

RESOLUTION NO. 135-14 (CM)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE APPROVING SECOND AMENDED LEASE AND PERSONAL GUARANTEE FOR A TERM OF TWENTY YEARS WITH TWO (2) ADDITIONAL FIVE-YEAR OPTION TERMS BETWEEN THE CITY OF WATSONVILLE AND MONTEREY BAY AVIATION, INC., A CORPORATION, DBA UNITED FLIGHT SERVICES FOR CITY PROPERTY LOCATED AT 120 AVIATION WAY, WATSONVILLE, CALIFORNIA, AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE SAME

Amends Resolution No. 20-14 (CM)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, AS FOLLOWS:

1. That the Second Amended Lease and Personal Guarantee between the City of Watsonville and Monterey Bay Aviation, Inc., a corporation, dba United Flight Services for City property located at 120 Aviation Way, Watsonville, a copy of which Lease and Personal Guarantee are attached hereto and incorporated herein by this reference, are fair and equitable and are hereby ratified and approved.

2. That the City Manager be and is hereby authorized and directed to execute such Second Amended Lease and Personal Guarantee for the original term, and if properly exercised, the two (2) additional five year option terms for and on behalf of the City of Watsonville.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Watsonville, held on the 14th day of October, 2014, by Member Dodge, who moved its adoption, which motion being duly seconded by Member Montesino, was upon roll call carried and the resolution adopted by the following vote:

AYES: COUNCIL MEMBERS: **Coffman-Gomez, Dodge, Hernandez, Montesino, Cervantez**

NOES: COUNCIL MEMBERS: **None**

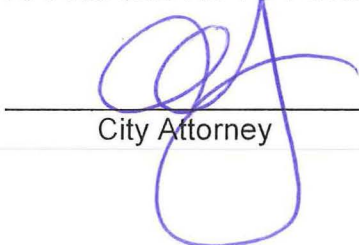
ABSENT: COUNCIL MEMBERS: **Bilicich, Hurst**


Karina Cervantez, Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

**Second Amended Lease Between Monterey Bay Aviation, Inc.
and City of Watsonville for Fixed Base Operation At Watsonville
Municipal Airport**

THIS LEASE made and entered into this 15th day of Oct, 2014, between the City of Watsonville, a municipal corporation, herein called "City", and Monterey Bay Aviation, Inc., a California corporation, doing business as United Flight Services, herein called "Tenant." City and Tenant may be referred to in this Lease as the Parties. Upon execution of this Lease by all parties, all prior leases, guaranties and other written agreements related to occupancy of the Premises shall be null and void, unless expressly stated otherwise in said prior documents.

1. DESCRIPTION.

City hereby leases to Tenant and Tenant hereby hires and takes possession from City all that certain unimproved real property situated at the Watsonville Municipal Airport (Airport) in the City of Watsonville, County of Santa Cruz, State of California, commonly known as 120 Aviation Way, Watsonville, California and more particularly described on Exhibit A and depicted on Exhibit B, on the terms and subject to the conditions as hereinafter set forth. The real property subject to this Lease is hereafter referred to as "Premises" generally, unless otherwise referred to specifically

2. TERM

INITIAL TERM.

The initial term of this Lease shall be for Twenty (20) years, which term shall commence October 15th, 2014 ("Commencement Date"), and expire October 31, 2024, unless sooner terminated or extended under the terms or conditions of this Lease (the "Term").

SURRENDER OF IMPROVEMENTS.

On expiration or termination of the Term, Tenant shall surrender the Premises and the Improvements to Landlord, in good order, condition, and repair, reasonable wear and tear and obsolescence expected. Tenant shall surrender in place and in good order, condition, and repair all trade fixtures, mechanical equipment, machinery, and systems of the Building (i.e., heating, ventilating, air conditioning, electrical, and plumbing systems); except Tenant shall retain title to unattached equipment and furniture owned by Tenant that is not required to operate at the Premises.

Contemporaneous with the expiration or termination of the Term of this Lease, Tenant shall

immediately deliver to Landlord the following:

(a) Such documents, instruments, and conveyances as Landlord may request to enable Landlord's ownership of the Improvements on the Premises to be reflected of record, including, without limitation, a quitclaim deed in recordable form; and

(b) All construction plans, surveys, permits, and other documents relating to the Improvements on the Premises as may be in the possession of Tenant at the time.

All documents and instruments required to be delivered by Tenant to Landlord pursuant to item (a) of this Section shall be in form and content reasonably satisfactory to Landlord. Tenant agrees that on expiration or termination of the Initial Term, any Improvements on the Premises shall become the property of Landlord, free from any liens or claims whatsoever, without any further compensation therefor from Landlord to Tenant or any other person.

OPTION TERMS.

Tenant shall have the option to extend the term of this Lease for five (5) years following the expiration of the Initial Term (the "first option period"). Providing Tenant validly exercises its option for the first option period, it will have the option to, a second time; extend the term of this Lease for an additional five (5) years following the expiration of the first option period.

During the additional option terms, the provisions of this lease shall be applicable except as follows:

(a) The Premises will consist of the real property described in Section 1, above, and any structure erected upon that real property after the effective date of this Lease, as provided in Section 8.

To exercise either option, Tenant must give Landlord written notice of exercise of the option ("Option Notice") no earlier than six (6) months and no later than three (3) months prior to the expiration of the then-unexpired term ("Unexpired Term"). However, if, when giving the Option Notice, Tenant is in default under this Lease, or becomes in default before expiration of the Unexpired Term, and that default or Unexpired Term remains uncured as of the expiration of the Unexpired Term, this Lease shall, at the election of Landlord, terminate as of the expiration of the Unexpired Term.

3. RENT.

(a) Tenant shall pay to City as a minimum Base Rent, subject to adjustment as provided in



Section 3 (d), the sum of One Thousand Seven Hundred Fifty-five Dollars and sixty-seven cents (\$1,755.67) per month commencing November 1, 2014. All rental payments shall be paid per month in advance on the first day of each month, free from all claims and demands against City of any kind or nature or description whatsoever and without deduction or offset, commencing on the date the Initial Term commences, and continuing during the Initial Term. Except as otherwise provided herein, the Base Rent for any period other than twelve (12) full months shall be prorated upon a daily basis based upon a Three Hundred Sixty (360) day year. In addition, if the commencement date of this Lease should occur on a date other than the first day of a month, or if the expiration date of this Lease should occur on a day other than the last day of the month, then the Rent for such fractional month shall be prorated upon a daily basis upon a Thirty (30) day month. All rent shall be paid to City at the address to which notices to City are given. All rent shall be paid to City at the City's Finance Department at 250 Main Street, Watsonville.

LATE PAYMENT PENALTY.

(b) Rent is due on the first day of the month and delinquent if not paid by the tenth (10th) day of the month. A late payment fee of ten percent (10%) of the amount due shall be payable for each and every payment not paid before it becomes delinquent.

SERVICE CHARGE.

(c) Rent not paid within thirty (30) days of its initial due date shall in addition to the Late Payment Penalty, also incur a service charge of one per cent (1%) per month on the unpaid balance accruing as of the thirty-first (31st) day and continuing thereafter until paid.

ANNUAL COST OF LIVING ADJUSTMENT.

(d) The Base Rent provided for above, shall be adjusted on July 1, 2016, and on each anniversary thereof (the "Adjustment Date"), according to any increase in the U.S. Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor - All Urban Consumers ("CPI") for San Francisco All items (based on the standard reference base of 1982-84 equals 100), based on the following formula: Base Rent will be multiplied by the most current CPI preceding the first calendar month during which the adjustment is to take effect, and divided by the most recent CPI preceding the Commencement Date. In no event shall any adjusted Base Rent be less than the Base Rent for the month immediately preceding the adjustment.

END OF INDEX.

(e) If the described Index shall no longer be published, another generally recognized as authoritative index shall be substituted by agreement of the Parties. If they are unable to agree within Thirty (30) days after demanded by either party, the substitute index shall on application of either party be selected by the chief officer of the San Francisco Regional Office of the Bureau of Labor Statistics, or by said officer within Thirty (30) days from the date application is made by either party. The annual Base Rent in effect from and after each and every Adjustment Date shall be appropriately adjusted to reflect any change in the basis of computing the Index by the Bureau of Labor Standards.

RENT ADJUSTMENT TO MARKET RATE-INITIAL TERM.

(f) The rent shall be adjusted at the end of the 5th, 10th and 16th year of this Lease (October 31, 2019, 2024 and 2029) to the then fair market ground rent for similar property in the Santa Cruz County area as the Parties shall agree. Rent shall be adjusted beginning with the first year of the first option period and again for the first year of the second option period.

If the Parties fail to agree on rent, the Parties shall agree upon an experienced appraiser who shall decide the fair market rent which determination shall be binding and final. If the Parties do not agree on an appraiser, either may apply to the Santa Cruz County Superior Court for appointment of an appraiser who shall establish fair market ground rent for similar property in the Santa Cruz County. However established, said rent shall be the rent for the succeeding five years, except that it shall thereafter be adjusted annually for the second, third, fourth and fifth year until it shall again be adjusted to the then fair market ground rent for similar property in the Santa Cruz County.

4. SECURITY DEPOSIT.

On execution of this Lease, Tenant shall deposit the sum of One Thousand Eight Hundred Dollars (\$1,800.00) as security for the faithful performance of the terms, covenants and conditions of this Lease. Interest from the deposit shall not be remitted to the Tenant. If Tenant is in default beyond all applicable notice and cure periods, City can use the security deposit or any portion of it, to cure the default or to compensate City for all damages or loss sustained by City

resulting from Tenant's default if the notice requirements, if applicable, have been observed. Tenant shall immediately, on demand, pay to City a sum equal to the portion of the security deposit expended or applied by City as provided in this Section so as to maintain the security deposit in the sum initially deposited. Upon final accounting by City within Sixty (60) days of the end of the Term of this Lease, any balance of said deposit shall be refunded to Tenant.

5. TAXES.

Tenant shall pay all taxes, assessments and licenses levied, imposed or required by any governmental subdivision, body or authority on or in respect to:

- Any improvement or property placed on the Premises by Tenant or by City with Tenant's permission or by any other person with Tenant's permission.
- The use, occupancy or possessory rights in the Premises. City, pursuant to Section 107.6 of the California Revenue and Taxation Code hereby gives notice that the interest of Tenant in this Lease may be subject to property taxation as a possessory interest. By signing this Lease, Tenant acknowledges that it is aware of such tax and agrees to pay same when due.
- Any business, activity or transaction conducted thereon by Tenant.
- City, county, state or federal licenses(s) required as a result of Tenant's business.

