to 10% of the annual land rent determined by the then current market appraisal, not less than \$839.84 per month.

3.1 One Time Fee. A one-time \$100.00 application fee is due for running background and credit checks on the Optionee immediately upon execution.

4. Use. Optionee intends to use the Property for purposes of developing the site for uses compatible with aircraft storage, general aviation hangars, aeronautical services and a restaurant. Prior to exercise of Option to Lease, Optionee shall provide to County specific delineated use of the Property including but not limited to aircraft storage, general aviation hangars, aeronautical services, office space, and a restaurant or related use. Optionee's use is subject to approval of County in its sole discretion as to compatible land use for airport property and subject to restrictions for non-aeronautical terminal concessions and other restriction, limitations, or rights of exclusivity provided in the Propeller Airport's Paine Field, LLC lease. It's further understood by Optionee that the restaurant facing the airfield on the west side must be built first prior to any aircraft hangars; however, they may be built concurrently. This special condition will be written into the lease contract and must be constructed in this sequential order without exception.

5. Suitability Studies. County will permit Optionee, at any time after this Option is executed and either before or after its exercise, to enter the Property to make engineering and other due diligence studies, including soil tests and borings, on the premises to determine the suitability of the premises for Optionee's proposed use; provided, however, that all such studies shall be at Optionee's cost, shall be the property of Optionee and not the property of the engineer or consultant performing such studies, and further, that in the event the Option is not exercised

by Optionee, all such studies shall be delivered to County for the use of County for information purposes only without charge to the County.

6. Assignment to Others. Optionee may not assign this Option or the right to exercise the Option to any other person or entity without the written consent of County.

7. Delivery of Possession. Possession will be given upon delivery and execution of Final Lease. No construction may begin on the Property until a Final Lease has been executed by Optionee and County.

8. Exercise of Option Subject to SEPA Compliance. Exercise of the Option and execution of the Final Lease are subject to compliance with RCW 43.21C, the State Environmental Policy Act ("SEPA"). Optionee and County agree that a SEPA process must be completed prior to exercise of the Option and execution of the Final Lease. Optionee and County further agree that the County is not required to enter into a Final Lease depending on the results of SEPA review, or may condition the Final Lease based on the results of SEPA review. Optionee shall provide County all information necessary to comply with SEPA and shall pay Snohomish County Airport as lead agency a fee for threshold determinations pursuant to Snohomish County Code 30.86.500 SEPA Fees which may change from time to time. Said fee must be paid prior to County undertaking a threshold determination and the time period for making a threshold determination shall not begin to run until the payment of the fee. Additional charges for mitigated threshold determinations, determinations beyond the scope of the initial review, withdrawals and new threshold determinations, and environmental impact statements shall be as set forth in Snohomish County Code. In the event the SEPA, process, or the decision making authority of the County Executive or Airport Director under Title 15 SCC, is not completed prior to expiration of the Term through no fault of Optionee, at Optionee's election, the Term of this Option shall be automatically extended for consecutive two (2) month periods until such SEPA review and/or decision making process has been completed.

9. Documents, Drawings and Specification. Optionee shall provide and pay for all project design drawings and specifications, as well as pay for all architectural services required by Optionee during the Term. Optionee acknowledges that prior to commencement of any development activity and notwithstanding a Final Lease, all required permits or approvals must be obtained from the County or any other agency with jurisdiction in accordance with applicable law and the project design drawings and specifications shall be in a form sufficient to satisfy the requirements of Snohomish County Planning and Development Services for use in review and issuance of any necessary permits. Under no circumstances shall Optionee provide, nor shall Optionee have any obligation to assign, transfer or convey to Airport, (1) any economic expressions with respect to all or any portion of the Property or the development thereof, including, without limitation, pro formas, budgets, and/or appraisals, and (2) any documents, materials or information which are subject to attorney/client, work-product or similar privilege, which constitute privileged communications with respect to the Property and/or Optionee.

10. Hold Harmless. To the maximum extent permitted by law and except to the extent cause by the sole negligence of the County, Optionee shall protect, save harmless, indemnify, and defend, at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature, including concurrent liability, arising out of, or in connection with, or incidental to this Option, or the entry upon the Property by Optionee, its employees, agents, and contractors, including claims by County's employees or third parties. In

addition, the Optionee shall assume the defense of the County and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to this Option and shall pay all defense expenses, including reasonable attorney's fees, expert fees and costs incurred by the County on account of such litigation or claims.

This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of Optionee, and Optionee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In the event that the County incurs any judgment, award and/or cost including attorney's fees arising from the provisions of this subsection, or to enforce the provisions of this subsection, any such judgment, award, fees, expenses and costs shall be recoverable from Optionee.

In the event of litigation between the parties to enforce the rights under this subsection, reasonable attorney fees shall be allowed to the substantially prevailing party.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Option.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Option.

This hold harmless agreement and waiver of immunity was mutually and expressly negotiated and agreed between the parties.

11. Notices. Notice given hereunder must be in writing and may be served personally or by mail. The time of service shall be the date of actual delivery to the address personally or the time of deposit in the mail, postage prepaid, directed to the last known address of the party to be served. All notices may be delivered in person or mailed to the following respective addresses:

To the County: Airport Director
 Attn: Arif Ghouse
 Snohomish County Airport,
 Paine Field
 3220 – 100th St. SW, Suite A
 Everett, Washington 98204

To the Optionee: Salire, LLC
 Attn: Donald Madonna
 7338 26th Ave NW
 Seattle, WA 98117
 Email: jmadonna29@hotmail.com
 UBI # 604-998-507

12. Construction Subject to Compliance with FAA Regulations.

12.1 **Part 77.** Optionee acknowledges that construction may not begin on the Property until Form 7460-1 has been submitted by Optionee and reviewed and approved by the Federal

Aviation Administration pursuant to Part 77 of the Code of Federal Regulations, Title 14, Aeronautics and Space. Any Final Lease shall be subject to receipt of such approval. If such approval is denied, Optionee shall have no liability to County on account of such denial and any Final Lease, at Optionee's option shall terminate and be of no further force or effect.

12.2 Other FAA Approvals. Optionee acknowledges that construction may not begin on the Option Property until the site plan has been approved by the FAA as an amendment to the Airport Layout Plan. Optionee will cooperate with the County in securing whatever FAA approvals are necessary or prudent, including, if applicable, compliance with the National Environmental Policy Act. Optionee shall pay the County for all costs it incurs associated with securing FAA approvals.

13. **Time of Essence.** Time is declared to be of the essence of this Option.

14. **Compliance with Laws.** Optionee shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

14.1 **Required Federal Clauses.** During the performance of this Agreement, Optionee, for itself, its assignees, its consultants, its subcontractors and successors in interest agrees to comply with the statutes, regulations and authorities as set forth in **Exhibit D, Required Federal Clauses.**

15. **Federal Law and Obligations.** Should any provision of this Option to Lease be determined by the FAA to conflict with the County's obligations to the federal government (including, without limitation, Grant Assurance obligations), the objectionable provision will be deemed removed and parties will endeavor to reform the affected provision to accord as closely as legally possible to the parties' original intent in light of the specific FAA objections. This Option is explicitly subordinated to any requirement imposed by any Grant Assurance obligation of the County pursuant to any grant agreement between the County and the federal government.

16. **Non-Discrimination.** Optionee shall not, in its use of the Premises, discriminate on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in County, State and Federal law, and in the event of such discrimination, Optionee agrees that the County has the right to take such action to enforce this covenant, including the right to terminate the License and to enter, re-enter, and repossess said Premises and facilities thereon, as applicable, and hold the same as if the option had never been made or issued.

17. **County Non-Discrimination Requirement.** It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts. The Assignee shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification

by the Assignee of the Assignee's compliance with the requirements of Chapter 2.460 SCC. If the Assignee is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, the Assignment may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Assignee's obligations under other federal, state, or local laws against discrimination.

18. Public Records Act. This document and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Licensee are needed for the County to respond to a request under the Act, as determined by the County, the Licensee agrees to make them promptly available to the County. If the Licensee considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Licensee shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Licensee and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Licensee (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Licensee fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Licensee to claim any exemption from disclosure under the Act. The County shall not be liable to the Licensee for releasing records not clearly identified by the Licensee as confidential or proprietary. The County shall not be liable to the Licensee for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

19. Governing Law, Jurisdiction, Venue. This Option shall be construed in accordance with and governed by the laws of the State of Washington. The parties agree that the exclusive jurisdiction and venue of any action arising under this agreement shall be in Snohomish County, Washington.

20. Federal Law. Should any provision of this Option to Lease be determined by the FAA to conflict with the County's obligations to the federal government (including, without limitation, Grant Assurance obligations), the objectionable provision will be deemed removed and parties will endeavor to reform the affected provision to accord as closely as legally possible to the parties' original intent in light of the specific FAA objections.

21. Entire Agreement. This Option supersedes all agreements previously made between the parties relating to its subject matter. The recitals to this Option set forth above are hereby incorporated by reference. There are no other understandings or agreements between the parties hereto relative to the subject matter hereof. This option may only be modified by a written agreement signed by both parties. If any one or more provisions of this Agreement shall be held by any court to be invalid or unenforceable such invalidity or unenforceability shall not affect the validity or enforceability of any other portion of this Agreement.

22. Special Considerations. The final leasehold square footage may increase or decrease based on engineering layout determinations, but at no point shall the new development

limit the use of the surrounding land. This means that all surrounding land must be clear for taxing aircraft whether it be on the East Ramp, t-hangars, or taxiway.

