

Marin County Aviation Commission
DRAFT Minutes of December 3, 2015 Meeting
7pm - Board of Supervisors' Chambers
Marin Civic Center, San Rafael, CA

Commissioners Present at Roll Call: Richard Beach, Lou Franecke, Richard Nave, Zev Rattet, Douglas Watt

Commissioners Absent at Roll Call: Marius Nelsen, Humphrey Ogg

Staff Present: Dan Jensen (Airport Manager)
Eric Steger (DPW)
Ann Hearty (Recording Secretary)

The Vice Chair gaveled the meeting to order at 7:01 pm.

Vice Chair Franecke announced that both Chair Ogg and Commissioner Nelsen had contacted the Commission and were excused from tonight's meeting.

1. Minutes of the August 6, 2015 Meeting

Vice Chair Franecke asked if the commissioners had a chance to review the minutes. He then entertained a motion to approve the minutes. Mr. Beach requested to make a motion to defer the approval of said minutes, pending review by County Counsel of the remarks critical of the comments made by GFCA and stating the rationale of not permitting such comments. The motion failed to be seconded and was therefore tabled. Commissioner Nave made a motion to approve the minutes as presented. Commissioner Rattet seconded the motion.

Commissioner Beach claimed there was an omission of the level of detail in which Commissioner Franecke described the role of the Commission and Mr. Beach asked that it be included in the record. He requested to move the minutes of August 6th, 2015 be amended in Section 4a to include Mr. Franecke's expanded list and explanation of the specific functions of the Commission. Commissioner Watt seconded the motion.

Vote: Aye – Beach
Nay – Franecke, Nave, Rattet, Watt
Motion Defeated 4:1

Vice Chair Franecke called for a vote regarding the initial motion still on the table that said minutes be approved as presented.

Vote: Aye – Franecke, Nave, Rattet

Nay – Beach, Watt

Motion Passed 3:2

Mr. Franecke recognized Commissioner Beach to state what he thought should have been in the minutes so he was fairly heard. Mr. Beach wanted Mr. Franecke's examples of entities the Commission is responsive to (including DPW, the Supervisors, GFCA, the public), as well as appropriately characterizing the actual functions of the Commission. The Vice Chair cautioned all commissioners to keep in mind what their role is, what the Brown Act requires, and that no commissioner is to act individually in the name of the Commission. Mr. Franecke requested that the Clerk make a transcript of the remarks made in Section 4a to check the accuracy of Mr. Beach's representation.

2. Airport Manager's Report and Comments

- a. Mr. Jensen said there had been no incidents or accidents since the last meeting.
- b. The Manager noted that regarding the one informal complaint to the Federal Aviation Administration (FAA), the FAA conducted a meeting on November 3 and 4 in regards to the feasibility of a parachute operation and he was expecting a final report. Mr. Beach asked if this activity was connected to denying Golden Gate Skydiving's application for a parachute operation. Mr. Jensen said they were separate; this was the Air Traffic Controller, not Oakland FSDO.
- c. Mr. Jensen reported that on November 10, the BOS accepted the AWOS and Pavement Maintenance awards from the FAA and authorized the 10 percent local matching funds.
- d. The Airport Manager said that on October 17th, the deck and the garden maintenance were completed and thanked DPW's Building Maintenance Department for their help.
- e. Mr. Jensen added that he received a notice dated November 25 that Burdell Air Partners wished to install 3,600 solar panels on a vacant property adjacent (northwest) to Gness Field. Comments were due by to the County Community Development Agency (CDA) by December 9. Commissioners requested that reflection issues during takeoff and landing may merit a comment. Vice Chair Franecke asked Mr. Jensen to contact San

Rafael Airport about their experience with the process of solar panels impacting operations.

3. Aviation Commissioners' Reports and Comments

Mr. Beach noted that Supervisor Arnold brought a concern about the function and role of the Aviation Commission to the BOS. He wished the minutes to reflect that he supported and hoped to participate in a review of the Aviation Commission and its role.

He offered it did not seem to be achieving the effective inclusion of the voices of members and the public as designed.

Commissioner Beach summarized four topics from his conversation with Supervisor Arnold and County Counsel: 1) the rehabilitation of his reputation; 2) that the Commission serve the public with open and transparent communication; 3) his desire that the Commission take a businesslike approach to supporting organizations involved at the Airport; and 4) disclosure of information of interest to the public. He also mentioned he met with members of DPW to discuss financial operations and the budget.

Mr. Franecke noted that items 2 through 4 have been continuously upheld by the Commission for the number of years the Vice Chair has served.

4. Unfinished Business

The Vice Chair called for any unfinished business. He asked the Airport Manager about the allocation of matching funds for grants. Mr. Jensen indicated that the local match information was detailed in the staff report included in the packet.

5. New Business

Mr. Franecke requested if there was any new business to discuss. Hearing none, he moved to the next item.

6. Open Time

a. Ken Mercer, President of the Gness Field Community Association (GFCA), requested that a meeting be held to address the role of the Commission and have County Counsel conduct a training on the Brown Act.

b. Kirby Hughes of Golden Gate Skydiving wanted to know when to expect a recommendation on Gness Field skydiving proposal.

c. Dan Bedford read from the Brown Act, emphasizing that public comment comes before or during the consideration of any decision regarding an agenized item. He also made other

comments regarding Supervisor Arnold and the Aviation Commission.

- d. Ted Newman, long-time user of Gross, presented a copy of a document he requested be entered into the record which he stated supported Mr. Bedford's claim of conspiracy.

7. Adjourn

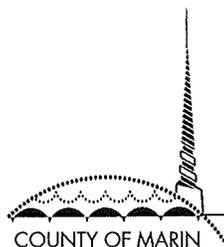
The Vice Chair asked for a motion to adjourn. The motion was made by Commissioner Watt and seconded by Commissioner Nave.

Vote: Aye – Beach, Franecke, Nave, Rattet, Watt

Nay – None

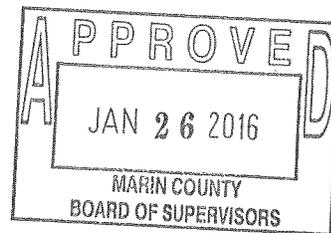
Motion Passed 5:0

The meeting was adjourned at 7:54 pm.



OFFICE OF THE
COUNTY ADMINISTRATOR

January 26, 2016



Matthew H. Hymel
COUNTY ADMINISTRATOR

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

Angela Nicholson
ASSISTANT COUNTY
ADMINISTRATOR

Board of Supervisors
Marin County Civic Center
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Technical amendments to Resolution No. 2006-112, related to guidelines and standing rules for the County's advisory boards and commissions

RECOMMENDATION: Adopt resolution

Marin County Civic Center
3501 Civic Center Drive
Suite 325
San Rafael, CA 94903
415 473 6358 T
415 473 4104 F
CRS Dial 711
www.marincounty.org/cao

Dear Board of Supervisors:

Since 2006, when your Board last adopted Resolution No. 2006-112 and Ordinance No. 3461, there have been changes in our budget process and changes in state law that should be reflected in our provisions that govern "discretionary commissions" not mandated by state or federal law or regulation.

What follows is a summary of technical amendments to the revised resolution (Exhibit A) consistent with changes that have occurred since 2006.

- **Reporting consistent with our two-year budget cycle:** Currently, each commission is required to submit an annual report by March 1 of each year. The attached resolution would make this requirement every two years to coincide with the County's two-year budget cycle. A revised report template would be available on the County's web site for commissions to complete and electronically submit their biennial reports. Information provided in these reports will be included in the Proposed Budget Book. If issues arise that need to be addressed in a more-timely manner, they may be calendared by department staff or by the Board of Supervisors on a BOS meeting agenda.
- **Updates to list of Discretionary Commissions:** Section 1.5 of the proposed revised resolution would update the current list of discretionary commissions from 18 to 23, reflecting prior actions taken by your Board since 2006 to discontinue commissions through the sunset process or create new commissions. In order to provide a comprehensive list of all current discretionary commissions, this update also includes discretionary commissions previously created by ordinance, including the Cultural Services Commission; Human Rights Commission; Integrated Pest Management (IPM) Commission; Parks and Open Space Commission; and the Women's Commission. The revised resolution does not propose any new additions or elimination of commissions outside of actions previously taken by the Board.

CA2

- **Addition of Ethics Training Requirement:** Section II.11 of the proposed revisions require any commission members who receive any type of compensation, salary, stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties, as listed in the County of Marin's Administrative Regulation No. 1, to complete Ethics Training as required by California Government Code Title 5, Chapter 2, Article 2.4, Sections 53234-53235.2.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

Please let me know if you have any questions or concerns.

REVIEWED BY:

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> County Counsel	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

Respectfully Submitted,



Matthew H. Hymel
County Administrator

Attachment: Exhibit A

RESOLUTION NO. 2016-03
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
REVISING RESOLUTION NO 2006-112
OF THE MARIN COUNTY BOARD OF SUPERVISORS
SPECIFYING GUIDELINES FOR THE ESTABLISHMENT AND DISSOLUTION OF
COUNTY ADVISORY BOARDS, COMMISSIONS AND COMMITTEES,
AND STANDING RULES AND APPLICATION AND APPOINTMENT PROCEDURES
FOR THESE BODIES

WHEREAS, the County of Marin depends on many boards, commissions and advisory committees to conduct the public business and to comply with applicable statutory mandates; and

WHEREAS, as a matter of public interest, this Board of Supervisors deems it advisable to establish guidelines for the establishment and dissolution of boards, commissions, and advisory committees (hereinafter referred to as "commission" or "commissions") and clarify standing rules and appointment procedures for commissions and the members of these bodies.

WHEREAS, these guidelines are applicable to all discretionary commissions established by a resolution, ordinance, or an action of the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED:

I. Establishment and Dissolution of Discretionary Commissions

1. Commissions that are not mandated by State or federal law or regulation are designated as discretionary commissions.
2. In order to conserve County resources, the Board of Supervisors may consider using ad hoc committees, advisory councils and town hall meetings prior to establishing a new discretionary commission.
3. If the Board of Supervisors deems it desirable to establish a new discretionary commission, it shall be established by a resolution of the Board. This resolution shall include a statement of purpose and a "sunset date," or date of dissolution, for the commission. The sunset date shall be set with consideration to the projected time frame upon which the commission is expected to accomplish the special purpose for which it is being created. Although some commissions may be expected to exist for many years, the sunset date shall not be set beyond four (4) years from the date that the commission is authorized by the Board.
4. The commission shall sunset on its sunset date unless the Board of Supervisors takes action to continue the commission.

5. The 23 discretionary advisory commissions listed below were previously established by a resolution, ordinance, or an action of the Board of Supervisors as of January 26, 2016, and can be changed by a subsequent action of the Board of Supervisors:
 - (a) Alcohol and Drug Advisory Board
 - (b) Architectural Commission
 - (c) Aviation Commission
 - (d) Bolinas Lagoon Advisory Council
 - (e) Cultural Services Commission
 - (f) Fish and Wildlife Commission
 - (g) FLW Civic Center Conservancy
 - (h) Health Council of Marin
 - (i) Human Rights Commission
 - (j) Integrated Pest Management (IPM) Commission
 - (k) Kentfield Planning Advisory Board
 - (l) Library Commission
 - (m) Parks and Open Space Commission
 - (n) Strawberry Design Review Board
 - (o) Tamalpais Design Review Board
 - (p) Wildlife & Fisheries Advisory Committee
 - (q) Women's Commission
 - (r) CSA #6 (Gallinas Creek) Advisory Board
 - (s) CSA #16 (Greenbrae) Advisory Board
 - (t) CSA #18 (Las Gallinas) Advisory Board
 - (u) CSA #20 (Indian Valley) Advisory Board
 - (v) CSA #29 (Paradise Cay) Advisory Board
 - (w) CSA #33 (Stinson Beach) Advisory Board

For consistency with the policies regarding sunset dates for new commissions, the original sunset date for these existing commissions was August 15, 2010, and every four years thereafter, unless the Board of Supervisors takes action to either continue or discontinue a commission prior to this date.

6. Any commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Board of Supervisors. This dissolution may occur prior to a discretionary commission's established sunset date.
7. Discretionary commissions shall submit a biennial (every two years) report to the Board of Supervisors by March 1st of the first year of each two-year budget cycle, that includes a summary of their activities and accomplishments during the current fiscal year as well as commission goals and initiatives for the next fiscal year. Commissions that do not submit a report may be reviewed by the Board of Supervisors and appropriate actions, including dissolution of the commission, may be considered.

II. Standing Rules

8. Commissions which are responsible for conducting public business for the County of Marin are subject to all provisions of the Ralph M. Brown Act, California Government Code Section 54950 et seq. (as amended), which mandates open meetings for local legislative bodies.
9. Commissions which are responsible for conducting public business for the County of Marin are subject to all applicable county policies regarding non-discrimination.
10. Certain commission members who receive any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties, as listed in the County of Marin's Administrative Regulation No. 1, are required to complete Ethics Training as required by California Government Code Title 5, Chapter 2, Article 2.4, Sections 53234-53235.2.
11. Certain commission members who are responsible for conducting public business for the County of Marin are required to comply with the disclosure requirements of the Political Reform Act of 1974, pursuant to Resolution No. 99-100 adopted by the Board of Supervisors on July 20, 1999, and its successors, and must complete and file all necessary documents in connection therewith and are subject to all applicable California laws regarding conflict of interest.
12. All appointed commission members, whether new or re-appointed, shall take a loyalty Oath of Office prior to voting on any matter presented to the commission to which they have been appointed to serve.
13. Members of commissions which are responsible for conducting public business for the County of Marin shall avoid impropriety and the appearance of impropriety, and shall not use their appointed position to further their own financial/pecuniary gain or for any other purpose not directly related to the governmental function they have been appointed to perform.
14. Unless authorized as the designated spokesperson by the Commission, an individual commissioner may not represent the commission before any other commission, outside agency, to the press, or the general public. Commissioners are defined as "county officers" and hence are governed by Government Code Section 3201-3210 relating to political activities.
15. Members of commissions shall be responsible for having a working knowledge of the establishing ordinance, resolution, by-laws, federal or state mandates or any other governing regulations that define and set forth the intent and purpose of their assigned commission, and shall only represent and take action on matters related thereto.
16. The County Administrator's Office shall prepare a summary report of existing commissions as needed and make recommendations to the Board of Supervisors regarding the elimination of commissions whose functions or purpose have been fulfilled, or where the mandate or purpose for the creation of the commission has expired. This report may also include recommendations regarding modifications such as revisions to charters or memberships, or possible mergers of commissions.

17. No committee shall have powers other than advisory to the Board of Supervisors except as otherwise specified by the County Code. Each commission, so created, shall have adopted by-laws approved by County Counsel and the Board of Supervisors not later than January 31, 2007. Newly formed Commissions shall have adopted by-laws, approved by County Counsel and the Board of Supervisors, within 90 days of formation.
18. Members of commissions who are responsible for conducting public business for the County of Marin shall not knowingly or otherwise misrepresent the scope of their influence or authority in matters assigned to their commission or represent recommendations of their respective advisory body as official County policy until such time as formal action, such as adoption of a resolution, has been taken by the Board of Supervisors.
19. The Board of Supervisors shall retain discretion to rescind any commission appointment(s), as deemed necessary.

III. Application and Appointment Procedures

20. California Government Code Section 54970 et seq. (as amended), which requires annual compilation of a Local Appointments List, is incorporated herein by reference.
21. In the event of an unscheduled vacancy on any commission for which the Board of Supervisors has the appointing authority, whether due to resignation, termination, death or other causes, a special vacancy notice shall be posted in the Clerk of the Board office and the designated library pursuant to California Government Code Section 54973 et seq. (as amended). In the case of At Large vacancies, a press release will be sent to the local newspapers. Final appointment to the commission may not be made by the legislative body for at least 10 working days after the posting of the notice in the Clerk's office.
22. If the Board of Supervisors finds that an emergency exists, it may fill an unscheduled vacancy immediately. However, in the event of an emergency appointment, the person appointed to fill the vacancy shall serve only on a formal "acting" basis until the final appointment is made pursuant to Board action.
23. In the event of a resignation by a commission member, it is the responsibility of the resigning member to send written notice of the resignation to the Clerk of the Board.
24. Members of commissions who wish to continue serving in their appointed capacity for an additional term are required to complete and submit a new application, or may update and resubmit their original application if no pertinent information has changed. All qualifying applications for the vacancy will be submitted to the Board of Supervisors for consideration, selection and appointment.

25. All applications received by commission's staff shall be forwarded to the Clerk of the Board for presentation to the Board of Supervisors. Commissions may make a recommendation regarding specific applicants to fill a vacancy for consideration by the Board of Supervisors. However, the Board of Supervisors retains full appointing authority to select and appoint new commission members.
26. In the event that multiple applications are submitted for an At Large position, the Board of Supervisors may choose to conduct interviews. If selected for interview, applicants will be notified of the date, time and location of the interviews. Interviews by the full Board shall be scheduled only for At Large appointments. Applicants for District appointments may be nominated by the District Supervisor.
27. When a vacancy exists on a commission and no applications have been submitted, the vacancy will be continued until such time as an appointment is made. The Board of Supervisors may, at any time, move to continue an appointment to a subsequent date.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 26th day of January, 2016, by the following vote:

AYES: SUPERVISORS Judy Arnold, Katie Rice, Damon Connolly, Kathrin Sears,
Steve Kinsey

NOES: NONE

ABSENT: NONE



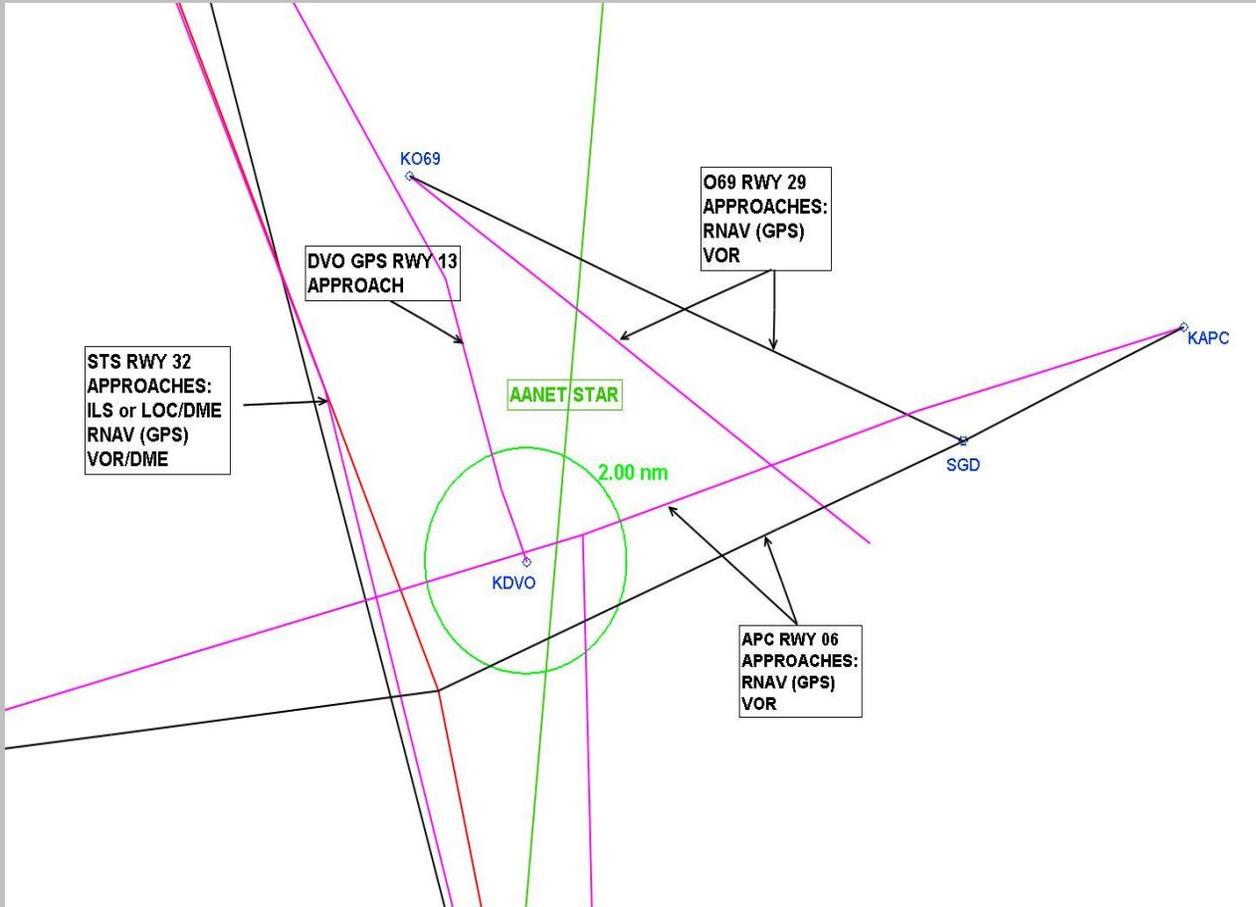
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK

Oakland ARTCC DVO Jump Zone Safety Risk Management Document



Version 1.0
December 2015





SRMD Change Page

SRMD Action/Change	Date	Version
WSC QCG Review	December 2, 2015	0.0
SRM Panel Review	December 7, 2015	0.1
SRM Panel Approval	December 17, 2015	0.2
Signature Final	December 18, 2015	1.0



Executive Summary

SRMD Title

Oakland ARTCC DVO Jump Zone Safety Risk Management Document

Originator

Name: David Paxton

Organization: Support Specialist, Domestic Airspace & Procedures, Oakland ARTCC (WSC-ZOA)

Contact Number: (510) 745-3267

SRMD Identification and Configuration Management

Submission Date: December 18, 2015

Version: 1.0

Safety Case Number: 01325

Summary of NAS Change

Oakland Air Route Traffic Control Center (ARTCC) (ZOA) proposes to establish a parachute jump zone at Gness Field Airport (DVO), Novato, CA. The jump zone will be within a 2 Nautical Miles (NM) radius of DVO with a vertical ceiling of 9,500 feet Mean Sea Level (MSL) and will be available daily from 0800 to 1800, weather permitting. The jump zone proponent, Golden Gate Skydiving (GGS), seeks to establish a commercial parachute jump school at DVO. The implementation date has not been determined.

DVO is a non-towered General Aviation (GA) airport in Class E airspace starting at 700 feet Above Ground Level (AGL). The DVO jump zone will affect the ZOA Radar Sectors 40 and 41.

Risk Assessment

A Safety Risk Management Panel (SRMP) convened November 3 and 4, 2015 at ZOA to assess the proposed change to the National Airspace System (NAS) and its associated hazards. The SRMP, comprising stakeholders in the change, was organized by ZOA with support from the Federal Aviation Administration (FAA) Western Service Center (WSC) Quality Control Group (QCG) and Flight Standards. Stakeholders included DVO management, Horizon Airlines, GGS, the National Air Traffic Controllers Association (NATCA), and ZOA.

The SRMP identified three hazards for submittal to the Safety Risk Management (SRM) process:

- ZOA-DVO-2015-01– High Density Traffic in the Jump Zone not in Communication with ZOA
- ZOA-DVO-2015-02– IFR Traffic Below the MVA not Eligible to be Turned Around the Jump Zone during Active Jumping
- ZOA-DVO-2015-03– Delay Vector Aircraft (due to arrival sequencing) into the Jump Zone during Active Jumping

The SRMP applied the SRM process, beginning with a Preliminary Hazard List (PHL). Using the PHL as a foundation for completing the Hazard Analysis Worksheet (HAW), SRMP members analyzed each hazard to determine causes, the system state, existing control/justification, effects, severity/rationale, likelihood/rationale, initial risk, safety requirements and the organization responsible for implementation, predicted residual risk, and safety performance targets.

Based on the safety analysis, the SRMP determined that the change can be introduced into the NAS with an acceptable level of risk as defined in the FAA Air Traffic Organization Safety Management System Manual, Version 4.0.



Figure 1 show the hazards and risk levels; Figure 2 is a risk matrix that depicts hazard risk levels. Appendix A is the HAW, which details SRMP findings.

Hazard Number	Hazard Description	Initial Risk	Predicted Residual Risk
ZOA-DVO-2015-01	High density traffic in the jump zone not in communication with ZOA	3C – Medium	3C – Medium
ZOA-DVO-2015-02	IFR traffic below the MVA not eligible to be turned around the jump zone during active jumping	4D – Low	4D – Low
ZOA-DVO-2015-03	Delay vector aircraft (due to arrival sequencing) into the jump zone during active jumping	4D – Low	4D – Low

Figure 1: Hazard List with Risk Level

Severity Likelihood	Minimal 5	Minor 4	Major 3	Hazardous 2	Catastrophic 1
Frequent A	Low	Medium	High	High	High
Probable B	Low	Medium	High	High	High
Remote C	Low	Medium	01 Medium 01	High	High
Extremely Remote D	Low	02 02 Low 03 03	Medium	Medium	High
Extremely Improbable E	Low	Low	Low	Medium	High* Medium

*Risk is high when there is a single point or common cause failure.

Initial Risk

Predicted Residual Risk

Figure 2: Risk Matrix



Safety Requirements Table

Figure 3 shows safety requirements for the one hazard.

Hazard Description	Safety Requirements	Organization Responsible for Implementing Safety Requirements	Signature of Official from Responsible Organization
ZOA-DVO-2015-01	Accomplish training for: jump zone procedures, controller responsibility and restrictions available to de-conflict, priority of duties	ZOA	 Melissa Holmes, ATM, ZOA
	Initiate GGS pilots familiarization trips to ZOA	ZOA/GGS	 Melissa Holmes, ATM, ZOA
ZOA-DVO-2015-02	None identified		
ZOA-DVO-2015-03	None identified		

Figure 3: Safety Requirements

Monitoring Plan

The monitoring plan (Figure 12) lists activities to be tracked for nine months during ZOA administration hours. Activities include reviewing Mandatory Occurrence Reports (MORs) and TRAX (a mechanism for entering and printing training reports) entries for reports attributed to jump zone operations.



SRMD Signatures

SRMD Concurrence Signature:

David Paxton
Support Specialist, Domestic Airspace & Procedures, ZOA (WSC-ZOA)

12/18/15

Date

SRMD Approval Signature:

Jeff B Hubert
Manager, Domestic Airspace & Procedures, ZOA (WSC-ZOA)

1/4/16

Date

Risk Acceptance Signature:

Melissa Holmes
Air Traffic Manager, ZOA (WSC-ZOA)

1/5/16

Date



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Section 1 – Current System

DVO is a non-towered GA airport attended daily from 0800 to 1700 Pacific Time and has no scheduled air carrier service. It has a Runway 13/31 configuration (Figure 4) with a Global Positioning System (GPS) Runway 13 approach available for Instrument Flight Rules (IFR) (Figure 5) approaches. DVO Class E5 airspace starts 700 feet AGL over airport and ZOA provides IFR and Visual Flight Rules (VFR) services to/from airport.

There are 191 aircraft based at DVO of which 159 are single engine airplanes, 22 are multi engine, 6 jets, and 4 helicopters. DVO averages 268 aircraft operations a day of which, 71% are local GA, 28% are transient GA, and 1% air taxi.