6. UTILITIES.

Tenant shall pay for all water, sewer, gas, heat, light, power, telephone and telecommunication service, garbage and all other services supplied to the Premises by City or public utilities, including installation and connection of such services from the main source thereof. In no event shall City have any liability to Tenant, nor shall Rent abate, in the event of any interruption or discontinuance of any of the aforesaid utilities or services to the Premises.

7. USE OF PREMISES.

(a) Tenant shall establish, maintain and efficiently operate a fixed base operation on the Premises as the term "Fixed Base Operation" is used in the airplane-airport industries, which may include the following:

The wholesale purchase, stocking, retail display, and sales of aircraft and aircraft parts, aircraft radios, radio parts, and equipment and supplies related to the preceding items; the operation of a flight school,

aircraft rental, ground school, air taxi, charter services, and aerial photography; the operation of an aircraft engine, aircraft airframe, and aircraft radio, maintenance and overhaul business; and aircraft washing. Tenant may conduct insurance sales relating to aircraft insurance of all kinds. Tenant may operate vending machines for dispensing food, and beverages. Tenant may allow and charge for temporary "tie down" of up to fifteen (15) aircraft.

Tenant is prohibited from engaging in the following:

(b) The sale of food to or the consumption thereof by the public, except as provided above; 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; Unicorn radio communication with aircraft is a function of the Airport administration and shall not be co-operated by any other business on the Airport; and maintenance on anything other than aircraft, such as automobiles, boats, or other items.

(c) Tenant shall have the right of access to and use of facilities at the Airport designed for common use, such as landing area, aprons, taxiways, flood lights, landing lights, beacons, and other common use facilities supplied by City for convenience and accommodation in operation, landings, and takeoff of such aircraft as such accommodations now or hereafter exist. The rights herein extended to Tenant shall include the right to land, take off, tow, load or unload aircraft. Should access to runways require grading or paving, Tenant shall so grade and pave at its own expense. Such work shall be done only upon prior written approval of the City Department of Public Works and according to its specifications.

8. DEVELOPMENT OF AREA.

(a) Upon execution of this Lease, Tenant may commence certain work on Premises such as clean-up, minor grading, and such work as will not require City approval or Permits. Tenant has supplied, and City has approved, plans for the construction of a structure of approximately fourteen thousand five hundred (14,500) square feet, together with paving and related site improvements, that will be located within the Premises. Tenant shall complete construction of the exterior structure and improvements as provided in the building permit, but not necessarily the interior improvements of the structure, within One Hundred Eighty (180) days of the issuance of a building permit therefore, or the execution of this lease, whichever is later.

(b) The commencement and completion of new construction as provided above is a substantial element and consideration of this Lease, and the commencement and continuance of the Term is expressly

conditioned upon the prompt and successful completion of construction. In the event Tenant fails or refuses to proceed or obtain any required element, step, permit or construction schedule necessary or reasonable for a prompt or successful completion of improvements as above provided, then upon Thirty (30) days written notice by City to Tenant this Lease shall terminate as to that area affected by such failure to proceed. Forfeiture for failure to proceed as scheduled shall have no effect upon a completed area improvement but shall operate as a severance so as to continue with the Term on an area with completed improvements.

(c) Tenant acknowledges that except as otherwise provided in this Lease, Tenant shall comply with the provisions of the City of Watsonville Public Improvement Standards as hereafter adopted by the City Council.

9. CONDITIONS OF MAJOR CONSTRUCTION.

Before the major work of new construction on any area is commenced on the Premises, and before any building materials have been delivered to the Premises by Tenant or under Tenant's authority, Tenant shall comply with all the following conditions or procure City's written waiver of the condition or conditions specified in the waiver:

(a) Deliver to City for City's approval two (2) sets of preliminary construction plans and specifications, and four (4) copies of site plan. City shall not unreasonably disapprove preliminary plans and specifications;

(b) Notify City of Tenant's intention to commence the work of improvement at least fifteen (15) days before commencement of any such work or delivery of any materials. City shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law; and,

(c) Approvals, including, but not limited to or restricted to a grading permit, building permit, zoning and planning requirements, and approvals from various governmental agencies and bodies having jurisdiction.

TENANT SHALL REQUIRE FROM THE CONTRACTOR:

(i) Certificates of insurance evidencing coverage for "Builder's Risk", (ii) evidence of Worker's Compensation Insurance covering all persons employed in connection with the work and with

respect to whom death or bodily injury claims could be asserted against City or the Premises, and (iii) evidence that contractor has paid or caused to be paid all premiums for the coverage described in this sub-paragraph and premiums sufficient to assure maintenance of all insurance during the anticipated course of the work.

10. SOIL CONDITIONS.

City makes no covenants or warranties respecting the condition of the soil or sub-soil or any other condition of the Premises. Tenant may enter onto the land before commencement of work to make soil and structural engineering tests that Tenant considers necessary. All such tests made by or on behalf of Tenant shall be at Tenant's sole expense and shall be evidenced by a separate contract. A copy of the report shall be delivered by Tenant to City.

11. TENANT'S RIGHT TO GRANT EASEMENTS.

Upon receiving all necessary permits and approvals for the new work of improvement, City shall grant to public entities or public service corporations, for the purpose of serving only the Premises, rights of way or easements on or over the Premises for poles or conduits or both for telephone, electricity or water, sanitary or storm sewers or both, and for other utilities or municipal services.

12. NEW CONSTRUCTION COMPLETION DATE.

Once work is begun, Tenant shall with reasonable diligence prosecute all construction of improvements for completion and ready for use; provided however, that the time for completion shall be extended for as long as Tenant shall be prevented from completing the construction by delays beyond Tenant's control; but failure, regardless of cause to commence construction within four (4) months following issuance of a building permit or the execution of this lease, whichever is later, at City's election exercised by Ten (10) days written notice, shall terminate this Lease.

13. PROTECTION OF CITY AGAINST COST OR CLAIM.

Tenant shall pay or cause to be paid the total cost and expense of all works of improvements, as that phrase is defined in the mechanic's lien law in effect at the place of construction when the work begins. No such payment shall be construed as rent. Tenant shall not suffer or permit to be enforced against any improvements located on the Premises or any part of it any mechanic's, material

man's, contractor's, or sub-contractor's lien arising from any work of improvement, however it may arise. However, Tenant may in good faith and at Tenant's own expense contest the validity of any such asserted lien, claim, or demand, provided Tenant has furnished the bond required in California Civil Code Sections 8200 and following. Tenant shall indemnify, hold harmless and defend City against all liability and loss of any type arising out of work performed on the Premises by Tenant, together with reasonable attorney's fees and all costs and expenses incurred by City in negotiating, settling, defending, or otherwise protecting against such claims.

14. OWNERSHIP OF IMPROVEMENTS.

At the end of the term of the Initial Term, all improvements on the Premises shall become City's property free of all claims to or against them by Tenant or any third person, and Tenant shall indemnify, hold harmless and defend City against all liability and loss arising from such claims or from City's exercise of the rights conferred by this paragraph.

15. TENANT'S RIGHT TO REMOVE.

At the normal expiration of the Initial Term or any extension thereof, provided Tenant is not in default, Tenant shall have the right to remove any and all trade fixtures provided all resultant injuries to the Premises and remaining improvements, except for ordinary wear and tear, are completely remedied and Tenant complies with City's reasonable requirements respecting the resultant appearance.

16. NO SUBORDINATION.

City shall not subordinate the fee title to the Premises to any security transaction to enable Tenant to obtain financing for the new improvements. The Premises are now and shall remain free and clear of any liens, encumbrances or other Tenant obligations to third Persons.

17. ALTERATIONS AND ADDITIONS.

Tenant shall not make any alterations or improvements to or erect any additional structures on the Premises without prior written consent of City. Tenant shall provide to City two (2) sets of plans and specifications for any proposed alteration or improvement for review and approval by City. Any alterations or additions approved by City shall be constructed at the sole expense of Tenant.

18. COMPLIANCE WITH RULES, REGULATIONS AND LAWS.

In the use and occupancy of the Premises and in the conduct of all business, activities and transactions thereon, Tenant will comply with all applicable laws, ordinances, rules, regulations and orders of City or any governmental subdivision, body or authority, including all federal, state and municipal laws and ordinances and all rules and regulations of the Federal Aviation Administration and City's rules and regulations concerning the operations of the Airport if Tenant's specific use requires or necessitates such compliance.

19. STORAGE OF MATERIALS, EQUIPMENT.

No materials, supplies, products, equipment or other personal property shall be stored or permitted to remain on any portion of the Airport, outside of the building on the Premises, or on any City approved buildings or structures without City's prior written consent. Tenant may store personal property items, supplies, materials and combustibles inside in a safe, neat and sanitary manner. Tenant shall provide or cause to be provided adequate enclosures, and/or suitable covered metal receptacles within the Premises for the short-term accumulation and storage of solid waste, such as rubbish, trash, garbage, sludge, discarded machinery or parts and any other solid industrial wastes.

20. ENVIRONMENTAL PROTECTION.

20.1 HAZARDOUS SUBSTANCES.

The term "Hazardous Substances," as used in this section, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

20.2 ENVIRONMENTAL PROHIBITIONS.

Tenant shall not cause or permit to occur:



(a) Any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under, or about the Premises, or arising from Tenant's use or occupancy of the Premises, including, but not limited to, soil and groundwater conditions; or

(b) The generation, manufacture, refining, production, processing, or disposal of any Hazardous Substance on, under, or about the Premises, or the transportation to or from the Premises of any Hazardous Substance arising from Tenant's use or occupancy of the Premises except that Tenant may store less than fifty gallons of aviation fuel and commercially reasonable quantities of aviation grade oil packaged for resale, provided such storage and disposal is approved by the Watsonville Fire Department and the Santa Cruz County Department of Environmental Health.

20.3 ENVIRONMENTAL COMPLIANCE.

(a) Tenant shall, at Tenant's expense, comply with all laws regulating the use, generation, storage, transportation, or disposal of Hazardous Substances (the "Laws").

(b) Tenant shall, at Tenant's expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities (the "Authorities") under the Laws.

(c) If any Authority or any third party demands that a clean-up plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the Term, or any extension thereof, at or from the Premises, or which arises at any time from Tenant's use or occupancy of the Premises, then Tenant shall, at Tenant's expense, prepare and submit the required plans and all related bonds and other financial assurances and Tenant shall carry out all work required by such clean-up plans.

(d) Tenant shall promptly provide all information regarding the use, generation, storage, transportation or disposal of Hazardous Substances that is requested by City. If Tenant fails to fulfill any duty imposed under this Section 20.3, within a reasonable time, City may do so; and reasonably in such case, Tenant shall cooperate with City in order to prepare all documents City reasonably deems necessary or appropriate to determine the applicability of the Laws to the Premises and Tenant's use thereof, and from compliance therewith, and, Tenant shall execute all documents promptly upon City's request. No such action by City and no attempt made by City to mitigate damages, under any Law shall constitute a waiver of any Tenant's obligations under this Section 20.3.

