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Skagit County Auditor

After Recording Return To: **PORT OF SKAGIT COUNTY**  
**15400 AIRPORT DRIVE**  
**BURLINGTON, WA 98233**

**Land Title and Escrow**

01-177966-0E

Document Title(s): HANGAR GROUND LEASE

Reference No. of Related Document(s): \_\_\_\_\_

Grantor(s): PORT OF SKAGIT COUNTY

Additional Grantor(s) on page \_\_\_\_\_ of Document: \_\_\_\_\_

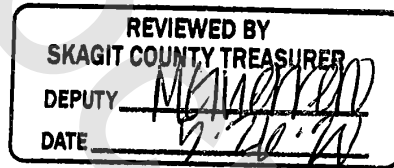
Grantee(s): MIKE DYBERG, dba DYBERG AVIATION

Additional Grantee(s) on page \_\_\_\_\_ of Document: \_\_\_\_\_

Abbreviated Legal Description: Lot 6, Ptn 7 & Taxilane Between said Lots,  
Skagit Regional Airport BSP, Ph. II, Div. 1

Additional Legal Descriptions(s) on page 4 of Document.

Assessor's Parcel/Tax ID Number: 8036-000-006-0000, P118872



GROUND LEASE AGREEMENT

BETWEEN

PORT OF SKAGIT COUNTY

and

MIKE DYBERG, dba DYBERG AVIATION

Effective Date:

8/01/2019

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## PORT OF SKAGIT COUNTY

## GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT, hereinafter referred to as "this Lease," is made as of August 1<sup>st</sup>, 2019 by and between the PORT OF SKAGIT COUNTY, a Washington municipal corporation, hereinafter referred to as "Lessor," or "Port," and MIKE DYBERG, dba DYBERG AVIATION, a sole proprietor, hereinafter referred to as "Lessee."

## WITNESSETH:

In consideration of their mutual covenants, agreements and undertakings hereinafter contained, the parties hereto do mutually agree to that which is hereinafter set forth, upon and subject to the following terms, conditions, covenants and provisions:

The Port will lease the Premises described as Lot 6 during the construction period and for a term of thirty (30) years after completion of the Improvements, upon the terms and conditions set forth herein.

Therefore, in consideration of their mutual covenants, agreements and undertakings hereinafter contained, the parties hereto do mutually agree to that which is hereinafter set forth, upon and subject to the following terms, conditions, covenants and provisions:

1. PROPERTY SUBJECT TO THIS LEASE AGREEMENT/OPTION

The following described property (the "Premises") is covered by this Lease:

Lot 6 of Amended Skagit Regional Airport Binding Site Plan Phase 1, recorded March 4, 2003, under Skagit County Auditor's file number 200303040030, consisting of approximately 62,549 square feet (actual square feet to be determined), as depicted on attached Exhibit 1, which shall be incorporated herein for all purposes.

The non-exclusive, non-preferential, and non-discriminatory right to use any aprons or taxiways to access the Airport runways shall be considered appurtenant to the Premises and shall be considered part of the definition of Premises.

2. TERM / OPTION TO EXTEND/EARLY TERMINATION

a. Term: This Lease shall commence when signed by both parties (the "Commencement Date"). The initial term ("Initial Term") of this Lease shall begin on the Commencement Date and continue until that date which is thirty (30) years after the Occupancy Date, which shall be the first day of the first month after (i) Lessee obtains an occupancy permit for the Improvements from Skagit County (the

Lessor: Port of Skagit County

Lessee: Mike Dyberg, dba Dyberg Aviation

"Occupancy Date").

b. Option to Extend: Lessee is granted the right to extend this Lease for two (2) consecutive ten (10) year option periods (each an "Option Period") by giving written notice of said intention to Lessor not less than one hundred twenty (120) days prior to the expiration of the Initial Term or any extended term (the Initial Term and any extended term, together, the "Term"), conditioned upon the following:

- i. all terms, covenants and conditions of the initial or extended term have been fully met and fulfilled by Lessee, and
- ii. the conditions set forth in Section 22 have been met.