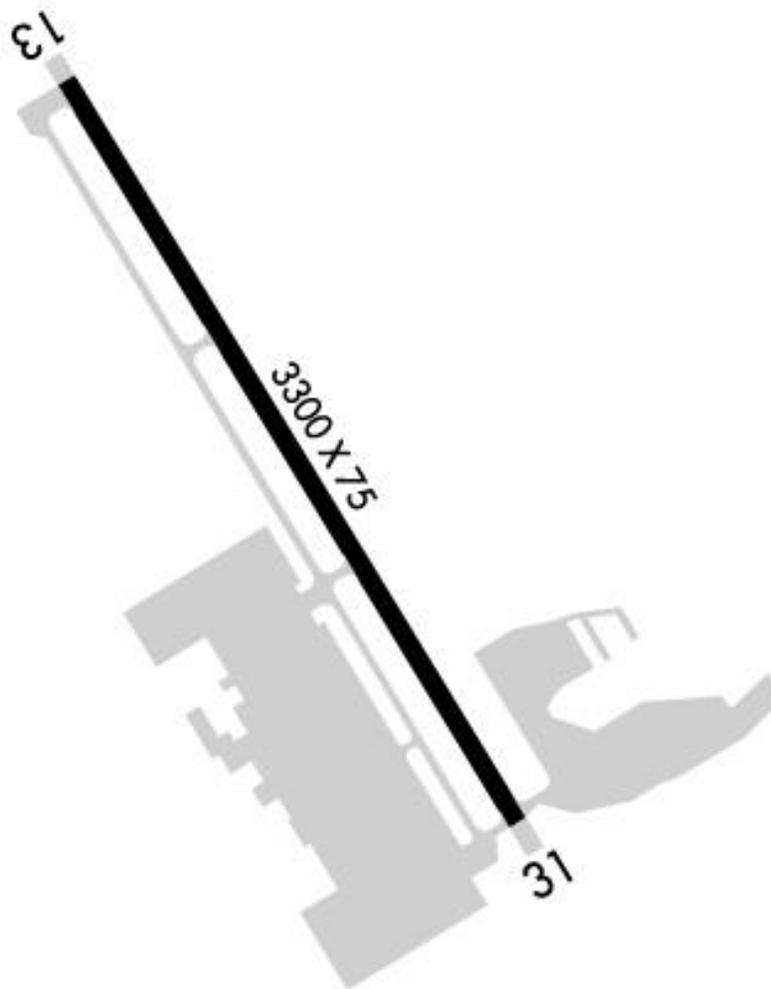


Figure 4: DVO Diagram

Oakland ARTCC DVO Jump Zone Safety Risk Management Document



NOVATO, CALIFORNIA

AL-9238 (FAA)

15232

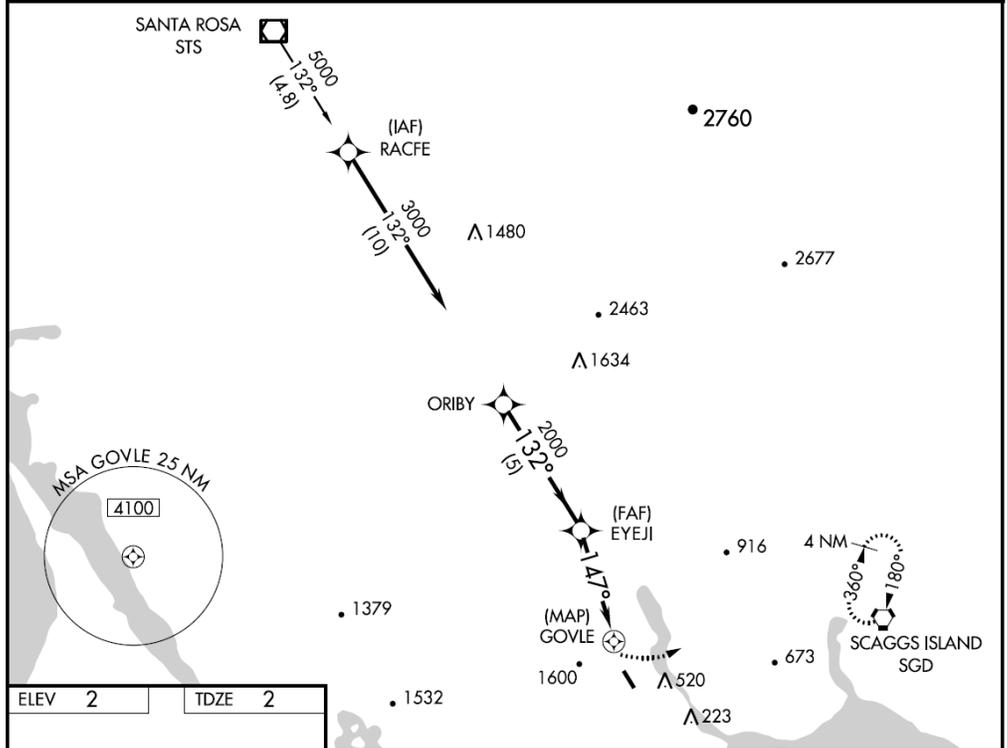
APP CRS	Rwy Idg	3300
147°	TDZE	2
	Apt Elev	2

GPS RWY 13
GNOSS FIELD (DVO)

NA Circling NA west of Rwy 13-31. When local altimeter not received, use Napa altimeter setting and increase all MDAs 40 feet. If neither is received procedure is NA.

MISSED APPROACH: Climbing left turn to 3000 direct SGD VORTAC and hold.

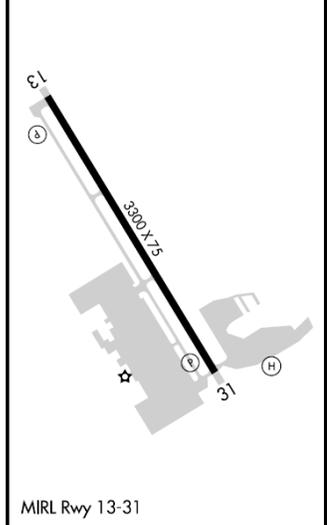
AWOS-3P 120.675	OAKLAND CENTER 127.8 353.5	UNICOM 123.075 (CTAF)
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SW-2 12 NOV 2015 to 10 DEC 2015

SW-2 12 NOV 2015 to 10 DEC 2015

ELEV 2	TDZE 2
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Procedure Turn NA	ORIBY	3000	EYEJI	2000	GOVLE	3000	SGD
		132°					
		5 NM		3.9 NM	1.1 NM		
CATEGORY	A	B	C	D			
S-13	1000-1¼ 998 (1000-1¼)	1000-1½ 998 (1000-1½)			NA		
CIRCLING	1000-1¼ 998 (1000-1¼)	1000-1½ 998 (1000-1½)			NA		
NAPA ALTIMETER SETTING MINIMUMS							
S-13	1040-1¼ 1038 (1100-1¼)	1040-1½ 1038 (1100-1½)			NA		
CIRCLING	1040-1¼ 1038 (1100-1¼)	1040-1½ 1038 (1100-1½)			NA		

NOVATO, CALIFORNIA
Orig 27MAR97

38°09'N-122°33'W

GNOSS FIELD (DVO)
GPS RWY 13

Figure 5: DVO GPS Runway 13



Section 2 – Change Proposed

ZOA and GGS propose to establish a parachute jump zone within a 2 NM radius of DVO with a vertical ceiling of 9,500 feet MSL (Figure 6). The jump zone will be available for daily use from 0800 to 1800 Pacific Time, weather permitting. GGS seeks to start a commercial parachute jump school at DVO.

Weather conditions during jump zone activity must be reported as VFR with visibility of at least 3 miles. Bay area airports (San Francisco International Airport (SFO), Metropolitan Oakland International Airport (OAK), and Norman Y Mineta San Jose International Airport (SJC)) will be on west runway configurations and ZOA Sectors 40 and 41 will be de-combined with all other ZOA area north sectors. Figure 7 lists traffic data from Performance Data Analysis and Reporting System (PDARS) for the designated DVO jump zone.

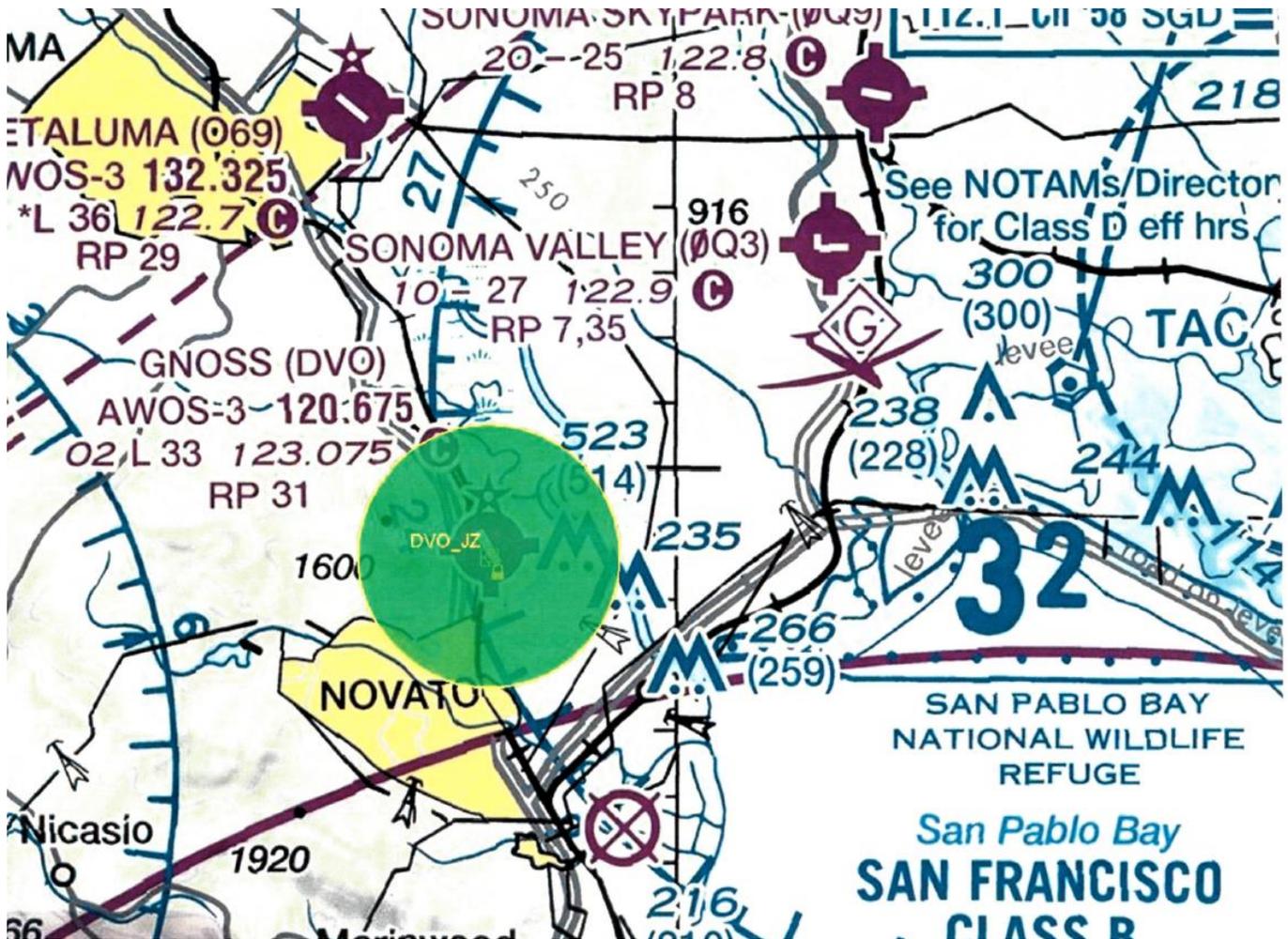


Figure 6: DVO Jump Zone Depiction



DVO Drop Zone Traffic Data

Obtained from PDARS for July 27, 2015 through August 6, 2015, 0800 PDT to 1859 PDT Daily (121 hours total)

Type of Track Data	Track Total	Average per Hour	High Count Hours	Percentage of Total Hours
Unidentified (VFR or unknown)	586	4.8	23 with 8+ ops (high count 12/hr.)	19%
Identified (IFR or VFR)	189	1.6	11 with 4+ ops (high count 6/hr.)	9%
All tracks	775	6.4	19 with 10+ ops (high count 16/hr.)	16%

Figure 7: DVO Jump Zone Traffic Data

Two sections of JO 7110.65 describe and refer to Parachute Operations in Section 9 and Parachute Jump Operations in Section 18 (Figures 8 and 9). These sections were used to outline procedures described in a LOA between Oakland Air Route Control Center and Golden Gate Skydiving (Appendix B). Appendix C addresses Parachute Operations from FAA 14 CFR Part 105.



Section 7. Parachute Operations

9-7-1. COORDINATION

Coordinate any pertinent information prior to and at the end of each parachute jump or series of jumps which begins or ends in your area of jurisdiction with other affected ATC facilities/sectors.

NOTE-

14 CFR Section 105.15 prescribes the information required from each person requesting authorization or submitting notification for nonemergency parachute jumping activity.

REFERENCE-

*FAAO JO 7210.3, Para 18-4-J, Nonemergency Parachute Jump Operations.
14 CFR Part 105, Parachute Operations.*

9-7-2. CLASS A, CLASS B, AND CLASS C AIRSPACE

a. Authorize parachute operations only within airspace designated for the jumping activity.

b. Separate aircraft, other than those participating in the jump operation, from the airspace authorized for the jumping activity.

c. Impose, as necessary, any conditions and restrictions which in your judgment would promote the safety of the operation.

REFERENCE-

14 CFR Section 105.25, Parachute Operations in Designated Airspace.

9-7-3. CLASS D AIRSPACE

TERMINAL

Handle requests to conduct jump operations in or into Class D airspace in which there is a functioning control tower as follows:

a. Authorize parachute jumping with respect to known or observed traffic.

b. Issue advisory information to the jump aircraft and to nonparticipating aircraft as necessary for the safe conduct of the jump operation.

9-7-4. OTHER CONTROL AIRSPACE

Handle notifications to conduct jump operations in other Class E airspace as follows:

a. Issue a traffic advisory to the jump aircraft before the jump. Include aircraft type, altitude, and direction of flight of all known traffic which will transit the airspace within which the jump will be conducted.

NOTE-

14 CFR Section 105.13, Radio Equipment and Use Requirements, prescribes that, except when otherwise authorized by ATC, parachute jumping is not allowed in or into Class E airspace unless radio communications have been established between the aircraft and the FAA ATC facility having jurisdiction over the affected airspace of the first intended exit altitude at least 5 minutes before the jumping activity is to begin for the purpose of receiving information in the aircraft about known air traffic in the vicinity of the jump aircraft.

b. Issue advisories to all known aircraft which will transit the airspace within which the jump operations will be conducted. Advisories must consist of the location, time, duration, and altitude from which the jump will be made.

c. When time or numbers of aircraft make individual transmissions impractical, advisories to nonparticipating aircraft may be broadcast on appropriate control frequencies, or when available, the ATIS broadcast.

d. When requested by the pilot and to the extent possible, assist nonparticipating aircraft to avoid the airspace within which the jump will be conducted.

Figure 8: JO 7110.65 Parachute Operations



Section 4. Parachute Jump Operations

18-4-1. NONEMERGENCY PARACHUTE JUMP OPERATIONS

a. All concerned personnel must familiarize themselves with 14 CFR Part 105, and obtain the required information required by Section 105.25 when processing requests for authorization or notification of nonemergency parachute jumps.

b. When operational/procedural needs require or when warranted by high density air traffic or constrained airspace, negotiate letters of agreement that designate areas of ongoing jump activity as permanent jump sites. Letters of agreement should contain:

1. The description and the location of the jump zone(s) and the conditions of use.
2. The activity schedules.
3. The maximum jump altitudes, common jump altitudes and common parachute opening altitudes (all altitudes should be expressed in feet above mean seal level).
4. The communication frequencies to be used by the jump aircraft.
5. Jump aircraft call signs.
6. Jump aircraft climb and descent areas.

7. Notification procedures.

8. Assigned transponder code when appropriate.

9. Any other items pertinent to the needs of the ATC system and the users.

c. Where ongoing jump sites are established, NOTAM information must be submitted for publication in the AFD.

d. To the extent possible, advise parachute jumping organizations or responsible individuals of known high traffic density areas or other airspace where sport parachuting may adversely impact system efficiency, such as IFR departure/arrival routes, Federal airways, VFR flyways, military training routes, etc.

e. A record of the jump operations must be maintained in the facility files for 15 days. The records must contain at least a copy of the NOTAM, reason(s) for cancellation (if applicable), name of the person(s) effecting coordination, and instructions or conditions imposed on the jump operation.

f. Upon request, air traffic facilities must furnish whatever information might be available concerning parachute jumps to the U.S. Coast Guard.

Figure 9: JO 7110.65 Parachute Jump Operations



Section 3 – Safety Risk Management Panel

The SRMP (Figure 10) met November 3 and 4, 2015 to discuss possible hazards, risks, and related issues associated with the change. Figure 11 lists the SRMP meeting facilitation team.

Name	Title	Years of Experience	Previous SRMP Participation?
James Deignan	CPC, NATCA, ZOA	25	Yes
Kirby Hughes	Chief Pilot, Skydive Golden Gate	22	No
Dan Jensen	Airport Manager, Marin County Airport	18	No
Kevin Kilpatrick	FLM, Area North, ZOA, Airspace and Procedures	30	Yes
Michael Knight	Owner, Skydive Golden Gate	17	No
Kevin McKinnon	Pilot, Horizon Airlines	--	No

Figure 10: SRMP Members

Name	Title	Organization
Kenneth Legary	Technical Writer	Lockheed, Organizational Evaluations, QCG, WSC
Paul Webster	Safety Risk Management Specialist	Organizational Evaluations, QCG, WSC

Figure 11: SRMP Meeting Facilitation Team



Section 4 – Risk Assessment

The SRMP conducted a safety analysis on hazards associated with establishing the jump zone at DVO. SRMP members talked about how current traffic in the area would be affected during an active jump operation from 9,500 feet MSL to the surface. A pilot panel member emphasized that there has never been a reported incident or accident with similar parachute operations in this area. He gave examples of how the timing of the jump works and the use of airspace during skydiving activities. Panel members agreed that there are many options for de-conflicting IFR aircraft with VFR traffic. SRMP members discussed how having an active jump zone could increase complexity in a controllers designated airspace.

SRMP members said controllers will be trained on new procedures and training that will include briefings emphasizing the jump schedule and expected traffic. SRMP members remarked that special attention will be necessary during IFR arrivals/departures in and out of DVO's airspace and surrounding airports. They added that pilots will, at times, be requested to remain at higher or different altitudes in reference to the jump zone aircraft and jumpers.

ZOA-DVO-2015-01– High Density Traffic in the Jump Zone not in Communication with ZOA

The SRMP discussed the scenarios associated with jump zone activity and local traffic at area airports not in communication with ZOA. Panel members talked about how IFR traffic would be affected by an active jump zone and the procedures explained in the LOA. Members mentioned that pilots will have to pay special attention to radio communications while transitioning the jump zone to know when jumpers are in the air and from what altitude. Members added that controllers will stress coordination reference the jump zone during position relief/pre-duty briefings.

The SRMP determined that high density traffic in the jump zone not in communication with ZOA is a hazard caused by establishing a jump zone at DVO. The hazard, which exists during jump zone operations in Sectors 40/41, may result in increased controller complexity/task volume workload in the Sector 40 area, increased TCAS RAs in the Sector 40 area, frequency congestion, and increased workload for Sector 40 reference Sector 41 coordination.

The SRMP agreed that the worst credible outcome would be increased controller complexity/task volume workload in the Sector 40 area. Members determined that hazard severity is 3 — Major and likelihood of occurrence is C — Remote based on subject matter expertise and operational experience. The panel agreed that the current/initial risk 3C — Medium and predicted residual risk is 3C — Medium.



ZOA-DVO-2015-02– IFR Traffic below the MVA not Eligible to be turned around the Jump Zone during Active Jumping

The SRMP discussed rules concerning aircraft operating below the minimum vectoring altitude (MVA) and the restrictions on controllers issuing turns. Members expressed that aircraft climb rates will determine when a turn can be given above the MVA and this will depend on the departure airport, terrain, and initial route of flight. Members remarked that existing controls will be applied, as they are today, to resolve any potential traffic situations created by the drop zone activity.

The SRMP determined that a hazard is credible for IFR traffic below the MVA not eligible to be turned around the jump zone during active jumping is caused by existing IFR operations. The hazard, which exists during jump zone operations in Sectors 40/41 and when Santa Rosa Airport (STS) departures that are not assigned a SID, may result in increased controller complexity/task volume workload in the Sector 40 area.

The SRMP agreed that the worst credible outcome would be increased controller complexity/task volume workload in the Sector 40 area. Members determined that hazard severity is 4 -- Minor and likelihood of occurrence is D -- Extremely Remote based on subject matter expertise and operational experience. The panel agreed that the current/initial risk and predicted residual risk is 4D-- Low.

ZOA-DVO-2015-03– Delay Vector Aircraft (due to arrival sequencing) into the Jump Zone during Active Jumping

SRMP members discussed how rapidly changing weather conditions can cause aircraft to be vectored for arrival re-sequencing and the consequences on surrounding airspace that includes DVO at times. Members talked about the limited airspace choices in the Bay Area when delay vectoring occurs. Members discussed existing controls in place today that could be used to resolve issues concerning the arrival sequence being disrupted due to weather or an unforeseen runway closures.

The SRMP determined that delay vector aircraft (due to arrival sequencing) into the jump zone during active jumping is a hazard caused by existing IFR operations. The hazard, which exists during jump zone operations in Sectors 40/41, OAK/HWD, and wine country airports IFR arrivals, may result in increased controller complexity/task volume workload in the Sector 40 area.

The SRMP agreed that the worst credible effect would be an aircraft/vehicle incident. Members determined that hazard severity is 4 – Minor and likelihood of occurrence is D – Extremely Remote based on historical data, existing controls, and subject matter expertise. Members agreed that the current/initial risk and predicted residual risk is 4D -- Low.



Section 5 – Risk Treatment and Monitoring

The monitoring plan (Figure 12) lists activities to be tracked for nine months during ZOA administration hours. Activities include reviewing MORs and TRAX entries for reports attributed to jump zone operations.

Oakland ARTCC DVO Jump Zone
Safety Risk Management Document



Hazard Name	Hazard Description	Initial Risk	Safety Requirements	Organization Responsible for Implementing Safety Requirements	Predicted Residual Risk	Monitoring Activities	Frequency	Duration	Safety Performance Targets
ZOA-DVO-2015-01	High density traffic in the jump zone not in communication with ZOA	3C-Medium	Accomplish training for: Jump zone procedures, Controller responsibility and restrictions available to de-conflict, Priority of duties Initiate GGS pilots familiarization trips to ZOA	ZOA ZOA/GGS	3C-Medium	Review MORs and TRAX entries	monthly	9 months	Less than two reportable events during the monitoring period attributed to jump zone activity
ZOA-DVO-2015-02	IFR traffic below the MVA not eligible to be turned around the jump zone	4D-Low			4D-Low	Review MORs	monthly	9 months	Less than one reportable event during the monitoring period attributed to jump zone activity
ZOA-DVO-2015-03	Delay vector aircraft (due to arrival sequencing) into the jump zone	4D-Low			4D-Low	Review MORs	monthly	9 months	Less than one reportable event during the monitoring period attributed to jump zone activity

Figure 12: Monitoring Plan



Appendices

Appendix A — Hazard Analysis Worksheet

Hazard Name	Hazard Description	Cause	System State	Existing Controls	Existing Control Justification	Effect
ZOA-DVO-2015-01	High density traffic in the jump zone not in communication with ZOA	Establishing a jump zone at DVO	During jump zone operations in Sectors 40/41	JO 7110.65 JO 7210.3 SOP, LOA ARTS/STARS/ERAM/TAMR, RSR, ASR, TCAS, CA/MSAW, ASOS Pilot/controller training Pilot/controller Intervention ATC Scanning Frequency Monitoring Operational Supervision NOTAM, Outreach, CRM, Daily Briefings/Notes, CFR Part 105.5	JO 7110.65 Chap,9 sec 7, Chap 18 sec 4 SOP ZOA north area, LOA ZOA/GGS SIA, ESIS	Increased controller complexity/task volume workload in the Sector 40 area Increased TCAS RAs in the Sector 40 area Frequency congestion Increased workload for Sector 40 reference Sector 41 coordination

Severity	Severity Rationale	Likelihood	Likelihood Rational	Initial Risk	Safety Requirements	Organization Responsible for Implementing Safety Requirements	Predicted Residual Risk	Safety Performance Target
3 - Major	SME, Indicator definitions, existing controls	C-Remote	SME, existing controls	3C-- Medium	Accomplish training for: Jump zone procedures, Controller responsibility and restrictions available to de-conflict, priority of duties Initiate GGS pilots familiarization trips to ZOA	ZOA ZOA/GGS	3C- Medium	Less than two reportable events during the monitoring period attributed to jump zone activity

Oakland ARTCC DVO Jump Zone
Safety Risk Management Document



Hazard Name	Hazard Description	Cause	System State	Existing Controls	Existing Control Justification	Effect
ZOA-DVO-2015-02	IFR traffic below the MVA not eligible to be turned around the jump zone during active jumping	Existing IFR operations	During jump zone operations in Sectors 40/41 STS departures that are not assigned a SID	JO 7110.65 JO 7210.3 SOP, LOA ARTS/STARS/ERAM/TAMR, ARSR, ASR TCAS, CA/MSAW Pilot/controller training Pilot/controller Intervention ATC Scanning Frequency Monitoring Operational Supervision NOTAM, Outreach CRM, Daily Briefings/Notes CFR Part 105.5	JO 7110.65 Chap,9 sec 7, Chap 18 sec 4 SOP ZOA north area, LOA ZOA/GGS SIA, ESIS	Increased controller complexity/task volume workload in the Sector 40 area

Severity	Severity Rationale	Likelihood	Likelihood Rational	Initial Risk	Safety Requirements	Organization Responsible for Implementing Safety Requirements	Predicted Residual Risk	Safety Performance Target
4-Minor	SME, existing controls	D-Extremely Remote	SME, existing controls	4D-Low			4D-Low	Less than one reportable event during the monitoring period attributed to jump zone activity

Oakland ARTCC DVO Jump Zone
Safety Risk Management Document



Hazard Name	Hazard Description	Cause	System State	Existing Controls	Existing Control Justification	Effect
ZOA-DVO-2015-03	Delay vector aircraft (due to arrival sequencing) into the jump zone during active jumping	Existing IFR operations	During jump zone operations in Sectors 40/41 OAK/HWD and wine country airports IFR arrivals	JO 7110.65 JO 7210.3 SOP, LOA ARTS/STARS/ERAM/TAMR, ARSR, ASR, TCAS, CA/MSAW ASOS Pilot/controller training Pilot/controller Intervention ATC Scanning Frequency Monitoring Operational Supervision NOTAM, Outreach, CRM, Daily Briefings/Notes TMI CFR Part 105.5	JO 7110.65 Chap 9, sec 7, Chap 18 sec 4 SOP ZOA north area LOA ZOA/NCT SIA, ESIS ZOA/NCT	Increased controller complexity/task volume workload in the Sector 40 area

Severity	Severity Rationale	Likelihood	Likelihood Rational	Initial Risk	Safety Requirements	Organization Responsible for Implementing Safety Requirements	Predicted Residual Risk	Safety Performance Target
4-Minor	SME, existing controls	D-Extremely Remote	SME, existing controls	4D-Low			4D-Low	Less than one reportable event during the monitoring period attributed to jump zone activity



Appendix B — ZOA and Golden Gate Skydiving LOA

Oakland Air Route Traffic Control Center and Golden Gate Skydiving

LETTER OF AGREEMENT

EFFECTIVE: xx/xx/xxxx

SUBJECT: Parachute Jump Coordination and Operating Procedures

1. **PURPOSE.** This letter of agreement (LOA) prescribes coordination and operating procedures supporting Golden Gate Skydiving parachute jump operations at the Gness Field Airport located in Novato, California. This agreement is supplemental to FAA Order 7110.65, *Air Traffic Control*, FAA Order 7210.3, *Facility Operation and Administration*, and FAA 14 CFR Part 105, *Parachute Operations*.
2. **SCOPE.** The provisions of this agreement apply to ZOA and Golden Gate Skydiving (GGS), and are for use in the conduct of parachute operations in Class E airspace overlying Gness Field of Marin County (DVO).
3. **RESPONSIBILITIES.**
 - a. GGS must ensure that all GGS pilots are briefed on and comply with the provisions of this LOA.
 - b. GGS must ensure that parachute operation aircraft are equipped with an operable radar beacon transponder with automatic altitude reporting capability and an operable VHF radio transceiver.
 - c. ZOA must ensure all operational personnel providing the services prescribed herein are briefed and familiar with the provisions of this LOA.
4. **PROCEDURES.**
 - a. The DVO Drop Zone is defined as a two nautical mile radius around the DVO airport, located at 38° 08' 37.61" N / 122° 33' 36.60" W (SGD239009). Parachute jump operations may occur daily between the hours of 0800 and 1800 local time without additional coordination.
 - b. The primary parachute jump altitude is 9,500 feet mean sea level (MSL).