Tenant's obligations and liabilities under this Section 20.3 shall survive the expiration or termination of this Lease.

20.4 ENVIRONMENTAL INDEMNITY.

Tenant shall indemnify, defend, and hold harmless City, its agents, employees, successors and assigns, from all fines, suits, procedures, claims, and actions of every kind and all costs associated therewith (including attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the Term, or extension thereof, at or from the Premises during the Term, or extension thereof, which arises at any time from Tenant's use or occupancy of the Premises, or from Tenant's failure to provide all information, make all submissions, and take all actions required by all Authorities under the Laws. Tenant's obligations and liabilities under this Section 20.4 shall survive the expiration or termination of this Lease.

21. TENANT'S DUTY TO REPAIR.

Tenant shall at its own cost and expense keep the Premises and the improvements thereon and appurtenances thereto and every part thereof including, but without limitation, glazing, heating, air conditioning equipment, parking areas, driveways, plumbing, landscaping, roofs, walls, doors and hardware, in as good order, condition and repair as they shall be upon the commencement of the Term of this Lease. If Tenant fails to make or commence any repairs required to be made by it under the provisions of this Lease within Thirty (30) days after notice from City to do so, then City may, at its option (but this provision shall not be deemed to create any obligation on City to do so, nor in any manner affect the obligation of Tenant), enter upon the Premises and repair the same, and the costs and expenses of such repairs, with interest, shall be included in the amount of rental payable on the next succeeding rental date. Tenant waives all rights provided for in Section 1942 of the Civil Code of the State of California, and all rights provided by Section 1941 of said Civil Code, or by any other similar statute or regulations now or hereinafter in effect. By entry onto the Premises, Tenant shall be deemed to have acknowledged that the Premises are in good order and repair and suitable for the uses anticipated. City shall not be liable for any structural defect in the building or for any defect in material or workmanship.

22. HOLDING OVER.

If Tenant shall hold possession of the Premises after the Initial Term, or extension thereof, of this

Lease, Tenant shall become a tenant from month to month at the rental and upon the terms herein specified and shall continue to be such Tenant until the tenancy shall be terminated by City on Thirty (30) day notice or until Tenant shall have given City at least Thirty (30) day notice of Tenant's intention to terminate the tenancy. The provisions of this Lease, so far as applicable, shall govern such tenancy, except that the monthly rent for such tenancy shall be at a rental equal to One Hundred Twenty-Five percent (125%) of the last full month's rental rate.

23. ABANDONMENT.

Tenant shall not vacate or abandon the Premises at any time during the term thereof; if Tenant shall abandon, vacate or surrender the Premises or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Premises shall be deemed to be abandoned and at the option of City shall become City's property free from all claims of Tenant.

24. ASSIGNMENT AND SUBLETTING.

(a) Tenant shall obtain City's written consent before entering into or permitting any Transfer. Any person to whom any Transfer is made or sought to be made is a "Transferee." A Transfer (Transfer) consists of any of the following, whether voluntary or involuntary and whether effect by death, operation of law, or otherwise:

- (1) Any assignment, mortgage, pledge, encumbrance, or other transfer of any interest in this Lease;
- (2) Any sublease or occupancy of any portion of the Premises by any person other than Tenant and its employees, invitees, guests, and agents.

(b) Unless prior written consent of City shall have been obtained, any Transfer, or attempted Transfer, of this Lease or of any interest therein, shall, at the option of the City, terminate this Lease, and any such purported Transfer without such consent shall be null and void.

(c) Before entering into or permitting any transfer, Tenant shall provide to City a written Transfer Notice (Transfer Notice) at least forty-five (45) days before the proposed effective date for the Transfer. Except for items expressly waived by City, the Transfer Notice shall include all of the following:

- (1) Information regarding the proposed Transferee, including the name, address, and ownership of Transferee; the nature of Transferee's business; Transferee's character and reputation; and

Transferee's current financial statements (certified by an officer, a partner, or an owner of Transferee), bank account statements, two years of tax returns, and a detailed business plan acceptable to the City.

(2) All the terms of the proposed Transfer, including the consideration payable by Transferee; the portion of the Premises that are subject to the Transfer (Subject Space); a general description of any planned alterations or improvement to the Subject Space; the proposed use of the Subject Space; the effective date of the Transfer; conditions that limit Transferee's ability to Transfer the Subject Space; and a copy of all documentation concerning the proposed Transfer.

(3) Any other information or documentation reasonably requested by the City.

(d) Tenant may assign all of its rights, title, interests, and obligations under the Lease to a corporation to be formed by Tenant. Said assignment shall be a single event not subject to the provisions of sections 25 and 26. Any Transfer subsequent to this single assignment shall be subject to all the provisions of this paragraph. Upon its single assignment, Tenant shall lodge with the City a certified copy of a resolution of its governing body authorizing the execution of this Lease and naming the officers that are authorized to execute this Lease on behalf of the corporation.

(e) If City consents to any Transfer and does not exercise its rights under Paragraphs 24-26 inclusive, the following limits apply:

- (1) City does not agree to waive or modify the terms and conditions of this Lease.
- (2) City does not consent to any further Transfer by either Tenant or Transferee.
- (3) Tenant remains liable under this Lease and any guarantor of the Lease remains

liable under the guaranty.

(4) Tenant may enter into that Transfer in accordance with this Paragraph if:

- (i) The Transfer occurs within six (6) months after City's consent;
- (ii) The Transfer is on substantially the same terms as specified in the Transfer

Notice; and

(iii) Tenant delivers to City, promptly after execution, an original, executed copy of all documentation pertaining to the Transfer in a form reasonably acceptable to City (including Transferee's agreement to be subject and subordinate to the Lease and to assume Tenant's obligations under the Lease that arise after the date of the Transfer to the extent that they apply to the Subject Space). City shall respond promptly after Tenant requests that City approve the form of the Transfer documentation.

(5) If the Transfer occurs after six (6) months or the terms of the Transfer have materially changed from those in the Transfer Notice, Tenant shall submit a new Transfer Notice under subparagraph (c), requesting City's consent, and the Subject Space shall again be subject to City's rights, if any, under Sections 24-26 inclusive. A material change is one the terms of which would have entitled City to refuse to consent to the Transfer or exercise its rights under Paragraph 24-26 initially.

(f) Reasonable Consent. City may not unreasonably withhold its consent to any proposed Transfer that complies with this Paragraph. Reasonable grounds for denying consent include any of the following:

- (1) Transferee's character, reputation, credit history, or business is not consistent with the character or quality of the Premises;
- (2) Transferee would be a significantly less prestigious occupant of the Premises than Tenant;
- (3) Transferee is either a government agency or an instrumentality of one;
- (4) Transferee's intended use of the Premises is inconsistent with the Permitted Use or will materially and adversely affect City's interest;
- (5) Transferee's financial condition is or may be inadequate to support the Lease obligations of Transferee under the Transfer documents; or
- (6) Transferee does not intend to occupy the entire transferred Premises and conduct business there for a substantial portion of the term of the Transfer.
- (7) The proposed Transfer, by agreement or operation of law, does not contain covenants or conditions against further Transfer by the Transferee without written consent from the City substantially similar to the covenants and conditions in this Lease.

(g) City shall be entitled to reimbursement by Tenant for reasonable fees incurred by City for the processing of any requests for a Transfer by Tenant, including, but not limited to, attorney fees.

(h) As a reasonable condition to City's consent to any Transfer during any Option Term(s), Tenant shall pay to City 100 percent (100%) of any Transfer Premium. Tenant shall pay the Transfer Premium on a monthly basis, together with its payment of Rent under Paragraph 3. Transfer Premium means all Rent and other consideration actually received by Tenant from Transferee (including key money and bonus money and any payment in excess of fair market value for services rendered by Tenant to Transferee or assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in

connection with the Transfer (Transferee Rent), after deducting:

- (1) The Rent payable by Tenant under this Lease (excluding the Transfer Premium) for the Subject Space (Tenant Rent);
- (2) Reasonable leasing commissions paid by Tenant;
- (3) Other reasonable out-of-pocket costs paid by Tenant (including attorney fees, advertising costs, and expenses of readying the Subject Space for occupancy by Transferee); and
- (4) Any consideration paid to Transferee or any third party to induce Transferee to consummate the Transfer.

(i) Tenant may allow, and charge Driscoll's for, storage of an aircraft in the hangar portion of the building described in section 8 (a). Tenant may sublease, to subtenants conducting airport related businesses, the five smallest of the six office spaces, as shown on the plans and improvements described in section 8 (a). Those transfers shall be exempt from Section 24 (h), 25 and Section 26 below. City will allow a reasonable (determined by City) lease assignment to a lender supplying funds for construction of the improvements described in Section 8(a).

25. RIGHT, OF, FIRST REFUSAL.

Despite any other provision of (a) through (h) of Section 24, City has, commencing with the Option Term, the right, by written notice to Tenant (First Refusal Notice) within thirty (30) days after receiving any Transfer Notice, to acquire dominion over the Subject Space by taking an assignment or a sublease of the Subject Space from Tenant. A timely First Refusal Notice creates an assignment or a sublease for the Subject Space for the same terms as the proposed Transfer, effective as of the date specified in the Transfer Notice. If City declines or fails timely to deliver a First Refusal Notice, City shall have no further right under this Section to the Subject Space unless it becomes available again after Transfer by Tenant.

26. OPTION TO TAKE ASSIGNMENT OR SUBLEASE.

(a) Despite any other provision of Section 25, City has, commencing with the Option Term, the option, by written notice to Tenant (Option Notice) within thirty (30) days after receiving a Qualified Transfer Notice, to acquire dominion over the Subject Space by taking an assignment or a sublease of the Subject Space from Tenant. Qualified Transfer Notice means any Transfer Notice with a term of rent or

any other consideration paid by Transferee that exceeds one hundred and five percent (105%) of the Fair Market Rental Value for the Subject Space where the Fair Market Rental Value of the Subject Space shall have been determined, within the six-month (6-month) period prior to the issuance of an Option Notice, under the provisions of subparagraph (b).

(b) The Fair Market Rental Value of a proposed Subject Space shall be determined by a licensed real estate appraiser who has been active in the appraisal of similar properties over the five-year (5-year) period ending on the date the Subject Space is appraised.

(c) Any Option Notice must include the Fair Market Rental Value of the Subject Space. The Fair Market Rental Value stated in the Option Notice shall have been determined, within the six-month (6-month) period prior to the issuance of the Option Notice, under the provisions of subparagraph (b).