All terms and conditions of the initial term shall continue with the exception that the rental shall be determined in accordance with the paragraph entitled "PROCEDURE TO DETERMINE ADJUSTED RENT FOR OPTION PERIOD(S) – MARKET RENT VALUE."

c. Lessor's Option to Buy Out Lease Rights and Improvements: Beginning on the date which is five (5) years after the Occupancy Date, but in no event later than 180 days prior to the end of the Term or any extension hereof, Lessor may give notice of its intent to terminate this lease by buying out the balance of this Lease and options to extend (collectively the "Residual Lease Life") and any tenant-owned improvements on the Premises ("Tenant Improvements") at then fair market value ("FMV") of each. Such notice shall be in writing, state a date of termination not less than one hundred eighty (180) days into the future and include the name of an appraiser or appraisers to determine the Residual Lease Life FMV and the fair market value of any Tenant Improvements at Lessor's cost ("Lessor's Notice"). If the parties cannot agree on an appraiser or appraisers within fourteen (14) days of Lessor's Notice, the FMV of the Residual Lease Life and Tenant Improvements shall be established by averaging the FMV determinations from the appraisal(s) of the parties' own appraisers; provided, that each party shall pay for its own such appraisal(s) and no appraisal shall be considered if not obtained within seventy-five (75) days of Lessor's Notice. The Residual Lease Life and Tenant Improvement FMV so established shall be final and binding on the parties. Upon giving of Lessor's Notice, the Lessor shall use its best efforts to relocate Lessee on other taxiway accessible Port-owned land.

d. Sublessee Rights: Notwithstanding Section 2 (c) Lessor's Option to Buy Out Lease Rights and Improvements, any buyout by the Lessor will be subject to any Sublease.

e. Early Termination. Within ninety (90) days of signing Lease, Lessee by written notice shall have the option to terminate this Lease if Lessee determines that (i) it cannot obtain financing or construction of improvements on acceptable terms or (ii) the dirt excavation work is too costly. Lessee must leave excavation site in suitable condition to Lessor.

### 3. BUSINESS PURPOSE

a. **Business Purpose:** It is understood and agreed that Lessee intends to use the Premises for aircraft storage and operations and to conduct such other activities as are incidental and reasonably related to general aviation. The Lessee specifically intends that the aircraft stored in the Premises will be used primarily for General Aviation Purposes; *provided*, that for purpose of this Lease, the phrase "primarily for General Aviation Purposes" shall mean that the predominant portion of the operations (take offs and landings) conducted at Skagit Regional Airport by aircraft stored in the Premises shall be for the purpose of supporting the conduct of aviation activities by the occupants of such aircraft (all of the foregoing, "Permitted Use"). Failure to store aircraft used primarily for business purposes, cessation of such activities for more than six (6) months, or the carrying on of other type(s) of unauthorized activities for more than fifteen (15) days after receiving Lessor' written objection shall constitute a material default by Lessee of this Lease. Lessee shall at all times operate on the Premises in a manner which will assure the safe, lawful and healthful use of the Premises. Lessee agrees that it will not disturb the Lessor or any other tenant of the Lessor by making or permitting any disturbances or any unusual noise, vibration or other condition on or in the Premises.

b. **Remedies for Non-Performance:** Should Lessee (or a sublessee) fail to conduct its operations in the Premises pursuant to the requirements of the section above entitled "BUSINESS PURPOSE" then Lessor may, by written notice to Lessee, declare Lessee to be in provisional default hereunder. Should Lessee not cure the basis(es) for such provisional default within twelve (12) months of such notice, then Lessor may pursue any and all remedies as set forth in Paragraph 28 entitled "DEFAULT AND RE-ENTRY" without necessity of engaging in initial discussions as described in said section.