Dated this ____ day of _____, 2023

Snohomish County

Salire LLC

County Executive or Designee

Donald Madonna
Chief Executive Officer

Approved as to form:

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Deputy Prosecuting Attorney

Approved as to form:

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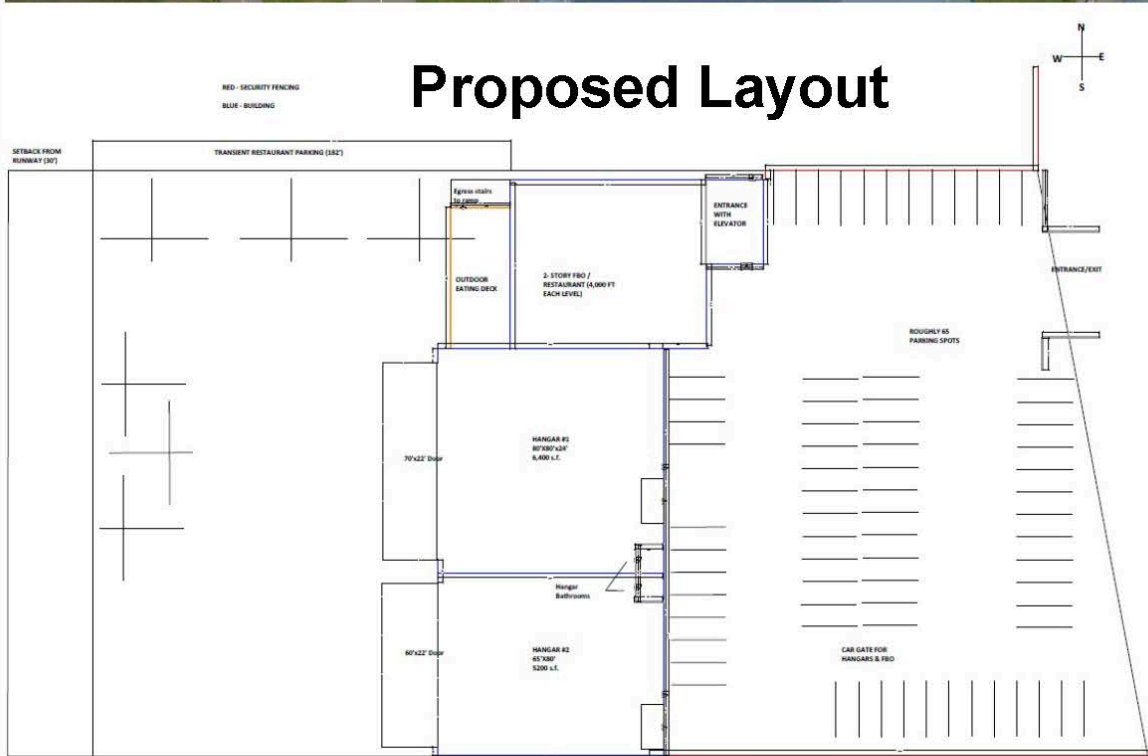
Snohomish County Risk Manager

COUNCIL USE ONLY	
Approved	<u>4/26/2023</u>
ECAF #	<u>2023-0364</u>
MOT/ORD	<u>Motion 23-140</u>

EXHIBIT A Legal Description

A Portion of Tax Parcel 28042300200400

Section 23 Township 28 Range 04 Quarter NW measuring approximately 93,297 square feet in Snohomish County



**EXHIBIT B
RATE SCHEDULE**

A000000 - Saire, LLC

Land Lease - Portion of tax parcel 28042300200400

Land Lease Option: 722-001

Option Term: Twelve (12) months from the effective date

Option Rate Term: Twelve (12) months from the effective date

Option Fee	Annually	Monthly
10% FMV (No LET)	\$ 10,078.06	\$ 839.84

Lease Rate After Option Period Ends

Premises: Portion of East Ramp	S.F.	Rate/S.F./Yr.	Annual Rent	Monthly Rent	Leasehold Excise Tax	Monthly Rent w/LET
Land	88,404	\$ 1.14	\$ 100,780.56	\$ 8,398.38	\$ 1,078.35	\$ 9,476.73

Surface Water Management (SWM)³ <small>Dev-Ed Category 06</small>	S.F.	Rate/S.F./Mo.	Annual Fee	Monthly Fee	Leasehold Excise Tax	Monthly Fee w/LET
SWM (Surface Water Management with detention)	88,404	0.0002222000	\$ 235.68	\$ 19.64	\$ -	\$ 19.64

Other Costs	Annual Fee	Monthly Fee	Leasehold Excise Tax	Monthly Fee w/LET
Base Sanitary Sewer ⁴	\$ 600.00	\$ 50.00	\$ -	\$ 50.00

Total Monthly \$ 9,546.37

One Time Credit Check Fee (Pass Thru Fee)	One-Time	\$ 100.00
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NOTES:

²SWF pond maintenance fee increases by CPI percent (%) annually

³SWM fees are adjusted periodically based on changes to the leased parcel of fees assessed by the Snohomish County Surface Water Management.

⁴Utility is adjusted annually on January 1st based on prior years' usage

Tenant pays all utilities which includes electric/gas.

Exhibit C
Land Lease Construction by Optionee Form

Return Address:

Snohomish County Property Management
3000 Rockefeller, M/S 404
Everett, WA 98201

Document Title(s) or transactions contained therein):

Land Lease (Construction by Lessee)

Lessor(s) (Last name first, then first name and initials)

Snohomish County

Lessee(s) (Last name first, then first name and initials)

Legal description (abbreviated: i.e. lot, block, plat or section, township, range, qtr./qtr.)

Additional legal is on Exhibit A of document

Reference Number(s) of Documents assigned or released:

Additional numbers on page ____ of document.

Assessor's Property Tax Parcel/Account Number

Property Tax Parcel ID is not yet assigned

Additional parcel numbers on page ____ of document

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information.

SNOHOMISH COUNTY AIRPORT
LAND LEASE (CONSTRUCTION BY LESSEE)

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EXHIBIT ATTACHED

Exhibit A	Legal Description
Exhibit A-1	Diagram of Premises
Exhibit B	Building Plans
Exhibit C	Additional Maintenance, Improvements, and CAM Charges
Exhibit D	Rate Schedule
Exhibit E	Title VI List of Pertinent Nondiscrimination Acts and Authorities

LAND LEASE (CONSTRUCTION BY LESSEE)

SNOHOMISH COUNTY AIRPORT

Lessee: _____
Lease No. : _____
Effective Date: _____

THIS LEASE between SNOHOMISH COUNTY herein called County (or Lessor) and TENANT LEGAL ENTITY herein called Lessee.

WITNESSETH: That County and Lessee desire to enter into a lease for the following land on the Snohomish County Airport, Snohomish County, Washington:

upon the following terms and conditions;

ARTICLE I – PREMISES

1.01 Description of Premises. The County hereby leases to Lessee and Lessee hereby leases from County the following described land and building(s) situated in Snohomish County, State of Washington, Snohomish County Airport and legally described in Exhibit A and as shown on the diagram attached hereto as Exhibit A-1 hereinafter called the "premises."

1.02 Use of the Premises Lessee:

- a. Shall use the premises only for the following uses: DESCRIPTION and for no other purpose without the written consent of the County. No delay or failure of the County to object to any improper or illegal use or other use contrary to terms of this lease shall constitute a waiver of the County's right to claim a breach for such use.
- b. Shall place no sign or mailbox upon the premises or any other Airport property or alter, remodel, or in any way modify or change the present condition or appearance of the premises without the express written permission of the Airport Director. Signs shall comply with all codes and ordinances as adopted by the County. Lessee shall obtain Airport Director approval for any exterior painting, including the choice of color.
- c. Shall screen outside storage from adjoining properties and right of ways. Lessee agrees that parking, outside storage and other uses incidental to its operation shall be upon the lease premises only with the written consent of the

Airport Director. Lessee shall not use or permit employees, patrons invitees, or guests to use parking space or other areas of the Airport outside of the premises, as it now exists or may hereafter be amended, in a manner contrary to the posted rules and regulations of the Airport.

- d. Shall keep, maintain, and surrender the premises in a neat, clean, and safe condition and in as good condition as the same now is, reasonable wear and tear excepted, at its sole cost and expense.
- e. Shall keep the visible area of the premises and access, loading and parking areas free of debris and in a neat, safe, and attractive condition. Lessee shall not use such areas for storage or for other than loading and parking activities and shall not obstruct the access, parking, or loading areas of other tenants or users of the Airport. Lessee shall not store any boat, recreational vehicle, trailer, car or other vehicle on the premises.
- f. Shall not create any fire, safety, or health hazard on any Airport property, shall not use or permit any use of the premises so as to produce noxious or dangerous fumes, odors, smoke, or waste, unlawful noise, and shall not make or permit any other use of the premises which constitute a nuisance, waste or an unlawful use, interferes with the use and occupancy of other Airport property, or cause cancellation of any insurance policy on the premises.
- g. Condition at termination. At the end of the term or earlier termination or retaking of possession, Lessee covenants and agrees that it will yield and deliver the Leased Premises in a neat, clean and safe condition, with all systems and doors servicing the Leased Premises in good working order and in like condition as when taken, reasonable use and wear as determined by Lessor, and will deliver all keys and security cards for the Leased Premises to Lessor at the place then fixed for the payment of Rent. Lessee shall arrange to meet with Lessor at least thirty (30) days prior to vacating the premises for a joint inspection of the premises. In the event the Leased Premises are not returned to Lessor in the condition required in this Paragraph and elsewhere in this Lease, Lessor may enter the Leased Premises and restore and repair the Leased Premises to the original condition and configuration required by this Lease at Lessee's sole cost and without prior notice to the Lessee. Lessee shall pay all costs associated with restoring and/or repairing the Leased premises immediately upon demand from Lessor, and said costs shall be withheld from any security deposit held. Said cost shall include a fifteen percent (15%) administrative fee. Lessor shall not be required to give prior written notice or have said costs to repair, restore or reconfigure the Leased Premises approved by Lessee prior to performing said work. If the repair work is extensive in nature, Lessee shall be deemed to be a holdover Lessee until such time the Leased Premises has been repaired and/or restored to the condition required by this Lease. At Lessor's option, Lessor may, within ten (10) days of retaking possession, give the Lessee a written list of Lessee's

failure, if any, to clean up or repair the premises, to which Lessee must repair, restore premises at Lessee's cost within thirty (30) days of such notice. During such time, Lessee shall be deemed to be a holdover Lessee until such time the Leased Premises has been repaired and/or restored to the condition required by this Lease. If the Lessee has not done so thirty (30) days after delivery of the written list, the County may clean up or repair the defects noted in the list, with its own personnel or independent subcontractors, charging the cost of the same to the Lessee. Any cost charged, including lost rent, shall be immediately due and payable by the Lessee. Said cost shall include a fifteen percent (15%) administrative fee. Further, during this time, Lessee shall be deemed to be a holdover Lessee until such further time the Leased Premises has been repaired and/or restored to the condition required by this Lease.