(d) A timely Option Notice creates an assignment or a sublease for the Subject Space for the same term as the proposed Transfer, except that rent and other consideration paid by City to Tenant shall be one hundred and five percent 105% of the Fair Market Rental Value, as stated in the Option Notice, for the Subject Space and shall be effective as of the date specified in the Qualified Transfer Notice. If City declines or fails timely to deliver an Option Notice, City shall have no further right under this Paragraph to the Subject Space unless it becomes available again after Transfer by Tenant.

(e) City shall not unreasonably exercise the option described in this section, but City may nevertheless condition the exercise of this option upon the factors listed in subparagraphs (f)(1)-(7) of section 26.

27. SIGNS, POSTERS, BUILDINGS AND TOWERS.

No advertising signs, posters or similar devices shall be erected, displayed or maintained in, on, about or above the Premises or the structures thereon without a sign permit and the written approval of the City Manager. No towers or buildings erected on the Premises shall exceed the height limit fixed by any City zoning ordinance or regulations of the Airport or Federal Aviation Administration. Tenant in its operations shall not unreasonably interfere with the property, interests, operations or activities of the City or of other tenants of the City. Tenant shall not erect any sign, poster or similar devices on, about or above the Premises of a political nature or which endorses a city, state or federal candidate who is running for elected office.

28. WAIVER OF DAMAGES AND INDEMNIFICATION.

City shall not be liable to Tenant for any injury or damage that may result to any person or property by or from any cause whatsoever, except as results from acts of negligence on the part of City, its agents, servants, employees or invitees. Tenant agrees to indemnify, defend and hold City harmless against, any and all claims or liability for any death of or injury to any person or damage to any property, whatsoever, occurring in, on or about the Premises or any part thereof, or occurring in, on or about any other areas of facilities of the building, including without limiting the generality of the foregoing, walkway(s), driveway(s), parking area(s), stairway, or passageways if such death, injury or damage shall be caused in part or in whole, directly or indirectly, by the act, negligence or fault of, or omission of any duty, with respect to the same or by Tenant, its agents, servants, employees or invites.

29. DEFAULT AND BREACH.

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

(a) Any failure by Tenant to pay the Rent or make any other payment required to be made by Tenant under this Lease (when that failure continues for Ten (10) days after written notice of the failure is given by City to Tenant).

(b) The abandonment or vacating of the Premises by Tenant (the absence of Tenant from or the failure by Tenant to conduct business on the Premises for a period in excess of Ten (10) consecutive days shall constitute an abandonment or vacating for purposes of this Lease). Temporary cessation of retail operations for normal vacations by employees is not an abandonment or vacating.

(c) A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, when that failure continues for Ten (10) days after written notice of Tenant's failure is given by City to Tenant; provided, however, that if the nature of that default is such that it cannot reasonably be cured within Ten (10) days, Tenant shall not be deemed to be in default if Tenant commences that cure within the Ten (10) day period and thereafter diligently prosecutes it to completion.

(d) The making by Tenant of any general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, it is dismissed within Sixty (60) days); the appointment of a trustee or receiver to take possession of

substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, when possession is not restored to Tenant within Thirty (30) days; or the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, when that seizure is not discharged within Thirty (30) days.

29.1 TERMINATION OF LEASE AND RECOVERY OF DAMAGES.

In the event of any default by Tenant under this Lease, in addition to any other remedies available to City at law or in equity, City shall have the right to terminate this Lease and all rights of Tenant hereunder by giving written notice of the termination. No act of City shall be construed as terminating this Lease except written notice given by City to Tenant advising Tenant that City elects to terminate this Lease. If City elects to terminate this Lease, City may recover from Tenant:

- (a) The worth at the time of award of any unpaid rent that had been earned at the time of termination of the Lease;
- (b) The worth at the time of award of the amount by which the unpaid rent that would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Tenant proves could have been reasonably avoided;
- (c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Lease after the time of award exceeds the amount of rental loss that Tenant proves could be reasonably avoided; and
- (d) Any other amount necessary to compensate City for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease.

The term "rent" as used in this section shall mean the Fixed Rent, and all other sums required to be paid by Tenant pursuant to the terms of this Lease. As used in subsections (a) and (b) above, the "worth at the time of award" is computed by allowing interest at the rate of one and one-half percent (1.5%) per annum. As used in subsection (c), the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

29.2 CITY'S RIGHT TO CONTINUE LEASE IN EFFECT.

- (a) If Tenant breaches this Lease and abandons the Premises before the natural expiration of the term of this Lease, City may continue this Lease in effect by not terminating Tenant's right to possession



of the Premises, in which event City shall be entitled to enforce all its rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease. For as long as City does not terminate this Lease, Tenant shall have the right to assign or sublease the Premises with the City's prior written consent, which consent shall not be unreasonably withheld.

(b) No act of City, including but not limited to City's entry on the Premises, efforts to re-let the Premises, or maintenance of the Premises, shall be construed as an election to terminate this Lease unless a written notice of that intention is given to Tenant or unless the termination of this Lease is decreed by a court of competent jurisdiction.

29.3 CITY'S RIGHT TO RELET.

If Tenant breaches this Lease, City may enter on and relet the Premises or any part of the Premises to a third party or third parties for any term, at any rental, and on any other terms and conditions that City, in its sole discretion, may deem advisable and shall have the right to make alterations and repairs to the Premises. Tenant shall be liable for all of City's reasonable costs in reletting including, but not limited to, reasonable remodeling costs required for the reletting. If City relets the Premises, Tenant shall pay all rent due under and at the times specified in this Lease, less any amount or amounts actually received by City from the reletting.

29.4 CITY'S RIGHT TO CURE TENANT DEFAULTS.

If Tenant breaches or fails to perform any of the covenants or provisions of this Lease, City may, but shall not be required to, cure Tenant's breach. Any sum expended by City, with the then maximum legal rate of interest, shall be reimbursed by Tenant to City with the next due rent payment under this Lease.

29.5 CUMULATIVE REMEDIES.

The remedies granted to City in this Section 29 shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or provided in this Lease.

29.6 WAIVER OF BREACH.

The waiver by City of any breach by Tenant shall not constitute a continuing waiver or a waiver of any subsequent breach by Tenant either of the same or another provision of this Lease.

30. DISPUTE RESOLUTION.

(a) Mediation. The Parties agree to mediate any dispute or claim arising between them out of this Lease before resulting to arbitration or court action. Mediation shall be conducted by an attorney or retired judge with experience in municipal/business law, either an individual or recognized mediation service in or around Santa Cruz County, for example, JAMS (Judicial Arbitration and Mediation Service). If the Parties cannot agree on a mediator, each party shall nominate one mediator, and the two nominee mediators shall themselves choose a third independent mediator who shall serve as the sole mediator. The mediator fees shall be divided equally between/among the parties involved. If any party commences an arbitration without first attempting to resolve the matter through mediation, or refuses to mediate in good faith after a request has been made, then that party shall not be entitled to recover attorneys' fees, even if fees would otherwise have been available to that party in any such arbitration.

(b) Arbitration. The Parties agree that any dispute or claim, excepting claims by or for non-payment of rent, arising between them out of this Lease, which is not settled through mediation, shall be decided by neutral, binding arbitration. The arbitrator shall be a retired judge or an attorney with experience in municipal/business law, either an individual or recognized arbitration service in or around Santa Cruz County, for example, JAMS (Judicial Arbitration and Mediation Service). If the Parties cannot agree on an arbitrator, each party shall nominate one arbitrator, and the two nominee arbitrators shall themselves choose a third independent arbitrator who shall serve as the sole arbitrator. The arbitration shall be conducted in accordance with the California Arbitration Act, Code of Civil Procedure §1280-1294.2, or any successor statutes. The Parties shall have the right to discovery in accordance with California Code of Civil Procedure §1283.05. Judgment upon the award of arbitrator may be entered in any court having jurisdiction. The arbitrator shall have the power to award attorneys' fees and costs.

31. INSURANCE.

(a) During the Initial Term, and any extension thereof, Tenant, at Tenant's sole expense, shall secure and maintain in force such policies of insurance as will protect it from claims for damages or injury resulting from bodily injury, including death, and for the loss or damage to property of others which may arise from operations of this Lease. Such insurance shall contain statements that: (i) these policies shall also apply to City, as an Additional Named Insured; (ii) the insurance afforded by these policies applies severally as to each insured, except that the inclusion of more than one insured shall not operate to increase

the limit of the company's liability, and the inclusion hereunder of any person or organization as an additional insured shall not affect any right which such person or organization would have as a claimant if not so included; (iii) the insurance shall be primary insurance over any other insurance carried by City, which other insurance shall be considered excess only; (iv) the above policies specifically include coverage indemnifying City as set forth in this Lease; (v) the policies may not be cancelled, nor the coverage reduced until thirty (30) days after a written notice of such cancellation or reduction in coverage is delivered to City at the address contained herein; (vi) the insurance companies named herein waive any and all rights of subrogation against City. Such liability insurance shall be written with limits of at least Three Million Dollars (\$3,000,000.00) combined single limits, and shall be written by companies acceptable to City. The limit of liability insurance coverage shall be adjusted commensurate with inflation and other liability factors upon adoption of resolution of the City Council of City. Certificates of Insurance evidencing the above obligations shall be delivered to City on or prior to commencement of the Term.

(b) Throughout the Initial Term, or any extension hereunder, Tenant, at Tenant's cost, shall cause all improvements on the Premises to be insured against the perils of Fire and Extended Coverage. Such Insurance shall insure on a Blanket basis the value of the Premises and all improvements installed therein either by City or Tenant. Such insurance shall be written on a full replacement cost basis. If City requests, Tenant shall immediately include the holder of any mortgage or deed of trust on the fee as a loss payee to the extent of such holder's security interest. Such insurance shall contain statements that: (i) these policies shall apply to City, as an Additional Named Insured; (ii) the insurance shall be primary insurance over any other insurance carrier by City, which other insurance shall be considered excess only; (iii) the policies may not be cancelled nor the coverage reduced until thirty (30) days after a written notice of such cancellation or reduction in coverage is delivered to City at the address contained herein; (iv) the insurance companies named herein waive any and all rights of subrogation against City. City, at Tenant's cost, shall cooperate fully with Tenant to maximize any recovery following an insured casualty. All policies of fire and extended coverage or other casualty insurance required by this provision shall provide that proceeds thereunder shall be paid to City and Tenant as their interests may appear.

(c) All policies required to be maintained by Tenant pursuant to the terms of this Lease shall be issued by companies authorized to do business in the State of California with a financial rating of "B+" or greater as rated in the most recent edition of Best Insurance Reports. Tenant shall pay premiums therefore and shall deliver annually to City Certificates of Insurance that such policies are in effect and

endorsements. If Tenant fails or refuses to procure or maintain the insurance coverage required hereunder, or fails or refuses to furnish City with proof that coverage has been procured and is in full force and paid for, City shall have the right, at City's election and without notice to Tenant, but without any obligation to do so, to procure and maintain such coverage. Tenant shall reimburse City on demand for any premiums City so pays in connection with such procurement.