c. Subject to the terms of the Section 3(c), Lessor consents to Lessee entering into subleases of the Premises or any part thereof from time to time. Lessee will not permit any use or activity to be conducted upon the Premises that is not allowed by the Lease, Skagit County zoning ordinances or Port of Skagit County rules and regulations, Skagit Regional Airport Master Plan or Skagit Regional Airport Minimum Standards. Lessee will not enter into any sublease agreement when the proposed use of the Premises requires a Special Use Permit, rezone, variance of any kind, environmental impact statement or any other use that requires special permission by a governing body, without prior written consent of the Lessor, which shall not be unreasonably withheld.

d. Lessor reserves the right to adopt a policy or policies which specifically exclude certain types of business activities that are inconsistent with Lessor's planned development of the Skagit Regional Airport or the Bayview Business and Industrial Park. Lessee hereby agrees to comply with all such policy or policies. Notwithstanding the foregoing, Lessor shall not prohibit Lessee from continuing an existing Permitted

Use during the term of this Lease, unless such Permitted Use is deemed a threat to the public safety or is no longer permitted by the FAA.

4. RENT

a. Beginning on the Occupancy Date, Lessee shall pay to Lessor, in lawful money of the United States, without any set-off or deduction, in addition to taxes, assessments, and other charges required to be paid hereunder by Lessee, an initial monthly rent for the Premises in an amount equal to the total square footage of the Premises times \$0.0135 per square foot, plus Washington leasehold excise tax (the "Rent").

b. The Rent for each month shall be paid to the Lessor in advance on or before the first day of each and every month of the term of this Lease, and shall be payable at such place as the Lessor may hereinafter designate. The Rent may be further adjusted by the addition of other sums and charges specified elsewhere in this Lease. The Lessor shall have all of the same rights and remedies with respect to any additional rent or charges in the event of nonpayment or late payment as are available to it in the event of nonpayment or late payment of the Rent. The Rent shall be adjusted as provided in the below section entitled "PROCEDURE TO DETERMINE ANNUAL ADJUSTED RENTS - CPI."

5. PROCEDURE TO DETERMINE ANNUAL ADJUSTED RENTS - CPI

During the Initial Term, beginning on the first day of the first month which is at least one (1) year after the Occupancy Date, and on the same date of each year thereafter ("Change Date"), Rent shall be adjusted according to the procedures set forth below in this paragraph, and beginning on the first day of the first month which is at least one (1) year after any Market Change Date, and on the same date of each year thereafter:

a. Definitions: The adjusted Rent rate(s) shall be determined in accordance with the formula set forth below. In applying the formula, the following definitions apply:

1) "Bureau" means the U.S. Department of Labor, Bureau of Labor Statistics or any successor agency.

2) "Price Index" means the Consumer Price Index for all U.S. City Average, All Urban Consumers, Region West – Size Class B/C, issued from time to time by the Bureau, or any other measure hereafter employed by the Bureau in lieu of the price index that measures the cost of living or if said Bureau should cease to issue such indices and any other agency of the United States should perform substantially the same function, then the indices issued by such other agency.

3) "Current Index" means the Price Index for the Annual most recent preceding

Change Date.

4) "Prior Year Index" means the Price Index for the Annual year prior to the Current Index.

b. Formula: The Adjusted Rent shall be determined by multiplying the Rent rate (s) being adjusted by a multiplier equal to the change in the Price Index since the last adjustment computed as follows:

Current Index – Prior Year Index = Index Point Change

Index Point Change / Prior Year Index x 100 = Percent Change

Percent Change x Rent being adjusted = Adjusted Rent

The Price Index (1982-84 = 100) for Annual 2018 was 153.130

6. PROCEDURE TO DETERMINE ADJUSTED RENT FOR OPTION PERIOD(S) - MARKET RENT VALUE

On the commencement of the Option Period(s) ("Market Change Date") the Rent shall be adjusted as follows:

a. The Rent shall be adjusted to be the market rent value of the Premises without taking into account the value of any Improvements. Lessor shall notify Lessee, not later than one hundred twenty (120) days prior to the "Market Change Date" of the amount of new market rent, as determined by the Port Commission.