1.03 Inspection. County reserves the right to inspect the premises and improvements thereon at any and all reasonable times throughout the terms of this lease provided that it shall not interfere unduly with the Lessee's operation, including but not limited to, in order to confirm compliance with this Lease, the federal grant assurance obligations (of which Lessor has been notified or is otherwise aware) and other applicable local, state and federal laws and regulations. The right of inspection reserved to the County hereunder shall impose no obligation on the County to make inspections to ascertain the condition of the premises and shall impose no liability upon the County for failure to make such inspections. Lessee shall allow access for an annual certificate of occupancy fire and safety inspection by the County Fire Marshal, Snohomish County Airport Fire Chief, or their designee. Lessee shall pay the cost of the annual certificate of occupancy fire and safety inspection and any re-inspection in the event of a violation requiring correction. Lessee shall allow access for other fire, safety and insurance inspections by the County, provided that such inspections shall be without charge to the Lessee. Lessee shall allow the County to install a Knox box on the premises, if deemed necessary by the County, at a cost to be reimbursed by the Lessee. In the event Lessee desires to install an alarm system, Lessee shall provide a supervised alarm system with local monitoring by a U. L. approved station acceptable to the Airport Director. Lessee shall leave the Knox box, alarm system and wiring in place upon termination of the lease, unless requested otherwise in writing by the County.

1.04 Construction by Lessee:

- a. Lessee, solely at its cost, may construct or cause to be constructed upon the leased land certain buildings and improvements described in Exhibit B, attached hereto, and made a part hereof. It is understood that the plans and specifications for said buildings and improvements are not currently in complete detail; and that the final plans, specifications, details, and location of construction within the premises shall be subject to the approval of the Airport Director prior to the submittal of plans and specifications for permit applications for construction. Construction plans are to be provided to Airport Director for review and approval no later than one year after the exercised Option date. A duly licensed architect will prepare necessary construction plans and

specifications for any building and other improvements at the expense of Lessee. The Airport Director will not unreasonably withhold approval of such plans, specifications, detail and location in furtherance of the general plans and specifications attached hereto. A reproducible and CAD disc copy of all as-built building and utility plans shall be furnished to the Airport Director upon completion of construction.

- b. Lessee shall cause Lessee's construction work, if any, to be performed by licensed contractors, approved by County, and the contractors shall provide, if required by County, a performance and payment bond covering all Lessee's work.
- c. Enumeration of obligations in this section shall not exclude Lessee, during construction, from obligations which are stated elsewhere herein. Obligations stated in this section shall be imposed upon other activities of Lessee, to the extent applicable.
- d. Time of Construction as provided in this section shall commence at the Lessee's option but no later than DATE (and completed by DATE). This period may be extended by the Airport Director for any delays caused to the Lessee by any strike, unavailability of materials or work forces, weather, or similar conditions that are beyond the control of the Lessee.
- e. Lessee shall be fully responsible for all construction and all activities incidental thereto. Lessee is not an agent or employee of the County but undertakes any activity hereunder solely in its own behalf. All risks of loss to any improvements now or hereafter constructed by Lessee shall rest on the Lessee.
- f. All work and material shall be of good quality, free of defects, and accomplished in a workmanlike manner in conformity with approved plans and specification.
- g. Lessee agrees that the height and configuration of any and all buildings and improvements set out on Exhibit B shall be subject to any restriction caused by existing landing, runway, or taxiway requirements of the Airport as indicated in the Master Plan and other public planning documents available to Lessee at the time of execution of the lease. Work and/or material not in accord with the foregoing shall be corrected, removed, replaced, and/or repaired at the Lessee's expense upon written notice by the Airport Director. If such work and/or material is not so corrected, removed, replaced, and/or repaired by the Lessee within a reasonable time of such notice, the County may correct, remove, replace, and/or repair such work and/or material at the Lessee's expense.
- h. The water system on the customer side of the water meter shall be installed and maintained by Lessee according to the requirement of the Mukilteo Water

and Wastewater District, subject to the approval of the Airport Director. Any alterations to the potable water system shall be in accordance with the standards provided by the Mukilteo Water and Wastewater District.

- i. Lessee shall not install any facility or equipment requiring sewage disposal without written permission from the Airport Director. If such permission is given Lessee shall comply with applicable rules and regulations of the Airport and Mukilteo Water and Wastewater District or other applicable sewer district as pertains to sewage disposal. Such system shall not be used for storm drainage or the discharge of any effluent deemed by the Airport Director or Mukilteo Water and Wastewater District to be harmful to the system.
- j. Lessee shall pay all costs of grading constructing, paving or any other development costs, including all permits, within the premises and costs of utility installation, relocation, or removal required by the construction and its use and occupancy of the premises.
- k. All necessary permits and other approvals must be secured by Lessee. Lessee acknowledges that Lessee is not the owner of the property for the purpose of obtaining permits. Lessee shall comply with all applicable building, electrical, and all other applicable codes, regulations, and laws. Copies of all completed permits and construction "As-Built" drawings will be filed with the Airport Office. Lessee shall pay all costs of grading constructing, paving or any other development costs, including all permits, within the premises and costs of utility installation, relocation, or removal required by the construction and its use and occupancy of the premises.
- k. The County shall not be liable for any damages in connection with the approval or disapproval of any plans and specifications or any construction or other activities of Lessee on the premises, or the enforcement or failure to enforce any provisions of this lease. The County's approval of plans and specifications shall not constitute the assumption of any responsibility by the County or its representatives of the accuracy, efficiency, or sufficiency thereof, and Lessee shall be solely responsible therefore.
- l. All work will be at the risk of Lessee. Lessee shall hold harmless and indemnify Snohomish County against all claims, losses, suits, actions, costs, attorney fees, litigation costs, expenses, damages, judgments, or other decrees by reason of damage to any property or business interest and/or any death, injury or disability to any person arising out of or suffered, directly or indirectly, by reason of or in connection with any action, error or omission of the Lessee, Lessee's employees, agents or subcontractors, whether by negligence or otherwise, in constructing, maintaining, or using the building and improvements. This hold harmless agreement expressly provides for waiver of the Lessee's immunity under RCW Title 51 Industrial Insurance for claims by

its employees. This hold harmless agreement and waiver of immunity was mutually and expressly negotiated and agreed between the parties.

1.05 Tenant Action Request Forms. All requests by Lessee for action by the County regarding the condition of the premises shall be in writing and submitted to the Business Manager at the Snohomish County Airport Office. All complaints by Lessee concerning the conduct of County employees shall be in writing and submitted the Business Manager at the Snohomish County Airport Office. Action Request Forms may be obtained at the Snohomish County Airport Office.

1.06 Tenant Improvement Forms. Prior to making any changes or improvements to the premises, Lessee shall submit a Tenant Improvement Form to the County for approval by the Airport Director. Tenant Improvements Forms may be obtained at the Snohomish County Airport Office. Applicable improvements shall comply with LEED silver standard as set forth in Section 4.14. Lessee shall maintain all improvements made pursuant to this paragraph.

1.07 Other Construction Related Provisions.
Any general contractor agreement shall require that the general contractor or the contractors (and in the absence of a general contractor) ("Contractor") to warrant, subject to customary exclusions, that the work in question shall be free of defective materials and workmanship at least one (1) year following the substantial completion of the work in question.

Any contractor agreement associated with the Construction shall provide that it shall be governed by the laws of the State of Washington.

1.08 INSURANCE DURING CONSTRUCTION: Contractor's Insurance.

- a. Prior to the County's approval of construction at the Property and permitting contractors access and/or the performance of any construction at the Property, the Contractor shall provide to Lessee and the County Certificates of Insurance and Endorsements acceptable to the County meeting the requirements of the contractor's agreement (specific insurance coverage limits are set forth below). Coverage shall be maintained without interruption from the commencement of the Contractor's work until such work is complete in accordance with the terms of the contractor agreement. Each policy obtained by Contractor shall be endorsed to provide Lessee with 30 days' notice of material changes to or cancellation of such policy.

If the scope of the contractor's agreement is significantly expanded, or if the aggregate limits on any of the Contractor's policies are eroded, the County may require Lessee to cause the Contractor to obtain additional coverage or reinstate eroded coverage. If the need for additional coverage is due to the fault of the Contractor or any of its subcontractors, the Contractor shall be responsible for the cost of such additional coverage or any of its

subcontractor's coverage. The Contractor shall provide proof of additional insurance required because of changed work (Change Orders).

If the Contractor is required to correct damaged, defective or incomplete work (i.e., punch list items) after the work is substantially completed, it shall obtain at its own expense such insurance coverage as is required by the Contract, for the construction period. Such coverage shall be maintained throughout the period in which corrective work is performed.

Review of Contractor's insurance by Lessee or the County shall not relieve or decrease the duty of the Contractor to comply with the requirements of the contractor agreement.

Nothing contained within these provisions shall affect and/or alter the application of any other provision within this Lease.

b. WAIVER OF SUBROGATION

Lessee shall cause the Contractor to waive, pursuant to the contractor agreement, all rights against Lessee, the County or their respective consultants, or any separate contractors, and their agents and employees, for damages caused by fire or other perils to the extent such damage cost is actually paid by property insurance applicable to the work. The contractor agreement shall require the Contractor to require similar waivers from all subcontractors. This provision shall be valid and enforceable only to the extent permissible by the applicable property insurance policies.

c. EVIDENCE OF INSURANCE.

The Contractor shall furnish Lessee and the County with Certificates of Insurance and endorsements required by this Lease and the contractor agreement. All evidences of insurance must be certified by a properly authorized officer, agent, general agent or qualified representative of the insurer(s) and shall certify the name of the insured, the type and amount of insurance, the location and operations to which the insurance applies, the expiration date of the policy.

d. MINIMUM SCOPE AND LIMITS OF INSURANCE.

The Contractor shall be required pursuant to the contractor agreement to obtain and maintain the minimum insurance set forth below. By requiring such minimum insurance, neither Lessee nor the County shall be deemed or construed to have assessed the risks that may be applicable to the Contractor under the contractor agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Each insurance policy shall be written on an "occurrence" form;

excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, the Contractor shall warrant continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years (or such other period as shall be acceptable to the Contractor) from the date of completion of the work which is the subject of the contractor agreement. Insurance coverage shall be at least as broad as stated below and with limits no less than:

1 General Liability. Coverage shall be at least as broad as Insurance Services Office form number CG 00 01 covering COMMERCIAL GENERAL LIABILITY. \$10,000,000 combined single limit per occurrence, and for those policies with aggregate limits, a \$10,000,000 aggregate limit.