NOTE – The DVO Drop Zone is located directly beneath segments of standard terminal arrival routes for Oakland International Airport (OAK). These routes are utilized by aircraft landing at OAK, including air carrier turbojets, regardless of weather conditions or time of day.
 - c. ZOA ERAM and the Mill Valley Long Range Radar System (QMV) must be operational during all planned parachute jumps.
 - d. Golden Gate Skydiving will:
 - (1) Provide ZOA with:
 - (a) A current list of aircraft (including registration (tail number) and type) used by GGS for parachute deployments.
 - (b) A point of contact (POC) name and telephone number.
 - (2) At least 72 hours in advance notify ZOA of the date(s) and time(s) of any planned special event as prescribed in Section 5. of this LOA.



- (3) At least one hour prior to the beginning of each day's parachute operations:
 - (a) Contact Prescott Flight Service Station by telephone (877) 487-6867 to issue a Notice to Airmen (NOTAM) for the day's parachute operations; and
 - (b) Notify the ZOA Area North Operations Supervisor by telephone (510) 745-3440 of the scheduled aircraft and time(s) for the day's planned parachute operation(s).
 - (4) Contact ZOA on 127.8 MHz to solicit basic radar services prior to climbing above 4,500 feet MSL.
 - (5) Provide ZOA with the following information on initial contact:
 - (a) Aircraft identification;
 - (b) Number of passes over the DVO Drop Zone;
 - (c) Intended exit altitude for each pass; and
 - (d) Type of special event operation listed in paragraph 5 below, if applicable.
 - (6) Conduct all climbs to planned jump altitude north to northeast of DVO, weather permitting.

NOTE – The lateral tracks of Instrument Approach Procedures to Napa (APC), Santa Rosa (STS), and Petaluma (O69) airports pass south, west, and northeast of DVO.
 - (7) For each pass over the DVO Drop Zone, advise ZOA:
 - (a) Two minutes prior to the first parachutist leaving the aircraft; and
 - (b) When the last parachutist has jumped from the aircraft.
 - (8) Ensure, to the maximum extent practical commensurate with safety, that parachutists remain within the DVO Drop Zone.
 - (9) Advise ZOA when all parachutists have descended below 5,000 feet MSL for any parachute deployment starting above 6500 feet MSL.
- e. ZOA will:
- (1) Advise GGS of any equipment outages and/or events that may impact or preclude GGS from commencing scheduled parachute jump activities. This may be conveyed when GGS calls ZOA with their planned jump itinerary.
 - (2) Advise adjacent ATC radar control facilities when the DVO Drop Zone is active, the maximum parachute jump altitude, and termination of jump operations for the day.
 - (3) Provide radar flight following services to GGS aircraft to the extent possible, contingent on equipment and workload constraints.
 - (4) Issue advisories to non-participating aircraft that will transit through the drop zone during a parachute jump operation and/or offer navigational assistance to



avoid the drop zone, contingent on equipment and workload constraints.

- (5) Instruct GGS aircraft to delay deployment of parachutists when in the judgment of the ZOA controller an unsafe condition may occur between the GGS aircraft and/or the parachutists and other known air traffic. Parachute operations may resume when either the ZOA controller advises the unsafe condition no longer exists or the GGS pilot advises ZOA that the traffic is in sight and not a factor.

5. **SPECIAL EVENTS.** Events requiring additional coordination include, but are not limited to:
 - a. High altitude parachute operations in Class A airspace;
 - b. Planned parachute deployments above 10,000 feet MSL;
 - c. Parachute operations conducted outside of normal business hours as defined in paragraph 4. a.;
 - d. Formation aircraft flights.
6. **OTHER:** This Agreement may be amended, modified, or terminated by either party to the Agreement. The proponent for any change to the Agreement must provide a minimum of 30 days' written notice to the other party prior to initiating the change.

Melissa Holmes
Acting Air Traffic Manager
Oakland Air Traffic Control Center

Michael Knight
President
Golden Gate Skydiving



Appendix C — 14 CFR Part 105 Parachute Operations

§ 105.5 General. No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from an aircraft, if that operation creates a hazard to air traffic or to persons or property on the surface.

Subpart B—Operating Rules

§ 105.13 Radio equipment and use requirements. (a) Except when otherwise authorized by air traffic control—(1) No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft, in or into controlled airspace unless, during that flight—(i) The aircraft is equipped with a functioning two-way radio communication system appropriate to the air traffic control facilities being used; and (ii) Radio communications have been established between the aircraft and the air traffic control facility having jurisdiction over the affected airspace of the first intended exit altitude at least 5 minutes before the parachute operation begins. The pilot in command must establish radio communications to receive information regarding air traffic activity in the vicinity of the parachute operation. (2) The pilot in command of an aircraft used for any parachute operation in or into controlled airspace must, during each flight—(i) Continuously monitor the appropriate frequency of the aircraft's radio communications system from the time radio communications are first established between the aircraft and air traffic control, until the pilot advises air traffic control that the parachute operation has ended for that flight. (ii) Advise air traffic control when the last parachutist or object leaves the aircraft. (b) Parachute operations must be aborted if, prior to receipt of a required air traffic control authorization, or during any parachute operation in or into controlled airspace, the required radio communications system is or becomes inoperative.

§ 105.15 Information required and notice of cancellation or postponement of a parachute operation. (a) Each person requesting an authorization under §§ 105.21(b) and 105.25(a)(2) of this part and each person submitting a notification under § 105.25(a)(3) of this part must provide the following information (on an individual or group basis): (1) The date and time the parachute operation will begin. (2) The radius of the drop zone around the target expressed in nautical miles. (3) The location of the center of the drop zone in relation to—(i) The nearest VOR facility in terms of the VOR radial on which it is located and its distance in nautical miles from the VOR facility when that facility is 30 nautical miles or less from the drop zone target; or (ii) the nearest airport, town, or city depicted on the appropriate Coast and Geodetic Survey World Aeronautical Chart or Sectional Aeronautical Chart, when the nearest VOR facility is more than 30 nautical miles from the drop zone target. (4) Each altitude above mean sea level at which the aircraft will be operated when parachutists or objects exist the aircraft. (5) The duration of the intended parachute operation. (6) The name, address, and telephone number of the person who requests the authorization or gives notice of the parachute operation. (7) The registration number of the aircraft to be used. (8) The name of the air traffic control facility with jurisdiction of the airspace at the first intended exit altitude to be used for the parachute operation. (b) Each holder of a certificate of authorization issued under §§ 105.21(b) and 105.25(b) of this part must present that certificate for inspection upon the request of the Administrator or any Federal, State, or local official. (c) Each person requesting an authorization under §§ 105.21(b) and 105.25(a)(2) of this part and each person submitting a notice under § 105.25(a)(3) of this part must promptly notify the air traffic control facility having jurisdiction over the affected airspace if the proposed or scheduled parachute operation is canceled or postponed.



§ 105.17 Flight visibility and clearance from cloud requirements.No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft—(a) Into or through a cloud, or(b) When the flight visibility or the distance from any cloud is less than that prescribed in the following table:

Altitude	Flight visibility (statute miles)	Distance from clouds
1,200 feet or less above the surface regardless of the MSL altitude	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface but less than 10,000 feet MSL	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface and at or above 10,000 feet MSL	5	1,000 feet below, 1,000 feet above, 1 mile horizontal.

§ 105.19 Parachute operations between sunset and sunrise.(a) No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a person to conduct a parachute operation from an aircraft between sunset and sunrise, unless the person or object descending from the aircraft displays a light that is visible for at least 3 statute miles.(b) The light required by paragraph (a) of this section must be displayed from the time that the person or object is under a properly functioning open parachute until that person or object reaches the surface.

§ 105.21 Parachute operations over or into a congested area or an open-air assembly of persons.(a) No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft, over or into a congested area of a city, town, or settlement, or an open-air assembly of persons unless a certificate of authorization for that parachute operation has been issued under this section. However, a parachutist may drift over a congested area or an open-air assembly of persons with a fully deployed and properly functioning parachute if that parachutist is at a sufficient altitude to avoid creating a hazard to persons or property on the surface.(b) An application for a certificate of authorization issued under this section must—(1) Be made in the form and manner prescribed by the Administrator, and(2) Contain the information required in § 105.15(a) of this part.(c) Each holder of, and each person named as a participant in a certificate of authorization issued under this section must comply with all requirements contained in the certificate of authorization.(d) Each holder of a certificate of authorization issued under this section must



present that certificate for inspection upon the request of the Administrator, or any Federal, State, or local official.

§ 105.23 Parachute operations over or onto airports. No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft, over or onto any airport unless—(a) For airports with an operating control tower:(1) Prior approval has been obtained from the management of the airport to conduct parachute operations over or on that airport.(2) Approval has been obtained from the control tower to conduct parachute operations over or onto that airport.(3) Two-way radio communications are maintained between the pilot of the aircraft involved in the parachute operation and the control tower of the airport over or onto which the parachute operation is being conducted.(b) For airports without an operating control tower, prior approval has been obtained from the management of the airport to conduct parachute operations over or on that airport.(c) A parachutist may drift over that airport with a fully deployed and properly functioning parachute if the parachutist is at least 2,000 feet above that airport's traffic pattern, and avoids creating a hazard to air traffic or to persons and property on the ground.

§ 105.25 Parachute operations in designated airspace.(a) No person may conduct a parachute operation, and no pilot in command of an aircraft may allow a parachute operation to be conducted from that aircraft—(1) Over or within a restricted area or prohibited area unless the controlling agency of the area concerned has authorized that parachute operation;(2) Within or into a Class A, B, C, D airspace area without, or in violation of the requirements of, an air traffic control authorization issued under this section;(3) Except as provided in paragraph (c) and (d) of this section, within or into Class E or G airspace area unless the air traffic control facility having jurisdiction over the airspace at the first intended exit altitude is notified of the parachute operation no earlier than 24 hours before or no later than 1 hour before the parachute operation begins.(b) Each request for a parachute operation authorization or notification required under this section must be submitted to the air traffic control facility having jurisdiction over the airspace at the first intended exit altitude and must include the information prescribed by § 105.15(a) of this part.(c) For the purposes of paragraph (a)(3) of this section, air traffic control facilities may accept a written notification from an organization that conducts parachute operations and lists the scheduled series of parachute operations to be conducted over a stated period of time not longer than 12 calendar months. The notification must contain the information prescribed by § 105.15(a) of this part, identify the responsible persons associated with that parachute operation, and be submitted at least 15 days, but not more than 30 days, before the parachute operation begins. The FAA may revoke the acceptance of the notification for any failure of the organization conducting the parachute operations to comply with its requirements.(d) Paragraph (a)(3) of this section does not apply to a parachute operation conducted by a member of an Armed Force within a restricted area that extends upward from the surface when that area is under the control of an Armed Force.



Appendix D — Glossary

Acronym	Definition
AC	Advisory Circular
AIM	Airmen Information Manual
ARTCC	Air Route Traffic Control Center
ASOS	Automated Surface Observing System
ATC	Air Traffic Control
ATCT	Airport Traffic Control Tower
ATIS	Automated Terminal Information System
CA/MSAW	Conflict Alert/ Minimum Safe Altitude Warning
CIC	Controller-In-Charge
CRM	Crew Resource Management
DVO	Gross Field Airport
EOR	Electronic Occurrence Report
ERIDS	En Route Information Display System
FBO	Fixed Base Operator
FLM	Front Line Manager
GA	General Aviation
GGs	Golden Gate Skydiving
GPS	Global Positioning System
HAW	Hazard Analysis Worksheet
HWD	Hayward Executive Airport
IDS	Information Display System
IFR	Instrument Flight Rules
ILS	Instrument landing System
IMC	Intermountain Medical Center
JO	Joint Order
LOA	Letter of Agreement
MEA	Minimum Enroute Altitude
MOR	Mandatory Occurrence Report
MSL	Mean Sea Level
NAS	National Airspace System
NATCA	National Air Traffic Controllers Association
NOTAM	Notice to Airmen
OAK	Metropolitan Oakland International Airport
ODP	Obstacle Departure Procedures
OGD	Ogden-Hinckley Airport
OS	Operations Supervisor
PDARS	Performance Data Analysis and Reporting System
PHL	Preliminary Hazard List
QCG	Quality Control Group
RNAV	Area Navigation



Acronym	Definition
SFO	San Francisco International Airport
SJC	Norman Y Mineta San Jose International Airport
SOP	Standard Operating Procedure
STS	Charles M Schulz - Sonoma County Airport
SRMD	Safety Risk Management Document
SRMP	Safety Risk Management Panel
TCAS	Traffic Alert and Collision Avoidance System
VFR	Visual Flight Rules
VHF	Very High Frequency
WSC	Western Service Center
ZOA	Oakland Air Route Traffic Control Center

Jensen, Dan

From: Robert.V.Lee@faa.gov
Sent: Tuesday, March 08, 2016 4:32 PM
To: Jensen, Dan
Cc: Anthony.Garcia@faa.gov; rick.beach@amazingpossibilities.org; knightmail198@yahoo.com
Subject: Flight Standards District Office Skydiving Safety Evaluation Gross Field
Attachments: Flight Standards - FSDO Safety Evaluation Report.pdf

Greetings Dan Jensen,

Attached is the Flight Standards District Office Safety Evaluation for your confirmation. It is FAA's expectation that the County of Marin will negotiate in good faith with Skydive Golden Gate to begin skydiving operations at the Gross Field Airport. You have FAA's complete safety determination establishing that skydiving can be safely integrated with airport operations at Gross Field from a safety perspective.

Please contact me if you have any questions.

Regards,

Robert Lee
Airports Compliance Specialist
Federal Aviation Administration
San Francisco Airports District Office
(650) 827-7629

Robert.V.Lee@faa.gov



Federal Aviation Administration

Memorandum

Date: July 16, 2015

To: Dennis Fogarty, Manager, Western-Pacific NextGen Branch, AWP-220

From: David M. Binder, Manager, Oakland FSDO, WP-27
Digitally signed by
david.m.binder@faa.gov
Date: 2015.07.17 11:33:53-07'00'

Subject: 2015-AWP-938-NRA - Parachute Drop Zone, Gness Field (DVO)

On July 16, 2015, personnel from the Oakland Flight Standards District Office accomplished a safety review of the proposed parachute drop zone at Gness Field (DVO), Marin County, California. FSDO Operations Inspectors conducted the evaluation accompanied by Dan Jensen, Gness Field Airport Manager.

The safety review was comprised of an on-site evaluation with an emphasis on potential obstacles and natural obstructions, airport operations, and local residential populated areas.

This office determined that the proposed parachute drop zone and type of parachute operations at Gness Field (DVO) does not pose a safety concern. Therefore, this office has no objections to the proposed jump zone or parachute operations provided all parachute operations are conducted in accordance with §§14 CFR Part 105.

In the interest of safety, this office recommends the following items be addressed concerning the subject drop zone, and any associated parachute operations:

1. Skydiving and parachute jump participants should notify all flight schools, flying clubs, and FBO's within a 25 NM radius of Gness Field at least fourteen days prior to the official establishment of the drop zone, and provide reasonable notice before each skydiving activity. Advance notice will allow operators to train and brief inexperienced pilots of proper flight procedures when flying near drop zones with respect to airport arrivals, touch and go flight training, and airport departure procedures.
2. Skydiving operations should not be conducted if surface winds exceed 20 knots.
3. An alternate landing plan should be coordinated between the Airport Management and all skydiving and parachute jump participants.

LETTER OF AGREEMENT

EFFECTIVE: March 21, 2016

SUBJECT: Parachute Jump Coordination and Operating Procedures

1. **PURPOSE.** This letter of agreement (LOA) prescribes coordination and operating procedures supporting Golden Gate Skydiving parachute jump operations at the Gness Field Airport located in Novato, California. This agreement is supplemental to FAA Order 7110.65, *Air Traffic Control*, FAA Order 7210.3, *Facility Operation and Administration*, and FAA 14 CFR Part 105, *Parachute Operations*.
2. **SCOPE.** The provisions of this agreement apply to ZOA and Golden Gate Skydiving (GGS), and are for use in the conduct of parachute operations in Class E airspace overlying Gness Field of Marin County (DVO).
3. **RESPONSIBILITIES.**
 - a. GGS must ensure that all GGS pilots are briefed on and comply with the provisions of this LOA.
 - b. GGS must ensure that parachute operation aircraft are equipped with an operable radar beacon transponder with automatic altitude reporting capability and an operable VHF radio transceiver.
 - c. ZOA must ensure all operational personnel providing the services prescribed herein are briefed and familiar with the provisions of this LOA.
4. **PROCEDURES.**
 - a. The DVO Drop Zone is defined as a two nautical mile radius around the DVO airport, located at 38° 08' 37.61" N / 122° 33' 36.60" W (SGD239009). Parachute jump operations may occur daily between the hours of 0800 and 1800 local time without additional coordination.
 - b. The primary parachute jump altitude is 9,500 feet mean sea level (MSL).

NOTE – The DVO Drop Zone is located directly beneath segments of standard terminal arrival routes for Oakland International Airport (OAK). These routes are utilized by aircraft landing at OAK, including air carrier turbojets, regardless of weather conditions or time of day.
 - c. ZOA ERAM and the Mill Valley Long Range Radar System (QMV) must be operational during all planned parachute jumps.
 - d. Golden Gate Skydiving will:
 - (1) Provide ZOA with:
 - (a) A current list of aircraft (including registration (tail number) and type) used by GGS for parachute deployments.
 - (b) A point of contact (POC) name and telephone number.
 - (2) At least 72 hours in advance notify ZOA of the date(s) and time(s) of any planned special event as prescribed in Section 5. of this LOA.

- (3) At least one hour prior to the beginning of each day's parachute operations:
 - (a) Contact Prescott Flight Service Station by telephone (877) 487-6867 to issue a Notice to Airmen (NOTAM) for the day's parachute operations; and
 - (b) Notify the ZOA Area North Operations Supervisor by telephone (510) 745-3440 of the scheduled aircraft and time(s) for the day's planned parachute operation(s).
- (4) Contact ZOA on 127.8 Mhz to solicit basic radar services prior to climbing above 3,500 feet MSL.
- (5) Provide ZOA with the following information on initial contact:
 - (a) Aircraft identification;
 - (b) Number of passes over the DVO Drop Zone;
 - (c) Intended exit altitude for each pass; and
 - (d) Type of special event operation listed in paragraph 5 below, if applicable.
- (6) Conduct all climbs to planned jump altitude north to northeast of DVO, weather permitting.

NOTE – The lateral tracks of Instrument Approach Procedures to Napa (APC), Santa Rosa (STS), and Petaluma (O69) airports pass south, west, and northeast of DVO.
- (7) For each pass over the DVO Drop Zone, advise ZOA:
 - (a) Two minutes prior to the first parachutist leaving the aircraft; and
 - (b) When the last parachutist has jumped from the aircraft.
- (8) Ensure, to the maximum extent practical commensurate with safety, that parachutists remain within the DVO Drop Zone.
- (9) Advise ZOA when all parachutists have descended below 5,000 feet MSL for any parachute deployment starting above 6500 feet MSL.

e. ZOA will:

- (1) Advise GGS of any equipment outages and/or events that may impact or preclude GGS from commencing scheduled parachute jump activities. This may be conveyed when GGS calls ZOA with their planned jump itinerary.
- (2) Advise adjacent ATC radar control facilities when the DVO Drop Zone is active, the maximum parachute jump altitude, and termination of jump operations for the day.
- (3) Provide radar flight following services to GGS aircraft to the extent possible, contingent on equipment and workload constraints.
- (4) Issue advisories to non-participating aircraft that will transit through the drop zone during a parachute jump operation and/or offer navigational assistance to

avoid the drop zone, contingent on equipment and workload constraints.

- (5) Instruct GGS aircraft to delay deployment of parachutists when in the judgment of the ZOA controller an unsafe condition may occur between the GGS aircraft and/or the parachutists and other known air traffic. Parachute operations may resume when either the ZOA controller advises the unsafe condition no longer exists or the GGS pilot advises ZOA that the traffic is in sight and not a factor.

5. **SPECIAL EVENTS.** Events requiring additional coordination include, but are not limited to:

- a. High altitude parachute operations in Class A airspace;
- b. Planned parachute deployments above 10,000 feet MSL;
- c. Parachute operations conducted outside of normal business hours as defined in paragraph 4. a.;
- d. Formation aircraft flights.

6. **OTHER:** This Agreement may be amended, modified, or terminated by either party to the Agreement. The proponent for any change to the Agreement must provide a minimum of 30 days' written notice to the other party prior to initiating the change.



Melissa Holmes
Air Traffic Manager
Oakland Air Traffic Control Center



Michael Knight
President
Golden Gate Skydiving

Skydive Golden Gate Alternative/Emergency Landing Plan

The purpose of this document is to outline procedures in the event a Skydive Golden Gate parachutist needs to make an emergency landing outside the designated parachute landing area. We are following the FAA Airport Compliance Office's guidance¹ to interpret the Oakland FSDO's safety recommendations.

As a mitigation measure, an incident/emergency landing plan needs to consider where a Skydive Golden Gate parachutist can safely land if conditions arise that will make a standard landing at the designated parachute landing area impossible. Alternative safe landing sites for a Skydive Golden Gate parachutist in the event of an emergency have been identified and will be made known to all parachutists prior to any skydiving operations taking place. In the event a parachutist cannot reach the designated landing area, that parachutist can then endeavor to guide the parachute to one of the alternate locations.

Identifying potential off-airport emergency landing areas:

Emergency landings under parachute, much like emergency landings with powered aircraft, are very uncommon. However, emergency landings for a parachutist are more easily executed, as the space requirements are much smaller. A parachute can safely land in obstacle free spaces (field, meadow, parking lot, etc.) with an area only a fraction of the size needed to perform an emergency landing with a fixed wing aircraft. In the event an emergency landing off-site is necessary, the Skydive Golden Gate parachutist will identify the nearest such space and guide the parachute to that area.

Procedures for off-airport landings WITHOUT injury:

In the event a Skydive Golden Gate parachutist makes an emergency landing outside the designated landing area and injury does not occur, the Skydive Golden Gate parachutist will walk to the nearest public road where a Skydive Golden Gate staff member will retrieve the parachutist with a vehicle and return them to the Skydive Golden Gate office. The staff member acting as the retriever will not enter the property with any vehicle or on foot at anytime, but allow the parachutist to walk to a public road.

Procedures for off airport landings WITH injury:

In the event a Skydive Golden Gate parachutist makes an emergency landing outside the designated landing area and injury does occur, Skydive Golden Gate staff will contact emergency services as soon as possible, provide first aid and assist emergency services to the site of the emergency.

In either event, injurious or non-injurious, Skydive Golden Gate management will contact the property owner and airport management by phone and/or mail to notify them that a Skydive Golden Gate parachutist preformed an emergency landing outside airport property. The notification will include date, time, nature of emergency, and the contact information for Skydive Golden Gate.

¹ "As a mitigation measure, an incident/emergency plan should consider where a parachutist can land if a normal landing cannot be made at the official airport drop zone. The alternative sites where a parachutist can land should be known so the parachutist can endeavor to guide the parachute to this location during a non-standard jump so a safe landing can be made. The parachutist should know ahead of time where enough ground space exists for a safe landing in the event the parachutist cannot get to the prescribed drop zone. As an analogy, we do not build emergency landing areas in the event an aircraft cannot land on the official airport runway. The same principle applies to skydiving." Tony Garcia, FAA Airports, Los Angeles, CA. Anthony.Garcia@faa.gov. Date: March 9, 2016.

ORDINANCE NO. _____
AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF MARIN AMENDING THE MARIN
COUNTY CODE AS IT PERTAINS SKYDIVING
OPERATIONS AT ITS AIRPORT

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS:

SECTION I. 12.06.101 of the Marin County Code is hereby amended to read as follows:

12.06.010 - Business operators.

(a) Definitions.

- (1) "Business operator" means a person or entity engaging in any activity (including aeronautical activity) conducted at or out of the airport in which any product or service is exchanged for the purpose of securing earnings, income, compensation (including exchange of service) and/or profit, whether or not such objectives are accomplished.
- (2) "Business operator" includes a person or entity leasing office space at Gness Field or a business operator obtaining a business-operating permit from the airport manager and paying the appropriate permit fees to conduct business at the airport.

(b) Commercial Activity.

A business operator may engage in these activities after complying with the established standards for each activity:

- (1) Aircraft flight training school;
- (2) Aircraft sales;
- (3) Airframe and power plant repair and maintenance;
- (4) Aircraft rental/sightseeing;
- (5) Air taxi/charter service;
- (6) Avionics repair/sales/service;
- (7) Aircraft management service;
- (8) Instrument repair/sales/service;
- (9) Air carrier operations (passenger/mail/freight);
- (10) Aerial photography/survey;
- (11) Aircraft fueling.