b. If Lessee notifies the Lessor that it rejects the market rent value established by Lessor (the "Rejection Notice") within thirty (30) days following Lessee's receipt of Lessor's proposed new market rent, then the fair cash value of the Premises shall be determined. Such determination shall be made by a MAI appraiser whose selection shall be by mutual agreement of the parties. If the parties are unable to agree on the selection within fourteen (14) days of Lessee's notice of non-acceptance, then either party may file a motion requesting selection of a MAI appraiser by the presiding judge of the Superior Court of Skagit County, and the court-selected MAI appraiser shall determine the fair cash market value of the Premises. Once the fair cash market value of the Premises is determined, the rent amount shall be based on Lessor's then established rate of return for comparable leased properties. The cost of the appraisal shall be borne equally by both parties. No party shall be entitled to any statutory or contractual costs or attorney fees related to a petition to appoint an appraiser hereunder.



7. SECURITY FOR RENT

The Rent hereunder is secured by the Improvements on the Premises which shall revert to Lessor upon expiration of the Term, the value of which is equal to or in excess of one (1) year's Rent, plus leasehold excise tax.

8. LATE CHARGES

Lessee hereby acknowledges that late payment by Lessee to the Lessor of Rent, or any other sums due hereunder will cause the Lessor to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of Rent or any other sum due from Lessee shall not be received by the Lessor within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay the Lessor a late charge equal to 5% of such overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by the Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent the Lessor from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable in this Lease or otherwise, whether or not collected, for three (3) installments of Rent in any 12-month period, then Rent shall automatically become due and payable quarterly in advance, rather than monthly notwithstanding the above section entitled "RENT" or any other provision of this Lease to the contrary. In addition to the late charges provided for in this section, interest shall accrue on Rent, or any other sums due hereunder, at the rate of one and one-half percent (1 1/2%) per month from the date due until paid.

9. CONSTRUCTION OF IMPROVEMENTS

All Improvements will be constructed in accordance with the terms and conditions set forth in attached Exhibit 2, Skagit Regional Airport Minimum Construction Standards and Guidelines for Airport Construction.

10. DISPOSITION OF EQUIPMENT AND IMPROVEMENTS AT END OF LEASE

Upon termination of the Lease, Lessee shall have the right to remove all equipment, personal property and trade fixtures which may have been placed upon the Premises by Lessee during the period of this Lease, provided that the same are removed upon conclusion of the Lease and that the Lease is in good standing. Any such equipment, personal property and trade fixtures not removed from the Premises by the conclusion of the Lease shall revert to Lessor. If Lessee does not remove all equipment, personal property and trade fixtures which have been placed on the Premises by Lessee during the period of this Lease and Lessor wants the property removed, then the same shall be removed and stored at Lessee's expense and Lessor shall recover any costs and expenses from the Lessee resulting from the removal. All Improvements shall become

the property of the Lessor.

11. CONDITION OF THE PREMISES

Lessee has (a) inspected the Premises and accepts the Premises in their present condition; (b) is not relying upon any covenants, warranties or representations of Lessor as to its condition or usability, except Lessor's right to grant a lease of the property; and (c) agrees to make any changes in the Premises necessary to conform to federal, state and local law applicable to Lessee's use of the Premises.

12. PERMITS

a. Lessee shall (i) be solely responsible for obtaining and complying with all permits, approvals or licenses required for the operation and conduct of Lessee's business activities and any approved construction, installation, erection and/or operation of the Improvements. Lessee agrees to hold the Lessor harmless from any liability and to fully reimburse expenses of the Lessor for Lessee's failure to obtain and/or fully comply with any necessary permit it is required to obtain.

b. Lessee shall provide Lessor with a copy of the occupancy permit issued by the appropriate permitting agency before occupying any improvements.