2 Explosion & Collapse, Underground Damage (XCU). Coverages shall apply for the same limits as the General Liability. Evidence of Insurance must specifically state coverage has not been excluded.

3 Automobile Liability. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9. \$5,000,000 (air-side)/\$1,000,000 (land-side) combined single limit per accident.

4 Workers' Compensation. Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "other States" State Law.

5 Employer's Liability or "Stop Gap". Coverage shall be at least as broad as the protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

6 Builder's Risk/Installation Floater. The Contractor shall procure and maintain during the life of the construction, "All Risk" Builders Risk or Installation Floater Insurance at least as broad as ISO form number CP0020 (Builders Risk Coverage Form) with ISO form number CP0030 (Causes of Loss – Special Form). The coverage shall insure for direct physical loss to property of the entire construction project, for 100% of the replacement value thereof and include earthquake and flood. Nothing herein provided for shall in any way excuse the Contractor or its surety from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the contract.

7 Professional Liability Errors and Omissions. \$2,000,000 per claim/aggregate. The Contractor shall submit proof of Insurance as part of the required submittals or provide evidence of compliance from its subcontractor that these insurance requirements have been met 15 days prior to beginning of the work designated to be performed by a professional pursuant to the contractor agreement.

e. DEDUCTIBLES/SELF-INSURED RETENTIONS.

The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to Lessee or the County and shall be the sole responsibility of the Contractor.

f. OTHER INSURANCE PROVISIONS.

The insurance policies required of the Contractor in the contractor's agreement are to contain and be endorsed to contain the following provisions:

1. With respect to all Liability Policies except Professional Liability and Workers Compensation:

- (a) The County, Lessee, and their respective officers, officials, employees, and agents and consultants are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with the contractor's agreement.
- (b) The Contractor's insurance coverage shall be primary insurance as respects the County, Lessee, and their respective officers, officials, employees, agents, and consultants. Any insurance and/or self-insurance maintained by the County, Lessee or their respective officers, officials, employees, agents and consultants shall not contribute with the Contractor's insurance or benefit the Contractor in any way.
- (c) The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. In the event that the County deems insurance to be inadequate to protect Lessee and the County, Lessee shall increase coverages and/or liability limits as the County shall deem reasonably adequate within sixty (60) days after the date of written notice.

3. If at any time the foregoing required policies shall fail to meet the minimum requirements in this section 1.08, the Contractor shall, upon notice to that effect from Lessee or the County, promptly obtain a new policy, and shall submit the same to Lessee and the County, with the appropriate certificates and endorsements, for approval.

g. ACCEPTABILITY OF INSURERS.

1. Unless otherwise approved by the County:

(a) Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated with Best's, with minimum surpluses the equivalent of Best's surplus size VIII.

(b) Professional Liability, Errors and Omissions insurance may be placed with insurers with a Best's rating of B+; VII.

h. SUBCONTRACTORS.

The Contractor shall include all subcontractors as insured under its policies, or shall furnish separate certificates of insurance and policy endorsements from each subcontractor.

All subcontractors shall be required to include Lessee, the County and Contractor as additional insureds on all Liability policies except Workers' Compensation and Professional Liability Errors and Omissions.

1.09. JOB SITE SAFETY.

The Contractor shall have the "right to control" and bear the sole responsibility for the job site conditions, and job site safety. The Contractor shall comply with all applicable federal, state, and local safety regulations governing the job site, employees and subcontractors. The Contractor shall be responsible for subcontractor's compliance with these provisions.

OCCUPATIONAL SAFETY AND HEALTH ACT

All contracts and subcontracts that result from this construction incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

1.10 FEDERAL COMPLIANCE.

The Contractor and all subcontractors shall comply with Article VIII, Section 8.01, Federal Requirements.

ARTICLE II - TERM

2.01 Term. The term of this lease shall be for a period of Number (#) years commencing on the effective date of this lease.

2.02 Extended Term Option. Lessee shall have the option to renew this lease for an additional Number (#) years upon the same terms and conditions as provided herein, except that the initial monthly rental payment shall be determined by negotiation or arbitration. Lessee shall give written notice to the Airport Director 180 days prior to the expiration of this lease, of its intent to exercise its option to renew this lease; otherwise this option shall be null and void. Lessee must be current on all rent and other obligations of this lease at the time of exercising this option; otherwise this option shall be null and void.

2.03 Right of First Refusal. The Lessee hereby grants County, during the term of this lease, the right of first refusal to any transfer or assignment of all right, title and interest of the Lessee in the lease premises, including, but not limited to, any buildings and improvements developed thereon, and any sub-tenancy. The Lessee will not transfer, assign or sell its interest in the premises to any third party without first offering the same to the county on the same terms and conditions that the Lessee is willing to transfer, assign or sell its interest in the premises to any third party.

2.04 County Exercise of Right of First Refusal. If the Lessee proposes to make such a third party transfer, the Lessee shall first offer, in writing, to transfer all right, title and interest in the lease premises to County under the same terms and conditions. County may accept the offer by delivering written notice of acceptance to Lessee within sixty (60) days of County's receipt of the written notice from Lessee.

2.05 Relationship Between Parties. It is the intention of this lease to create the relation of lessor and lessee between the parties and no other relations whatsoever. Nothing herein contained shall be construed to make the parties partners or joint ventures, or to render either party liable for any of the debts or obligations of the other party.

ARTICLE III – RENTAL

3.01 Rent. Lessee shall pay the County rent in the amount of AMOUNT per month, plus leasehold excise tax as set forth in Paragraph 8.04 (b) and any other charges as fixed in this lease as shown on Exhibit D (Rate Schedule) attached hereto and by reference incorporated herein. Rent shall be paid in advance on the first of each month.

3.02 Time and Place of Payment. Rental shall be payable to the Snohomish County Airport at the Airport Business Office, Paine Field, 10108 32nd Ave W, Suite J, Everett, WA 98204, commencing DATE, the Rent Commencement Date. Payment of rental shall not relieve the Lessee of payment of any other fees generally charged by the County. The first payment shall be prorated according to the number of days remaining in the month after execution of this lease.

3.03 Increased Rent. The parties agree to additional adjustment of rent every three (3) years beginning thirty-six (36) full calendar months following the Rent Commencement Date. The County shall give Lessee written notice of the adjusted rent to take effect 30 days after the date of said notice unless Lessee, within 30 days following receipt of notice from the County, gives written notice of rejection of the adjusted rent. The adjusted rent shall be the then existing fair market rent for the premises, and "fair market rent" shall have the same meaning as such term is defined in existing Snohomish County Code Section 4.46.010 (8) (the "Fair Market Rental Value"). If the adjusted rent is disputed, the parties shall submit the readjustment to arbitration within 10 days of disputing the rent, Lessee shall select and pay the fees for one arbitrator and County shall select and pay the fees for one arbitrator. Within 10 days of their selection, these two arbitrators shall select a third arbitrator. Each arbitrator shall be a commercial real estate M.A.I. appraiser conducting business in Snohomish County, Washington and have not less than five (5) years active experience as a commercial real estate appraiser in the leasing market in Snohomish County, Washington. The Board of Arbitrators shall together determine Fair Market Rental Value of the premises as unimproved land. The Board of Arbitrators, after a review of all pertinent facts, may increase or decrease such rents, or continue the previous rate thereof. Any rental during the period for which readjustment is being done by the Board of Arbitrators shall be paid at the rate fixed by the Board of Arbitrators and shall be retroactive to the commencement of the three (3) year period. All fees, costs and expenses of that arbitrator commonly appointed by the parties hereto shall be shared equally. This paragraph shall not in any manner be construed to limit the right to readjustment if required by statutes of the State of Washington.

3.04 Late Payment of Rent. Rent shall be delinquent if not paid by the fifteenth day of each month. If payment is received after the 15th day of any month, there will be a .0333% per day interest charge on the unpaid balance for each day past the due date. A late payment charge of .01665% per day will also be charged on rent not paid by the 15th of each month for each day past the due date. In addition, a charge in the amount provided by current County ordinance will be made on any payment by check which is returned unpaid to the Airport because of insufficient funds, account closed, forgery, or any other reason.

3.05 Security Deposit. In addition to the first month's rental, Lessee has deposited a sum equal to one (1) month's rent plus leasehold excise tax as security for the faithful performance of each and every term, covenant, and condition hereof, including but not limited to payment of rent. County may apply or retain the whole or any part of such security for payment of any rent or other charge in default or for any other sum which County may spend or be required to spend, including but not limited to maintenance and repairs of premises pursuant to Lease, or be entitled to by reason of Lessee's default, If all or part of this deposit is so used, Lessee shall immediately restore such deposit and such additional amount to secure the lease as deemed necessary by County. In the event rent has been increased pursuant to Section 3.03, then the deposit shall be increased accordingly. Any repayment to this security will draw interest and late fee as provided in Section 3.04. Should Lessee faithfully and fully comply with all the terms, covenants, and

conditions of this lease, the security or any balance thereof shall be returned to Lessee or, at the option of the County, to the last assignee of Lessee's interest at the expiration of the term hereof. Lessee shall not be entitled to any interest on such security deposit.

3.06 Adjustments of Leased Space and Rent.

- a. The parties may mutually agree to reduce or increase the total amount of leased space. If the County desires to reasonably increase or decrease the leased space, County will present a detailed letter and exhibits to the Lessee and Lessee will review and provide written acceptance or denial. If the Lessee desires to reasonably increase or decrease the leased space, Lessee will present a detailed letter and exhibits to the County and County will review and provide written acceptance or denial. The rent for the adjusted space will begin on an agreed date by both parties and be subject to the date of increased rent as stated in Section 3.03.
- b. Rent adjustments as agreed to in this section and/or as provided in Section 3.03 will be authorized by an amendment to the lease with only effected paragraphs changed.

3.07 Common Area Maintenance Fee. Lessee shall pay County a Common Area Maintenance (CAM) fee for common area maintenance, if applicable, in the amount of **\$Amount (#) and NO/100 Dollars** per month. The CAM fee, if applicable, shall be paid in advance on the first of every month.

3.08 Traffic Mitigation Reimbursement. Lessee shall pay County a one time fixed traffic mitigation reimbursement fee of **\$Amount (#) and NO/100 Dollars**, if applicable, on the Rent Commencement Date.

3.09 Surface Water Management Fees. Lessee shall pay County surface water management fees based upon impervious surface calculations by the Airport for charges assessed by Snohomish County Public Works Surface Water Management.