(12) Skydiving Operations

Any other activity which, because of its relationship to the operation of aircraft, is regarded by the Federal Aviation Administration or county of Marin to operate in conjunction with an aeronautical activity.

SECTION II. 12.06.035 of the Marin County Code is hereby added to read as follows:

12.06.035 - Standards for Skydiving.

(a) Establishment of a new skydiving service shall be subject to the following:

Safety and Business Plan Submittal – A safety and business plan shall be submitted to the airport manager for review and approval. The plan shall incorporate parachute operations, jump aircraft maintenance, jump pilot responsibilities (found in FAA advisory circulars and regulations), as well as time of day operations, general public ramp restrictions, designated viewing areas, and off airport recovery. The plan will define at least one Parachute Landing Area (PLA) at the Airport. In the event that the County of Marin uses a consultant for the purpose of assisting in this analysis, the party proposing to establish the skydiving service shall pay for the cost of the consultant to the County of Marin and shall deposit the anticipated cost thereof with the County of Marin prior to the County undertaking such study. The County of Marin will seek input from the FAA and request its own analysis before making any decision on establishment of a new skydiving service operation and /or the establishment or expansion of a skydiving service .

- (b) Any operator engaged in a parachuting/skydiving operation shall meet or exceed the Basic Safety Requirements of the United States Parachute Association and, at a minimum, the requirements specified herein for a skydiving service.
- (c) The skydiving service shall have available for skydiving at least one properly certificated aircraft, which is either owned or under lease. The jump plane pilot must be appropriately certificated by the FAA and be appropriately rated for the aircraft being operated.
- (d) The skydiving service shall adhere to or exceed the requirements of any and all applicable FAA regulations, including FAR Part 91 and Part 105, and related FAA Advisory Circulars. The same may be amended from time to time as any other applicable government regulations supersede.
- (e) The skydiving service shall have available for its exclusive use the following land area and buildings:
 - (1) Available parking for customers and employees with a capacity as determined by the County's airport manager.
 - (2) An enclosed building (leased or subleased area) with sufficient area for handling administrative and instructional services and access to restrooms.
 - (3) Sufficient ramp space leased for aircraft and safe boarding procedures.
 - (4) A designated spectator area which is separated or cordoned off from any areas in which aircraft will be operating.
 - (5) A designated aircraft staging area, loading area, and landing area locations approved by the airport manager.
 - (6) A current Letter of Agreement with the Oakland ARTCC for the purpose of supplementing FAR Part 105 by further defining procedures for skydiving activity at the airport.
- (f) The skydiving service shall have on duty an adequately-qualified employee at all times while jump operations are taking place who shall communicate with all skydiving aircraft operating at the airport and Oakland ARTCC.
- (g) The skydiving service shall have each of its customers execute a hold harmless agreement on a form to be approved by the County's Risk Manager. The agreement will name the County of Marin as a party released from liability. The skydiving service business must comply with insurance requirements as set forth in Section 12.06.100 of this chapter.
- (h) A NOTAM must be established and published through the appropriate aeronautical entity to advise all airport users of parachute jump activities and the skydiving service shall notify the day before all flight schools and flying clubs operating at the Airport that skydiving activities are scheduled.

- (i) Exhibition jumps, as defined by the United States Parachute Association, shall be only by conditional approval of the Gross Field airport manager.

SECTION III. Effective Date. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, held on the Day day of Month, Year, by the following vote:

AYES:

NOES:

ABSENT:

PRESIDENT OF THE BOARD OF SUPERVISORS

ATTEST

Clerk

Spirit of St. Louis 2

Project Overview & Business Plan

Application for Sub-Lease Approval 351 Airport Rd Gness Field

Dan Jensen Airport Manager
Gness Field Aviation Commission
Marin County Board of Supervisors
Marin County Department of Public Work

Spirit of St. Louis 2
Robert Ragozzino
1001 Bridgeway #915 Sausalito CA 94965
(405)205-7041 STEARMANWORLDFLIGHT@HOTMAIL.COM

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SOS2 Project Introduction

Spirit of St. Louis 2 is a devoted group of professional pilots, mechanics, businessmen, and engineers committed to the recreation and reenactment of Charles Lindbergh's epic 1927 New York to Paris solo flight. A Colorado LLC was established in 2006 as a legal entity and management platform for this project. SOS2 is currently establishing a California LLC which will be the signing entity for all documents associated with the Gness Field hangar. Management officials, ownership, and structure will be identical to the Colorado LLC and supporting documents will be made available.

SOS2 Project History

The project began phase 1 initial aircraft construction in Visalia, CA in 1995. In 2003 the aircraft was moved to Oklahoma for phase 2 improvements. In 2013 the SOS2 aircraft was moved to the Bay area for phase 3 construction. At this time the aircraft is 80 percent complete and the completion of phase 4 improvements will make the aircraft ready for test flights.

The aircraft was recently displayed in the Hiller Aviation Museum in San Carlos from December 2015 to February 2016 as part of a fundraising effort. This fundraiser resulted in firm substantial commitments in construction funds. These funds will complete the airframe in preparations for a May 20th, 2017 departure from New York to Paris. This will coincide with the 90th Anniversary of Charles Lindbergh's Atlantic crossing.

At this time SOS2 is in negotiations with PBS Nova WGBH regarding broadcast and documentary coverage of the event. This will bring international exposure to both the project and Gness Field.

World record holder and professional pilot Robert Ragozzino will fly the SOS2 aircraft. Robert is the only man to circumnavigate the globe in an open cockpit biplane. Robert is a 12,000-hour professional pilot and fly's private business jets as well as performs historic aviation re-creations.

SOS2 Structure and Management

The SOS2 project is a Colorado LLC:
Founded 12/19/2006
CO LLC #20061518903

Management exploring plans for California LLC to be formed within 2 weeks.

A board of directors consisting of the following manages the project:

Marvin Bay	Eaton CO
Scott Royer	Greely CO
Spiros Bouas	Mill Valley CA
Robert Ragozzino	Sausalito CA

Capitalization of the project is provided by investment / donations by the following:

Primary Funders:

Marvin Bay	Eaton CO
Scott Royer	Greely CO
Spiros Bouas	Mill Valley CA

The SOS2 board of directors manages the project. The board members draw from a large group of highly experienced aviation professionals in the fields of design, engineering, certification, propulsion, and FAA regulatory compliance.

Requested Lease Property

The SOS2 project has a letter of intent with hangar owner Richard Ersted dba Bemac Properties on building described as unit 1, 351 Airport Rd, Gness Field, Novato, CA.

This lease will include the entire 80x100 8000 square foot hangar and office space on the ground floor that is directly adjacent and accessible to the hangar.

SOS2 has reviewed the original land lease executed by Bemac Properties and the County of Marin SOS2 and all proposed SOS2 operations clearly fall within the lease guidelines.

The SOS2 sublease would begin on County approval and all associated documents are executed. Lease will terminate with existing landlord the 26th of February, 2018 the end of current land lease held by Bemac Properties.

SOS2 Operations & Business Plan

Use of Premises & Time Table:

SOS2 sole activity is to finish the construction and assembly of the SOS2 replica aircraft. The aircraft is 80 percent complete. Activities will include will include the documentation of the effort.

From the time the lease is granted until February 26, 2018 the hangar will be used for the completion and support of the SOS2 aircraft. We will also display the Stearman aircraft that Robert Ragozzino flew around the world as a promotional tool. We would like to display other vintage and classic aircraft as filming props and marketing tools.

The hangar will be used for the light maintenance and construction of the SOS2 aircraft. Any construction processes prohibited by county or state regulation will be contracted to off site providers. The SOS2 compliance officer will address compliance with county, state, and federal regulation.

Urgency Due to Flight Schedule:

The aircraft is scheduled to depart from New York to Paris on May 20th, 2017, which is the 90th anniversary of Lindbergh's flight. Construction needs to resume as soon as possible. There are approximately 15 months to departure.

Marin County Chapter 12 Compliance

SOS2 has reviewed Chapter 12 Airport and Aircraft rules and regulations.

SOS2 operations are allowed under:

12.06.010 B (3) as well other as other applicable sections.

12.04.150 Fire & Safety guidelines have been reviewed and will be complied with.

Any construction processes prohibited by county or state regulation will be contracted to off site providers.

1968 Bemac Ground Lease Use Compliance

Following a review of the original ground lease granted to Bemac Properties

SOS2 operations fall under the following:

Page 4

Section 5

(A) This may include maintaining, servicing, conditioning, repairing, assembling, fabricating, modifying, constructing, housing aircraft, storing aircraft

County Revenue / SOS2 Financial Performance

Income for County From SOS2:

The SOS2 project functions on funding provided by generous donations and could be considered a non-commercial entity. It is our understanding that the county requires 1% of gross revenue. It is the intention of the SOS2 project to pay the county 1% of gross construction budget. Gross operating budget for the first 12 months will exceed \$750,000 resulting in \$7500 revenue for the county.

Chapter 12.04.30 Evidence or Financial Responsibility

SOS2 has reviewed all Chapter 12 information regarding financial responsibility and is willing and able to meet all insurance and performance surety bonds issues.



STANDARD MULTI-TENANT OFFICE LEASE - GROSS
AIR COMMERCIAL REAL ESTATE ASSOCIATION

[revised]

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only March 30, 2016, is made by and between AERO FUEL, INC., a California corporation dba Bemac Property and SPIRIT OF ST. LOUIS 2, LLC, a Colorado limited liability company

(collectively the "Parties", or individually a "Party").

1.2(a) Premises: That certain portion of the Project (as defined below), on the known as Suite Numbers(s) first floor(s), consisting of (i) approximately eight thousand (8,000±) rentable square feet of unconditioned interior hangar space, and (ii) approximately nine hundred sixty (960±) rentable square feet of immediately-adjointing unconditioned hangar office space, workshop, storage space, and shop restroom (collectively, the "Premises").

1.2(b) Parking: unreserved and reserved vehicle parking spaces at a monthly cost of \$ per unreserved space and \$ per reserved space. (See Paragraph 2.6)

1.3 Term: For the unconditioned interior hangar space, approximately one (1) year and eleven (11) months ("Hangar Original Term") commencing on the earlier of (i) thirty (30) calendar days after approval of this Lease by the County of Marin or (ii) April 1, 2016 ("Hangar Commencement Date") and ending December 31, 2017 ("Hangar Expiration Date") and for the unconditioned hangar office space, workshop, storage space, and shop restroom, approximately one (1) year and two (2) months ("Adjoining Space Original Term") commencing on the earlier of (i) thirty (30) calendar days after approval of this Lease by the County of Marin or (ii) April 1, 2016 ("Adjoining Space Commencement Date") and ending May 31, 2017 ("Adjoining Space Expiration Date").

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: Three Thousand Eight Hundred Thirty-Two Dollars and No Cents (\$3,832.00) per month ("Base Rent"), payable on the 1st day of each month commencing on the Commencement Date (See also Paragraph 4)

[X] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 4.4.

1.6 Lessee's Share of Operating Expense: (i) within the hangar space, one hundred percent (100%), and (ii) a shared percentage of the septic service, given Lessee's use of the first-floor shop restroom (collectively, "Lessee's Share").

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) Base Rent: Three Thousand Eight Hundred Thirty-Two Dollars and No Cents (\$3,832.00) for the first month and Three Thousand Nine Hundred Forty-Six Dollars and Ninety-Six Cents (\$3,946.96) for the last month (provided, however, that such prepaid Base Rent for the last month is based on a three percent (3%) increase and may be adjusted pursuant to Paragraph 4.4).

(b) Security Deposit: Seven Thousand Six Hundred Sixty-Four Dollars and No Cents (\$7,664.00) ("Security Deposit"). (See also Paragraph 5)

(c) Parking: \$ for the period

(d) Other: \$ for

(e) Total Due Upon Lessee Execution of this Lease: Fifteen Thousand Four Hundred Forty Two Dollars and Ninety Six Cents (\$15,442.96).

1.8 Agreed Use: (i) within the unconditioned office space: office use only, (ii) within the workshop and storage space: light construction, reconstruction, re-creation, restoration, maintenance, repair and storage of aircraft parts and tools [where both such uses in "(i)" and "(ii)" are directly necessary to support aircraft construction, reconstruction, re-creation and restoration in the adjoining hangar space], and (iii) within the hangar: aircraft construction, reconstruction, re-creation and restoration; provided, however, all such uses in "(i)", "(ii)" and "(iii)" shall be conducted in full conformance with (i) County of Marin Code Chapter 12.06, (ii) any and all FAA and County regulations, and (iii) any and all Applicable Requirements

(See also Paragraph 6)

1.9 Base Year; Insuring Party: The Base Year is Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

1.10 Real Estate Brokers: (See also Paragraph 15 and 25)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes): [] represents Lessor exclusively ("Lessor's Broker"); [] represents Lessee exclusively ("Lessee's Broker"); or [] represents both Lessor and Lessee ("Dual Agency").

Handwritten initials MB

INITIALS

Handwritten initials and INITIALS

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage Services rendered by the Brokers.

1.11 **Guarantor.** The obligations of the Lessee under this Lease shall be guaranteed by _____ ("Guarantor"). (See also Paragraph 37)

1.12 **Business Hours for the Building:** 8:00 _____ a.m. to 5:00 _____ p.m., Mondays through Fridays (except Building Holidays) and 8:00 _____ a.m. to 5:00 _____ p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, _____.

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

- Janitorial services (provided, however, Lessor shall provide twice-weekly light janitorial services within the conditioned office space only)
- Electricity
- Other (specify): Security and alarm monitoring services

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- an Addendum No. 1 consisting of Paragraphs 50 through 62;
- a plot plan depicting the Premises (attached hereto as Exhibit A and made a part hereof);
- a current set of the Rules and Regulations (attached hereto as Exhibit B and made a part hereof);
- a Work Letter;
- janitorial schedule;
- other (specify): Addendum No. 1 to Standard Office Lease; Exhibit B: Rules and Regulations Standard Office Lease; Exhibit C: Ground Lease Agreement, as amended; Exhibit D: Marin County Code Chapter 12.06; Exhibit E: County Insurance Requirements; Exhibit F: Arbitration Agreement

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), in "as is" condition and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises. With respect to the 960 square foot workshop and storage space, Lessor shall remove, at Lessor's sole cost and prior to the Commencement Date, the shop toilet and sink and permanently cap the water supply and waste drain lines.

2.3 **Compliance.** Lessor makes no warranties or representations that the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. ~~Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee.~~ **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to nonvoluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital

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Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor and the County of Marin from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee as and when available on adjacent County of Marin property. At no time shall Lessee or its contractors, subcontractors, vendors, invitees or guests park or store – whether short-term or otherwise – vehicles, automobiles, trucks, vans or storage trailers on or about the Unit No. 1 leasehold, including, but not limited to, within the hangar or on the tarmac outside the hangar.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle, automobile, truck, van or storage trailer involved and charge the cost to Lessee, which cost, together with a Three Hundred Fifty Dollar (\$350) fee, shall be immediately payable, upon demand, to Lessor.

~~(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.~~

2.7 **Common Areas - Definition.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations, including, without limitation, those certain Rules and Regulations set forth in Exhibit "E" attached hereto and made a part hereof ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

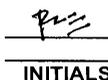
3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

~~3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.~~

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. ~~If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.~~


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3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Operating Expense Increase.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "**Operating Expense Increase**", in accordance with the following provisions: as set forth in Addendum No. 1 attached hereto.

(a) ~~"Base Year" is as specified in Paragraph 1.9.~~

(b) ~~"Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.~~

(c) ~~The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "**Operating Expenses**":~~

(i) ~~Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:-~~

(aa) ~~The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;~~

(bb) ~~All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.~~

(cc) ~~All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.~~

(ii) ~~The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;~~

(iii) ~~The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "**Operating Expense**";~~

(iv) ~~The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;~~

(v) ~~The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;~~

(vi) ~~The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;~~

(vii) ~~Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;~~

(viii) ~~The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;~~

(ix) ~~The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.~~

(x) ~~Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.~~

(d) ~~Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.~~

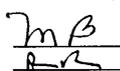
(e) ~~The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.~~

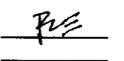
(f) ~~Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.~~

(g) ~~Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.~~

(h) ~~Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is, otherwise reimbursed by any third party, other tenant, or by insurance proceeds.~~

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to


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Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$50 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

4.4. **Adjustments to Base Rent.** Base Rent shall be adjusted on the anniversary of the Commencement Date ("**Adjustment Date**") and each anniversary date of the Adjustment Date to reflect increases in the cost of living; provided, however, that Base Rent shall be increased by a minimum of three percent (3%) over the prior year. The adjustment shall be calculated by multiplying (i) the Base Rent for the year immediately preceding the Adjustment Date (the "**Prior Period**") by (ii) the percentage increase in the Consumer Price Index. Such percentage increase in the Consumer Price Index shall be measured from the last month for which the Consumer Price Index was published immediately before the commencement of the Prior-Period to the same month in the Prior Period. The term "**Consumer Price Index**" (also called, the "**CPI**") means the United States Department of Labor's Bureau of Labor Statistics' Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, California (1982-84=100), or the successor of such index. If the Consumer Price Index is not published by the Bureau of Labor Statistics or another governmental agency for any month for which an adjustment in the Consumer Price Index is to be measured, then the foregoing calculations shall be made using the most closely comparable statistics on the purchasing power of the consumer dollar as published by a responsible financial authority selected by Lessor. If the adjustment provided for in this Paragraph has not been made by any Adjustment Date, Lessee shall continue to pay monthly Base Rent at the rate applicable to the Prior Period. Within fifteen (15) days after Lessee receives Lessor's written notice of the adjusted Base Rent for the then-current Adjustment Date, Lessee shall pay to Lessor the shortfall between the old Base Rent, as paid by Lessee to date for the then-current Lease period, and the new Base Rent payable from the beginning of the then-current Lease period through the date of Lessor's notice. Thereafter during such Lease period, Lessee shall pay monthly Base Rent at the new rate set forth in Lessor's notice.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. ~~If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent.~~ Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. Lessee hereby waives the provisions of California Civil Code Section 1950.7 and any successor law.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, ~~or any other legal use which is reasonably comparable thereto,~~ and for no other purpose, without the prior written consent of Lessor, which may be withheld in its sole discretion. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. ~~Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.~~

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

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(d) **Lessee Indemnification.** Lessee shall indemnify, protect, defend and hold (i) Lessor, its officers, directors, shareholders, agents, and employees, (ii) lenders and ground lessor, ~~if any~~ including the County and its officers, boards, commissions, employees, and agents, and (iii) the Premises, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, costs, claims, liens, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(f) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent ~~or \$100,000, whichever is greater~~, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent ~~or \$100,000, whichever is greater~~. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30; Lender shall specifically include the County), officers, directors, shareholders, employees, agents, designated representatives and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease and all Applicable Requirements. Lessor shall be entitled to employ experts and/or consultants in connection therewith to advise Lessor with respect to Lessee's activities, including, but not limited to, Lessee's installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance on or from the Premises. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

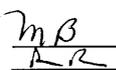
7.1 **Lessee's Obligations.** Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, Lessee rather than the Lessor shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises. Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, ~~fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants,~~ and the Common Areas. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon


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notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed \$2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof or exterior wall penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense, defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor prior to the end of the term of this Lease or within 30 days following the sooner termination thereof, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.** See Addendum No. 1 and Exhibit "D" attached hereto and made a part hereof.

~~8.1 **Insurance Premiums.** The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (e)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).~~

~~8.2 **Liability Insurance.**~~

~~(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.~~

~~(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.~~

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender the ground lessor, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction

or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year ~~with an extended period of indemnity for an additional 180 days~~ ("**Rental Value Insurance**"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender or the ground lessor. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its officers, directors, managers, employees, agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction

and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the insurance proceeds are not sufficient to effect such repair, Lessor may terminate this Lease. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

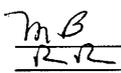
(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value Insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

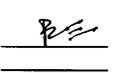
(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definitions.** As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. "Real Property Taxes" shall


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also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of (a) events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, or (b) a change in the improvements thereon, and/or (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project; and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** ~~Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees.~~ Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Rent is ~~Operating Expenses are payable~~ under Paragraph 1.54-2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.**

11.1 **Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises (except to the 960 square foot space) and Common Areas 5-two (2) times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee.** Notwithstanding the provisions of paragraph 11.1, Lessee shall pay for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 1.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 **Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a non-curable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a non-curable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

~~(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e., 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.~~

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

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(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2).

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies.**

13.1 **Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

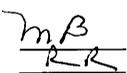
(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) 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 this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject


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of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

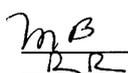
13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5-two (2) calendar days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to ten percent (10%) of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the date due. The interest ("**Interest**") charged shall be computed at the rate of ten percent (10%) per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of


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Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

15.1 ~~Additional Commission.~~ In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 ~~Assumption of Obligations.~~ Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to Lessee and Lessor, respectively ~~the Brokers that it has made~~, that Lessor and Lessee, respectively, has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. ~~Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.~~

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the

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same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. ~~Disclosures Regarding The Nature of a Real Estate Agency Relationship.~~

~~(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:~~

~~(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations: To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.~~

~~(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.~~

~~(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.~~

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then (i) the Base Rent shall be increased to one hundred fifty percent (150%) of the Base Rent applicable immediately preceding the expiration or termination, and (ii) given the expiration of the Ground Lease Agreement, the County of Marin shall assume any and all rights of Lessor under this Lease. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

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

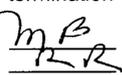
28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

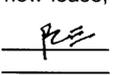
29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall attorn to such new owner, and upon request, enter into a new lease,


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containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership, (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment agreement provided for herein.

31. **Attorneys' Fees.** If any Party brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$500 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 **Definition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

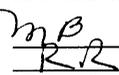
39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

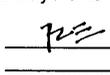
39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after


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such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. **Reservations.**

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

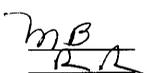
48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is attached to this Lease as Exhibit F and made a part hereof.

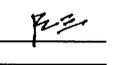
49. **Americans with Disabilities Act; Energy Disclosure.**

(a) The Premises and Project have not undergone an inspection by a Certified Access Specialist (CASp).

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

(c) Lessee acknowledges that, pursuant to California Public Resources Code Section 25402.10 and the regulations adopted pursuant thereto (collectively, together with any future law or regulation regarding disclosure of energy efficiency data with respect to the Premises, "**Energy Disclosure Requirements**"), Lessor may be required in the future to disclose information concerning Lessee's energy usage to certain third parties, including, without limitation, prospective purchasers, lenders and tenants of the Building ("**Lessee Energy Use Disclosure**"). Lessee shall cooperate with Lessor with respect to any Lessee Energy Use Disclosure. Without limiting the generality of the foregoing, Lessee shall, within ten (10) days following request from Lessor, disclose to Lessor all information requested by Lessor in connection with such Lessee Energy Use Disclosure, including, but not limited to, the amount of power or other utilities consumed within the Premises for which the meters for such utilities are in Lessee's name, the number of employees working within the Premises, the operating hours for Lessee's business in the Premises, and the type and number of equipment operated by Lessee in the Premises. Lessee acknowledges that this information shall be provided on a non-confidential basis and may be provided by Lessor to the applicable utility providers, the California Energy Commission (and other governmental entities having jurisdiction with respect to the Energy Disclosure Requirements), and any third parties to whom Lessor is required to make any Lessee Energy Use Disclosure. Lessee hereby (A) consents to all such Lessee Energy Use Disclosures, and (B) acknowledges that Lessor shall not be required to notify Lessee of any Lessee Energy Use Disclosure. Lessee agrees that Lessor and its agents shall not be liable for, and Lessee hereby releases Lessor and its agents from, any and all loss, cost, damage, expense and liability relating to, arising out of and/or resulting from any Lessee Energy Use Disclosure. In addition, Lessee represents to Lessor that any and all information provided by Lessee to Lessor pursuant to this paragraph shall be, to the best of Lessee's knowledge, true and correct in all material respects and Lessee acknowledges that Lessor shall rely on such information. The terms of this paragraph shall survive the expiration or earlier termination of this Lease.


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INITIALS

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE. WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: SAN CARLOS
On: 1 APRIL 2016

Executed at: _____
On: MARCH 31, 2016

By LESSOR:

AERO FUEL, INC., a California Corporation dba Bemac Property

By: [Signature]
Name Printed: Richard C. Ersted
Title: President

By: _____
Name Printed: _____
Title: _____
Address: c/o Industrial Realty Co of Ca
1091 Industrial Road Suite 101
San Carlos, CA 94070-4118
Telephone: (650) 592-5425
Facsimile: (650) 592-5488
Email: _____
Federal ID No. 94-3213427

LESSOR'S BROKER:

Attn: _____
Address: _____
Telephone: () _____
Facsimile: () _____
Email: _____
Broker/Agent DRE License #: _____

By LESSEE:

SPIRIT OF ST. LOUIS 2, LLC, a Colorado limited liability company

By: [Signature]
Name Printed: Marvin Lee Bay
Title: President; Chairman

By: [Signature]
Name Printed: Robert G. Ragozzino
Title: Chief Operating Officer
Address: _____
Telephone: () _____
Facsimile: () _____
Email: _____
Federal ID No. _____

LESSEE'S BROKER:

Attn: _____
Address: _____
Telephone: () _____
Facsimile: () _____
Email: _____
Broker/Agent DRE License #: _____

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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[revised]

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MB
RJR
INITIALS

[Signature]
INITIALS

ADDENDUM NO. 1 TO
STANDARD MULTI-TENANT OFFICE LEASE - GROSS

This Addendum No. 1 is made and entered into by and between Aero Fuel, Inc., a California corporation dba Bemac Property ("**Lessor**"), and Spirit of St. Louis 2, a Colorado limited liability company ("**Lessee**"), and is dated as of the date set forth on the first page of the Standard Multi-Tenant Office Lease - Gross between Lessor and Lessee to which this Addendum No. 1 is attached (the "**Lease**"). The promises, covenants, agreements, and declarations made and set forth herein are intended to and shall have the same force and effect as if set forth at length in the body of the Lease. To the extent that the provisions of this Addendum No. 1 are inconsistent with the terms and conditions of the Lease, the provisions of this Addendum No. 1 shall control.

50. Ground Lease Agreement.

Notwithstanding anything to the contrary set forth in the Lease, Lessee hereby acknowledges and agrees that (i) Lessee shall fully assume all duties, obligations, and rights of "sublessees" or "Sublessees" under the terms and conditions of that certain Ground Lease Agreement dated February 26, 1968, as amended (the "**Ground Lease Agreement**"), by and between the County of Marin, a political subdivision of the State of California ("**County**"), and Lessor, and (ii) the Lease is subject to the terms and conditions of the Ground Lease Agreement. A copy of (i) the Ground Lease Agreement, (ii) the Amendment thereto dated September 13, 1971, (iii) the Amendment thereto dated September 19, 1995, and (iv) the Amendment thereto dated March 26, 1996 are attached hereto as "Exhibit C" and made a part hereof. In particular, Lessee agrees, without limitation, to fully assume all duties, obligations, and rights of "sublessees" or "Sublessees" set forth in the following Paragraphs of the Ground Lease Agreement: 2, 2(a) [as amended; Lessor shall, however, be solely responsible for the payment of the Base Ground Rental], 2(d), 2(e), 5(c), 5(d), 5(e), 6(a), 6(b), 6(c)1, 6(d) [**Lessee shall engage solely in the restoration, reconstruction and re-creation of a single aircraft for Lessee's sole use in the attempted off-site duplication of Charles Lindbergh's 1927 New York to Paris flight**], 6(e), 6(f), 6(g), 9, 10, 11, 12, 13, 14, 15 (as amended; those certain terms and conditions applicable to Lessee are set forth below in Paragraph 51 of this Addendum No. 1), 17, 18, 20, 21, 22, 26, 28 and 29.