13. INSURANCE COVERAGE

a. Casualty Insurance: Lessee shall, at Lessee's expense, cause to be maintained on all Improvements belonging to Lessee, and on all of Lessee's personal property on the Premises, casualty insurance with extended coverage in the amount of their replacement value.

b. Liability Insurance: Lessee shall, at its own expense, maintain throughout the term of this lease, proper liability insurance with a reputable insurance company or companies satisfactory to the Lessor in the minimum of \$1,000,000 single limit liability, and a comprehensive general liability broadening endorsement (and hereafter in such increased amounts to be comparable and consistent with the going or standard coverage in the area for comparable business operations). The \$1,000,000 single limit liability will be adjusted at the beginning of each Option Period to the then current standard single limit amount stated in the general lease policy of the Lessor.

c. Certificates: The Lessor shall be named as one of the insured, and shall be furnished a copy of such policy or policies or certificate(s) of coverage, or both, at the Lessor's election. Each certificate of insurance shall provide that the insurance policy or policies are not subject to cancellation without at least thirty (30) days advance written notice of such cancellation having been first given to the Lessor.

14. WAIVER OF SUBROGATION

The Lessor and Lessee hereby mutually release each other, and their respective successors or assigns, from any liability and waive all right of recovery against each other from any loss from perils insured against under their respective insurance contracts, including any extended coverage endorsements thereto. Provided, that this section shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Lessor or Lessee.

15. HOLD HARMLESS PROVISIONS, LIABILITY AND INDEMNITY

The Lessor, its officers, employees and agents, shall not be liable for any injury (including death) or damage to any persons or to any property sustained or alleged to have been sustained by the Lessee or by others as a result of any condition (including existing or future defects in the Premises), or occurrence whatsoever related in any way to the Premises or related in any way to the Lessee's use of the Premises or Lessee's performance under this Lease, except to the extent of such damage caused solely by negligence of the Lessor. Lessee agrees to defend and hold and save the Lessor, its officers, employees and agents, harmless from any and all liability or expense (including expense of litigation) in connection with any such items of actual or alleged injury or damage.

16. OFF STREET PARKING

Lessee agrees not to use any public streets, rights of way or other properties not included in this Lease for the parking of vehicles.

17. ADVERTISING AND SIGNS

No signs or other advertising matter, symbols, canopies or awnings shall be installed, attached to or painted on the Premises without the prior written approval of the Lessor's executive director, or the executive director's designee.

18. EQUAL OPPORTUNITY

The Lessee covenants and agrees that in the performance of this Lease, the Lessee shall conduct its activities in a manner that will assure fair, equal and nondiscriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. Notwithstanding any exemption contained in the State or Federal law, the Lessee shall comply with all Federal and State laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

19. LAWS AND REGULATIONS

a. The Lessee agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws and regulations of the United States, the State of Washington, and any municipality or agency of any of said entities, including rules and regulations of Lessor, including without limitation those relating to environmental matters, now in existence or hereafter promulgated, applicable to the Lessee's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Any fees for inspection of the Premises during or for the term of this Lease by any federal, state or municipal officer shall be paid by Lessee. Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this section.

b. Lessee understands that the Premises are within the Lessor's Skagit Regional Airport, situated in the Port's Industrial Development District. Lessor has or may promulgate and adopt resolutions, regulations and covenants for the orderly development, maintenance, care and control of all property within said district. The same affect Lessee's use of the Premises. Lessee agrees to comply with such resolutions, regulations and covenants in force as of the date of this Lease and all other resolutions, regulations and covenants which may be promulgated by Lessor so long as they do not discriminate against Lessee and do not prevent the conduct of Lessee's business operations.