Tenant shall not conduct any welding or open flame operations on the Premises, unless the building thereon conforms to the Uniform Building Code and Fire Code.

32. WAIVER OF SUBROGATION.

City hereby releases Tenant, and Tenant hereby releases City, from any and all claims or demands for damages, loss, expense or injury to the Premises, or to the improvements, fixtures and equipment, or personal property or other property of either City or Tenant in, about or upon the Premises or the Airport as the case may be, which is caused by or results from perils, events or happenings which are the subject of insurance carried by the respective Parties and in force at the time of any such loss.

33. LITIGATION EXPENSES.

If either party shall bring an action (which includes arbitration but does not include mediation) against the other by reason of the breach of any covenant, warranty or condition hereof, or otherwise arising out of this Lease, whether for declaratory or other relief, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorney fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Party" within the meaning of this paragraph shall include without limitation a party who brings an action against the other after the other's breach or default, if such action is dismissed upon the other's payment of the sums allegedly due or performance of the covenant's allegedly breached, or if the plaintiff obtains substantially the relief sought by it in the action.

34. SURRENDER OF PREMISES.

Tenant agrees to surrender the Premises at the termination of the tenancy herein created in the same condition as the Premises were in at the beginning of the tenancy, reasonable use and wear thereof and damage by act of God or the elements excepted and except that the premises returned will include the structure and improvements described in Section 8. The voluntary or other surrender of this Lease by

Tenant or a mutual cancellation thereof shall not work a merger, and shall, at the option of City, terminate all or any existing subleases or sub-tenancies, or may, at the option of City, operate as an assignment to City of any or all such sublease or sub-tenancies.

35. WAIVER.

Any waiver, expressed or implied, by either party of any breach by the other party of any agreement, term or condition of this Lease shall not be, or be construed to be, a waiver of any subsequent breach of a like or other agreement, term of condition hereof; and the acceptance of rent hereunder shall not be, or be construed to be, a waiver of any breach of any agreement, term or condition of this Lease, except as to the payment of rent so accepted. The rights and remedies of either party under this Lease shall be cumulative and in addition to any and all other rights and remedies which either party has or may have.

36. QUIET ENJOYMENT.

City covenants and warrants that upon Tenant's paying the rent and observing and performing all of the terms, covenants, and conditions on Tenant's part to be observed and performed hereunder, Tenant shall and may peaceably and quietly enjoy the Premises hereby demised, subject nevertheless to the terms and conditions of this Lease.

37. NOTICES.

All notices, consents, waivers or other communications which this Lease requires or permits either party to give to the other shall be in writing and shall be served personally and forwarded by registered or certified mail, return receipt requested, made upon or addressed to the respective Parties as follows:

To City:

City Clerk
City of Watsonville
275 Main Street, Suite 400
Watsonville, California 95076

To Tenant:

Terrence M. McKenna, Chief Executive Officer
Monterey Bay Aviation, Inc.
120 Aviation Way
Watsonville, California, 95076

or such other address as may be contained in a notice from either party to the other given pursuant to this paragraph. Notice by registered or certified mail shall be deemed to be given forty-eight (48) hours from the time of postmarking if mailed within the United States (excluding Alaska and Hawaii). Rental payments

required by this Lease shall be delivered to City at City's Finance Department, at 250 Main Street, Watsonville.

38. TENANT TO ASSUME ALL UNKNOWN EXPENSES.

Notwithstanding the existence of a provision in this Lease, Tenant shall assume, pay and be obligated for any and all costs and expenses toward the operation, protection, maintenance of the Premises, known or unknown, expressed or unexpressed. It is the intention of the Parties to this Lease that it be a triple net lease to City.

39. CLOSURE OF AIRPORT IN AN EMERGENCY.

During any period when the Airport shall be closed or civil aircraft, grounded by any lawful authority restricting the use of the Airport or civil aircraft in such a manner as to interfere substantially with the use of the Premises by Tenant, the rent payable under this Lease shall abate, and the period of such closure at the option of Tenant shall be added to the term of this Lease. During the time of war or national emergency, City shall have the right to Lease or lend the landing area of the Airport, or any part thereof, to the United States Government or state government for military or naval use, and if such lease or lending is executed and the use thereunder interferes substantially with the use of the Premises by Tenant, the rent shall abate, and this Lease shall be suspended or terminated.

40. MAINTENANCE OF CITY OWNED FACILITIES.

City shall maintain and keep in repair the landing area of the Airport and all publicly owned facilities at the Airport which Tenant shall have the right to use. City shall provide Tenant with reasonable access of City's choosing over a roadway from the Premises to the principal street presently situated on the Airport.

41. RIGHT OF CITY TO ENTER FOR INSPECTION.

City shall have the right to enter upon the Premises at all reasonable times during the Initial Term and any extension thereof, of this Lease for the purpose of making any inspection it may deem expedient to the proper enforcement of this Lease. City may enter upon the Premises for the purpose of exercising any or all of the foregoing rights and the rights described in provision without being deemed guilty of an eviction or disturbance of Tenant's use or possession and without being liable in any manner to Tenant.



42. OTHER OPERATIONS.

It is understood that the Fixed Base Operation(s) authorized at the Airport by this Lease are not given to Tenant exclusively but may be given to any other Tenant at the Airport at the sole discretion of the City.

43. CONDEMNATION.

If the whole or any substantial part of the Premises shall be taken by any paramount public authority under the power of eminent domain then the term of this Lease shall cease as to the part so taken from the day the possession of that part shall be taken for any public purpose, and from that day Tenant shall have the right either to cancel this Lease or to continue in the possession of the remainder of the Premises under the term herein provided, except that the square foot rental shall be reduced in proportion to the amount of the Premises taken. Damages awarded for such taking shall be apportioned between City and Tenant in a ratio relating to the number of years expired and remaining in the Term between City and Tenant respectively; provided, however, that City shall not be entitled to any portion of the award made for loss of business installation or improvements belonging to Tenant.

44. FENCING AND CLOSURE OF GATES.

Tenant shall install at its sole expense a chain link fence at least three (3) foot high, together with gates therein, in order to maintain security and to prevent vehicles from entering the taxi and runway areas of the airport. Tenant shall close and lock all gates admitting access to the Premises during the non-business hours of Tenant's business operation.

45. NONDISCRIMINATION.

(a) Tenant hereby covenants that Tenant in its use of the Premises and any and all structures, buildings and improvement located thereon shall conduct the Fixed Base Operation(s) or any other activity hereafter authorized by City on the Premises on a non-exclusive and nondiscriminatory basis in all respects with regard to any person, firm or group of persons. Tenant shall not act in any manner prohibited by Part 15 of the Federal Aviation Regulations and further agrees to be nondiscriminatory also with respect to price or cost of services of goods and in every other fashion.

(b) The Tenant, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration for this Lease, does hereby covenant and agree as a covenant



running with the land that If facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

(c) The Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby further covenant and agree as a covenant running with the land that:

(a) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of facilities; (b) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; (c) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

(d) Tenant shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers. Tenant shall insert the provisions of this paragraph in any lease agreement or contract by which Tenant grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises.

REMEDY FOR DISCRIMINATION.

(e) Non-compliance with paragraph 49 shall constitute a material breach thereof and in the event of such non-compliance. City shall have the right to terminate this Lease and the estate hereby created without liability therefore or at the election of the City or the United States either or both Governments shall have the

right to judicially enforce paragraph 49. City shall have the right to take such action against the Tenant as the United States Government may direct or request to enforce the terms of the preceding paragraph on behalf of the United States Government or on behalf of any of its citizen or the City itself. In the event of breach of any of the nondiscrimination covenants identified in the preceding paragraph, City shall have the right to terminate this Lease and to reenter and repossess the Premises and the facilities thereon, and hold the same as if this Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

46. AFFIRMATIVE ACTION.

Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by such subpart. Tenant assures that it will require that its covered sub organizations provide assurances to the Tenant that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

47. AIRPORT DEVELOPMENT.

City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Tenant and without interference or hindrance.

48. RESERVATION OF RIGHT.

City reserves the right, but shall not be obligated to Tenant to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Tenant in this regard.

49. SUBORDINATION TO FUTURE AGREEMENTS.

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation or maintenance of the Airport.

50. NOTICE TO FEDERAL AVIATION ADMINISTRATION.

Tenant shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event of future construction of a building planned for the Premises, or of any planned modification or alteration of any present or future building or structure situated on the Premises.

51. NON-EXCLUSIVE RIGHT.

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

52. BINDING EFFECT.

This Lease shall be binding upon and inure to the benefit of City and City's successors and assigns. This Lease shall be binding upon and inure to the benefit of Tenant and Tenant's heirs, legal representatives, successors and permitted assigns.

53. EXHIBITS.

All Exhibits attached to this Lease are made a part of this Lease and incorporated by this reference to this Lease.

54. ENTIRE AGREEMENT.

This Lease sets forth all the covenants, promises, assurances, agreements, representations, conditions, warranties, statements and understandings (collectively, the "Representations") between City and Tenant concerning the Premises, and there are no other Representations, either oral or written, between them. This Lease supersedes and revokes all previous negotiations, arrangements, letters of intent, offers to lease, reservations of space, lease proposals, brochures, representations and information conveyed, whether oral or in writing, between the Parties or their respective representatives or any other person purporting to represent City or Tenant. Tenant acknowledges that it has not been induced to enter into this Lease by any Representations, it has not relied on any such Representations, no such Representations shall be used in the interpretation or construction of this Lease and City shall have no liability for any consequences arising as a result of any such Representations. No subsequent alteration,



amendment, change or addition to this Lease shall be binding upon City or Tenant unless in writing signed by both Parties.

55. COUNTERPARTS.

This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Confirmation of execution by telefax of a signature page shall be binding upon any party so confirming.

56. NO ACCORD.

No payment by Tenant or receipt by City of a lesser amount than any installment or payment of Rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of Rent shall be considered an accord and satisfaction, and City may accept such check or payment without prejudice to City's right to recover the balance of such installment or payment of Rent or pursue any other remedies available to City. No receipt of money by City from Tenant after the termination of this Lease or Tenant's right to possession of the Premises shall reinstate, continue or extend the Term, or extension thereof. City may allocate payments received from Tenant to outstanding account balances of Tenant under this Lease in the manner determined by City and City shall not be bound by any allocations of such payments made by Tenant by notation or endorsement on checks or otherwise.

57. BROKERS.

Both City and Tenant represent to each other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease and that they know of no real estate broker or agent who is entitled to a commission or finder's fee or equivalent in connection with this Lease. Each party agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, liabilities, actions, costs and expenses (including reasonable attorneys' fees) for any other brokerage commissions, finder's fees or equivalent compensation arising out of this transaction resulting from such indemnifying party's acts. The terms of this Section 58 shall survive the expiration or earlier termination of this Lease.