At all times during and throughout the term of the Lease, Lessee (i) shall engage solely in the restoration, reconstruction and re-creation of a single aircraft for Lessee's later use in the attempted duplication of Charles Lindbergh's 1927 New York to Paris flight, and (ii) shall not provide aircraft flight instruction, aircraft rental, aircraft sales, aircraft charter, storage of third-party aircraft, or aircraft petroleum storage or sales (the "Other Services Prohibition"). Such Other Services Prohibition shall not, however, prohibit Lessee from storing Lessee's aircraft, parts, equipment, tools and other items directly required for Lessee's restoration, reconstruction and re-creation work.

Lessee hereby further acknowledges and agrees that (i) Lessor shall not be responsible, whether in part or in whole, for the payment of any concession fees, gross sales percentage fees or other fees, whether set forth in the Ground Lease Agreement or elsewhere, due to the County from Lessee, and (ii) Lessee shall be solely responsible for the payment to the County of all such fees [each and every six (6) months, Lessee shall pay an amount equal to one percent (1%) of Lessee's aircraft restoration expenditures over the prior six (6) month period].

Lessee hereby further acknowledges and agrees that, at all times during and throughout the term of the Lease, (i) Lessee shall comply in full with any and all provisions of Chapter 12.06 of the Marin County Code (such Code Chapter, as of the date of the Lease, is attached hereto as "Exhibit D" and made a part hereof), including, without limitation, any revisions to such Code subsequently approved by the County of Marin Aviation Commission (the "Aviation Commission") or the Board (or both), (ii) Lessee shall, during and throughout any and all hours of Lessee's operation, (a) hold a valid and current FAA Certificate with appropriate ratings for any and all work performed by Lessee or Lessee's employees, including, but not limited to, aircraft Airframe and Power Plant repair and maintenance, and (b) employ at least one (1) full-time FAA-certified A&P mechanic, and (iii) Lessee shall possess and maintain valid Federal, State, and local licenses and permits, including, without limitation, those required for aircraft restoration, reconstruction, and re-creation and maintenance and overhaul operations (collectively, "Licenses").

51. Insurance In Conformance With Marin County Code.

Notwithstanding anything to the contrary set forth in the Lease, Lessee and Lessor hereby

agree that Lessee shall comply in full throughout the Lease Term with any and all insurance requirements set forth in County Code Chapter 12.06, including, without limitation, any revisions to such Code Chapter. Such requirements include, without limitation, the following (where utilized in such Code Chapter, the term "Business Operator" shall specifically mean Lessee under this Lease; words or phrases shown in parentheses below have been added for clarity):

"12.06.100 Insurance Requirements

"A. Prior to rendering services provided by the terms and conditions of these Operating Standards and any lease provisions, Business Operator shall acquire and maintain during the term of (the Lease) ... and at any time that Business Operator is conducting business at (the Airport), insurance coverage, through and with an insurer acceptable to (the) County (of Marin), naming the County, the Aviation Commission, and their officials, (e)mloyees, and (v)olunteers, as additional (i)nsured, (hereinafter referred to as ()the insurance). The limits of the insurance herein shall not limit the liability of the Business Operator hereunder.

"B. The scope, term, condition and minimum liability limits shall be maintained in accordance with the latest revision of the airport insurance limits as set by the County Risk Manager of the County Administrator's Office."

Notwithstanding anything to the contrary set forth in the Lease, Lessee and Lessor hereby agree that Lessee shall comply in full throughout the Lease term with any and all insurance requirements set by the County Risk Manager of the County Administrator's Office. Such airport insurance requirements set by the County Risk Manager, as of the date of the Lease, are attached hereto as "Exhibit E" and made a part hereof.

In addition to the requirements noted herein, Lessee shall also name Lessor, its officers, directors, shareholders, employees, and agents as additional insureds on Lessee's insurance policy or policies. Such policies may not be canceled without first providing Lessor with thirty (30) calendar day written notice of such intended cancellation. If Lessee fails to obtain and/or maintain the insurance provided herein, Lessor reserves the right to terminate the Lease. The policies shall contain, or be endorsed to contain, the following provisions:

Comprehensive Commercial Liability Covering Airport Premises, Commercial Air Operator Accident Liability, Aircraft Liability including Passenger Liability, Hangarkeeper's Legal Liability Insurance and Automobile Liability Coverages. Lessor shall be covered as insureds as respects: liability arising out of activities performed by or on behalf of Lessee; products and completed operations of Lessee; and premises owned, leased, hired, or borrowed by Lessee. The coverage shall contain no special limitations on the scope of protection afforded to Lessor. Lessee's insurance coverage shall be primary insurance as respects Lessor and any other insureds under this Lease. Any insurance or self-insurance maintained by Lessor shall be excess of Lessee's insurance and shall not contribute to it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Lessor or other insureds under this Lease.

Worker's Compensation and Employers Liability Coverage. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) calendar day prior written notice by certified mail, return receipt requested, has been given to Lessor.

Lessee shall not engage a subcontractor to provide or perform any aircraft restoration, reconstruction, or re-creation or aircraft maintenance, repair or overhaul services without Lessor's prior written consent. If Lessor so approves, Lessee shall require subcontractor to provide insurance identical to the coverage required under County Code Chapter 12.06 and this Lease, and shall require subcontractor to name Lessor as additional insured. Certificates of insurance and original endorsements providing such coverage shall be provided to Lessor.

Lessee shall furnish Lessor with certificates of insurance and with original endorsements affecting coverage. The certificate and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements shall be on forms received and approved by Lessor before the Commencement Date. Lessor reserves the right to require complete, certified copies of all required insurance policies at any time. A copy of

the policy or policies, together with a duly executed certificate to the effect that the insurance required by County Code Chapter 12.06 is extended in favor of, and consistent with, the terms set forth therein and a copy of an appropriate additional insured endorsement, shall be mailed to the following address:

Aero Fuel, Inc. dba Bemac Property
c/o Industrial Realty Company of California
1091 Industrial Rd
Ste 101
San Carlos CA 94070-4118
(650) 592-5488 [fax]
rcersted@ircoc.com

Lessee shall not render aircraft restoration, reconstruction, or re-creation or aircraft maintenance or overhaul services unless and until (i) each type of insurance coverage and endorsement is in full force and effect, and (ii) Lessee has delivered the certificate(s) of insurance and endorsement(s) to Lessor as set forth herein. If Lessee shall fail to procure and maintain said insurance, Lessor may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by Lessee upon demand. The policies of insurance provided herein by Lessee shall be for a period of not less than one (1) year, it being understood and agreed that thirty (30) calendar days prior to the expiration of any policy of insurance, Lessee shall deliver to Lessor a renewal or new policy to take the place of the policy expiring.

Lessor shall have the right to request such further coverages and/or endorsements on the insurance as Lessor deems necessary, at Lessee's expense. The amounts, insurance policy forms, endorsements, and insurer(s) issuing the insurance shall be satisfactory to Lessor in its sole and absolute discretion.

52. Property Insurance.

Notwithstanding anything to the contrary set forth in Paragraph 8.3 of the Lease, the insurance limit on Lessor's Property Insurance policy as more particularly described in such Paragraph shall be Three Hundred Thousand Dollars (\$300,000) or such other lesser amount as Lessor shall determine from time to time at Lessor's sole discretion.

53. Utility Expenses.

Notwithstanding anything to the contrary set forth in the Lease, Lessee hereby acknowledges and agrees that (i) "Lessee's Share" is hereby defined, for purposes of this Lease, as one hundred percent (100.00%) of any and all utilities serving the Premises only, (ii) "Utility Expenses" is hereby defined, for purposes of this Lease, as all costs incurred by Lessor, if any, for provision of the following to the Premises: (a) water, if any, (b) sewer, if any, (c) septic, (d) gas, if any, (e) electric service [including, without limitation, the furnishing and installation of a meter or meters to properly measure such services; Lessee shall pay such costs when due or monthly upon billing by Lessor], (f) pest control, if any, (g) alarm monitoring and maintenance, if any, and (h) County security services, if any, and (iii) Lessee shall pay to Lessor – during and throughout the term of the Lease; in addition to the Base Rent set forth in Paragraph 1.5 of the Lease; on or before the first (1st) calendar day of each and every month; in arrears – (a) Lessee's Share of Utility Expenses, and (b) a commercially reasonable percentage of the septic tank service expense (given Lessee's use of the first-floor shop restroom).

Notwithstanding the foregoing, Lessee is responsible, at Lessee's sole cost and expense, for any and all electrical use in the hangar, including, but not limited to, electrical use attributable to the overhead hangar lights. Metering such use will require the new installation of a separate meter to track same; such installation shall be completed on or before the Commencement Date. The cost of such meter purchase and installation shall be split equally between Lessor and Lessee. During and throughout the Lease Term, Lessee shall promptly and timely pay any and all hangar electrical use expenses, including, but not limited to, those expenses attributable to the overhead hangar lights. Given the use of a separate meter for such hangar electrical use, Lessee shall pay such expense either directly to PG&E or other electrical energy provider or to Lessor, at Lessor's sole choice.

Notwithstanding the foregoing, Lessee is responsible, at Lessee's sole cost and expense, for any and all septic tank use, including, but not limited to, the use attributable to the first-floor shop restroom. To simplify the calculation of such cost, Lessee shall pay Lessor, each and every month throughout the Original Term and in arrears, the difference between (i) the prior month's total septic tank costs and expenses, and (ii) Two Hundred Dollars and Seventy Cents (\$200.70), the average

monthly septic tank cost and expense during calendar year 2015. Should Lessee violate the Septic Tank Use Requirements (as such term is defined herein below), then (i) Lessee shall be solely responsible, at Lessee's sole cost and expense, for any and expenses attributable to (a) the pumping, transport, treatment and disposal of any and all affected septic tank contents, (b) any repairs or reconstruction required to the septic tank or piping thereto, and (c) any and all other damages, expenses and costs attributable to such violation, and (ii) Lessee shall promptly and fully remit the reimbursement for such cost and expense to Lessor within ten (10) calendar days of delivery of notice by Lessor.

At Lessor's option, an amount may be estimated by Lessor from time to time of Lessee's annual Utility Expenses and the same shall be payable monthly or quarterly, as Lessor shall designate, during each twelve (12) month period of the Lease Term, on the same day as the Base Rent is due hereunder. If Lessor exercises such option, Lessor shall deliver to Lessee, within ninety (90) calendar days after the expiration of each calendar year, a reasonably detailed statement showing Lessee's Share of actual Utility Expenses incurred during the previous year. If Lessee's payments under this Paragraph 53 during said preceding year exceed Lessee's actual expenses as indicated on said statement, Lessee shall be credited the amount of such overpayment against Lessee's Share of Utility Expenses next becoming due. If Lessee's payments under this Paragraph 53 during said preceding year were less than Lessee's actual expenses as indicated on said statement, Lessee shall pay to Lessor the amount of the deficiency within ten (10) calendar days after delivery by Lessor to Lessee of said statement.

54. Breach. Notwithstanding anything to the contrary set forth in the Lease, Lessee and Lessor hereby agree that a "**Breach**" by Lessee (i) shall include, without limitation, (a) the occurrence of any one or more of the following Defaults at any time during and throughout the term of the Lease, and (b) where a grace period for cure after notice is specified herein, the failure by Lessee to cure such Default prior to the expiration of the applicable grace period, and (ii) shall entitle Lessor to pursue the remedies set forth in Paragraphs 13.2 and/or 13.3 of the Lease:

A. The failure by Lessee to, during and throughout any and all hours of Lessee's operation, (i) hold a valid and current FAA Certificate with appropriate ratings for any and all work performed by Lessee or Lessee's employees, including, but not limited to, aircraft Airframe and Power Plant repair and maintenance, and (ii) employ at least one (1) full-time FAA-certified A&P mechanic.

B. The failure by Lessee to procure, possess, or maintain any or all Licenses.

C. The failure by Lessee to pay one percent (1%) of Lessee's aircraft restoration expenditures to County as more particularly described in Paragraph 50 hereinabove, where such failure continues for a period of three (3) business days following written notice thereof by or on behalf of Lessor or County to Lessee.

D. The failure by Lessee to strictly adhere to the Other Services Prohibition.

E. The failure by Lessee to strictly adhere to the Septic Tank Use Regulations.

55. County Approval.

Lessee and Lessor hereby acknowledge and agree that (i) the Lease requires the prior written approval of the County, (ii) Lessor does not warrant or guarantee that County will (a) review the Lease in a timely manner, or (b) approve the Lease, and (iii) should the County fail to approve the Lease in writing, (a) the Lease between Lessor and Lessee shall be null and void, (b) Lessee shall not occupy the Premises, and (c) neither Lessor nor Lessee shall have any further obligations or duties to each other.

Paragraph 2 of the Ground Lease Agreement states in part (words or phrases shown in parentheses below have been added for clarity):

'It is understood and agreed that Lessee (Bemac Property) may sublet some or all of the grounds and improvements covered by the leases (Ground Lease Agreement) to one or more fixed base operators, who may in turn operate the facilities and provide all the services described in this lease document. Each such sublessee must be approved by the Lessor (County) in writing; said approval will not be unreasonably withheld.'

Upon (i) Lessee's execution of the Lease, (ii) Lessee's payment of the monies due at such execution as set forth above, and (iii) Lessee's presentation of a business plan to the County, Lessor shall execute the Lease and submit such Lease to the County for review and approval or disapproval. Lessee hereby acknowledges and agrees that (i) Lessor does not warrant or guarantee that County will (a) review such Lease in a timely manner, or (b) approve such Lease, (ii) both the Aviation Commission and the Board will likely need to review such Lease, (iii) the Aviation Commission generally meets once per month, (iv) the Board generally meets once every other week, and (v) the Aviation Commission may not meet during March or April 2016 or may meet on a revised schedule. Upon receipt of County's written approval, if any, of such Lease, Lessor shall promptly return one (1) fully executed original Lease to Lessee. If the County disapproves such Lease, Lessor, upon receipt of written notice of such disapproval, shall (i) promptly notify Lessee, and (ii) promptly return in full the monies previously paid by Lessee to Lessor.

56. Parking.

Notwithstanding anything to the contrary set forth in the Lease, Lessee shall be entitled to use parking spaces as and when available on adjacent County property so long as (i) Lessee is not in default under the terms of the Lease, and (ii) Lessee's use of such spaces conforms fully to (a) the terms and conditions of the Lease, and (b) the rules and regulations attached thereto, as such rules and regulations may be amended by Lessor from time to time.

57. Floor Maintenance.

Notwithstanding anything to the contrary set forth in Paragraph 7 of the Lease, Lessor shall not be responsible for the repair or replacement of any floor surface coating or the cost thereof; any such responsibility shall be borne solely by Lessee.

58. Janitorial; Interior Maintenance and Repair.

Notwithstanding anything to the contrary set forth in the Lease, Lessee shall be responsible, at Lessee's sole cost and expense, for all janitorial services, interior maintenance and repair within the Premises.

59. Tenant Improvements.

At Lessee's sole cost and expense, Lessee shall be responsible, prior to Lessee occupancy of the Premises, for furnishing and installing temporary closures on the doors to the office, shop and storage space adjoining the Premises.

Notwithstanding anything to the contrary set forth in the Lease, Lessee shall be responsible, at Lessee's sole costs and expense, for all tenant improvements, if any, including, but not limited to, design and construction of interior improvements, building permits, and other County of Marin or City of Novato approvals. All such improvements, if any, require the prior written approval of Lessor and the County.

60. Septic Tank Use Requirements.

Notwithstanding anything to the contrary set forth in the Lease, Lessee shall, at all times during and throughout the Lease, not place or dispose any Hazardous Materials – whether solid, liquid or gas – in, on, or within (i) the first-floor shop restroom sink and toilet, (ii) the second-floor restroom sinks and toilets, and (iii) any drain line leading to the Building's septic tank (collectively, "(i)", "(ii)" and "(iii)" shall be defined herein as the "**Septic Tank Use Requirements**").

61. Signs.

Notwithstanding anything to the contrary set forth in the Lease, Lessee shall be allowed to furnish and install a single temporary sign mounted on the hangar exterior. The location, size, color, text, mounting and other key details are subject to prior review and written approval by Lessor and the County.

62. Limitation on Lessor Liability.

Notwithstanding anything to the contrary set forth in the Lease, the obligations of Lessor do

not constitute personal obligations of the individual officers, directors, or shareholders of Lessor, and Lessee shall not seek recourse against such individual officers, directors, or shareholders or any of their personal assets for satisfaction of any liability arising under this Lease.

63. Notices.

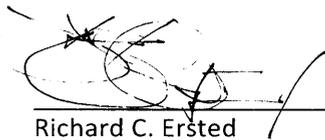
Notwithstanding anything to the contrary set forth in the Lease, any and all notices or demands which are required or permitted to be given by Lessee to Lessor pursuant to the terms and conditions of the Lease shall be addressed as follows:

Aero Fuel Inc. dba Bemac Property
c/o Industrial Realty Company of California
1091 Industrial Rd
Ste 101
San Carlos CA 94070-4118
Fax Number: (650) 592-5488
rcersted@ircoc.com

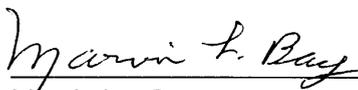
[End]

IN WITNESS WHEREOF, this Addendum No. 1 has been executed by Lessor and Lessee as of the day and year of the execution of the Lease to which this Addendum No. 1 is attached.

"Lessor": Aero Fuel, Inc.,
a California corporation doing business as Bemac Property

By: 
Richard C. Ersted
Its: President

"Lessee": Spirit of St. Louis 2,
a Colorado limited liability company

By: 
Marvin Lee Bay
Its: President; Chairman

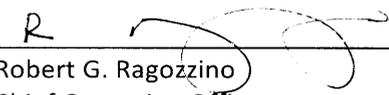
By: 
Robert G. Ragozzino
Its: Chief Operating Officer

EXHIBIT A
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC

STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE-GROSS FLOOR PLAN

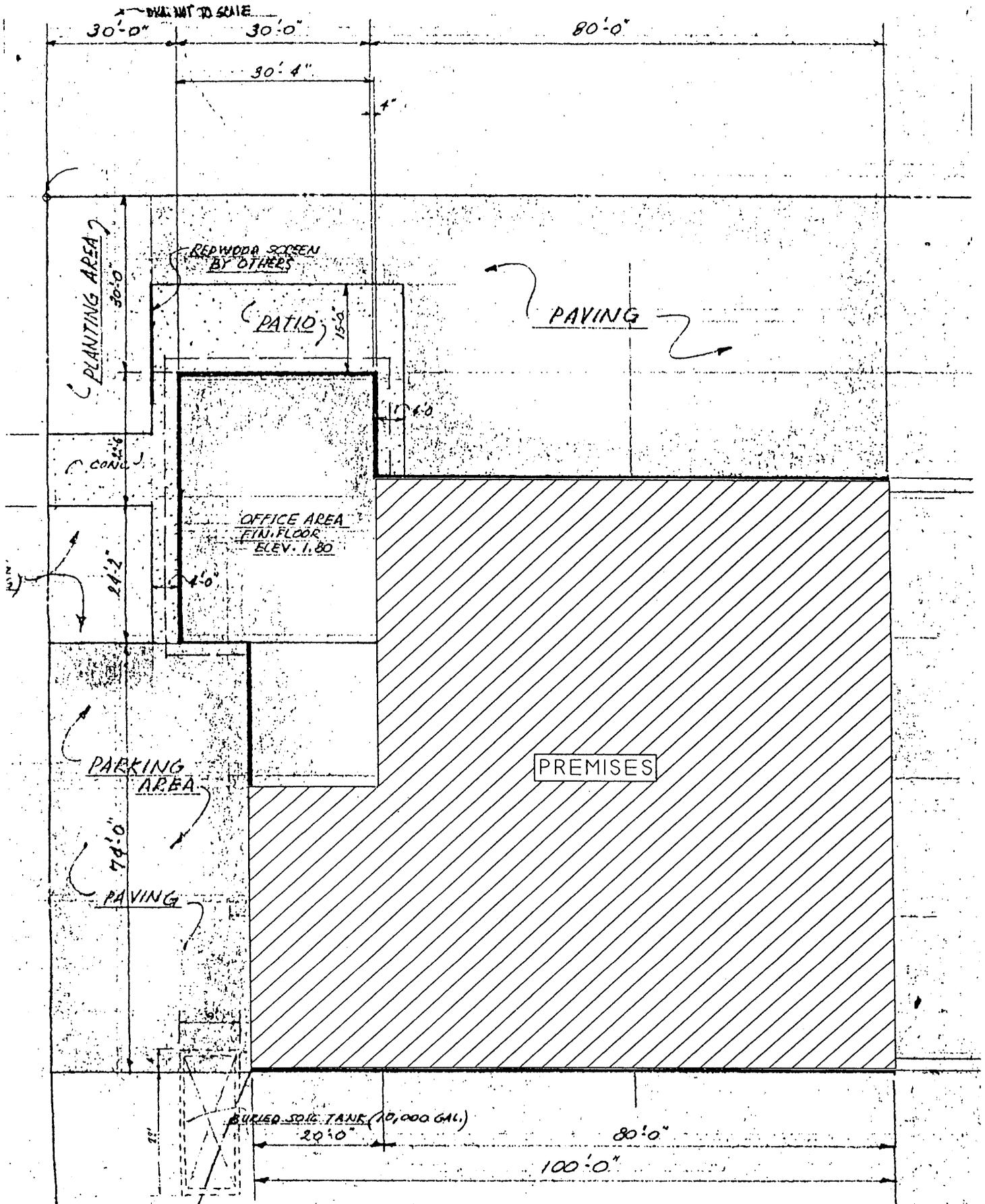


EXHIBIT A

EXHIBIT B
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC



RULES AND REGULATIONS STANDARD OFFICE LEASE

Dated March 30, 2016

By and Between AERO FUEL, INC., a California corporation dba Bemac Property ("Lessor") and
SPIRIT OF ST. LOUIS 2, LLC, a Colorado limited liability company ("Lessee")

GENERAL RULES

1. Lessee shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways.
2. Lessor reserves the right to refuse access to any persons Lessor in good faith judges to be a threat to the safety and reputation of the Project and its occupants.
3. Lessee shall not make or permit any noise or odors that annoy or interfere with other lessees or persons having business within the Project.
4. Lessee shall not keep animals or birds within the Project, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized by Lessor for same.
5. Lessee shall not make, suffer or permit litter except in appropriate receptacles for that purpose.
6. Lessee shall not alter any lock or install new or additional locks or bolts.
7. Lessee shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
8. Lessee shall not deface the walls, partitions or other surfaces of the Premises or Project.
9. Lessee shall not suffer or permit anything in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Project.
10. Furniture, significant freight and equipment shall be moved into or out of the building only with the Lessor's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Lessor. Lessee shall be responsible for any damage to the Premises and/or Project arising from any such activity.
11. Lessee shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Lessor.
12. Lessee shall be responsible for securely locking any doors it may have opened for entry.
13. Lessor reserves the right to close and lock the Building on Building Holidays and on all other days between the hours of 5:00 P.M. and 8:00 A.M. If Lessee uses the Premises during such periods, Lessee shall be responsible for securely locking any doors it may have opened for entry.
14. Lessee shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
15. No window coverings, shades or awnings shall be installed or used by Lessee.
16. No Lessee, employee or invitee shall go upon the roof of the Building.
17. Lessee shall not suffer or permit smoking or carrying of lighted cigars or cigarettes in any location within the Premises, the Building or the Project or in any other areas reasonably designated by Lessor or by applicable governmental agencies as non-smoking areas.
18. Lessee shall not use any method of heating or air conditioning other than as provided by Lessor.
19. Lessee shall not install, maintain or operate any vending machines upon the Premises ~~without Lessor's written consent~~.
20. The Premises shall not be used for lodging or manufacturing, cooking or food preparation.
21. Lessee shall comply with all safety, fire protection and evacuation regulations established by Lessor or any applicable governmental agency.
22. Lessor reserves the right to waive any one of these rules or regulations, and/or as to any particular Lessee, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Lessee.
23. Lessee assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.
24. Lessor reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Project and its occupants. Lessee agrees to abide by these and such rules and regulations.

PARKING RULES

1. Parking areas on adjoining County of Marin real property shall be used only for parking by vehicles no longer than full size, passenger automobiles herein called "Permitted Size Vehicles." Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles."
2. Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in any location within the Premises, the Building or the Project or in areas other than those designated in writing by Lessor for such activities.
3. Parking stickers or, identification devices and gate access devices shall be the property of Lessor and be returned to Lessor by the holder thereof upon termination of the holder's parking privileges. Lessee will pay such replacement charge as is reasonably established by Lessor for the loss of such devices.
4. Lessor reserves the right to refuse the sale of monthly identification devices to any person or entity that willfully refuses to comply with the applicable rules, regulations, laws and/or agreements.
5. ~~Lessor reserves the right to relocate all or a part of parking spaces from floor to floor, within one floor, and/or to reasonably adjacent offsite location(s), and to reasonably allocate them between compact and standard size spaces, as long as the same complies with applicable laws, ordinances and regulations.~~
6. Users of the parking area on adjoining County of Marin real property will obey all posted signs and park only in the areas designated for vehicle parking.
7. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Lessor will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
8. Validation, if established, will be permissible only by such method or methods as Lessor and/or its licensee may establish at rates generally applicable to visitor parking.

PAGE 1 OF 2


INITIALS


INITIALS

9. The maintenance, washing, waxing or cleaning of vehicles in the Premises, the Building or the Project or within the Common Areas is prohibited.
10. Lessee shall be responsible for seeing that all of its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements.
11. Lessor reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.
12. Such parking use as is herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.

Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

MB
ER
INITIALS

PE
INITIALS

EXHIBIT C
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC

1000 701
MARIPOSA COUNTY
P.O. BOX 549
MARIPOSA CITY, CALIF.
95355-0549

LEASE AGREEMENT
MARIN COUNTY AIRPORT

(E)

THIS LEASE AGREEMENT, made and entered into as of the
22625 26th day of February, 1968, by and between the
COUNTY OF MARIN, a political subdivision of the State of California,
hereinafter referred to as "LESSOR", and Benac Property, a
Partnership
General Corporation, hereinafter referred to as
"LESSEE";

W I T N E S S E T H:

WHEREAS, the Lessor herein is a political subdivision
duly organized and operating under the laws of the State of
California, and owns all that certain real property located at
the New Marin County Airport, Novato, California, a county airport,
hereinafter referred to as "AIRPORT"; and

WHEREAS, Lessor deems it advantageous to itself and
the operation of the Airport to demise and lease unto Lessee a
certain parcel of land described herein, together with certain
privileges, rights, uses, and interest therein, as hereinafter set
forth; and

WHEREAS, Lessee proposes to lease a ground area of one (1)
or more acres for a "fixed base" operation for miscellaneous
aircraft operations and services, which shall specifically involve
aviation retail sales and services; and

WHEREAS, Lessee has indicated a willingness and ability
to properly keep and maintain and improve the demised ground in
accordance with standards established by Lessor; and

WHEREAS, Lessee desires to obtain and avail itself of
the privileges, rights, uses and interest therein and herein;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. TERM

Lessor, for and in consideration of all the covenants,

Unit No. 1

conditions, and agreements to be set forth hereinafter to be kept and performed by Lessee and by Lessor, does hereby let, demise and lease unto Lessee, on all the conditions, covenants, terms and agreements hereinafter set forth, those certain premises described in Exhibit "A" and delineated on Exhibit "B", both said exhibits being attached hereto as marked and made a part hereto, for a term of forty (40) years, commencing on the February 26, 1968, and ending on the February 25, 2008.

2. RENTAL

It is understood and agreed that Lessee may sublet some or all of the grounds and improvements covered by the leases to one or more fixed base operators, who may in turn operate the facilities and provide all the services described in this lease document. Each such sublessee must be approved by the Lessor in writing; said approval will not be unreasonably withheld. (The term "sublessee" as used herein shall include sublessees of the sublessee as well as the Lessee) Upon approval by Lessor the Sublessee shall be responsible for payment of all fees direct to Lessor and for conformance to all of the provisions of this lease. Should the Sublessee default in his obligations to Lessor or to the Lessee, the sublease may be cancelled by either Lessor or Lessee. In this event Lessee will immediately become liable for all fees and obligations under this lease until a new Sublessee is approved by Lessor.

Lessee or approved Sublessee shall pay to Lessor a rental in accordance with the following provisions:

(a) Base Ground Rental for the premises, as described in Exhibits "A" and "B", shall be:

First 5 years	2¢ per square foot per year
Second 5 years	2-1/2¢ per square foot per year
Third 5 years	3¢ per square foot per year
Fourth 5 years	3-1/2¢ per square foot per year

The rental rate for the four remaining five-year periods of the lease term shall be computed at the commencement of each

successive five-year period as the rental rate applicable for the immediately preceding five years adjusted for any increase of the Bureau of Labor Statistics Cost of Living Index/for said preceding five years. In no event shall the rental rate for any five-year period be less than the applicable rental rate for the preceding five-year period unless adjustments in the rental rate are made in accordance with the provisions of this agreement as contained in paragraphs 24 and 27. In addition to the rental specified in Section 4, the County shall also receive an amount equal to 1% of the gross retail sales, not including sales tax. Sales of aircraft and aircraft petroleum products shall be exempt from this requirement.

(b) The base ground rent shall be payable, in advance, monthly by the first day of each and every month during the term of this lease and any extension thereof. The semi-annual payments based on gross receipts shall be due and payable sixty (60) days after the end of each such period and shall be supported by a statement showing such receipts, certified as true and correct by a certified public accountant.

(c) It is understood and agreed that, at the time of execution of this lease, Lessee shall deposit, in the form of cash or a negotiable bond guarantee, the sum of One Thousand Dollars (\$1,000.00) to secure payment of the agreed rental and Lessor's per cent of gross receipts. In the event the agreed rental has not been paid on the agreed date, said deposit may be applied toward the payment of said rental.

(d) Lessor shall have the right to inspect all books and records of Lessee's Airport operations, or those of any Sublessee, at any reasonable time upon request. For this purpose, Lessee and/or the Sublessee shall, for a period of at least two (2) years after submission to Lessor of any such statement, keep safe and intact all of their records, books, accounts, copies of State and Federal income tax returns, and other data, and shall, upon request, make the same available to Lessor, Lessor's auditor,

representative, or agent for examination at any time during said two-year period.

(e) In the event that Sublessee further sublets any of the premises, as hereinafter provided, such sublease shall contain provision for the payment to Sublessee of not less than the percentage gross receipts as is specified in paragraph 2(a) above, said percentage to be collected by Sublessee and paid to Lessor as if said gross receipts had been originally collected by Sublessee.

3. OFF-SITE IMPROVEMENTS

Lessor shall construct frontage improvements, including streets, curbs, gutters, drainage facilities, aprons, and runway adjacent to the demised premises. Lessor shall set the necessary boundary monuments and grade stakes on the demised premises.

4. UTILITIES

Lessee shall pay for all water, gas heat, light, power, telephone service, and all other services supplied to the said premises by Lessor, including installation and connection of such services from the main source thereof. Lessor agrees to make available utilities to the demised premises at the time of execution of this agreement. Connection and service costs for city utilities shall be governed by existing or future ordinances or amendments thereto.

5. USE OF PREMISES

The demised premises shall be used as follows:

(a) Fixed Base Operations

The Lessee or Sublessee shall conduct "Fixed base operations" on the demised premises under the accepted definition of said term. This may include the operation of management, administration, accounting, and supervisory offices and facilities; parking, turning, taxiing, loading, unloading, maintaining, servicing, conditioning, repairing, assembling, fabricating, modifying, constructing, housing aircraft, washing, storing air

conditioning, test of aircraft and related equipment, mechanisms, devices, appliances, supplies, parts and accessories of all kinds; the operation of vending machines for dispensing food, beverages, or cigarettes on the demised premises; the training of flight and ground personnel and students; (vehicular parking for Lessee or Sublessee, their employees, patrons, guests, vendors and service contractors and their agents). The uses and operation set forth herein shall not be exclusive. Lessee or Sublessee shall be privileged to operate retail sales of merchandise related to flying operations. They shall further be privileged to conduct insurance sales relating to aircraft insurance of all kinds and nature.

(b) AIRCRAFT FUELING

Lessee and/or Sublessee will provide to the public complete aircraft petroleum service from an island located on the edge of said leasehold at a point convenient for public use as approved by Lessor. All facilities to provide such service shall be within the leasehold and shall be installed at no cost to Lessor. Such facilities shall be considered as improvements to the leasehold and shall be subject to the same conditions as other improvements to this leasehold. In addition to the other payments required hereunder, Lessee or the Sublessee shall pay to the Lessor two cents (2¢) for each gallon of aircraft fuel delivered, or 20% of difference between the wholesale and retail price of said fuel, whichever is greater. This shall be full payment to Lessor for this phase of Lessee's or Sublessee's business.

The contractual relationship with the fuel supplier shall be solely between said supplier and Lessee/Sublessee. Lessor assumes no responsibility in this respect.

(c) Prohibitions

Lessee and/or Sublessee is prohibited from engaging in the following:

- (1) The sale of food to or the consumption thereof by the public, except as provided above;
- (2) The sale or consumption of alcoholic and non-alcoholic beverages, provided that coffee and soft drinks may be sold from mechanical dispensers as provided above;
- (3) The manufacture of aircraft, aircraft parts or equipment.

(d) Tie-Down Services

Public tie-down services may be provided but the rate shall not be less than that charged by the County for tie-down.

(e) Common Facilities

Lessee and/or Sublessee shall have the right of access to and use of facilities at Airport designed for common use, such as landing area, aprons, taxiways, flood lights, landing lights, beacons, navigational aids, tower communication, public address system, and other common use facilities supplied by Lessor for convenience and accommodation in operation, landings, and take-off of aircraft. The rights herein extended to Lessee shall be inclusive of the rights to land, take off, taxi, tow, load, or unload aircraft.

6. OPERATION OF AVIATION BUSINESS BY SUBLESSEE

Conditions:

(a) This lease shall be subordinate and subject to the Grant Agreement, by and between the United States of America, Federal Aviation Agency, and Lessor, and subsequent grants and agreements.

(b) The Lessee and/or Sublessee agree to make their services available to the public without unjust discrimination and to refrain from imposing or levying excessive discriminatory or otherwise unreasonable charges or fees for use of said facilities, provided, however, that Lessee and/or Sublessee shall have the privilege to refuse service to any person or persons for just cause, without discrimination by virtue of race, color, or creed.

(c) PUBLIC SERVICES

General:

Lessee shall provide comprehensive public services, including, but not limited to:

1. Aircraft maintenance and overhaul.
2. Flight instruction.
3. Aircraft rental.
4. Aircraft sales and service.
5. Charter service.
6. Storage.
7. Unicom.
8. Aircraft petroleum sales.

(d) HOURS OF OPERATION

Lessee shall publish a schedule setting forth his hours of operation. The schedule shall be strictly observed and shall include not less than the following:

Aircraft maintenance-----5 days at 8-1/2 hours
Instruction-----6 days at 8-1/2 hours
Charter, rental and
petroleum sales-----6 days at 8-1/2 hours

(e) GRIEVANCES

The airport manager shall investigate all complaints against Lessee and/or Sublessee by members of the public. If he finds that the complaint is justified, he may direct Lessee and/or Sublessee to take such reasonable action as he believes necessary to rectify the complaint or prevent its recurrence. If Lessee and/or Sublessee is aggrieved by any such directive, he may appeal therefrom to the Marin County Aviation Commission, whose decision shall be final. Persistent refusal to observe the directives of the Manager and/or the commission shall constitute grounds for termination of this lease.

(f) Access to land area under lease: Lessor, shall provide

access to the demised premises for vehicular traffic, said access to be in connection with general access roads to the Airport and to the automobile parking lot which shall be available for use by Lessee and/or Sublessee, their employees and patrons, and the public.

(g) Lessor, if necessary, reserves the right to take any action whatsoever which is considered necessary to protect the aerial approaches to the Airport and keep them safe from obstruction or hazards.

7. ON-SITE IMPROVEMENT REQUIREMENTS

(a) The Lessee will be required to construct on said property an integrated, fixed base operations building containing an initial floor area of not less than 12,000 square feet under one roof. The building shall be a Type IV structure under the Uniform Building Code as adopted by the County of Marin and shall contain 250 square feet of office space available for use by the County at a rental rate mutually satisfactory to County and to Lessee and/or Sublessee. The space provided shall face on the ramp. The rental shall include air conditioning, heat, electricity, janitorial services and free access to all public facilities provided by Sublessee.

(b) Prior to the commencement of construction of said building, and within 60 days after the execution of this lease, Lessee shall submit a plot plan, schematic drawing, and construction plans to Lessor for review and approval. No construction may be undertaken unless and until said plans are approved by Lessor, but Lessor shall not withhold said approval unreasonably.

(c) Within 90 days after approval of said plans by Lessor, Lessee or Sublessee shall enter into a binding agreement with an appropriate contractor or contractors for the construction of said building.

(d) Failure by Lessee or Sublessee to adhere to the time limits specified in this paragraph, unless extended by

Lessor, shall constitute grounds for the revocation of this lease.

(e) All the demised premises not occupied by said building or required landscaping shall be surfaced and adequately lighted by Lessee.

8. SURETY BOND

Prior to the commencement of construction hereunder, Lessee, at its sole cost and expense, shall furnish the Lessor a surety bond of an admitted surety company licensed to transact business in the State of California satisfactory to Lessee's contractor or contractors, as principals, in a sum not less than one hundred per cent (100%) of the total estimated cost of the construction contract for the operations building and other necessary appurtenances, guaranteeing the payment for all labor, materials, provisions, supplies and equipment used in, upon, for, or about the performance of said construction work or labor done thereon of any kind whatsoever and protecting Lessor, its officers, boards, commissions, employees and agents from any liability, losses, or damages arising therefrom. Lessee shall also provide Lessor a similar surety bond in an amount equal to the estimated cost of the said construction of the improvements, guaranteeing faithful performance of said construction contracts. If Lessee obtains from its contractor or contractors such bond or bonds in like amount which are satisfactory to the Lessor, the Lessor, upon application by Lessee's principal and upon naming the Lessor as an additional obligee of Lessee's principal and surety under such bond or bonds, will release Lessee from and consent to the cancellation of the bond or bonds originally furnished by Lessee.

9. MAINTENANCE AND REPAIRS

Lessee and/or Sublessee shall, at his sole cost and expense, keep and maintain said premises and appurtenances, and every part thereof, in good and sanitary order, condition and repair, hereby waiving all right to make repairs at the expense

of Lessor as provided in Section 1942 of the Civil Code of the State of California, and all rights provided for by Section 1941 of the said Civil Code. Any failure to maintain or make said repairs upon being notified by Lessor shall constitute a default by Lessee.

10. ALTERATIONS AND ADDITIONS

Subsequent to completion of the improvements and facilities as herein agreed to, Lessee shall not make any alterations to or erect any additional structures or improvements on the demised premises without prior written consent of Lessor. Any alterations or additions approved by Lessor shall be constructed at the sole expense of Lessee.

11. SIGNS

Lessee and/or Sublessee shall be privileged to erect such signs and advertising media as comply with applicable County ordinances and to place the same upon the improvements to be erected whichever is greater. The text, color, and design of all signs shall be subject to the prior approval of Lessor.

12. UNLAWFUL USE

No building, structure, or improvement of any kind shall be erected, placed upon, operated, or maintained on the leased premises, nor shall any business or operation be conducted or carried on therein or thereon in violation of any ordinance, law, statute, by-law, order, or rule of any governmental agency having jurisdiction thereover, nor shall any use be made of the demised premises which has not been specifically allowed.

13. WASTE, QUIET CONDUCT

Lessee and/or Sublessee shall not commit, or suffer to be committed, any waste upon said premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of the use of the surrounding airport property.

14. RULES AND REGULATIONS

Lessee and/or Sublessee agrees to observe and obey all rules and regulations promulgated and enforced by Lessor or any other

appropriate authority having jurisdiction over the Airport during the term of this lease.

15. INSURANCE

Lessee and/or Sublessee agrees to procure and maintain at its own cost and expense, and at all times during the term of this lease, comprehensive liability insurance naming County, its officers, boards, commissions, employees and agents as additional insured in the following amounts: Property Damage, \$250,000.00, Bodily Injury, \$1,000,000.00 per person, and \$1,000,000.00 per occurrence. Property damage coverage shall be increased to \$500,000.00 at such time as the runway at the Airport is increased from 2,200 feet to 3,300 feet.

Evidence of such insurance shall be provided by Lessee upon filing with Lessor a copy of the policy or policies, together with a duly executed certificate to the effect that the insurance required by this lease is extended in favor and consistent with the terms hereinbefore set forth. Said policy or policies or certificates shall contain a provision that written notice of cancellation or any material change shall be delivered to the Lessor ten (10) days in advance of the effective date thereof. Lessee shall also secure and maintain fire and extended coverage insurance on the buildings and structures to be erected by Lessee as a part of the aviation operation created by this lease agreement. Said insurance coverage shall be to the full insurable value of the structures and buildings and contents as erected and placed upon the demised premises, and shall name Lessor as an additional insured. Lessee further agrees that in the event of any fire or partial or complete destruction of the structures erected by Lessee, any proceeds of insurance received by Lessee shall be held in trust and utilized solely in the replacement, reconstruction, or repair of the damaged or destroyed improvements.

16. TAXES

Lessee agrees to pay promptly all taxes and assessments related to items of property within the purview of this Lease which may be levied or assessed upon said properties leased or owned by

Lessee as Lessee's interest may appear when the said taxes and assessments become due and payable during the occupancy of the demised premises under any levy or assessment by County, City, or other legally authorized governmental authority.

17. INSPECTION AND NOTICE

Insofar as the same may be necessary for the protection of the Lessor's rights, the Lessor or its agents shall at any and all times have the right to go upon and inspect the land and premises hereby leased and any and every structure or improvement erected or constructed, or in the course of being erected or constructed, repaired, added to, rebuilt, or restored thereon, and also to serve or to post and to keep posted thereon, or in any part thereof, any notices provided in Section 1183.1 of the Code of Civil Procedure of the State of California, or any other notice or notices that may at any time be required or permitted by law.

18. ASSIGNMENT OR SUBLETTING--SECURITY FOR LENDER

It is agreed that Lessee shall be privileged to sublet the leased premises to a Sublessee, subject to the terms and conditions of this lease. It is further agreed that Sublessee shall also be privileged, to sublet a portion of the premises to independent contractors for the purpose of assisting Sublessee in the full utilization of the fixed base operation as described herein; provided, however, that upon Sublessee's electing to sublet to an independent contractor for such allowed use or uses Sublessee shall notify Lessor of such subletting and shall specify in such sublease and other agreements entered into by Sublessee and the independent contractor that they may be subject to the terms and conditions of this lease. Signed copies of all such subleases and/or agreements shall be furnished to Lessor upon execution.

It is agreed that all improvements constructed by Lessee

shall be deemed personal property during the term of this lease, and that during the term of this lease and any extension thereto Lessee shall at all times have legal title to said improvements, but Lessor shall have a lien thereon to secure the faithful performance of Lessee's obligation under this lease, and said improvements shall not be removed by anyone without the approval of Lessor. Lessor's lien shall be subordinate to a security instrument, approved by Lessor, and held by any recognized lending institution but shall not be subordinate to any other encumbrance of any kind. Said security instrument shall not provide for removal of said improvements.

If the Lessee be adjudicated as bankrupt or become insolvent, or if possession of any interest in the demised premises shall be taken by virtue of any attachment, execution, or receivership, the Lessor may, at its election, unless such bankruptcy proceedings be terminated in favor of lessee and such insolvency be cured or such possession regained within ninety (90) days thereafter, immediately terminate this lease by service of notice to such effect upon any adult person found in the possession of said premises.

Notwithstanding anything to the contrary contained in this lease, it is understood and agreed that Lessee may, without the consent of Lessor, assign, transfer, mortgage or encumber Lessee's interest under this lease and leasehold estate created, to a lender on the security of the leasehold estate for the sole purpose of providing security for the repayment of a loan or loans made and used to finance the construction of substantial improvements by Lessee upon the demised premises and lessee may execute any and all instruments in connection therewith necessary and proper to complete any such loan and perfect the security therefor as may be required by such lender. Any such lender shall have the right at any time during the term hereof and while this lease is in full force and effect:

(a) To do any act or thing required of Lessee hereunder and all such acts or things done hereunder shall be as effective

to prevent a forfeiture of Lessee's rights hereunder as if done by Lessee;

(b) To realize on the security of the leasehold estate and to acquire and succeed to the interest of the Lessee hereunder by foreclosure or by a deed of assignment given in lieu of foreclosure and thereafter at such lender's option to convey or assign the interest or title to this leasehold estate to any other person subject to the terms, conditions and covenants of this lease; and

(c) To cure within sixty (60) days after notice of default by Lessee under the terms of this lease.

Two copies of any and all security devices or other instruments shall be filed with Lessor prior to the effective date thereof and the Lessee shall give Lessor prior written notice of changes thereto.

19. SURRENDER OF POSSESSION

At the expiration of the leasehold term, Lessee agrees to yield and deliver to Lessor the possession of the demised premises and all buildings, fixtures, physical improvements and appurtenances erected by Lessee pursuant to paragraph 7 hereof, in good condition, normal wear and tear excepted.

20. DEFAULT

In the event of default by Lessee in the performance of any of the terms, covenants, or conditions hereof including the failure to pay rent, Lessor shall make written demand by registered mail upon both Lessee and/or Sublessee to correct same and if, thereafter, Lessee and/or Sublessee remains in default for sixty (60) days Lessor, by and through its Airport Manager, shall have the right to take immediate possession of said premises. During said sixty (60) day period Lessee and/or Sublessee may appeal to Lessor's Board of Supervisors and request consideration of any circumstances claimed to cause such default, provided that any such circumstances shall not be deemed to be a waiver of such default in the event such Board extends the sixty (60) day period

before which Lessor may take possession.

No waiver of Lessor or default by Lessee/Sublessee of any of the terms, covenants, or conditions hereof to be performed, kept, or observed by Lessee/Sublessee shall be construed to be or act as a waiver by Lessor of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Lessee/Sublessee.

21. RESERVATION AS TO NAVIGATIONAL AIDS

Lessor reserves the right during the term of this lease, or any renewal and/or extension thereof, to install air navigational aids, including lighting, in, on, over, under, and across the premises hereby leased. In the exercise of any of the rights hereof, Lessor agrees to give Lessee/Sublessee not less than ninety (90) days written notice of its intention to install such air navigational aids. If the Lessee's enjoyment of the premises under this lease is substantially interfered with by any such installation, the Lessee's rent shall be reduced in proportion to such interference.

22. INDEMNITY

With the exception of death or personal injury sustained by a regular officer, employee or agent of the Lessor directly arising out of his or her duties in the course of his or her regular employment for which death or injury Lessor is held liable under the Workmens Compensation Act of the State of California, the Lessee and/or Sublessee shall save and hold Lessor free and harmless from any and all claims or demands which may be made against Lessor by reason of or arising from anything done or performed, or omitted to be done or performed, on the demised premises by the Lessee and/or Sublessee.

23. EMINENT DOMAIN

It is expressly agreed by Lessor and Lessee that in the event eminent domain proceedings are undertaken by any governmental agency affecting the whole of the Airport, or any part thereof, which would adversely affect Lessee's interest hereby Lessee shall be entitled to compensation by virtue thereof, consistent with current eminent domain appraisal procedures.

24. NATIONAL EMERGENCY

In the event that a national emergency or a declaration by Federal, State or County Government causes a drastic curtailment of civilian aviation activities, Lessee shall be entitled to submit a request for reduction in the lease rental rate. Lessee shall be entitled to present facts and data to show that such a curtailment has taken place and that the curtailment has seriously affected Lessee's utilization of the leased premises. If such facts and data indicate that a reduction in lease rent is warranted, then Lessor and Lessee shall agree to negotiate a reduction in the rental rate during the period of curtailment.

25. NOTICES

Any and all notices to be given under this lease, or otherwise, may be served by enclosing the same in a sealed envelope addressed to the party intended to receive the same, at its address, and deposited in the United States Post Office as registered mail with postage prepaid. When so given, such notice shall be effective from the date of the mailing of the same. For the purpose thereof, unless otherwise provided in writing by the parties hereto, the address of the Lessor, and the proper party to receive any such notices on its behalf is:

Clerk of the Board of Supervisors
County of Marin
Civic Center
San Rafael, California 94903

and the address of the Lessee is:

**Bemac Property
c/o Industrial Realty Company of California
P. O. Box 874
San Carlos, California**

26. INVALID PROVISIONS, SEVERABILITY

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition, or provision contained herein is invalidated by a court of competent

jurisdiction, the invalidity of any such covenant, condition or provision shall not invalidate any other covenant, condition, or provision of this agreement; provided, however, that the invalidity of any such covenant, condition, or provision does not materially prejudice either the Lessor or the Lessee in their respective rights and obligations contained in the valid covenants, conditions, and provisions of this agreement.

27. RENEGOTIATION

Lessor reserves the right to enter into other leases with fixed base operators on the Airport during the term of this lease or any extension thereof, provided, that Lessee shall have the right to renegotiate any term or provision of this lease, which with respect to the matters specified in Paragraphs 2,4,5 and 16 hereof, unduly or unreasonably restricts Lessee's/Sublessee's competitive position in regard to such other Lessee for fixed base operations. However, the fact that Lessor has entered into one or more other leases for fixed base operations on the airport shall not be deemed in and of itself as sufficient reason to renegotiate any term or provision of this lease.

28. TIME

Time is of the essence of this lease.

29. BINDING ON SUCCESSORS

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto; and all the parties hereto shall be jointly and severally liable hereunder.

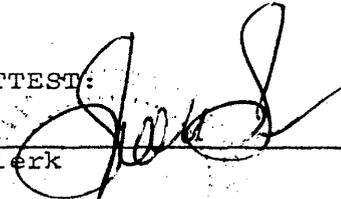
IN WITNESS WHEREOF, the parties hereto have set their

hands the day and year first above written.

COUNTY OF MARIN

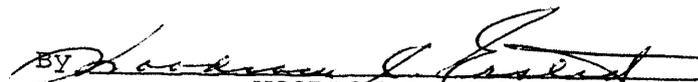
By 
CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST:


Clerk

"Lessor"

BEMAC PROPERTY, a General Partnership

By 
WOODROW C. ERSTED

"Lessee"

STATE OF CALIFORNIA

County of Marin

On this 26th day of February

ss.

Sixty-eight

in the year one thousand nine hundred and

before me, Francelle Warner

a Notary Public in and for the County of Marin

State of California, residing therein,

duly commissioned and sworn, personally appeared Geo. H. GROSS

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of MARIN the day and year in this

certificate first above written.

Francelle Warner

Notary Public in and for the County of Marin State of California.