20. HOLDOVER

a. Holdover as Tenant at Sufferance. If Lessee shall, without the written consent of the Lessor, hold over after the expiration of the term of this Lease, such tenancy shall be at sufferance, which tenancy may be terminated as then provided by the laws of the state of Washington. All provisions of this Lease, except those inconsistent with a tenancy at sufferance and Subsection 20(b), entitled "Rent and Terms," hereof shall remain in effect during such hold over period.

b. Rent and Terms. During such tenancy, the Lessee agrees to pay to Lessor a monthly rent equal to one and one-quarter (1-1/4) times the most recently required monthly rent amount applicable for the month in which the term hereof expired or was terminated, which rental amount the Lessee and Lessor agree is reasonable.

21. ENVIRONMENTAL PROVISIONS

This section delineates the Lessor's and the Lessee's rights and obligations with respect to the release, spillage, storage, transportation or any other aspect of handling

hazardous or toxic materials of any nature ("Hazardous Material") regulated by federal and/or state law ("Hazardous Material Regulation").

a. Lessee covenants to defend, indemnify, and hold Lessor harmless ("Indemnify") from any imposition or attempted imposition by any person or entity upon Lessor of any obligation or cost ("liability") of whatever form, including, without limitation, damages for personal injury or property damage; claims; governmental investigations, proceedings or requirements; attorney fees in investigation, at trial or administrative proceeding, or on appeal; witness or consultant costs; or any other liability to the extent that such liability arises from a violation, or alleged violation, or from the failure to satisfy a requirement, or alleged requirement, of any Hazardous Material Regulation and/or any environmental or land use law or regulation or arising from the release, spillage, or any other mishandling or misuse of any Hazardous Material causing damage to the property of, or resulting in injury to, any third person or any third person's property, the Lessor's property and proximately resulting from use of the Premises during the term of this Lease, and without regard to when the liability is asserted.

b. In like manner as in subsection a. above, so Lessor shall Indemnify Lessee solely for liability proximately resulting from an affirmative act on the Premises by Lessor prior to the commencement of this Lease, or from conditions caused by Lessor subsequent to the Commencement Date.

c. Lessee acknowledges that it has visually inspected the Premises for legally impermissible Hazardous Material contamination and that none was apparent on the surface of the Premises from a visual inspection as of the date of this Lease. Lessee releases any and all claims against Lessor for the costs to remediate, or pay damages or penalties to any third party due to any Hazardous Material contamination which henceforth may be discovered on the Premises, including payment of all attorney fees and claims of loss of, or interference with, use of the Premises, except to the extent caused by an affirmative act of Lessor.

d. Lessee shall notify Lessor within twenty-four (24) hours of its discovery of any release of a reportable quantity of any Hazardous Material, or of the receipt by Lessee of any notices, orders or communications of any kind from any governmental entity which relate to the existence of or potential for Hazardous Material or environmental pollution of any kind existing on or resulting from the use of the Premises or any activity conducted thereon. If Lessee fails to comply with any of the requirements of this section, Lessor may undertake, without cost or expense to Lessor, any actions necessary to protect Lessor's interest including steps to comply with such laws.

e. Should any Hazardous Material be released on or under the premises during the term of this Lease or any extension thereof, then Lessee shall at its sole cost and expense shall promptly and diligently remove such Hazardous Material from the

Premises or the water underlying the Premises in accordance with applicable Hazardous Materials Regulations and industry standards.

Lessee shall not take any required remedial action in response to any such contamination on or under the Premises or enter into any settlement agreement, consent, decree or other compromise in respect to any claims or enforcement actions relating to any such Hazardous Material without first notifying Lessor of Lessee's intention to do so and affording Lessor the opportunity to appear, intervene or otherwise appropriately assert and protect Lessor's interest with respect thereto.