58. NO WAIVER.

The receipt by City of any Rent with knowledge of the breach of any covenant of this Lease by Tenant shall not be deemed a waiver of such breach or any subsequent breach of this Lease by Tenant and no provision of this Lease and no breach of any provision of this Lease shall be deemed to have been waived by City unless such waiver be in writing signed by City.

59. CAPTIONS.

Section captions in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such Sections.

60. APPLICABLE LAW.

This Lease shall be construed in accordance with the laws of the State of California.

61. TIME.

Time is of the essence of this Lease and the performance of all obligations under this Lease.

62. SEVERABILITY.

If any clause, phrase, provision or portion of this Lease or the application of same to any person or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Lease, nor any other clause, phrase, provision or portion of this Lease, nor shall it affect the application of any clause, phrase, provision or portion of this Lease to other persons or circumstances.

63. NO CONSTRUCTION AGAINST DRAFTER.

No construction, interpretation, inference, nor presumption shall arise against, nor prejudice, the drafter hereof, nor any party for whom such a drafter is an agent by reason of being such drafter hereof.

64. NO MERGER.

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not result in a merger of City's and Tenant's estates, and shall, at the option of City, either terminate any

or all existing subleases or sub tenancies, or operate as an assignment to City of any and all of such subleases and sub tenancies.

65. PREPARATION OF LEASE.

This Lease was prepared by Grunsky, Ebey, Farrar & Howell, Attorneys at Law, on behalf of the City. Tenant has not been represented by or received legal advice from Grunsky, Ebey, Farrar & Howell, and acknowledges that it has been represented by attorney Richard Manning, Esq., in this matter.

66. PERSONAL GUARANTY.

The Parties agree that Joyce A. Ross and Terrence M. McKenna will personally guaranty Tenant's obligations hereunder in the form attached hereto as Exhibit "C".

IN WITNESS WHEREOF, the Parties hereto have executed this Lease the day and year first above written.

"City"


City of Watsonville,
a municipal corporation

By: _____



Carlos J. Palacios, City Manager

"Tenant"

Monterey Bay Aviation, Inc.,
a California corporation, doing business as United
Flight Services


Terrence M. McKenna, its Chief Executive Officer

Attest:


Beatriz V. Flores, City Clerk


Joyce A. Ross, its Chief Financial Officer

Approved As To Form:

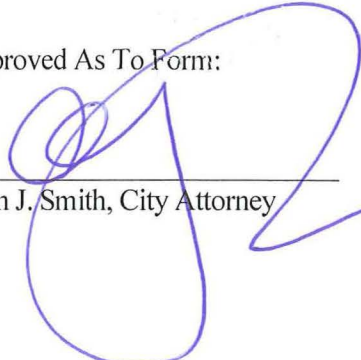

Alan J. Smith, City Attorney

EXHIBIT A

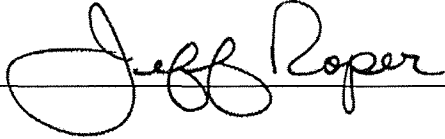
SITUATED in the City of Watsonville, County of Santa Cruz, State of California, and being a portion of the lands conveyed to the City of Watsonville by deeds recorded in Volume 471, Page 497, Official Records of Santa Cruz County and in Volume 666, Page 505, Official Records of Santa Cruz County, and being more particularly described as follows:

BEGINNING at a point from which a City of Watsonville brass disk stamped W-20, as shown on the record of survey recorded in Volume 115 of Maps at Page 7, bears South 1°02'43" West 932.99 feet distant; thence from said point of beginning

1. North 2°43'38" West 39.58 feet; thence
2. North 41°33'54" West 39.16 feet; thence
3. North 2°43'38" West 47.25 feet; thence
4. South 87°16'22" West 79.66 feet; thence
5. North 2°43'38" West 154.17 feet; thence
6. North 88°43'06" East 318.40 feet; thence
7. South 1°14'53" East 111.57 feet; thence
8. South 89°00'00" West 28.64 feet; thence
9. South 1°00'00" East 37.99 feet; thence
10. South 87°16'22" West 41.22 feet; thence
11. South 2°43'38" East 45.25 feet; thence
12. South 87°16'22" West 12.71 feet; thence
13. South 2°43'38" East 43.54 feet; thence
14. South 29°43'31" East 13.66 feet to a point from which a brass disk stamped W-515, as shown on the record of survey recorded in Volume 115 of Maps at Page 7, bears North 89°20'16" East 525.12 feet distant; thence
15. South 55°02'46" West 61.71 feet; thence
16. North 28°07'07" West 21.08 feet; thence
17. South 87°16'22" West 72.46 feet to said point of beginning.

Containing 1.47 acres, more or less.

Compiled by Roper Engineering, Job No. 09019, November 2013



11-25-13

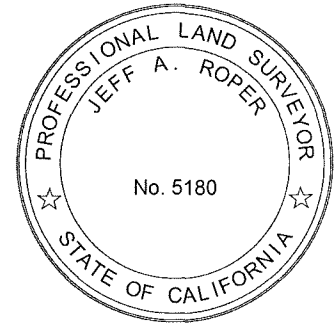
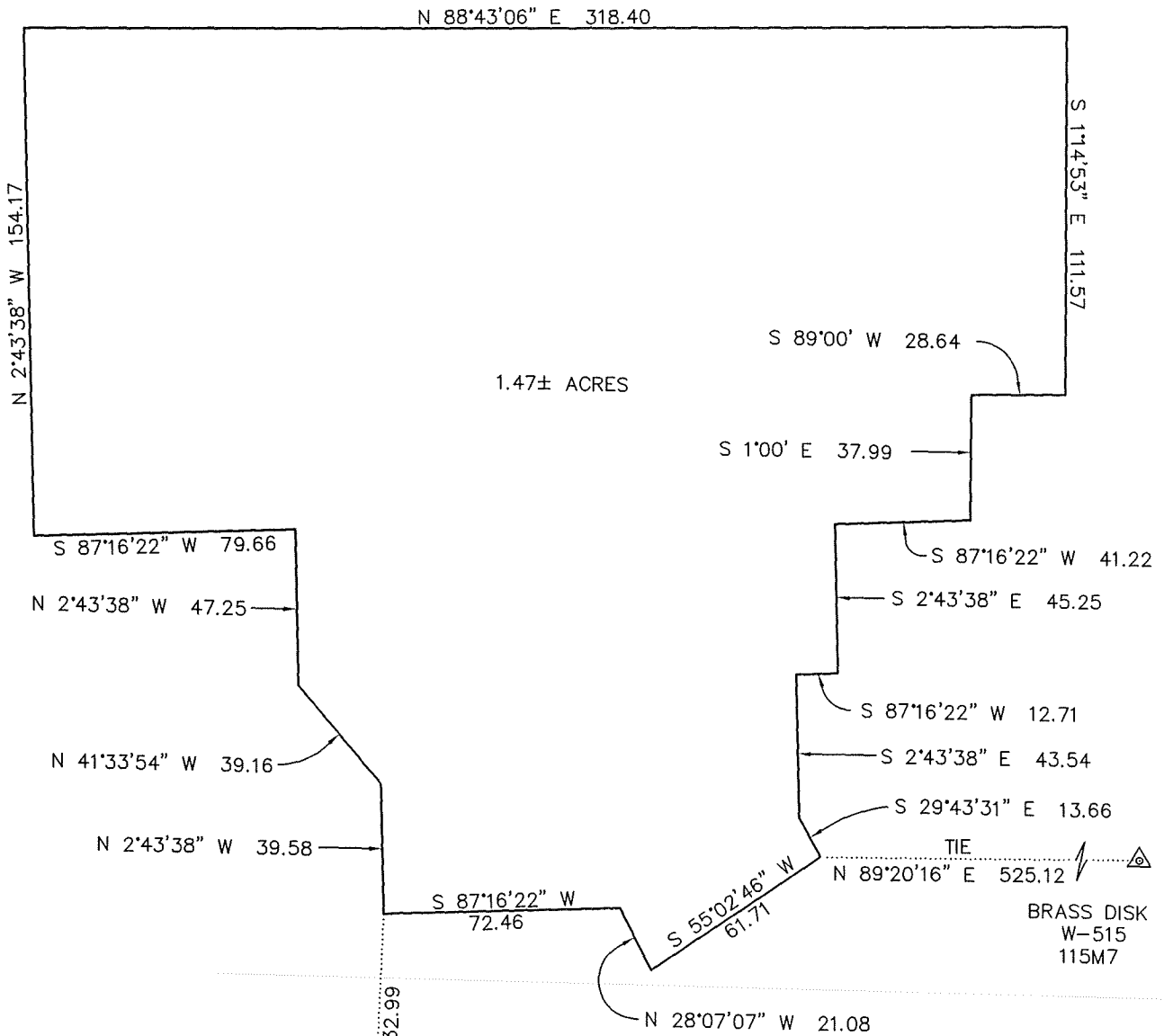




EXHIBIT B



SCALE: 1"=50'

0 25 50 100

FEET

DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF



EXHIBIT C

Personal Guarantee

This Personal Guaranty ("Guaranty") dated as of March 1, 2014, is entered into between JOYCE A. ROSS and TERRENCE M. MCKENNA, (collectively "Guarantor") in favor of CITY OF WATSONVILLE, a municipal corporation ("City").

RECITALS

A. WHEREAS, City has entered into a lease ("Lease") dated October ____, 2014 with Monterey Bay Aviation, Inc., a California corporation, doing business as United Flight Services ("Company") for the premises located at Watsonville Municipal Airport (Airport) in the City of Watsonville, County of Santa Cruz, State of California, more particularly described on Exhibit A and depicted on Exhibit B of said Lease, on the terms and subject to the conditions as hereinafter set forth.

B. WHEREAS, City will consent to the Lease only upon receiving the personal guaranty from the Guarantor guaranteeing the obligations of Company under the Lease;

ACCORDINGLY, in consideration of the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

1. Guaranty.

1.1 *Guaranty of Obligations.* Guarantor unconditionally, absolutely and irrevocably guarantees and promises to pay to City, on demand, in lawful money of the United States of America and in immediately available funds, any and all indebtedness and obligations (hereinafter collectively, the "Guaranteed Obligations") of Company to City under the Lease or agreement, or other document or instrument entered into by Company (hereinafter collectively, the "Documents") or otherwise. The term "Guaranteed Obligations" is used herein in its most comprehensive sense and includes any and all debts, obligations and liabilities of Company to City (including, without limitation, any and all attorneys' fees, expenses, costs, premiums, charges and accrued and unpaid interest, including interest that, but for the filing of a petition in bankruptcy, would have accrued on the Guaranteed Obligations) now existing or hereafter incurred or created, whether voluntarily or involuntarily, and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, whether Company may be liable individually or jointly with others, whether recovery upon such indebtedness may be or hereafter becomes barred by any statute of limitations or whether such indebtedness may be or hereafter becomes otherwise unenforceable, and includes Company's prompt, full and faithful performance, observance and discharge of each and every term, condition, agreement, representation, warranty, undertaking and provision to be performed by Company under the Documents or otherwise. Guarantor agrees that this Guaranty constitutes a guaranty of payment when due and not of collection.