3.10 Storm Water Facility Policy. Lessee shall comply with the Snohomish County Airport Storm Water Facility Policy.

- a. Connection to Storm Water Detention Pond: In the event Lessee uses an Airport Storm Water Facility (SWF), Lessee shall pay County a one-time connection fee of **\$Amount (#) and NO/100 Dollars**.
- b. SWF Fee: SWF Maintenance Charge: Lessee shall pay a monthly SWF fee of **\$Amount (#) and NO/100 Dollars**, plus leasehold excise tax adjusted pursuant to Section 3.03. Monthly SWF maintenance charge of **\$Amount (#) and NO/100 Dollars** plus leasehold excise tax shall be adjusted on the same cycle by the combined Consumer Price Index for the Seattle-Tacoma area. These fees are for the pro-rated share of the SWF(s) supporting the premises.

ARTICLE IV - LESSEE'S OBLIGATIONS

4.01 Condition of Premises. Lessee has examined the premises, including any structure, grounds, and access thereto, and accepts the same in the condition in which they exist as of the Effective date of the lease. It is agreed that the County shall not be bound by any warranty, representation, or condition regarding the premises except as stated herein.

4.02 Maintenance and Repairs. Lessee, at its sole expense, shall keep the premises as now or hereafter constituted with all buildings and improvements made thereon and the adjoining sidewalks, curbs, walls, parking areas, landscaping, access roads, and vaults clean and in good condition. Lessee shall make all repairs, replacements, and renewals, whether ordinary or extraordinary, seen or unforeseen, including all structural repairs, necessary to maintain the premises. All repairs, replacements, and renewals shall be at least equal to that as originally constructed herein under Paragraph 1.04.

4.03 Surrender of Leasehold Improvements.

- a. During the term of the lease and any subsequent renewals pursuant to Section 2.02, the Lessee shall have title to any and all buildings, fixtures and improvements constructed or installed by the Lessee. At the expiration of the term hereunder and any subsequent renewals pursuant to Section 2.02, the County shall have title to any and all buildings, fixtures and improvements constructed or installed by the Lessee, except movable office furniture, equipment, vehicles, and other personal property; PROVIDED however, the County shall have the option to request the Lessee to remove any and all buildings, fixtures and improvements constructed or installed by the Lessee at the sole cost and expense of the Lessee and restore the premises.
- b. Lessee shall peaceably and quietly leave, surrender and deliver to County the premises, together with any buildings and improvements, and any and all subsequent alterations, additions, and replacements which may have been made upon the premises to which the County has assumed title, in good repair, ordinary wear and tear excepted.
- c. Upon the earlier of vacating or Lease expiration/termination, Lessee shall be responsible for removing all of its personal property, trash, movable furniture, equipment, fixtures and personal effects from the Leased Premises at Lessee's own expense. Furthermore, Lessee shall be responsible to remove any and all satellite dishes, computer cabling, antennas and associated wires, which Lessee or Lessee's agents installed, unless requested in writing by County. Any personal property and movable furniture, equipment, fixtures and personal effects of Lessee not removed from the Premises at the expiration or termination of the Lease term shall conclusively be deemed to have been abandoned and

may be removed, sold or otherwise disposed of by Lessor in accordance with this Lease.

4.04 Utilities and Other Charges. Lessee shall pay charges for sewer, water, gas, electricity, telephone, surface water management fees, joint mailbox systems, security and fire equipment maintenance and monitoring, annual certificate of occupancy fire and safety inspection fee and re-inspection fee in the event of a violation requiring correction, and all other charges which may be furnished, or made available to the premises at Lessee's order or consent within a reasonable time.

4.05 Liens. Lessee agrees to pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings, machinery, or equipment, which have been furnished or ordered with Lessee's consent, to be furnished to or for the Lessee in, upon, or about the premises herein leased, which may be secured by any mechanics', materialmen's, or other lien against the premises herein leased or County's interest therein, and will cause such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, provided that the Lessee may in good faith contest any mechanics' or other liens filed or established, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest.

Lessee shall not cause or permit the any encumbrance, lien of any mortgage, purchase money obligation, other security interest or other lien to be placed against the Premises. If such an encumbrance is nevertheless so recorded, the Lessee shall cause such encumbrance, at its sole cost, to be removed promptly and shall provide evidence reasonably satisfactory to the County of such prompt removal.

4.06 Personal Property. Lessee shall keep all personal property, equipment, trade fixtures, furniture and fire or other casualty to their full insurable value and provide insurance policies and certificates of renewal to the County upon request.

4.07 Equipment. Any equipment, machinery, tools, appliances, movable furniture, movable fixtures and/or other personal property of any kind and nature placed on the premises by the Lessee shall remain the property of the Lessee; provided that:

- a. The Lessee shall remove such equipment, machinery, etc., prior to the expiration or termination of this lease and restore the building to its original condition, reasonable wear and tear excepted;
- b. Any such equipment, machinery, etc., which is not removed by the Lessee before the expiration, retaking of possession, or termination of this lease shall conclusively be deemed to have been abandoned and to have become the property of County and to dispose of as Lessor deems expedient in accordance with this Lease.

- c. If such equipment, machinery, etc., is not removed by the Lessee as provided above, the County has the right to remove and dispose of the property at the expense of the Lessee, or has the right to remove and store any or all of such property, at the expense of the Lessee as provided under this Lease. The County shall have a lien on such property for reasonable storage, and removal charges, and any other charges, including disposal, the County may have against the Lessee and shall have the right to sell any or all of such property and dispose of the proceeds as provided in RCW 60.60.030 and .040. At all times the Lessee shall bear all risk of loss or damage to any equipment, machinery, etc., or personal property placed in or on the premises or any other Airport premises by the Lessee.

4.08 Prevailing Wages. Pursuant to SCC 4.46.335, Lessee agrees that all contracts for improvements to the premises shall require the contractor or developer to comply with the prevailing wage provisions of RCW 39.12.010 through 39.12.030. Failure to comply with the prevailing wage provisions shall constitute a default of the lease resulting in termination unless said default is cured within thirty (30) days after notice thereof.

4.09 Waste Water. This lease is subject to all statutes and regulations of the State of Washington with respect to waste water disposal. If the Lessee's use of the premises results in the discharge or the potential for the discharge of any waste waters except domestic waste waters from the premises, Lessee shall immediately apply to Washington State Department of Ecology (DOE) for a State Waste Water Discharge Permit. Lessee shall advise the Airport which drains or other waste water facilities the Lessee will utilize in disposing of waste waters. The Airport may designate sewers or other facilities which the Lessee may utilize to dispose of waste waters.

4.10 Sewage System.

- a. It is understood that the Airport is presently under contract with Mukilteo Water and Wastewater District for sewage disposal. In its use of the sewage system, Lessee shall comply with all applicable rules and regulations of the Airport and Mukilteo Water and Wastewater District or other applicable sewer districts. Such system shall not be used for storm drainage or the discharge of any effluent deemed by the Airport Director or Mukilteo Water and Wastewater District to be harmful to the system.
- b. In addition to the rental provided herein, Lessee shall pay the County such reasonable charges for sewer service as are fixed by the Airport Director.

4.11 Assigning and Subleasing. Lessee shall not assign, encumber, or sublet the premises or any part thereof without the prior written consent of the Airport Director. If Lessee is a corporation, any transfer of this lease by merger, consolidation or liquidation, or any change in ownership, or power to vote the majority of the outstanding stock of Lessee, or name change, constitutes an assignment for the purposes of this section. If Lessee is a partnership or proprietorship, a transfer of the controlling interest in such

partnership or proprietorship constitutes an assignment for the purposes of this section. Lessee shall advise prospective assignees or subtenants that Snohomish County Code, Section 15.08.400 requires Airport Director approval of commercial operations. Prior to any consent, Lessee shall deliver to the Airport Director a written statement of intent to assign, sublease, or encumber. Any assignment, subletting or encumbrance without the written consent of the Airport Director is null and void. If this lease is assigned or sublet, or if the premises or any part thereof is occupied or used by anyone other than Lessee, County may, upon default by the Lessee, collect rent and any other charges under this lease from the assignee, subtenant or occupant and apply the net amount collected to the Lessee's rent and other charges herein reserved. No such assignment, subletting, occupancy or collection, shall be deemed a waiver of this covenant, the acceptance of the assignee, subtenant or occupancy as a tenant, or a release of Lessee from further performance by Lessee of the covenants including the payment of rent and other charges in this lease; and Lessee shall remain liable for all of its obligations, except for rentals paid, under this lease. Any consent by the Airport Director shall not be construed to relieve Lessee from obtaining the consent of the Airport Director to any further assignment, subletting, or occupancy. Lessee shall not charge or assess an assignee, subtenant or occupant rental or other fees in excess of ten percent (10%) over the rental or fees owing from Lessee under the terms of this lease; PROVIDED, that this restriction shall not include assessments for utilities, taxes, insurance and other reasonable attendant expenses other than the payments to Lessee for use or occupancy of the premises.

4.12 Hazardous Waste, Substances, and Pollutants and Contaminants.

- a. Lessee agrees that it will not cause or permit in any manner, including accidental or non-negligent acts or omissions, release of any hazardous substance, waste, or pollutant or contaminant into, upon or from any Airport property contrary to any local, state or federal law, or regulation. Lessee shall notify the Airport Director, the State Department of Ecology, and any other involved agency in writing of any such release. Lessee shall be completely liable for any and all consequences of such a release, including all liability under any federal, state, or common law. Lessee shall indemnify and hold the County harmless, as provided in Section 5, from any and all liability resulting from such a release and shall have full responsibility for completely cleaning up any and all contamination from a release as may be required by any governmental agency. After clean-up of such a release, Lessee shall provide County a copy of a "No Further Action" letter from the State Department of Ecology containing no restrictions on the property. Upon any release of a hazardous substance, the County may give immediate notice of termination of this lease and enter the premises and take whatever steps it deems appropriate to cure the consequences of such release, all at the expense of the Lessee. Lessee represents and warrants that it has inspected the premises and that there is no hazardous substance, waste, pollutant or contaminate located thereon. Any hazardous waste, substance, pollutant or contaminant placed upon the premises during the term of this lease shall be removed by the Lessee not later than the cancellation or termination of this lease.