My Commission Expires Feb. 21, 1971

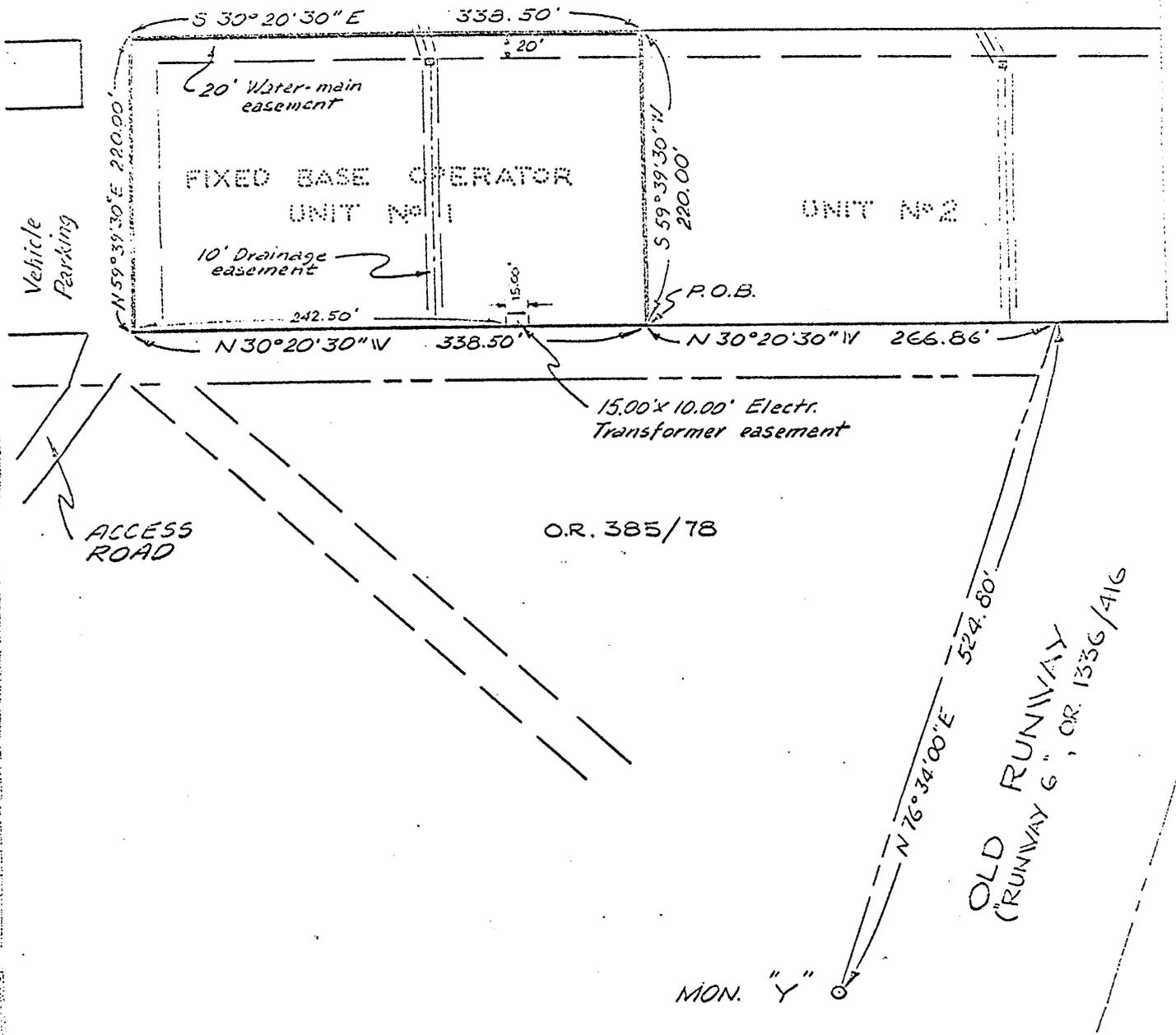
(Acknowledgment-General)

ATTORNEYS PRINTING SUPPLY FORM NO. 6

2222 15A.A



Aircraft Parking Apron



COUNTY OF MARIN DEPARTMENT OF PUBLIC WORKS		UNIT No 1 AREA 1.71 ACRES	
MARIN COUNTY AIRPORT FIXED BASE OPERATOR UNIT No 1		APPROVED _____ 19 _____	DIRECTOR OF PUBLIC WORKS
DRAWN <i>M.B. CLARK</i>	CHECKED <i>R.V.</i>	DATE <i>JAN. 1968</i>	SCALE <i>1" = 100'</i>
PROJ. No. _____		FILE <i>D-2233-215-1</i>	

Written: R.B. Pedroncelli 1/68
Checked: I. Schwartz 1/68
(See File D 34-A-264)

LEGAL DESCRIPTION OF FIXED BASE OPERATOR
UNIT NO. 1 PARCEL
MARIN COUNTY AIRPORT

Situated in the County of Marin and being a portion of the former lands of Wright, et al, described by Deed recorded in Book 385 of Official Records, at Page 78, Marin County Records, and more particularly described as follows:

Commencing at a concrete monument designated "Y" and described in Book 1336 of Official Records on Page 416, Marin County Records; thence from said point of commencement North 76°34'00" East a distance of 524.80 feet, thence North 30°20'30" West a distance of 266.86 feet to the true point of beginning; thence from said point of beginning North 30°20'30" West a distance of 338.50 feet, thence North 59°39'30" East a distance of 220.00 feet, thence South 30°20'30" East a distance of 338.50 feet, and thence South 59°39'30" West a distance of 220.00 feet back to the point of beginning, and containing an area of 1.71 acres, more or less.

Subject to an easement for the purposes of ingress, egress, construction, reconstruction and maintenance of a storm drain system over a strip of land 10.00 feet in width and lying 5.00 feet on either side of the following described centerline:

BEGINNING at a point which bears North 30°20'30" West 139.0 feet from the most Southerly corner of the above-described parcel; thence from said point of beginning North 59°39'30" East 200.00 feet more or less to the center of a concrete junction box, thence Northeasterly along the line of the existing 24" storm drain 23 feet more or less to the intersection with the Northeasterly boundary line of the above-described Unit No. 1 parcel and the end point of the herein described centerline.

EXHIBIT "A"

- 1 -

Subject to an easement for the purposes of ingress, egress, construction, reconstruction, maintenance and operation of a domestic water main and appurtenances over a strip of land 20.00 feet in width more particularly described as follows:

A strip of uniform width lying adjacent to, and contiguous with, both the Northwesterly boundary and the Northeasterly boundary of the heretofore described Unit No. 1 parcel.

Subject to an easement for the purposes of ingress, egress, construction, reconstruction, maintenance and operation of an electrical transformer and appurtenances over a parcel of land more particularly described as follows:

COMMENCING at the most Westerly corner of the heretofore described Unit No. 1 parcel, thence from said point of commencement South 30°20'30" East 242.50 feet to the point of beginning; thence from said point of beginning South 30°20'30" East 15.00 feet; thence North 59°39'30" East 10.00 feet; thence North 30°20'30" West 15.00 feet; thence South 59°39'30" West 10.00 feet to the point of beginning.

22625

BOOK 2233 PAGE 136

RECORDED AT REQUEST OF
FIRST AMERICAN TITLE CO.

AT 20 MIN. PAST 11 A.M.

AUG 16 1968

Official Records of Marin County, Calif.

N. J. Giacomini made
FEE \$ 18.50 RECORDER

UNIT NO. 1 PARCEL (CONTINUED)

EXHIBIT "A"

- 2 -

BOOK 2233 PAGE 157

Evidence of such insurance shall be provided by Lessee by filing with Lessor a certified copy of the policy or policies, together with a duly executed certificate to the effect that the insurance required by this lease is extended in favor and consistent with the terms hereinbefore set forth. Said policy or policies or certificates shall contain a provision that written notice of cancellation, termination, or any material change shall be delivered to the Lessor ten (10) days in advance of the effective date thereof. Lessee shall also secure and maintain fire and extended coverage insurance on the buildings and structures to be erected by Lessee as a part of the aviation operation created by this lease agreement. Said insurance coverage shall be to the full insurable value of the structures and buildings and contents as erected and placed upon the demised premises, and shall name Lessor as an additional insured. Lessee further agrees that, in the event of any fire or partial or complete destruction of the structures erected by Lessee, any proceeds of insurance received by Lessee shall be held in trust and utilized solely in the replacement, reconstruction, or repair of the damaged or destroyed improvements.

2. All the remainder of said Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto, or their authorized representatives, have set their hands on the day and year first above written.

ATTEST

Clerk

BEMAC PROPERTY

By

WOODROW C. ERSTED

ANTONIUS J. DANKERS

COUNTY OF MARIN

By

Chairman of the Board of Supervisors

MARIN AVIATION, INC.

By

AMENDMENT TO AGREEMENT
MARIN COUNTY AIRPORT

This amendment to the agreement, made and entered into this 19th day of Sept, 1995, by and between the COUNTY OF MARIN, hereby referred to as "lessor," and BEMAC PROPERTIES, hereinafter referred to as "lessee," amends Section 2.C "Lease Agreement - Marin County Airport" dated February 26, 1968;

Whereas, lessee deems it advantageous to itself to be permitted to be relieved of Section 2C requiring a \$1000.00 security deposit, in order that it can apply the monies to facility repairs;

And whereas, lessor is satisfied that no further need to require a deposit in the sum of \$1000.00 in order to secure the payment of rent exists.

Now, therefore, the lessee may remove its \$1000.00 security deposit and Section 2C of the original contract no longer applies;

IN WITNESS WHEREOF, the parties have set their hands this 19th day of Sept 1995.

"COUNTY"

COUNTY OF MARIN

By: [Signature]
President of the Board of Supervisors

[Signature]
Bemac Properties

ATTEST:

[Signature]
Clerk of the Board

February 21, 1996

**THIRD AMENDMENT TO AGREEMENT
MARIN COUNTY AIRPORT
(Unit No. 1)**

THIS THIRD AMENDMENT TO LEASE AGREEMENT, MARIN COUNTY AIRPORT, UNIT NO. 1 (the "THIRD AMENDMENT") is made and entered into this 26 day of March, 1996, by and between COUNTY OF MARIN, a political subdivision of the State of California, hereinafter referred to as "LESSOR," and BEMAC PROPERTY, a California general partnership, hereinafter referred to as "LESSEE;" and

WHEREAS, LESSOR and LESSEE entered into that certain Lease Agreement (the "Original Agreement") dated February 26, 1968 regarding the use of certain real property located at Gness Field ("Premises" or "Unit No. 1"; such Premises are described in Exhibit "A" and delineated on Exhibit "B", both such exhibits being attached to the Original Agreement and made a part thereof); and

WHEREAS, LESSOR and LESSEE entered into an Amendment to Lease Agreement (hereinafter "First Amendment") on September 13, 1971 which revised Section (15) of the Original Agreement; and

WHEREAS, LESSOR and LESSEE entered into an Amendment to Lease Agreement on September 19, 1995 (hereinafter "Second Amendment") which revised Subsection 2(c) of the Original Agreement (the Original Agreement, and the First and Second Amendments to Lease Agreements shall hereinafter be referred to as the "Amended Agreement"); and

WHEREAS, LESSOR and LESSEE, in order to accurately reflect the occurrence at Gness Field of certain fixed base operator changes, desire to modify certain provisions of the Amended Agreement pertaining to term, base ground rental, reduction in leasehold area, provision of fuel services and capital improvements to the Premises; and

WHEREAS, it is mutually desirable that such provisions set forth in the Amended Agreement be revised.

NOW, THEREFORE, IT IS AGREED as follows:


INITIAL
HEB

February 21, 1996

1. A new, unnumbered paragraph is added to provide for payment by lessee of a one-time fee of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in consideration of LESSOR granting this Third Amendment to Lease. Payment shall be made upon mutual execution of the Amended Agreement.

2. Section 1, "TERM," of the Amended Agreement is amended to (i) revise the Premises, and (ii) extend the term for ten (10) years. The last four (4) lines of this Section shall read: "...premises described in Exhibit "1" and delineated on "Exhibit "2" (the "Amended Premises"), both such Exhibits being attached to this Third Amendment as marked and made a part of such Amendment and the Amended Agreement, for a term of fifty (50) years commencing on February 26, 1968 and ending on February 25, 2018."

3. Section 2, "RENTAL." The second paragraph of Subsection 2(a) of the Amended Agreement (starting with the sentence "The rental rate for the four remaining...") is deleted and replaced as follows:

"The monthly Base Ground Rental for the premises (said premises contain 74,470 square feet) shall be THREE HUNDRED EIGHT DOLLARS and no cents (\$308.00) (~~\$.0496~~^{.004135} per square foot) for the five year period which commenced February 26, 1993. Upon execution of this "Third Amendment to Lease Agreement," the square footage of the premises shall be reduced to sixty-eight thousand three hundred eighty (68,380) square feet which reduction shall result in a corresponding reduction in the monthly Base Ground Rental Rate to TWO HUNDRED EIGHTY-THREE DOLLARS and NO CENTS (\$283.00) for the remainder of this five year period.

The monthly Base Ground Rental Rate for the period beginning February 26, 1998 and ending February 25, 2003 shall be computed at the commencement of this five (5) year period as the monthly Base Ground Rental Rate applicable for the immediately preceding five (5) years adjusted for any increase in the Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose ("CPI") for said preceding five (5) years. The monthly Base Ground Rental Rate for the period beginning on February 26, 2003 and

February 21, 1996

ending on February 25, 2008 shall be FIVE HUNDRED SIXTY SIX DOLLARS and NO CENTS (\$566.00). On February 26, 2008, the monthly Base Ground Rental for the period beginning on such date and ending on February 25, 2013 shall be adjusted to reflect the change in the CPI for the five (5) year period from February 26, 2003 through February 25, 2008. On February 26, 2013, the monthly Base Ground Rental for the period beginning on such date and ending on February 25, 2018 shall be adjusted to reflect the change in the CPI for the five (5) year period from February 26, 2008 through February 25, 2013. In no event shall the monthly Base Ground Rental Rate for any five (5) year period be less than the applicable Rental Rate for the preceding five (5) year period unless adjustments in the Rental Rate are made in accordance with the provisions of the Amended Agreement as contained in Sections 24 and 27.

In addition to the Base Ground Rental as set forth above and in Section 2(a) of the Amended Agreement, those certain individuals, firms and other business entities which provide one (1) or more of the services set forth in Section 6(c) of the Amended Agreement or allowed elsewhere (collectively, "Sublessees") shall pay to the County [in the manner further specified in Subsection 2(b) of the Amended Agreement] an amount equal to one percent (1%) of the gross retail sales, not including sales tax, made at the airport ("Concession Fee"). Sales of aircraft and aircraft petroleum products shall be exempt from this requirement.

Lessee shall not be responsible, whether in part or in whole, for the payment of such Concession Fee due to the County as a result of sales made by one (1) or more Sublessees. Each Sublessee shall remit such Fee directly to the County. The County shall have the right, but not the duty, to forward directly to any and all Sublessees invoices for such Fee and notices of past due monies, if any. Upon written request from the County, Lessee shall promptly commence and diligently prosecute an unlawful detainer proceeding against any defaulting Sublessee or Sublessees if such fees are not paid to the County in the amount or manner specified herein by such Sublessee or Sublessees."

4. Subsection 5(b) of the Amended Agreement entitled "AIRCRAFT FUELING," is deleted in its entirety.

ACE
COUNTY
7/21/96

February 21, 1996

5. Item #8 listed in Subsection 6(c) of the Amended Agreement entitled "Aircraft Petroleum Sales," is deleted.

6. The reference to petroleum sales in Subsection 6(d) of the Amended Agreement entitled "HOURS OF OPERATION," is deleted.

7. Section 7 of the Amended Agreement entitled "ON-SITE IMPROVEMENT REQUIREMENTS," is amended as follows:

(1) The second sentence of Subsection 7(a) is revised to read: "The building shall be a Type IV structure under the Uniform Building Code as adopted by the County of Marin." The third and fourth sentences of Subsection 7(a) are deleted in their entirety.

(2) Subsection 7(f) is added to the Amended Agreement, as follows:

(f) On or before September 30, 1996, LESSEE shall furnish and install a two-inch (2") thick asphalt concrete overlay on top of the existing pavement in a portion of the exterior yard area on the Amended Unit No. 1 (such resurfaced area is shown on Exhibit "3," which is attached hereto and made a part hereof). LESSEE shall require LESSEE's contractor to make every effort to insure the port-a-port hangars on Unit 2 are not subjected to additional runoffs as a result of the overlay project. If LESSEE does not complete the work shown on Exhibit 3 within the time frame set forth in this Subsection (f), unless such failure to complete the work is due to conditions beyond LESSEE's control, LESSOR shall have the right, but not the obligation, to perform such work itself, or have the work completed under contract. All costs of such asphalt pavement resurfacing shall be borne by LESSEE and LESSEE shall remit payment to LESSOR within ten (10) business days of receipt of a statement from LESSOR.

February 21, 1996

8. Section 18 of the Amended Agreement entitled "ASSIGNMENT OR SUBLETTING --SECURITY FOR LENDER," is revised to delete the word "substantial" from the seventh (7th) line of the fourth (4th) paragraph therein.

9. Execution of this Third Amendment is conditioned upon the concurrent execution by AERO FUEL, INC., a California corporation, and LESSOR of that certain separate written Lease Agreement entitled "Lease Agreement, Marin County Airport, Unit No. 3" (the "Unit No. 3 Lease Agreement").

10. In connection herewith, LESSOR represents to LESSEE, and LESSEE represents to LESSOR, that (i) no broker has been engaged in connection with this transaction; (ii) no lease or sales commission is due, and (iii) no finder's fee is due. LESSOR acknowledges that one (1) of the general partners of LESSEE is a licensed real estate broker in the State of California.

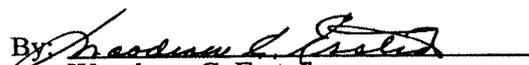
11. In all other respects, the Amended Agreement shall remain in full force and effect. Any provisions of the Amended Agreement not inconsistent with the modifications set forth herein shall remain in full force and effect.

12. Unless otherwise defined herein, capitalized terms as used herein shall have the same meanings as defined in the Amended Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

LESSEE:

BEMAC PROPERTY
a California general partnership

By: 
Woodrow C. Ersted
Its: General Partner

LESSOR:

COUNTY OF MARIN

By: 
President, Board of Supervisors
By: 
Clerk

UNIT NO. 1

All that certain real property situate in the County of Marin, State of California, being a portion of the former lands of Wright, et al described in deed recorded in Book 385 of Official Records at page 78, Marin County Records, and more particularly described as follows:

Beginning at a concrete monument designated "Y" and described in Book 1336 of Official Records at page 416, Marin County Records; thence from said point of beginning N 76° 34' 00" E 524.80 feet; thence N 30° 20' 30" W 266.86 feet to the TRUE point of beginning of this description; thence from said true point of beginning N 30° 20' 30" W 338.50 feet; thence N 59° 39' 30" E 220.00 feet; thence S 30° 20' 30" E 268.50 feet; thence S 59° 39' 30" W 87.00 feet; thence S 30° 20' 30" E 70.00 feet; thence S 59° 39' 30" W 133.00 feet to the true point of beginning.

RESERVING THEREFROM a non-exclusive easement for the purposes of construction, reconstruction and maintenance of aboveground utilities within a strip of land 5 feet wide lying adjacent to and westerly of the course above described as "S 59° 39' 30" W 133.00 feet". The intent of said aboveground utility easement is to place or attach hoses, fittings or other fixtures appurtenant to the uses of this easement to the exterior walls of the existing or future hangar walls which are or will be adjacent to the above described course.

ALSO RESERVING THEREFROM a non-exclusive easement for the purposes of ingress and egress of fueling trucks, maintenance vehicles and aircraft within a strip of land having a uniform width of 20.00 feet and lying adjacent to and westerly of the course above described as "S 59° 39' 30" W 87.00 feet".

EXHIBIT "1"

ccx
INITIAL
JH/mg



SCALE: 1" = 100'

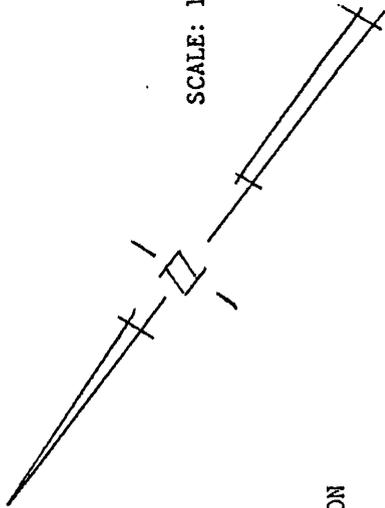
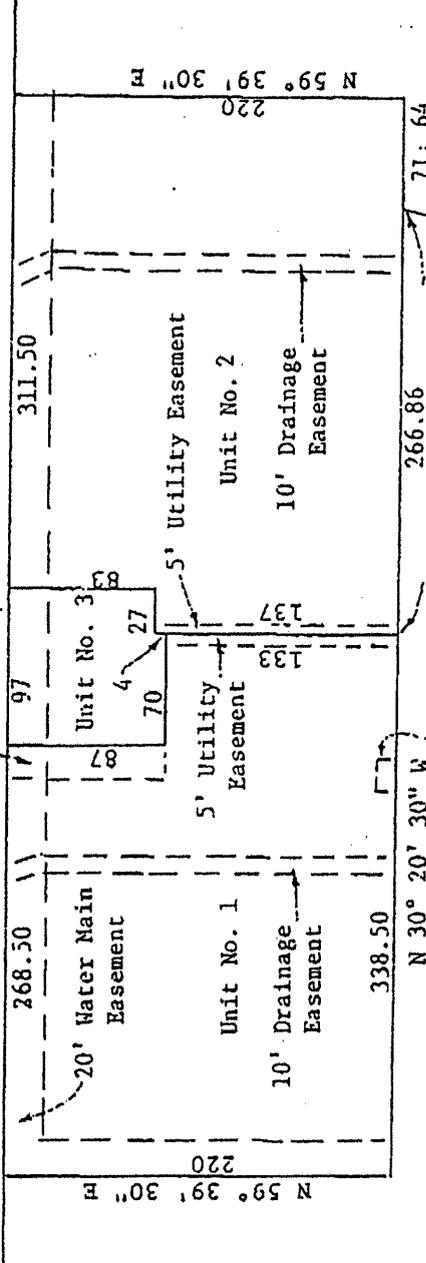


EXHIBIT "2"

AIRCRAFT PARKING APRON

20' Ingress/Egress Easement

S 30° 20' 30" E



10' X 15' Elect. Transformer Easement

N 76° 34' 00" E 524.80

Monument "y"

N 59° 39' 30" E

N 30° 20' 30" W

220

311.50

97

Unit No. 3

27

4

70

5' Utility Easement

Unit No. 1

10' Drainage Easement

220

268.50

338.50

133

137

5' Utility Easement

Unit No. 2

10' Drainage Easement

266.86

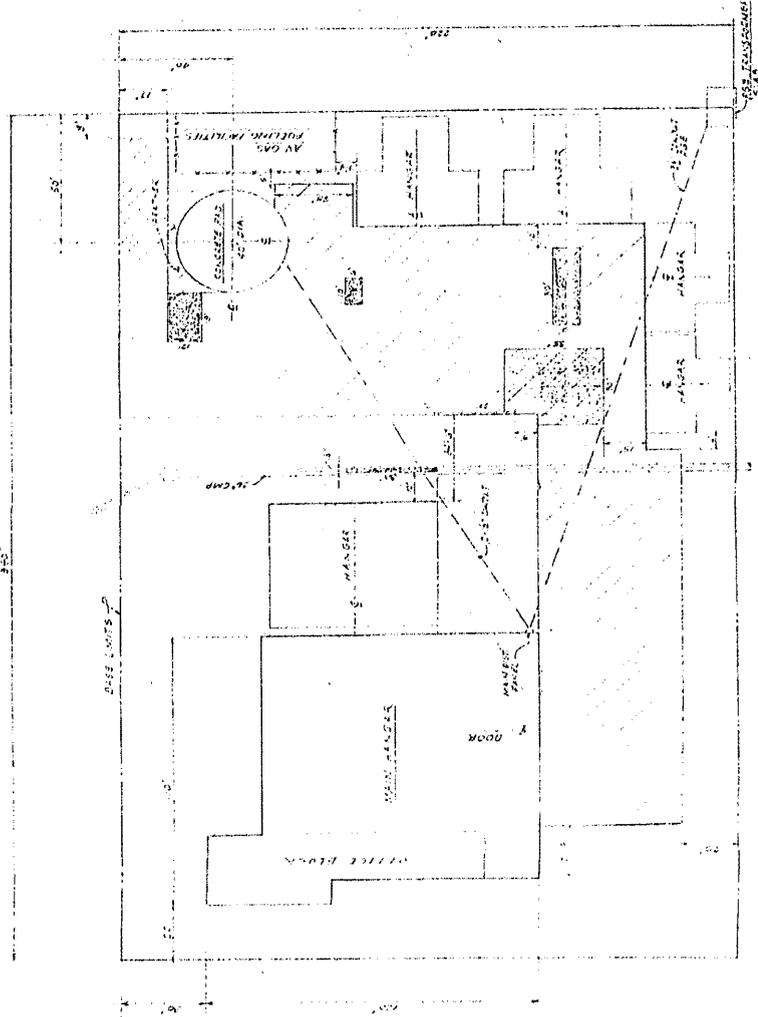
71:64

N 59° 39' 30" E

Not to scale. Original Exhibit "3" attached to Original Third Amendment to Agreement, Marin County Airport (Unit No. 1)

EXHIBIT  INITIALS 

NOTES
 1. ALL FACILITIES INDICATED ARE EXISTING.
 2. ALL DIMENSIONS ARE APPROXIMATE AND MUST BE VERIFIED AT THE SITE.



RECONSTRUCTED FAILURE AREAS
 G. CEMENT TREATED COMPACTED BASE ROCK



1995 PAYING REPAIRS

PROJECT: A.P. 2070
 DATE: 9-8-98
 BY: W. C. ERSTED

ISSUE REVISIONS FOR 1995-2005

EXHIBIT D
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC

Chapter 12.06 - AIRPORT BUSINESS OPERATING STANDARDS

Sections:

12.06.010 - Business operators.

(a) Definitions.

- (1) "Business operator" means a person or entity engaging in any activity (including aeronautical activity) conducted at or out of the airport in which any product or service is exchanged for the purpose of securing earnings, income, compensation (including exchange of service) and/or profit, whether or not such objectives are accomplished.
- (2) "Business operator" includes a person or entity leasing office space at Gness Field or a business operator obtaining a business-operating permit from the airport manager and paying the appropriate permit fees to conduct business at the airport.

(b) Commercial Activity.

A business operator may engage in these activities after complying with the established standards for each activity:

- (1) Aircraft flight training school;
- (2) Aircraft sales;
- (3) Airframe and power plant repair and maintenance;
- (4) Aircraft rental/sightseeing;
- (5) Air taxi/charter service;
- (6) Avionics repair/sales/service;
- (7) Aircraft management service;
- (8) Instrument repair/sales/service;
- (9) Air carrier operations (passenger/mail/freight);
- (10) Aerial photography/survey;
- (11) Aircraft fueling.

Any other activity which, because of its relationship to the operation of aircraft, is regarded by the Federal Aviation Administration or county of Marin to operate in conjunction with an aeronautical activity.

(Ord. 3363 § 1 (part), 2003)

12.06.020 - General provisions.

- (a) Each business operator is expected to operate his or her premise for the use and benefit of the public or if a business operator does not have an office lease at Gness Field to obtain the proper business operating permit from the airport manager prior to conducting business at the airport. This includes:
 - (1) Furnishing quality efficient service adequate to the demand for said services;
 - (2) Furnishing such service on a fair, equal, and non-discriminatory basis to all airport users.
- (b) Business operator, shall at all times, operate under guidelines set forth in Section 14 CFR Part 152.
- (c)

No right or privilege granted a business operator in any way interferes with or prevents any person, firm or corporation operating at Gness Field from performing any services on its own aircraft with its own employees as long as all services are compatible with good housekeeping and safety regulations established by the airport manager.

- (d) All standards shall be subordinate to the provisions of any existing or future agreement the county of Marin and the United States, and the county of Marin and the State of California, relative to operations or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for development of the airport.
- (e) When business operators apply for new lease agreements or new business operating permits, or renewals of existing agreements the following financial standards will apply:
 - (1) Financial stability of a prospective business operator will be evaluated by the county based on financial references, credit rating and funds available for application to the commercial activity applied for, and by demonstrated financial management performance in prior activities. The county of Marin may require a CPA certified financial statement.
 - (2) Business operators are expected to meet their financial obligations to the county by the payable date specified in their agreement. When lease agreements are being considered for extension or renewal, the fact of payment or non-payment by the time specified in the agreement will be a factor for evaluation and the operator's record of payments shall be presented to the board of supervisors at the time the request for renewal or extension is presented.
- (f) All business operators must obtain business licenses/permits/clearances from appropriate county agencies, including airport management, as necessary to conduct business operations on the county airport. They must conform to all applicable federal, state and local laws, ordinances, rules and regulations including but not limited to industrial, building, safety, health, fire and sanitation standards. All business operators must also comply with the county of Marin airports division storm water pollution prevention plan, and the hazardous material business plan.
- (g) Where a business operator is authorized to conduct one or more types of aeronautical activity, multiple uses may be made of the same office space, passenger lounge, public telephones and rest rooms.
- (h) Business operators must keep all buildings and grounds in good repair and in a neat, safe and acceptable condition at all times.
- (i) No business operator may operate a radio station so as to interfere with the airport's unicom communications equipment.
- (j) In the event an existing, approved business operator or other user of the airport fails to comply with the provisions of these operating standards, the county shall send a written statement of violation to such entity/person at its/their last known address. The entity/person shall have ten days within which to provide a statement to the county explaining why the violation occurred and to verify to the county that the violation has been corrected. The county, in its own discretion, has the right to revoke the entities/persons privileges at the airport or may suspend the operations for such period of time, as it deems necessary in order to obtain a correction of the violation or may terminate the entities/persons lease and/or aircraft storage permit. In addition, any such violations shall be a consideration in renewing entities/persons application. The entity/person shall pay for any and all costs incurred by county, including but not limited to attorney fees under this paragraph.
- (k) At the sole discretion of the county of Marin, a financial performance bond may be required of the operator or applicant.