1.2 *Continuing Guaranty.* This Guaranty is a continuing guaranty of the Guaranteed Obligations, including any and all Guaranteed Obligations which are renewed, extended, compromised, refinanced or restructured from time to time. This Guaranty shall remain effective

until the Guaranteed Obligations have been fully paid, performed and discharged as provided in Section 8 and City has given written notice of that fact to Guarantor.

1.3 *Independent Obligations.* Guarantor agrees that it is directly and primarily liable to City, that its obligations hereunder are independent of the Guaranteed Obligations and that a separate action or actions may be brought and prosecuted against Guarantor, whether action is brought against Company or whether Company is joined in any such action or actions. Guarantor agrees that any releases which may be given by City to Company or any other guarantor or endorser shall not release it from this Guaranty.

2. Indemnity.

2.1 *Indemnity.* In addition to the payment of expenses pursuant to Section 9.1, Guarantor agrees to indemnify, defend, exonerate, pay and hold City (the "Indemnitee") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, causes of action, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, the fees and disbursements of counsel and expert witness fees and disbursements) for such Indemnitees in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnitee shall be designated a party thereto, that may be imposed on, incurred by or asserted against such Indemnitee, in any manner relating to or arising out of or in connection with this Guaranty (the Indemnified Liabilities). Notwithstanding the foregoing, Indemnified Liabilities shall not include liabilities, obligations, losses, damages, penalties, actions, causes of action, judgments, suits, claims, costs, expenses and disbursements to the extent caused by or resulting from the willful misconduct or gross negligence of such Indemnitee.

2.2 *Notice.* Indemnitee will promptly notify Guarantor of each event of which it has knowledge that may give rise to a claim under this Section 2.

2.3 *Defense of Actions.* If any investigative, judicial or administrative proceeding arising in connection with any of the Indemnified Liabilities is brought against any Indemnitee indemnified or intended to be indemnified pursuant to this Section 2, Guarantor, to the extent and in the manner directed by the Indemnitee or intended Indemnitee, will resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Guarantor (which counsel shall be satisfactory to the Indemnitee or intended Indemnitee). Each Indemnitee will use its best efforts to cooperate in the defense of any such action, suit or proceeding. To the extent that the undertaking to indemnify, pay and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, Guarantor shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under applicable law.

3. Consents by Guarantor.

3.1 *Consents.* Guarantor hereby authorizes City, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to:

(a) *Changes in Terms.* Renew, compromise, extent, refinance, accept partial payments, accelerate or restructure the Guaranteed Obligations or otherwise change the time for

payment or the terms of any of the Guaranteed Obligations, or any part thereof, including, without limitation, increasing or decreasing the rate of interest thereof;

(b) *Amendment of Documents.* Enter into any waiver, amendment, rescission or modification of any of the terms or provisions of the Documents or any agreement or document executed in connection therewith concerning City's rights with respect to Company under the Lease or other Documents;

(c) Waive, amend or fail to enforce any other provision of the Lease;

(d) *Liquidation of Guaranteed Obligations.* Settle, release, compromise, collect or otherwise liquidate the Guaranteed Obligations, or any part thereof, and any security or collateral therefor in any manner as City may determine in its sole discretion;

(e) *Collateral.* Take and hold collateral to secure the payment of the Guaranteed Obligations and exchange, enforce, waive and release any such collateral, and apply such collateral and direct the order or manner of sale thereof as City in its sole discretion may determine;

(f) *Releases.* Release or substitute any one or more endorser(s) or other guarantor(s); and

(g) *Assignment.* Assign, without notice, this Guaranty in whole or in part and City's rights hereunder to any one at any time.

3.2 *Non-Release of Guarantor.* Guarantor agrees that City may do any or all of the foregoing in such manner, upon such terms, and at such times as City, in its sole discretion, deems advisable, without, in any way or respect, impairing, affecting, reducing or releasing Guarantor from its undertakings hereunder and Guarantor hereby consents to each and all of the foregoing acts, events and occurrences.

4. Waivers.

4.1 *Defenses.* Guarantor hereby waives any right to assert against City as a defense, counterclaim, setoff or cross-claim, any defense (legal or equitable), counterclaim, setoff or cross-claim which Guarantor may now or at any time hereafter have under applicable law, rule, arrangement or relationship against Company, City or any other party. Guarantor waives all defenses, counterclaims and setoffs of any kind or nature arising, directly or indirectly, from the present or future lack of perfection, sufficiency, validity or enforceability of the Documents or any security interest thereunder.

4.2 *Election of Remedies.* Guarantor hereby waives any defense arising by reason of any claim or defense based upon an election of remedies by City, which in any manner impairs, affects, reduces, releases, destroys or extinguishes Guarantor's subrogation rights, rights to proceed against Company for reimbursement, or any other rights of Guarantor to proceed against any other person or security, including, but not limited to, any defense based upon an election of

remedies by City under the provisions of Section 580(d) of the California Code of Civil Procedure, or any similar law of California or of any other state, or of the United States.

4.3 *Presentment, Demand and Notice.* Except as provided in Section 2.2, Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protests, notices of dishonor, notices of default, notice of acceptance of this Guaranty, diligence, and notices of the existence, creation or incurrence of the Guaranteed Obligations or of new or additional Guaranteed Obligations incurred or created after the date of this Guaranty, and all other notices or formalities to which Guarantor may be entitled under applicable law.

4.4 *Remedies Against Company.* As a condition to payment or performance by Guarantor under this Guaranty, City shall not be required to, and Guarantor hereby waives any and all rights to require City to, prosecute or seek to enforce any remedies against Company or any other party liable to City on account of the Guaranteed Obligations or to require City to seek to enforce or resort to any remedies with respect to any security interests, liens or encumbrances granted to Company by City or any other party on account of the Guaranteed Obligations. This waiver includes but is not limited to an express waiver of the rights created by Section 2845 and relevant case law.

4.5 *Subrogation Rights.* Guarantor shall have no right of subrogation, reimbursement, exoneration, contribution or any other rights that would result in Guarantor being deemed a creditor of Company under the federal Bankruptcy Code or any other law. Guarantor irrevocably waives all such rights, the right to assert any such rights and any right to enforce any remedy which City now or may hereafter have against Company and hereby irrevocably waives any benefit of and any right to participate in, any security now or hereafter held by City, whether any of the foregoing rights arise in equity, at law or by contract.

5. Subordination.

Any and all present and future debts and obligations of Company to Guarantor are hereby postponed in favor of and subordinated to the full payment and performance of all present and future debts and obligations of Company to City. Any instruments now or hereafter evidencing any indebtedness of Company to Guarantor shall be marked with a legend that the same are subject to this Guaranty and, if City so requests, shall be delivered to City. Upon the liquidation, bankruptcy, or distribution of any of Company's assets, Guarantor shall assign to the City all of Guarantor's claims on account of such indebtedness so that City shall receive all dividends and payments on such indebtedness until payment in full of the Guaranteed Obligations. This Section 5 shall constitute such an assignment if Guarantor fails to execute and deliver such an assignment. All monies or other property of Guarantor at any time in City's possession may be held by City as security for any and all obligations of Guarantor to City, now existing or hereafter arising, whether absolute or contingent, whether due or to become due, and whether under this Guaranty or otherwise. Guarantor also agrees that City's books and records showing the account between City and Company shall be admissible in any action or proceeding and shall be binding upon Guarantor for the purpose of establishing the terms set forth therein and shall constitute prima facie proof thereof.



6. Financial Condition of Company.

Guarantor is presently informed of the financial condition of Company and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Guaranteed Obligations. Guarantor hereby covenants that it will continue to keep itself informed of Company's financial condition and of all other circumstances which bear upon the risk of nonpayment. Absent a written request for such information by Guarantor to City, Guarantor hereby waives its right, if any, to require, and City is relieved of any obligation or duty to disclose to Guarantor any information which City may now or hereafter acquire concerning such condition or circumstances.

7. Representations and Warranties.

Guarantor represents and warrants to City that the following statements are true, correct and complete as of the date of this Guaranty:

(a) *Authorization.* This Guaranty has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor enforceable in accordance with its terms.

(b) *No Conflict.* Neither the execution and delivery of this Guaranty nor the fulfillment of or compliance with the terms and conditions of this Guaranty conflicts with or shall result in a breach of the terms, conditions or provisions of any agreement or instrument to which Guarantor is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Guarantor under the terms of any instrument or agreement or violates any provision of law or any order of any court or other agency of government.

(c) *No Actions or Proceedings.* There is no pending or threatened suit or proceeding affecting Guarantor before any court, governmental agency, or arbitrator which might affect the enforceability of this Guaranty or the business, operations, assets or condition of Guarantor.

(d) *Adequate Consideration.* The consideration given or provided, or to be given or provided, by City in connection with this Guaranty is adequate and satisfactory in all respects to support this Guaranty and Guarantor's obligations hereunder.

8. Termination of Guaranty.

Except as set forth in Section 9, Guarantor's obligations under this Guaranty shall continue in full force and effect and this Guaranty shall not terminate until the Guaranteed Obligations are fully paid, performed and discharged and City gives Guarantor written notice of that fact. The Guaranteed Obligations shall not be considered fully paid, performed and discharged unless and until all payments by Company to City are no longer subject to any right on the part of any person whomsoever, including, but not limited to, Company, Company as a debtor-in-possession, or any trustee or receiver in bankruptcy, to set aside such payments or seek to recoup the amount of such payments, or any part thereof. The foregoing shall include, by way of example and not by way of limitation, all rights to recover preferences voidable under Title 11 of the United States Code. In the event that any such payments by Company to City are set aside

after the making thereof, in whole or in part, or settled without litigation, to the extent of such settlement, all of which is within City's discretion, Guarantor shall be liable for the full amount City is required to repay plus costs, interest, attorneys' fees and any and all expenses which City paid or incurred in connection therewith.

9. Substitution of Guarantor(s)

City shall release either or both of Guarantors from further obligations under this Personal Guaranty at such time as all of the following have occurred:

- (a) City has consented to assignment of all Tenant's rights under the Lease, the assignment has taken place and the assignee has accepted all Tenant's obligations and liabilities under the Lease.
- (b) The assignee has, for two years, performed the Tenant's obligations under this Lease without any breach thereof.
- (c) The assignee has agreed to assume all of the Guarantors' obligation under the within Personal Guarantee.
- (d) The financial condition of the assignee at the end of the two-year period is as strong as that of Guarantors herein.