- b. As used in this section, "Hazardous Substances" means any chemical, substance, material, waste or similar matter defined, classified, listed or designated as harmful, hazardous, extremely hazardous, dangerous, toxic or radioactive or as a contaminant or pollutant, or other similar term, by, and/or which are subject to regulation under, any federal, state or local environmental statute, regulation or ordinance presently in effect or that may be promulgated in the future, and as they may be amended from time to time.
- c. Lessee shall disclose and deliver to County copies of any environmental reports, tests, studies or other documentation relating to any investigation of the premises for hazardous substances.
- d. Lessee shall perform a Phase I environmental inspection of the premises thirty (30) days prior to the expiration of the lease. The Phase I inspection shall meet ASTM International (ASTM) Practice E 1527-13, Standard Practice for Environmental Assessments. Lessee shall provide County a copy of the Phase I environmental report thirty (30) days prior to expiration of termination of the lease. In the event Lessee fails to comply with a timely and compliant report within the stated time frame, the County shall have the right, but not the obligation, to conduct the Phase I Inspection at the expense of the Lessee and Lessee shall be liable for all associated costs and expenses. In the event the Phase 1 Environmental Site Assessment recommends a Phase II Environmental Site Assessment, Lessee shall immediately authorize the Phase II work to be done and shall be responsible for all costs and expenses associated with the investigation. Lessee shall immediately provide County one electronic and one hard copy of the Phase II environmental report. In the event Lessee fails to comply with a timely and compliant Phase II report within the stated time frame, the County shall have the right, but not the obligation, to conduct the Phase II Inspection at the expense of the Lessee and Lessee shall be liable for all associated costs and expenses. Further, Lessee shall be liable to Lessor for all costs and expenses, including all contamination clean up, as applicable, and all loss of revenue to Lessor, until all contamination discovered in the Reports has been remediated and the Department of Ecology has issued a "No Further Action" letter for the site.

4.13 Hold Over by Lessee. Should Lessee hold over and remain in possession of any part of the Premises without the Lessor's express written consent after the expiration or other termination of this Agreement, or to vacate or to return the premises to the County in clean and good condition and repair, including failure to clean-up contamination as required by section 4.12, Lessee shall be a tenant at sufferance and, without limiting Lessor's rights or remedies on account of such breach, and in addition to any other damages available to Lessor, Lessee shall be liable to Lessor for Rent during such holding over at the lesser of (i) 150% of the rate in effect at the time of such expiration or other termination, or (ii) the maximum rate Lessor may charge in accordance with applicable law, plus all other amounts that would become payable under the terms of the

Agreement but for such expiration or other termination, and Lessee shall abide by and is otherwise subject to all the other terms, covenants and conditions specified in Lease, so far as applicable. Under no circumstances shall Lessor's acceptance of Rent after expiration or other termination of the Agreement be deemed to extend or renew this Agreement or construed as Lessor's consent for tenant to hold over. The foregoing provisions are in addition to and do not affect the County's right of re-entry or any other rights of the County provided herein or as otherwise provided by law. Lessee hereby indemnifies and agrees to hold County harmless from all loss, injury and liability arising from Lessee's failure to surrender the premises in clean and good condition and repair upon the expiration or termination of this lease.

4.14 Leadership in Energy and Environmental Design (LEED) Gold Required. Lessee shall comply with Snohomish County Code Section 3.06 Snohomish County Green and High Performance Building.

4.15 Salmon Safe Compliance. Lessee shall comply with the Airport's Salmon-Safe Certification Requirement Condition 8: Ensure use of Paine Field's Integrated Pest Management Plan (IPM) dated October 2019 or a Salmon-Safe approved equivalent.

ARTICLE V - INDEMNITY AND INSURANCE

5.01 Indemnification and Hold Harmless. To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County, the Lessee shall indemnify and hold harmless the County, its officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, and/or in connection with this Lease. In addition, the Lessee shall assume the defense of the County and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to this Lease: shall pay all defense expenses, including reasonable attorney's fees, expert fees and costs incurred by the County on account of such litigation or claims. This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of the Lessee, and the Lessee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In the event that the County incurs any judgment, award and/or cost including attorney's fees arising from the provisions of this subsection, or to enforce the provisions of this subsection, any such judgment, award, fees, expenses and costs shall be recoverable from the Lessee. In the event of litigation between the parties to enforce the rights under this subsection, reasonable attorney fees shall be allowed to the substantially prevailing party.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

In the event the County incurs attorney fees and/or costs in the defense of claims under this provision such attorney fees and costs shall be recoverable from the Lessee. In addition Snohomish County shall be entitled to recover from the Lessee its attorney fees, and costs incurred to enforce the provisions of this section.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Lease.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.

5.02 Insurance.

1. Lessee Furnished Coverages and Limits of Liability: Lessee shall, at no expense to the County, maintain, and cause its subtenant(s), if any, to maintain in full force and effect the following minimum limits of insurance, and adhere to all terms and conditions below, at all times beginning on the Commencement Date and ending on the Expiration Date of this Lease.

- A. Commercial General Liability (CGL) written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits of Liability:

\$1,000,000 per Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate

Employers Liability / Washington Stop Gap
\$1,000,000 Each Accident / Each Disease / Policy Limit

Alternatively, may be evidenced as Employer's Liability insurance under Part B of a Workers Compensation insurance policy.

Coverage shall include: Premises and Operations; Broad Form Property Damage (Including Completed Operations); Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract); Personal Injury and Advertising Liability; Independent Contractors; Severability of Interest Clause; Waiver of Subrogation endorsement in favor of Owner as required by contract; General Aggregate Limits of Insurance shall apply separately; "Claims Made" and "Modified Occurrence" policy forms are not acceptable.

The limits of liability described above are minimum limits of liability only. Regardless of provisions to the contrary under the terms of any insurance policy maintained by Lessee, the specification of any such minimum limits shall neither be (1) intended to establish a maximum limit of liability to be maintained by Lessee regarding this Agreement, nor (2) construed as limiting the liability of any of Lessee's insurers, which must continue to be governed by the stated limits of liability of the relevant insurance policies.

- B. Automobile Liability insurance at least as broad as ISO CA 00 01 including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of \$1,000,000 each accident for bodily injury and property damage.
 - C. Umbrella or Excess Liability insurance if and as necessary to maintain total CGL and Automobile Liability insurance limits of \$2,000,000 Each Occurrence and be no less broad than coverages described above.
 - D. Workers' Compensation insurance securing Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington.
 - E. Pollution Legal Liability is required if the Lessee will be using or storing hazardous materials or regulated substances, such as fuel, with a minimum limit of \$2,000,000 per claim for bodily injury, property damage, clean up and emergency response costs. It is acceptable to add ISO endorsement CG 24 15 Limited Pollution Liability Extension or its equivalent to the CGL policy or obtain a separate pollution legal liability policy.
 - F. Refueling insurance is required if the Lessee will be refueling airplanes and as necessary to maintain total CGL insurance limits of \$10,000,000 Each Occurrence and be no less broad than coverages described above.
 - G. Hangar Keeper insurance is required if the Lessee will be storing airplanes and as necessary to maintain total CGL insurance limits of \$1,000,000 Each Occurrence and be no less broad than coverages described above.
 - H. In the event that the County deems insurance to be inadequate to protect Lessee and the County, Lessee shall increase coverages and/or liability limits as the County shall deem reasonably adequate within sixty (60) days after the date of written notice.
2. Terms and Conditions for Lessee's Insurance.

- A. Snohomish County as Additional Insured: The CGL insurance and, in addition, Excess and/or Umbrella liability insurance, if any, shall include "Snohomish County, its officers, officials, employees, agents and volunteers" as additional insureds. Lessee's insurance shall be primary and non-contributory to any insurance maintained by or available to the County. The term "insurance" in

this paragraph shall include insurance, self-insurance (whether funded or unfunded), alternative risk transfer techniques, capital market solutions or any other form of risk financing.

- B. Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited: Lessee's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. Lessee's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes Snohomish County from coverage or asserting a claim under the Lessee's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy.
 - C. Cancellation Notice: Coverage shall not be cancelled without forty-five (45) day written notice of such cancellation, except ten (10) day written notice as respects cancellation for non-payment of premium, to the County at its notice address except as may otherwise be specified in Revised Code of Washington (RCW) 48.18.290 (Cancellation by insurer.). The County and the Lessee mutually agree that for the purpose of RCW 48.18.290, for both liability and property insurance the County is deemed to be a "mortgagee, pledge, or other person shown by (the required insurance policies) to have an interest in any loss which may occur thereunder."
 - D. Minimum Security Requirements: Each insurance policy required hereunder shall be (1) subject to reasonable approval by the County that it conforms with the requirements of this Section, and (2) be issued by an insurer rated A-:VIII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington unless procured under the provisions of chapter 48.15 RCW (Unauthorized insurers).
 - E. Deductible or Self-Insured Retention: Any deductible or self-insured retention ("S.I.R.") must be disclosed to, and shall be subject to reasonable approval by, the County. The cost of any claim falling within a deductible or S.I.R. shall be the responsibility of Lessee. If a deductible or S.I.R. for CGL or equivalent insurance is not "fronted" by an insurer but is funded and/or administered by Lessee or a contracted third party claims administrator, Lessee agrees to defend and indemnify the County to the same extent as the County would be protected as an additional insured for primary and non-contributory limits of liability as required herein by an insurer.
3. Property Insurance Coverage and Limits.
- A. Lessee shall obtain and maintain continuously All Risk Insurance including Earthquake and Flood insuring to their full insurable value, any and all buildings

and improvements constructed by the Lessee upon the premises against all loss or damage for the benefit of both County and Lessee and named Insureds. Full insurable value shall mean actual replacement value. Lessee shall maintain, restore and keep in good condition and repair all such buildings and improvements. Lessee shall provide duplicate insurance policies and certificates of renewal to the County.

- B. During such time as Lessee is engaged in the performance of the Improvements or other renovation of the Premises, the Lessee shall maintain in full force and effect "All Risks" Builder's Risk Property insurance or equivalent for the portion of the Premises under renovation, including fire and flood, on a replacement cost new basis subject to a deductible of no more than \$50,000 each loss. In the event of a claim under the builder's risk policy, Lessee or its contractor(s) shall be responsible for paying any deductible under the policy if Lessee or any of its agents, employees, or contractors is responsible for the loss or damage. It shall be Lessee's responsibility to properly coordinate with County Risk Management on the placement of Builder's Risk Property insurance prior to any new construction on, or structural alteration of, the Premises.