- (l) A business operator operating without an office lease at Gness Field may not have a fixed place of operation or advertise and must work in a tenant's place of business.
- (m) Business operators without an office lease at Gness Field shall pay fifty dollars a month (adjusted annually in January for all urban consumers- Bay Area CPI) for a minimum of six months and pay one percent of gross receipts. A business-operating permit shall not be granted without the three hundred dollar fee. The one percent of gross receipts is due upon expiration of the business-operating permit. A renewal of a business-operating permit shall not be granted without said payment of the one percent receipts.
- (n) Emergency airplane repairs shall be allowed with the approval of the airport manager. Seven days notice to the airport manager is mandatory and the business operator conducting the repairs shall obtain a business-operating permit.
- (o) Business operators without an office lease at Gness Field shall apply to the airport manager for the appropriate business-operating permit. The airport manager, upon appropriate documentation and payment of permit fees from the business operator as specified in this section, shall give said permit within a period of thirty days.
- (p) Any violation of the business-operating permit or business lease shall result in revocation of the permit or lease.

(Ord. 3363 § 1 (part), 2003)

12.06.030 - Standards for aircraft flight training school.

- (a) Must provide aircraft appropriately equipped to level of instruction undertaken or advertised.
- (b) Must lease or sub-lease office and/or classroom space within F.B.O. sites 1 or 2, or space designated by and acceptable to the county. Space in any building or structure other than F.B.O. site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the county and meets all current building, occupancy, safety and fire codes. All office and/or classroom space must meet health requirements relating to public restrooms per Ordinance No. 2842 or later amendment, and have access to public or common use lounge and public telephone; or, if a business operator without an office/classroom lease at Gness Field, shall obtain the appropriate business-operating permit from the airport manager and pay appropriate permit fees.
- (c) Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed. Additionally, maintenance and/or preventive maintenance on aircraft used by flying schools must be done in suitable facilities.
- (d) Must employ at least one properly rated FAA flight instructor.
- (e) Must have at least one aircraft under operator control.
- (f) Hours of operation must be posted for all business operators with an office or classroom lease.
- (g) Must comply with insurance requirements as set forth in Section 12.06.100 of this chapter.

(Ord. 3363 § 1 (part), 2003)

12.06.040 - Standards for airframe and power plant repair and maintenance.

- (a) Must lease or sub-lease space within FBO sites 1 or 2, or space designated by and acceptable to the county including office, shop, hangar and parts storage. Space in a building or structure other than FBO site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the county and meets all current building, occupancy, safety and fire codes. All shop/office space must meet health requirements relating to public rest rooms per Ordinance No. 2842 or later amendment, and have access to public or common use lounge and public telephone; or,

if a business operator without an office, shop, hangar and parts storage lease at Gness Field shall maintain the appropriate business-operating permits with the airport manager and pay appropriate permit fees.

- (b) Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed.
- (c) Must be FAA certified for work performed.
- (d) Must employ at least one FAA certified mechanic.
- (e) Hours of operation must be posted for business operators with an office, shop, hangar and parts storage lease.
- (f) Must meet all applicable fire and safety regulations, with specific reference to those applicable to provisions of fire extinguishers, welding, storage of flammable liquids, doping, spray-painting and paint stripping facilities.
- (g) Must maintain on file with county of Marin waste management department hazardous materials business plan. A hazardous materials permit is required if applicable.
- (h) Must maintain on file with the Marin County airport:
 - (1) Storm water pollution prevention plan permit compliance checklist;
 - (2) Storm water pollution prevention plan permit questionnaire;
 - (3) Storm water pollution plan co-permittee agreement;
 - (4) List of any and all aircraft utilizing tie-downs assigned to the business;
 - (5) List of emergency and after hour telephone contacts.
- (i) Must comply with insurance requirements as set forth in Section 12.06.100 of this chapter.

(Ord. 3363 § 1 (part), 2003)

12.06.050 - Standards for aircraft sales.

- (a) Must lease or sub-lease office space within FBO sites 1 or 2, or space designated by and acceptable to the county. Space in any building or structure other than FBO site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the County and meets all current building, occupancy, safety and fire codes. All office space must meet health requirements relating to public rest rooms per Ordinance No. 2842 or later amendment, and have access to public or common use lounge and public telephone; or, if a business operator without an office lease at Gness Field shall maintain the appropriate business-operating permit with the airport manager and pay appropriate permit fees.
- (b) Must have exclusive use of suitable space on the Marin County airport for display and storage of aircraft for sale. Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed.
- (c) Must employ or contract with at least one person with a current pilot certificate with ratings and currency appropriate to the types of aircraft to be demonstrated.
- (d) Hours of operation must be posted for business operators with an office lease.
- (e) Must comply with the insurance requirements as set forth in Section 2.06.100 of this chapter.

(Ord. 3363 § 1 (part), 2003)

12.06.060 - Standards for air taxi/charter services.

- (a) Must lease or sub-lease office space within FBO sites 1 or 2, or space designated by and acceptable to the county. Space in any building or structure other than FBO site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the county and meets all current building, occupancy, safety and fire codes. All office space must meet health requirements relating to public rest rooms per Ordinance No. 2842 or later amendment, and have access to public or common use lounge and public telephone; or, if a business operator without an office lease at Gness Field must obtain the appropriate business-operating permit from the airport manager and pay the appropriate permit fees.
 - (b) Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed.
 - (c) Lessee must hold an FAA Air Taxi-Commercial Operator Certificate with the appropriate ratings.
 - (d) Must employ at least one pilot, properly certified, holding at least a valid commercial pilot rating.
 - (e) One two-place aircraft meeting all requirements of the Air Taxi/Commercial Operator Certificate must be owned or available under lease agreement, and must meet all the relevant requirements of Part 135 of the FAA Regulations.
 - (f) Hours of operation must be posted for business operators with an office lease.
 - (g) Must comply with insurance requirements as set forth in Section 12.06.100 of this chapter.
- (Ord. 3363 § 1 (part), 2003)

12.06.070 - Standards for radio and avionics sales/repair/service.

- (a) Must lease or sub-lease office and shop space within FBO sites 1 or 2, or space designated by and acceptable to the county. Space in any building or structure located other than FBO site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the county and meets all current building, occupancy, safety and fire codes. All office space must meet health requirements relating to public rest rooms per Ordinance No. 2842 or later amendment, and have access to public or common use lounge and public telephone; or, if a business operator without an office and shop lease at Gness Field shall obtain the appropriate business-operating permit from the airport manager and pay the appropriate permit fees.
 - (b) Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed. Office and shop space shall meet specifications as required for FAA Repair Station Certificate.
 - (c) Operator must hold an FAA Repair Station Certificate appropriate to service rendered.
 - (d) Must employ at least one FAA certified repairman qualified in accordance with the terms of the Repair Station Certificate.
 - (e) Must comply with the insurance requirements as set forth in Section 12.06.100 of this chapter.
- (Ord. 3363 § 1 (part), 2003)

12.06.080 - Standards for commercial aircraft fueling.

- (a) Must lease or sub-lease office space within FBO sites 1 or 2, or space designated by and acceptable to the county. Space in any building or structure other than FBO site 1 or 2 may be leased or sub-leased only if such building or structure received a building permit issued by the county and meets all current building, occupancy, safety and fire codes. All office space must meet health requirements relating to public rest rooms per Ordinance No. 2842 or later amendment, and have access to public or common

use lounge and public telephone. Must lease real property from the county adequate for the installation of two ten thousand gallon minimum capacity fuel tanks and make possible installation of a self-service fueling facility.

- (b) Applicant must demonstrate the adequacy of proposed space, to the satisfaction of the county, for the scope of operation proposed.
- (c) Must provide separate mobile fueling trucks for AVGAS and Jet fuel (A) that meets Department of Transportation, Department of Motor Vehicles and any other applicable regulatory agency criteria. Stationary, unattended card-lock type self-fueling stations may substitute or augment attended fueling service.
- (d) Lessee or sub-lessee must provide an approved training manual for fuel handlers to airport manager. Fuel handlers must receive initial and re-current training annually on the care, operation and routine maintenance of the fueling systems and equipment. Training must also include aircraft fueling safety and hazardous material spill procedures.
- (e) Mobile fuel vehicle operators must possess a valid California driver's license appropriate to the class vehicle operated.
- (f) Must maintain on file with the county of Marin waste management and airport manager a current hazardous materials business plan, a hazardous materials permit, and a fuel storage tank permit.
- (g) Must maintain on file with the Marin County airport:
 - (1) Storm water pollution prevention plan permit compliance checklist;
 - (2) Storm water pollution prevention plan permit questionnaire;
 - (3) Storm water pollution plan co-permittee agreement;
 - (4) List of emergency and after hour telephone contacts.
- (h) Minimum hours of operation: (a) a minimum of nine hours each day during and throughout all seven days each week (excluding Christmas Day) for the period from October 1 to May 31, inclusive, and (b) a minimum of ten hours each day during and throughout all seven days each week for the period from June 1 to September 30, inclusive. In the event self-fueling service is added, the operator and the county may reduce fuel handler hours of attendance to a level mutually acceptable.
- (i) Must furnish, install, and maintain OSHA-approved and county-approved above-ground or below-ground fuel storage tanks as follows: one ten thousand gallon minimum capacity tank for the storage of AVGAS, and one ten thousand gallon tank for the storage of Jet Fuel (A). Both tanks must have overfill and rupture containment provisions adequate to meet current statutes. In the event fuel facility operator ceases operation or attempts to abandon the facility, the facility will be, at the county's sole option, surrendered complete or removed completely and the site returned to an "as presented" pre-installation condition at the operators' expense.
- (j) Must comply with insurance requirements as set forth in Section 12.06.100 of this chapter.

(Ord. 3363 § 1 (part), 2003)

12.06.090 - Other aeronautical non-aeronautical operations.

- (a) As circumstances warrant, other business activities, which because of its relationship to the operation of aircraft is regarded by the FAA or county of Marin as an aeronautical activity or is authorized by the county of Marin to operate in conjunction with an aeronautical activity and is not specifically listed above, will be evaluated for inclusion and standards will be promulgated as required.
- (b) Incidental business activities that do not relate to operation of aircraft such as delivery services or repairs to hangars shall be allowed at Gness Field.

(Ord. 3363 § 1 (part), 2003)

12.06.100 - Insurance requirements.

- (a) Prior to rendering services provided by the terms and conditions of these operating standards and any lease provisions, business operator shall acquire and maintain during the term of business operator's lease/sub-lease at the Marin County airport/Gross Field and at any time that business operator is conducting business at Gross Field, insurance coverage, through and with an insurer acceptable to county, naming the county, the aviation commission, and their officials, employees, and volunteers as additional insured, (hereinafter referred to as (the insurance). The limits of the insurance herein shall not limit the liability of the business operator hereunder.
- (b) The scope, term, condition and minimum liability limits shall be maintained in accordance with the latest revision of the airport insurance limits as set by the county risk manager of the county administrator's office.

(Ord. 3363 § 1 (part), 2003)

EXHIBIT E
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC

**Appendix "A", Insurance Requirements
Gross Field, County of Marin**

- A. Prior to rendering any services provided by the terms and conditions of these Operating Standards and any lease provisions, Business Operator shall acquire and maintain during the term of Business Operator's lease/sub-lease at the Marin County Airport/Gross Field and at any time that Business Operator is conducting business at Gross Field, insurance coverage, through and with an insurer acceptable to County, naming the County, the Aviation Commission, and their officials, employees, and volunteers as additional insureds, (hereafter referred to as "the insurance"). The limits of the insurance herein shall not limit the liability of Business Operator hereunder.
- B. Said policies shall be in effect during the term of Business Operator's lease at the Marin County Airport/Gross Field and at any time the Business Operator is conducting business at Gross Field and shall provide that they may not canceled without first providing County with thirty (30) days written notice of such intended cancellation. If Business Operator fails to obtain and/or maintain the insurance provided herein, the County reserves the right to terminate the lease of the Business Operator.
- C. Minimum Scope of Insurance. Business Operator shall procure insurance covering commercial airport premises, aircraft liability, commercial air operator liability, passenger liability, hangar keeper's insurance, automobile liability and workers' compensation. Coverage shall be at least as broad as:
1. Commercial General Liability covering airport premises (Insurance Services Office (ISO Occurrence form CG 0001 or its equivalent. A non-ISO form must be reviewed by the County prior to acceptance.)
 2. Commercial Air Operator Accident Liability pursuant to Public Utilities Code Section 5500 et. seq.
 3. Aircraft Liability including Passenger Liability insurance as required by the Public Utilities Commission.
 4. Hangar Keeper's Legal Liability Insurance.
 5. Except as provided in F. 5 (b), Commercial Auto Liability covering any auto (code 1) (ISO form CA 0001 or its equivalent and endorsement CA 0029 or its equivalent).
 6. Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.
- D. Other Insurance Provisions. The policy are to contain, or be endorsed to contain, the following provisions:

Commercial General Liability covering airport premises, Commercial Air Operator Accident Liability, Aircraft Liability including Passenger Liability, Hangar Keeper's Legal Liability Insurance and Automobile Liability Coverage. The County of Marin the Aviation Commission and their officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Business Operator; products and completed operations of the Business Operator, and premises owned, leased, hired or borrowed by the Business Operator. The coverage shall contain no special limitations on the scope of protection afforded to the County of Marin, the Aviation Commission and their officials, employees and volunteers.

The Business Operator's insurance coverage shall be primary insurance as respects the County of Marin, the Aviation Commission and their officials, employees and volunteers and any other

insureds under this agreement. Any insurance or self-insurance maintained by the County of Marin, the Aviation Commission and their officials, employees and volunteers or other insureds shall be excess of the Business Operator's insurance and shall not contribute to it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County of Marin, the Aviation Commissions and their officials, employees and volunteers or other insureds under this agreement.

Coverage shall state that the Business Operator's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insured's liability.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.

E. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII if admitted. A non-admitted insurer shall have a Best's rating of not less than A- X.

F. **Minimum limits of insurance:** Business Operators shall maintain limits of no less than:

1. Commercial General Liability Insurance Covering airport premises: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage with a general aggregate limit of \$2,000,000.
2. Commercial Air Operator Accident Liability: Bodily Injury \$100,000 per person and \$300,000 aggregate, Property Damage \$100,000.
3. Aircraft Liability including Passenger Liability: Bodily Injury \$100,000 per person and \$300,000 aggregate, Property Damage \$100,000.
4. Hangar Keeper's Legal Liability Insurance: Minimum limit of \$250,000.
5. Automobile Liability: Subject to the option and agreement of the County, either (a) \$1,000,000 combined single limit per accident for bodily injury or property damage or (b) Personal Automobile Liability limits of \$250,000/\$500,000 bodily injury and \$100,000 property damage.
6. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000.

G. In addition to the above policies, if Business Operator engages a sub-contractor to perform any of the services which Business Operator has been authorized to perform, Business Operator shall require sub-contractor to provide insurance identical to the coverage required under these Operating Standards and shall require sub-contractor to name Business Operator and the County of Marin as additional insureds. Evidence of insurance coverage shall be presented to the airport manager in advance of sub-contractor performing any services on or at the airport. Certificates of Insurance and original endorsements providing such coverage shall be provided to County in advance of sub-contractor performing any services on or at the airport.

H. **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County either (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County or (b) the Business Operator shall procure a bond guaranteeing the payment of losses and related

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investigations, claim administration and defense expenses for the amount of the deductible or self-insured retention.

- I. **Verification of Coverage:** Business Operator shall furnish the County of Marin with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificate and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate and endorsements are to be in forms approved by the County before business operations commence. The County reserves the right to require complete certified copies of all required insurance policies at any time.
- J. Business Operator shall not render services under the terms and conditions of these Operating Standards and any lease or sub-lease within FBO site 1 or 2, or space designated or provided by the County unless each type of insurance coverage and endorsement is in effect and Business Operator has delivered the certificate(s) of insurance and endorsement(s) to County as previously described. Should Business Operator fail to procure and maintain said insurance, County may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by the Business Operator upon demand. The policies of insurance provided herein which are to be provided by Business Operator shall be for a period of not less than one (1) year, it being understood and agreed that ten (10) days prior to the expiration of any policy of insurance, Business Operator will deliver to County a renewal or new policy to take of the place of the policy expiring.
- K. County shall have the right to require such further coverage and/or endorsements on the insurance as County deems necessary, at Business Operator's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to County in its sole and absolute discretion.

EXHIBIT F
TO
STANDARD MULTI-TENANT OFFICE LEASE – GROSS
BY AND BETWEEN
AERO FUEL, INC. dba BEMAC PROPERTY
AND
SPIRIT OF ST. LOUIS 2, LLC



ARBITRATION AGREEMENT

Standard Lease Addendum

Dated March 30, 2016

By and Between (Lessor) AERO FUEL, INC.,
a California corporation dba Bemac Property

(Lessee) SPIRIT OF ST. LOUIS 2, LLC
a Colorado limited liability company

Address of Premises: 351 Airport Road, Novato, California

Paragraph 59

A. ARBITRATION OF DISPUTES:

Except as provided in Paragraph B below, the Parties agree to resolve any and all claims, disputes or disagreements arising under this Lease, including, but not limited to any matter relating to Lessor's failure to approve an assignment, sublease or other transfer of Lessee's interest in the Lease under Paragraph 12 of this Lease, any other defaults by Lessor, or any defaults by Lessee by and through arbitration as provided below and irrevocably waive any and all rights to the contrary. The Parties agree to at all times conduct themselves in strict, full, complete and timely accordance with the terms hereof and that any attempt to circumvent the terms of this Arbitration Agreement shall be absolutely null and void and of no force or effect whatsoever.

B. DISPUTES EXCLUDED FROM ARBITRATION:

The following claims, disputes or disagreements under this Lease are expressly excluded from the arbitration procedures set forth herein: (1) disputes for which a different resolution determination is specifically set forth in this Lease, (2) all claims by either party which (a) seek anything other than enforcement or determination of rights under this Lease, or (b) are primarily founded upon matters of fraud, willful misconduct, bad faith or any other allegations of tortious action, and seek the award of punitive or exemplary damages, (3) claims relating to (a) Lessor's exercise of any unlawful detainer rights pursuant to applicable law or (b) rights or remedies used by Lessor to gain possession of the Premises or terminate Lessee's right of possession to the Premises, all of which disputes shall be resolved by suit filed in the applicable court of jurisdiction, the decision of which court shall be subject to appeal pursuant to applicable law, (4) any claim or dispute that is within the jurisdiction of the Small Claims Court, and (5) all claims arising under Paragraph 39 of this Lease.

C. APPOINTMENT OF AN ARBITRATOR:

All disputes subject to this Arbitration Agreement shall be determined by binding arbitration before: a retired judge of the applicable court of jurisdiction (e.g., the Superior Court of the State of California) affiliated with Judicial Arbitration & Mediation Services, Inc. ("JAMS"); the American Arbitration Association ("AAA") under its commercial arbitration rules, _____

or as may be otherwise mutually agreed by Lessor and Lessee (the "Arbitrator"). In the event that the parties elect to use an arbitrator other than one affiliated with JAMS or AAA then such arbitrator shall be obligated to comply with the Code of Ethics for Arbitrators in Commercial Disputes (see: http://www.adr.org/aaa/ShowProperty?nodeId=/UCM/ADRSTG_003867). Such arbitration shall be initiated by the Parties, or either of them, within ten (10) days after either party sends written notice (the "Arbitration Notice") of a demand to arbitrate by registered or certified mail to the other party and to the Arbitrator. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. If the Parties have agreed to use JAMS they may agree on a retired judge from the JAMS panel. If they are unable to agree within ten days, JAMS will provide a list of three available judges and each party may strike one. The remaining judge (or if there are two, the one selected by JAMS) will serve as the Arbitrator. If the Parties have elected to utilize AAA or some other organization, the Arbitrator shall be selected in accordance with said organization's rules. In the event the Arbitrator is not selected as provided for above for any reason, the party initiating arbitration shall apply to the appropriate Court for the appointment of a qualified retired judge to act as the Arbitrator.

D. ARBITRATION PROCEDURE:

1. **PRE-HEARING ACTIONS.** The Arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations, and narrow the issues. The Parties will submit proposed discovery schedules to the Arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the Arbitrator. The Arbitrator shall have the discretion to order a pre-hearing exchange of information by the Parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties and third-party witnesses. This discretion shall be exercised in favor of discovery reasonable under the circumstances. The Arbitrator shall issue subpoenas and subpoenas duces tecum as provided for in the applicable statutory or case law (e.g., in California Code of Civil Procedure Section 1282.6).

2. **THE DECISION.** The arbitration shall be conducted in the city or county within which the Premises are located at a reasonably convenient site. Any Party may be represented by counsel or other authorized representative. In rendering a decision(s), the Arbitrator shall determine the rights and obligations of the Parties according to the substantive laws and the terms and provisions of this Lease. The Arbitrator's decision shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences therefrom. The Arbitrator may make any determination and/or grant any remedy or relief that is just and equitable. The decision must be based on, and accompanied by, a written statement of decision explaining the factual and legal

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basis for the decision as to each of the principal controverted issues. The decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the court of applicable jurisdiction, subject only to challenge on the grounds set forth in the applicable statutory or case law (e.g., in California Code of Civil Procedure Section 1286.2). The validity and enforceability of the Arbitrator's decision is to be determined exclusively by the court of appropriate jurisdiction pursuant to the provisions of this Lease. The Arbitrator may award costs, including without limitation, Arbitrator's fees and costs, attorneys' fees, and expert and witness costs, to the prevailing party, if any, as determined by the Arbitrator in his discretion.

Whenever a matter which has been submitted to arbitration involves a dispute as to whether or not a particular act or omission (other than a failure to pay money) constitutes a Default, the time to commence or cease such action shall be tolled from the date that the Notice of Arbitration is served through and until the date the Arbitrator renders his or her decision. Provided, however, that this provision shall NOT apply in the event that the Arbitrator determines that the Arbitration Notice was prepared in bad faith.

Whenever a dispute arises between the Parties concerning whether or not the failure to make a payment of money constitutes a default, the service of an Arbitration Notice shall NOT toll the time period in which to pay the money. The Party allegedly obligated to pay the money may, however, elect to pay the money "under protest" by accompanying said payment with a written statement setting forth the reasons for such protest. If thereafter, the Arbitrator determines that the Party who received said money was not entitled to such payment, said money shall be promptly returned to the Party who paid such money under protest together with Interest thereon as defined in Paragraph 13.5. If a Party makes a payment "under protest" but no Notice of Arbitration is filed within thirty days, then such protest shall be deemed waived. (See also Paragraph 42 or 43)

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.

Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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COUNTY ADMINISTRATOR'S OFFICE

2016-18 BUDGET

BOARDS AND COMMISSIONS BIENNIAL REPORT

Please note that this report should reflect accomplishments, goals, initiatives, etc. for the entire two year budget cycle (July 1, 2016 – June 30, 2018). The next time this report will be updated will be for the 2018-2020 budget cycle (July 1, 2018 – June 30, 2020).

Please fill out all sections. Click on the gray boxes where prompted to enter text. Any sections that are not applicable can be notated as "N/A".

I. Commission Name/Title

Aviation Commission

II. Commission Purpose/Mandate

The purpose of the Aviation Commission is to advise and recommend to the Board of Supervisors on matters relating to the Marin County Airport and all other aviation matters.

III. Accomplishments for 2014-16 budget cycle (July 1, 2014 – June 30, 2016)

Continue to update aircraft and insurance documentation for airport tenants.
Relocated the Aviation Commission meetings to the Civic Center and adjusted times to accommodate larger numbers of the community.
Received multiple FAA grants for airport improvement projects totaling seven hundred and eighty-eight thousand dollars (\$788,000.00).
Completed a crack seal and painting project for the runway including new noise abatement signage.

IV. Goals and Key Initiatives for 2016-18 budget cycle (July 1, 2016 – June 30, 2018)

List the Board/Commission's most important goals (up to 5). These goals should be statements that reflect your highest priorities, which may or may not change over time.

Below each goal, list 1-5 key initiatives (activities) that the Board/Commission will be working on that will help make progress toward that particular goal. Typically, initiatives are discrete activities that can be achieved over the course of one or two years.

Goal #1: Review and monitor the County's efforts for the proposed Gness Field runway and

taxiway extension.

2016-18 Key Initiatives for Goal #1

Provide input on the environmental review process (EIS/EIR).
Provide input to staff on the updated aviation forecast and other updated reports as they become available.
Provide input to staff on the Airport Layout Plan update.

Goal #2: Continue to review and monitor safety considerations of aviation activities within the County of Marin

2016-18 Key Initiatives for Goal #2

Support County's effort to complete a Wildlife Hazard Assessment and if needed, a Wildlife Management Plan.
Support the County's efforts to implement the Grand Jury Gness Field recommendations.

Goal #3: Continue to support increased community awareness of the importance of aviation and the Gness Field Airport in approved manners as approved by the Commission

2016-18 Key Initiatives for Goal #3

Review web site information.
Support community groups and youth groups regarding aviation awareness events, such as young Eagles and Static aircraft displays.
Hold Aviation Commission meetings that encourage public participation.

Goal #4: Review and monitor aviation-related business at Gness Field and the County of Marin

2016-18 Key Initiatives for Goal #4

Provide input to potential businesses on airport issues and the airport environment.
Review and recommend ideas on business proposals.
Provide local collective knowledge from pilot Commissioners regarding climate and operating challenges at Gness Field.

Goal #5: Gather and analyze information on the current status of the terms of all new and renewable leases at Gness Field Airport to recommend and update a new leasing policy.

2016-18 Key Initiatives for Goal #5

Gather comparable lease rates from near-by Bay Area airports.
Gather comparable term length leases for comparable hangar space.

Analyze information on current lease expiration dates and renewal options to determine best practices.

V. Key Challenges and Issues

Please list any challenges in achieving your 2016-18 budget cycle goals.

Continue to obtain funding for the Environmental Impact Statement (EIS) and runway extension.

VI. Additional Board/Commission Comments

[Click here to enter text.](#)

VII. Department Comments

If applicable, please provide any comments from the County department that this board/commission works with.

[Click here to enter text.](#)