10. Miscellaneous.

10.1 *Expenses.* Guarantor agrees to pay all attorneys' fees and all other costs and out-of-pocket expenses which may be incurred by City in the enforcement or collection of this Guaranty and the Guaranteed Obligations, whether or not suit is filed.

10.2 *Interest.* All amounts required to be paid to City by Guarantor pursuant to the provisions of this Guaranty (including, without limitation, pursuant to Sections 2 and 9.1 hereof) shall bear interest from and including the date upon which such amounts are due, to and excluding the date of payment thereof, at the rate of ten percent (10%) per annum. All payments of such amounts by Guarantor shall include any such accrued interest.

10.3 *Headings.* The Section and other headings contained in this Guaranty are for reference purposes only and shall not affect in any way the meaning or interpretation of this Guaranty.

10.4 *Governing Law.* The validity, construction and performance of this Guaranty shall be governed by the laws, without regard to the laws as to choice or conflict of laws, of the State of California.

10.5 *Entire Agreement.* This Guaranty embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Guaranty, and supersedes all prior agreements, understandings, negotiations, representations and discussions, whether verbal or written, of the parties, pertaining to that subject matter.

10.6 *Assignment.* Neither this Guaranty nor any rights under this Guaranty may be assigned by Guarantor without the prior written consent of City.

10.7 *Binding Effect.* The provisions of this Guaranty shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, issue, estate, trusts, successors and assigns, permitted or by operation of law.

10.8 *Parties in Interest.* Nothing in this Guaranty, expressed or implied, is intended to confer on any person or entity other than the parties any right or remedy under or by reason of this Guaranty.

10.9 *Notices.* Any notice or communication required or permitted by this Guaranty shall be deemed sufficiently given if in writing and, if delivered personally, when it is delivered or if deposited with the U.S. Postal Service, postage prepaid, and addressed to the party to receive it at the address set forth in the first paragraph of this Guaranty, 48 hours after such deposit as registered or certified mail.

10.10 *Amendment and Waiver.* This Guaranty may be amended, modified or supplemented only by a writing executed by each of the parties. Any party may in writing waive any provision of this Guaranty to the extent such provision is for the benefit of the waiving party. No action taken pursuant to this Guaranty, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by that party of its or any other party's compliance with any representations or warranties or with any provisions of this Guaranty. No waiver by any party of a breach of any provision of this Guaranty shall be construed as a waiver of any subsequent or different breach, and no forbearance by a party to seek a remedy for noncompliance or breach by another party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.

10.11 *Prompt Action.* Time is of the essence with respect to each provision of this Guaranty.

10.12 *Severability.* The invalidity or unenforceability of any particular provision of this Guaranty shall not affect the other provisions, and this Guaranty shall be construed in all respects as if any invalid or unenforceable provision were omitted.

10.13 *Further Action.* Each party agrees to perform any further acts and to execute and deliver any other documents which may be reasonably necessary to effect the provisions of this Guaranty.

10.14 *Survival of Representations and Warranties.* All representations and warranties of Guarantor contained in this Guaranty shall survive the execution and delivery of this Guaranty and shall continue until any and all Guaranteed Obligations have been fully paid, performed and discharged in full.

10.15 *Preparation of Guaranty.* This Guaranty was prepared by Grunsky, Ebey, Farrar & Howell, Attorneys at Law, on behalf of the City. Guarantor has not been represented by or received legal advice from Grunsky, Ebey, Farrar & Howell, and acknowledges that it either has

been represented by an attorney in this matter or has been advised to do so and has had the opportunity to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be duly executed as of the date and year first above written.

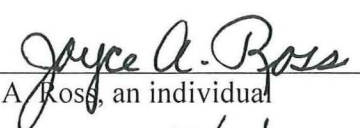
"City"

City of Watsonville,
a municipal corporation


By: 

Carlos J. Palacios, City Manager

"Guarantor"



Joyce A. Ross, an individual

Dated: 10/7/2014

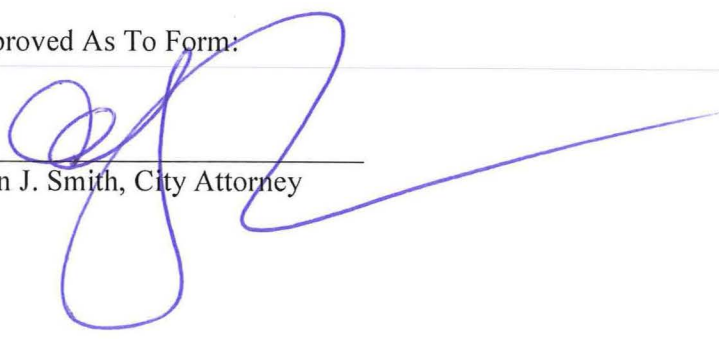

Terrence M. McKenna, an individual

Dated: 10/7/2014

Attest:


Beatriz V. Flores, City Clerk

Approved As To Form:


Alan J. Smith, City Attorney





Certificate of Insurance

Phoenix Aviation Managers, Inc.

This is to certify to
(Certificate Holder):

City of Watsonville / Watsonville Airport
275 Main Street, Suite 400
Watsonville, CA 95076



The following policy(ies)
have been issued to:

Monterey Bay Aviation, Inc., DBA United Flight Services
120 Aviation Way
Watsonville CA 95076

AIRCRAFT POLICY NO: POLICY PERIOD: FROM: TO:
INSURANCE COMPANY: OLD REPUBLIC INSURANCE COMPANY
THIS COVERAGE IS EFFECTIVE 12:01AM,
LIABILITY COVERAGES: LIMITS OF LIABILITY

	EACH PERSON	EACH OCCURRENCE
Bodily Injury		
Property Damage	\$ XXXX	
Passenger Bodily Injury		
Single Limit including Passengers,	\$ XXXX	
With Passenger Liability Limited to:		\$ XXXX

DESCRIPTION OF AIRCRAFT	PHYSICAL DAMAGE COVERAGE:	All Risks Ground and In-Flight
FAA NUMBER YEAR MAKE & MODEL	INSURED VALUE	DEDUCTIBLES (NIM/IM)

As respects any Aircraft Owned and Operated by the Named Insured and covered under the above referenced Policy

AIRPORT POLICY NO:	AP 00980706	POLICY PERIOD:	FROM:	September 26, 2014	TO:	September 26, 2015
INSURANCE COMPANY:	OLD REPUBLIC INSURANCE COMPANY					
THIS COVERAGE IS EFFECTIVE 12:01AM	September 26, 2014					
LIABILITY COVERAGES:	LIMITS OF LIABILITY					
<input checked="" type="checkbox"/> Comprehensive General Liability	CSL	each person	\$3,000,000	each occurrence *		
<input type="checkbox"/> Completed Operations		each person	\$0	each occurrence *		
<input type="checkbox"/> Not Applicable		each person	\$0	property damage *		
<input type="checkbox"/> Hangarkeepers Liability		each aircraft	\$0	each occurrence *		
<input checked="" type="checkbox"/> Premises Medical Payments	\$5,000	each person	\$25,000	each loss		
Deductibles:	Hangarkeeper's Liability			each accident		
	Premises Liability					
				\$0 each claim with respect to Property Damage		

* Refer to the Policy, an Annual Aggregate limit may apply to some coverages.

This Certificate Holder is:

Included as a Loss Payee for Aircraft Physical Damage Coverage and included as an additional insured
Provided Breach of Warranty Coverage on Aircraft Physical Damage Coverage as their interest
may appear not to exceed 90% of the Insured Value.
☒ Is included as an Additional Insured on aviation operations liability coverages but only with respect to operations of the Named Insured.
Is provided a Waiver of Subrogation, but only as respects Aircraft Physical Damage Coverage.

OTHER COVERAGES/CONDITIONS/REMARKS:

Provision has been made to give the Certificate Holder thirty (30) day notice of cancellation of any policy above, however, ten (10) days for Non-Payment of Premium of any policy above, however, the Company assumes no responsibility for the failure to provide such notice. This Certificate does not change in any way the actual coverages provided by the policy(ies) specified above. This document is issued as a matter of information only and confers no rights upon the document holder. This document does not amend, extend, or alter the coverage, terms, exclusions, conditions, or other provisions afforded by the policies referenced herein nor does it constitute a contract between the issuing insurer(s), authorized representative or producer.

Agency Name: FALCON INS. AGENCY OF CALIFORNIA, INC
Agency Phone: 800-624-8856

Phoenix Aviation Representative:

[Signature]

Date: October 1, 2014

OLD REPUBLIC INSURANCE COMPANY

ADDITIONAL INSURED

IT IS AGREED THAT THE FOLLOWING IS HEREBY INCLUDED AS AN ADDITIONAL INSURED UNDER LIABILITY COVERAGES, BUT ONLY AS RESPECTS OPERATIONS OF THE NAMED INSURED. THIS AGREEMENT SHALL NOT OPERATE TO PREJUDICE THE COMPANY'S RIGHTS OF RECOURSE AGAINST THE FOLLOWING AS MANUFACTURERS, REPAIRERS, SUPPLIERS OR SERVICING AGENTS WHERE SUCH RIGHT OF RECOURSE WOULD HAVE EXISTED HAD THIS ENDORSEMENT NOT BEEN EFFECTED UNDER THIS POLICY:

- A. HQ CAWG/DOAM
P.O. BOX 7688
VAN NUYS, CA 91409-7688
- B. WILLIAMS SCOTSMAN, INC.
8211 TOWN CENTER DRIVE
BALTIMORE, MD 21236
- C. CITY OF WATSONVILLE
WATSONVILLE AIRPORT
275 MAIN STREET, SUITE 400
WATSONVILLE, CA 95076
- D. NOR-CAL AERO SERVICES
120 AVIATION WAY
WATSONVILLE, CA 95076
- E. COUNTY OF MARIN/GNOSS FIELD
P.O. BOX 4055
SAN RAFAEL, CA 94913-4055

THE COVERAGE LIMITS AFFORDED HEREUNDER SHALL BE INCLUDED WITHIN AND NOT IN ADDITION TO THE LIMITS APPLICABLE TO THE NAMED INSURED.

Nothing herein contained shall vary, alter, waive or extend any of the terms, provisions, representations, conditions or agreements of the policy other than as above stated.

This endorsement becomes effective SEPTEMBER 26, 2014 to be attached to and hereby made a part of Policy No. AP 00980706 issued through OLD REPUBLIC INSURANCE COMPANY, issued to: MONTEREY BAY AVIATION, INC. DBA
UNITED FLIGHT SERVICES
120 AVIATION WAY
WATSONVILLE CA 95076

Date of issue 09-29-2014