4. Evidence of Insurance. On or before the Commencement Date, and thereafter not later than the last business day prior to the expiration date of each such policy, the following documents must be delivered to County at its notice address as evidence of the insurance coverage required to be maintained by Lessee:

A. Certification of insurance documenting compliance with the coverage, minimum limits and general requirements specified herein; and

B. A copy of the policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;

C. A copy of the CGL insurance policy provision(s) and endorsements expressly including Snohomish County and its officers, elected officials, employees, agents and volunteers as additional insureds (whether on ISO Form CG 20 26 or an equivalent additional insured or blanket additional insured policy wording), showing the policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;

D. Pending receipt of the documentation specified in this Section 5, Lessee may provide a copy of a current complete binder. An ACORD certificate of insurance will not be accepted in lieu thereof.

Evidence of Insurance as set forth above, shall be issued to:

Snohomish County - Paine Field Airport
Attn: Real Estate Specialist
10108 32nd Ave W, Suite J
Everett, WA 98204
with an electronic copy to sar-realestate@snoco.org

5.03 All Risk Insurance. Lessee shall obtain and maintain continuously All Risk Insurance including Earthquake and Flood insuring to their full insurable value, any and all buildings and improvements constructed by the Lessee upon the premises against all loss or damage for the benefit of both County and Lessee and named Insureds. Full insurable value shall mean actual replacement value. Lessee shall maintain, restore and keep in good condition and repair all such buildings and improvements. Lessee shall provide duplicate insurance policies and certificates of renewal to the County.

5.04 Mutual Waiver of Subrogation. Lessee and County each releases and relieves the other and waives its entire right of recovery against the other for loss or damage arising out of or incident to the perils covered by All Risk Insurance, including Earthquake and Flood coverage, approved for use in Washington which occur in, on or about the Premises, whether caused by the negligence of either party, their agents, employees, or otherwise. Each party shall obtain from its insurer(s) provisions permitting waiver of any claim for loss or damage within the scope of the above insurance. The release and waiver of recovery contained herein shall be limited by, and shall be co-extensive with, the waiver provisions of the insurance policies procured and maintained by the parties pursuant to this Lease. If either County or Lessee is unable to obtain its insurer's permission to waiver of any claim against the other party, such party shall promptly notify the other party of such inability.

5.05 Destruction and Restoration. If any building, structure or facility which was constructed or located on the premises by Lessee is destroyed or damaged by fire, the elements, or any other cause, the Lessee shall repair the same to its condition at the time of loss. The Lessee, at its option, shall have the right, at its own expense, either to promptly repair and rebuild such building, structure or facility, or to delay the commencement of such repair or rebuilding until the proceeds of all insurance policies covering such casualty are available. After commencement of repair or rebuilding the Lessee shall continue the work with reasonable diligence until completion. Except as otherwise provided in this lease, the lease shall not terminate or be affected in any manner by reason of the damage or destruction by fire, the elements, or any other cause, and the fixed rent reserved in this lease, as well as all other charges payable hereunder, shall be paid by the Lessee without abatement or reduction on account of such damage or destruction. All risk of loss to any building, structure or facility placed in the premises by Lessee shall be on Lessee.

5.06 Increased Limits. If during the term of the lease, higher limits of insurance than those mentioned shall be required by the then current version of Snohomish County Airport Rules and Regulations and Minimum Standards, then upon request by the County, Lessee shall procure such insurance with higher limits.

5.07 Insurance Review. In consideration of the duration of this Lease, the parties agree that the Insurance section herein, at the discretion of the County Risk Manager, may be reviewed and adjusted with each amendment and within ninety (90) days of the end of the first five (5) year period of this Lease and the end of each successive five (5) year period thereafter. Any adjustments made as determined by the County Risk Manager, shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period. Adjustment, if any, in insurance premium(s) shall be the responsibility of Lessee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

ARTICLE VI - DEFAULT

- 6.01 Lessee's Default. Lessee shall be in default of this lease if Lessee:
- a. Fails to pay when due any sum payable by Lessee hereunder and fails to make full payment thereof within fifteen (15) days of Lessee's receipt of the County's written demand for payment, or
 - b. Breaches any non-monetary, material term, covenant or condition of this lease and the Lessee fails either to begin to cure the breach within thirty (30) days of Lessee's receipt of the County's written notice of such breach or to complete the cure of the breach within a reasonable time thereafter. If Lessee timely commences to cure such breach with such thirty (30) day period, Lessee shall not be in default if Lessee continues in timely good faith its efforts to cure following such thirty (30) day period, or
 - c. Either makes any general assignment or general arrangement for the benefit of creditors; files a petition in bankruptcy, including reorganization or arrangement, except in the case of a petition filed against Lessee when the same is dismissed within 30 days after filing; suffers the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the premises or of Lessee's interest in the lease, or
 - d. Suffers a cancellation of a guaranty of Lessee's obligations by a guarantor, if any, or
 - e. Fails to comply with the same lease term or covenant on two occasions even if such breach is cured within the applicable cure period, or
 - f. Fails to comply with the Airport Rules and Regulations, unless such failure is cured within 5 days after notice.

6.02 Remedies. Statement of any remedy herein shall not prevent a party to this lease from pursuing any other legal remedy available to it. Upon pursuing any remedy, a party to this lease, in addition to any other charges provided herein, shall be entitled to all costs and expenses incurred by it, including reasonable attorney's fees and expenses incurred in putting the premises in order.

6.03 Abandonment/Removal of Property.

- a. Lessee shall not vacate or abandon the Premises at any time during the term of the Lease.
- b. In the event Lessee shall abandon, vacate or surrender said premises, or be dispossessed by process of law, County shall have the right, but not the obligation, to remove from the Premises all personal property located therein, and may store the same in any place selected by County, including but not limited to a public warehouse, at the expenses and risk of the owners thereof, with the right to sell such property and dispose of the proceeds as provided in RCW 60.60.030 and .040.

ARTICLE VII - TERMINATION

7.01 Termination for Lessee's Default.

- a. If Lessee is in default, County may terminate this lease by giving Lessee five (5) days written notice of termination. Such notice shall be deemed given when deposited into the U.S. Mail by certified mail, or by personal service, to Lessee or any agent of Lessee at Lessee's last known address, or by posting such notice at the premises.
- b. If Lessee is in default, County may retake possession of the premises without terminating this lease. If County so retakes possession and does not terminate this lease, Lessee shall remain liable to pay any and all rentals and other charges as specified herein, together with any and all other damages as may be sustained by the County, excepting therefrom rental proceeds received from re-letting the premises.

7.02 Termination for Airport Use. Notwithstanding any of the other provisions contained in this lease, County may determine at some time during the term of this lease that the premises are necessary for the use of the Airport and/or County for the development of the Airport or for the construction, development or improvement of necessary facilities for general or specific long-range plans of the Airport. If such determination is made at the sole discretion of the County, this lease may be terminated by the County's giving notice to the Lessee of such intent to terminate and retake possession of the premises; and this lease shall terminate one year after the giving of any

such notice of intent to so terminate. Compensation shall be paid to the Lessee for termination for airport use as set forth in paragraph 8.03 c.

7.03 Right of Entry. During the period that is six (6) months prior to the end of the Term or otherwise cancellation or termination of the Lease, the County shall have the right to access and enter the premises at any reasonable time during business hours, or outside of business hours if agreed to by Lessee, upon three (3) days' written notice, for the purpose of showing the premises to prospective tenants, or other purpose as reasonably necessary. Lessor's showing shall not unduly interfere with the Lessee's operation.

ARTICLE VIII - FEDERAL, STATE AND COUNTY REQUIREMENTS

8.01 Federal Requirements. County, as a recipient of Federal Aid Airport Program Grant Funds, Airport Improvement Program, is required to include the following statements in all lease agreements and the parties specifically agree as follows:

a. Lessee, in its operation at Snohomish County Airport, agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee further covenants that it will not on the grounds of race, creed, color, national origin, sex, age, or disability, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Parts 15 and 21 of the Federal Aviation Regulations (49 CFR), and in the event of such discrimination, Lessee agrees that the County has the right to take such action as the United States Government may direct to enforce this covenant.

b. Lessee, 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 property described in this lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities, attached as Exhibit E (as may be amended) such that no person on the grounds of race, color, or national origin, sex, age, or disability will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

c. In the event of breach of any of the above Nondiscrimination covenants, County will have the right to terminate the lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the lease had never been made or issued.

d. With respect to any aeronautical services Lessee specifically agrees:

- (1) To furnish said aeronautical service on a fair, equal and not unjustly discriminatory basis to all users thereof, and
- (2) To charge fair, reasonable and not unjustly discriminatory prices for each unit of service, PROVIDED, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

e. Should any provision of this Lease be determined by the FAA to conflict with the County's obligations to the federal government (including, without limitation, Grant Assurance obligations), the objectionable provision will be deemed removed and parties will endeavor to reform the affected provision to accord as closely as legally possible to the parties' original intent in light of the specific FAA objections.

f. Construction Subject to Compliance with FAA Regulations. Lessee shall submit a Form 7460-1 to the Federal Aviation Administration (FAA) to comply with Part 77 of the Code of Federal Regulations, Title 14 Aeronautics and Space. Lessee shall not begin construction on the premises until the FAA has approved Form 7460-1 and Lessee submits a copy of the approval to County. Lessee shall not begin construction on premises until County has received FAA approval of such Form 7460-1 and any other required FAA approvals.

8.02 Subordination To Airport Operation. This lease shall be subordinate to the provisions of any existing or future agreement between the County and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the airport.

8.03 Condemnation.

- a. Whole Taking. If the whole of the premises is acquired or condemned by a competent authority for any public use or purpose, this lease shall terminate as of the date on which title vests in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date. Any compensation paid for the land shall become the property of the County.
- b. Partial Taking. If only a portion of the premises is so acquired or condemned, that portion of compensation paid for improvements shall be used to replace, repair, and restore insofar as possible, the premises to their condition of utilization prior to the taking or condemnation. If such repair, replacement, or restoration cannot be so accomplished, this lease shall be terminated unless the parties agree otherwise. If the lease continues, rent shall be reduced on the date of surrender of possession of the part taken in proportion to the

decrease in use suffered by the Lessee. Any compensation paid for the land shall become the property of the County.

- c. Compensation. In the case of any taking or condemnation of the whole of the premises, whether or not the term of this Lease shall cease and terminate, Lessee shall:
 - (1) Receive that portion of the award for such taking or condemnation that equals the value to Lessee of the unexpired term of this Lease (including extensions), measured by the difference between the fair market rental value of comparable premises and the actual rent being paid by Lessee under this Lease; and
 - (2) Have the right to claim and seek recovery from the condemnation authority compensation for any loss of its leasehold interest, the fair market value of Lessee's improvements, and for loss to which Lessee may be put for Lessee's moving expenses and business interruption.

8.04 Laws and Regulations.

- a. Lessee shall comply with all applicable laws, ordinance codes, rules, and regulations. Lessee shall be responsible for securing and maintaining all permits and paying, when due, all costs, fees, including surface water management fees, taxes, annual inspection fees, and other charges/benefits incidental to lease, construction and use of the premises.
- b. Lessee's attention is directed to Chapter 82.29A RCW, amendments thereto, and any ordinances, laws, or regulations of Snohomish County and/or any other taxing authority with respect to the levy and collection of excise or other taxes on leasehold interests. Lessee agrees that it will comply therewith, and will pay such taxes to the County when due in accord with the applicable rules, statutes and regulations. Lessee specifically authorizes the County to remit to the respective taxing authority any amounts paid by Lessee to County in payment of any such taxes, and agrees that County shall not be held responsible or liable in any manner for reimbursement of any amounts so paid if said taxes, or any part thereof, are determined to be invalid, improper, or unenforceable.
- c. If the applicable taxing authority requires the County to collect the taxes and Lessee does not agree on the amount of taxes to be so paid, the Lessee shall pay the amount requested by the County, and Lessee's sole recourse shall be against the applicable taxing authority with respect to the amount, propriety, and validity of such tax. County in no way warrants the validity or propriety or correctness of any such tax, and the sole obligation of the County upon collection of such tax shall be to remit the same to the appropriate taxing authority.

- d. Lessee shall provide a certification of its corporate status, business license and other registrations as applicable for review by the County at lease signing and at any subsequent change of status or amendment.

8.05 Aviation Easement. Lessee's right to use the premises for the purposes as set forth in this Lease shall be secondary to and subordinate to the operation of the airport. The County specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the air space above the surface of the described property together with the right to cause in said air space such noise as any be inherent in the operation of aircraft.

8.06 Easement Rights Reserved. The County reserves the right to grant easements and or licenses over, across, and under the premises so long as the easement or license does not unreasonably interfere with the Lessee's use.

8.07 Security. Lessee recognizes its obligations to comply with all security regulations established or amended from time to time, by but not limited to Snohomish County Airport security requirements, the Paine Field Airport Security Program, and all federal security regulations including Department of Homeland Security, TSA and the FAA. Lessee shall at all times comply with the current version of the Airport Security Program prepared by the Lessor for the Airport pursuant to regulations of the TSA and FAA. Lessee will reimburse the County in full for any fines or penalties levied against the County for security violations as a result of any actions on the part of the Lessee, its agents, contractors, suppliers, guests, customers, invitees, or employees and, if due to the fault, failure to act or breach of this Lease by Lessee or by Lessee's employees, lessees or agents, for any violation occurring at any field access point under the control of Lessee. Lessee shall be responsible within its defined role within the County's Airport Security Program for all employees and other persons gaining access to the Property which is in a restricted area (Snohomish County Code 15.08.210). Lessee shall be responsible for ensuring that identification required and provided by the Airport is required of all agents, contractors, suppliers, customers, employees and invitees needing access to a restricted area, if any. Lessee shall be responsible for maintaining a three foot (3') clearance area inside and outside the AOA fence.

8.08 Noise Abatement. The County and Lessee recognize the importance and joint responsibility of compatibility between the airport and the surrounding community. Therefore, Lessee shall actively participate and comply with all noise abatement procedures, policies, and programs as set forth by the County.

8.09 Aircraft and Ground Service Vehicle Identification. Lessee agrees to register all airside ground service vehicles and aircraft and obtain operator permits from the Airport Director. Lessee shall provide the Airport Director on an annual basis a current list of all aircraft stored on the premises including the name and address of each owner and N number of each aircraft.

8.10 Wildlife Hazards and Deterrents. Lessee shall not allow a bird, rodent or other wildlife attractant on the premises. Lessee shall keep trash cans and dumpster lids closed. In the event Lessee activities attract wildlife, Lessee at its cost shall take immediate action to remove the wildlife and prevent further wildlife attraction. Lessee agrees to participate in prorated area wide costs as necessary to resolve any area wide rodent problem.

8.11 Foreign Object Damage. Lessee shall inspect and keep the premises clean of any object, material or matter that poses a threat of Foreign Object Damage (FOD) to aircraft.

8.12 County Non-Discrimination Requirement. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts. The Lessee shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification by the Lessee of the Lessee's compliance with the requirements of Chapter 2.460 SCC. If the Lessee is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this lease may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Lessee's obligations under other federal, state, or local laws against discrimination.

ARTICLE IX - GENERAL PROVISIONS

9.01 Total Agreement: Applicability to Successors. This lease constitutes the entire agreement of the parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties. This lease and the terms and conditions hereof apply to and are binding on the heirs, representatives, successors, and assignees of both parties.

9.02 Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

9.03 Relationship to Assignees or Subtenants. In this Lease whenever obligations, liabilities or responsibilities are imposed upon Lessee, those obligations, liabilities or responsibilities shall apply to any subtenants, licensees or contractors of Lessee, provided that Lessee has obtained advance written consent of Lessor in the event of subtenants or assignments, to the extent that Lessee has assigned, delegated or

allowed such parties to act on Lessee's behalf with respect to obligations, liabilities or responsibilities under this Lease.

9.04 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, including in-house counsel, or in the event of appeal as allowed by the appellate court. Costs shall include, without limitation, the fees of appraisers, accountants, engineers and other professionals incurred in connection with such suit or action.

9.05 Time of Essence. It is mutually agreed that time is of the essence in the performance of all covenants and conditions to be kept and performed under the terms of this lease.

9.06 County Indemnification. Lessee hereby waives all claims for damages that may be caused by County's re-entering and taking possession of Premises or removing and storing the property of Lessee as provided in this Lease, and will save County harmless from loss, costs or damages occasioned by Lessee, and no such re-entry shall be considered to be a forcible entry.

9.07 Warranties/Guarantees. County makes no warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the premises and any subsequent structures, and it is agreed that the County will not be responsible for any loss, damage, or costs which may be incurred by Lessee by reason of any such physical condition.

9.08 Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provisions of this lease.

9.09 Consent of County. Whenever consent, approval, or direction by the County is required under the terms contained herein, all such consent, approval, or direction shall be received in writing from the Airport Director.

9.10 Notices. All notices may be delivered in person or mailed to the following respective addresses:

To the County: Airport Director
 Snohomish County Airport,
 Paine Field
 3220 – 100th St. SW, Suite A
 Everett, Washington 98204

To the Lessee:

9.11 Governing Law, Venue and Severability. The laws of the state of Washington shall govern the validity, performance, and enforcement of this lease. The venue of any action arising out of this lease shall be in the Superior Court of the State of Washington, in and for Snohomish County. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provision.

DATED: _____
COUNTY: **SNOHOMISH COUNTY**

DATED: _____
LESSEE: _____

Airport Director

Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

STATE OF: _____)
) ss.
COUNTY OF: _____)

On this day personally appeared before me

On this day personally appeared before me

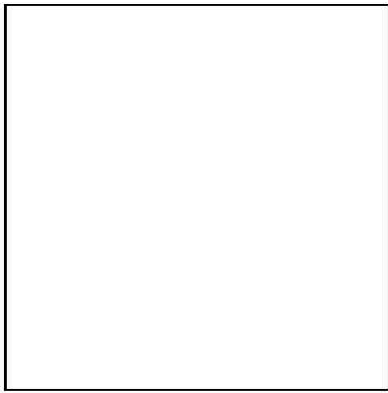
Airport Director
to me known to be the Director
of the Snohomish County Airport
and the person who executed the within and foregoing instrument, and acknowledged that he signed the same as its free and voluntary act and deed, for the uses and purposes therein mentioned.
DATED: _____

to me known to be the _____
of the _____
and the person who executed the within and foregoing instrument, and acknowledged that he signed the same as its free and voluntary act and deed, for the uses and purposes therein mentioned.
DATED: _____

Notary Public in and for the State of _____
Residing at: _____
My appointment expires:

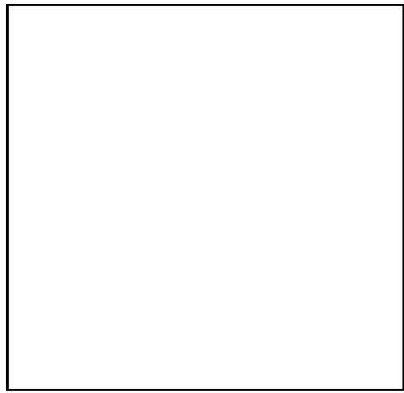
Notary Public in and for the State of _____
Residing at: _____
My appointment expires:

Please place Notary stamp in box



Approved as to form:
Deputy Prosecuting Attorney

Please place Notary stamp in box



Approved:
Risk Management

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DIAGRAM OF PREMISES

EXHIBIT C
BUILDING PLAN

EXHIBIT D
RATE SCHEDULE

Exhibit D

Required Federal Clauses

1.1 List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Capstone, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq). During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1.2 Compliance with Regulations. Capstone will comply with the Title VI list of pertinent nondiscrimination acts and authorities set forth in the prior section, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

1.3 Non-discrimination. Capstone, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Capstone will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including

employment practices to the extent that the Lease covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

1.4 Information and Reports. Capstone will provide all information and reports required by the Title VI list of pertinent nondiscrimination acts and authorities set forth in the prior section, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the Federal Aviation Administration to be pertinent to ascertain compliance with such statutes and regulations. Where any information required of the Capstone is in the exclusive possession of another who fails or refuses to furnish the information, Capstone will so certify to the County or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

1.5 Sanctions for Noncompliance. In the event of Capstone's noncompliance with the non-discrimination provisions of this Agreement, the County may impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate.

1.6 Fair Labor Standards Act. All contracts and subcontracts that result from this Agreement must incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Capstone has full responsibility to monitor compliance to the referenced statute or regulation. Capstone must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

1.7 OSHA. All contracts and subcontracts that result from this Agreement must incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Capstone must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Capstone retains full responsibility to monitor its compliance and its subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Capstone must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.