Lessee shall promptly and diligently take all steps to prepare any remediation plan required for contamination, obtain all necessary approvals for such remediation plan, and thereafter commence the required remediation within thirty (30) days after Lessor has approved Lessee's remediation plan and all other necessary approvals and consents have been obtained, and thereafter continue to diligently prosecute said remediation to completion in accordance with the approved remediation plan. If Lessee fails to take such action, Lessor, in its sole discretion, may cause said remediation to be accomplished and Lessee shall reimburse Lessor therefore within thirty (30) days of Lessor's demand for reimbursement of all amounts reasonably paid by Lessor. Said demand shall be accompanied by proof of payment by Lessor of the amounts demanded. Late payments shall be subject to interest and charges set forth in the paragraph entitled "LATE CHARGES" above.

Lessee shall promptly deliver to Lessor copies of all hazardous waste manifests, and otherwise deliver such information to Lessor as Lessor may require, to evidence the proper disposal of all Hazardous Material removed from the Premises as part of Lessee's remediation of any contamination. Except as discharged into the sanitary sewer in strict accordance and conformity with applicable Hazardous Materials Laws, Lessee shall cause all Hazardous Material removed from the Premises as part of the required remediation of contamination to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes.

f. Any other provision of this Lease to the contrary notwithstanding, Lessee's breach of any covenant contained in this section shall be an event of default empowering Lessor, in addition to exercising any remedy available at law or in equity, to terminate this Lease and to evict Lessee from the Premises forthwith in the manner provided by law and herein, subject only to any Sublessee's right to cure the default and remain in possession under the terms of its Sublease.

22. MAINTENANCE / COMMIT NO WASTE

During construction of the Improvement and at all times prior to the Occupancy Date, Lessee shall, at its sole expense and at all times, keep the Premises neat, clean, and in a sanitary condition; and keep and use the Premises in accordance with applicable

laws, ordinances, rules, regulations, and requirements of governmental authorities. After the Occupancy Date, Lessee shall be responsible for all maintenance and repair of the Premises.

23. UTILITIES / ASSESSMENTS

Lessee agrees to contract with the appropriate provider and pay for all public utilities which shall be used in or charged against the Premises, and to hold the Lessor harmless from such charges. With regard to utilities provided by the Lessor including drainage, Lessee will pay to Lessor according to the Lessor's or Skagit County Utility/Drainage District 19's established rate.

If not already paid by the hangar developer/builder, or previous hangar owner, Lessee shall pay to the Lessor within thirty (30) days of demand, that amount that is due to Fire District No. 6 (pursuant to the Interlocal Agreement between the Fire District and Port District for construction of the Bayview Ridge Fire Station) for any industrial or commercial development of Lessee's property in the amount of \$244.00 per 1,000 square feet of development.

24. LIENS AND INSOLVENCY

Lessee shall keep the Premises free from any liens arising out of work performed, materials furnished, or obligations incurred by Lessee. In the event Lessee becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Lessee, then the Lessor may cancel this Lease at Lessor's option.

25. TAXES

From the Occupancy Date, Lessee shall pay any taxes on the Premises and/or on the leasehold interest created by this Lease and/or any activity arising under this Lease.

26. COSTS AND ATTORNEYS' FEES

If by reason of default on the part of either party to this Lease agreement it becomes necessary to employ an attorney to recover any payments due hereunder or to enforce any provision of this Lease, the prevailing party, whether such party be the successful claimant or the party who successfully defended against the claim of the other party, shall be entitled to recover a reasonable attorney's fee and to be reimbursed for such costs and expenses as may have been incurred by such prevailing party, including those incurred on appeal.

## 27. TERMINATION

a. Upon termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereon as herein provided, Lessee shall surrender to Lessor said Premises peaceably and quietly and in the condition required under the paragraphs entitled "MAINTENANCE/COMMIT NO WASTE" and "DISPOSITION OF EQUIPMENT AND IMPROVEMENTS AT END OF LEASE."

b. The provisions of the following paragraphs shall survive termination of this Lease: 14, 15, 19, 22, 23, 24, 25, 32, and 33.

c. The Lessor has the right to request that Lessee remove all Improvements; at Lessee's expense.

## 28. DEFAULT AND RE-ENTRY

Subject to any Sublessee's right to remain in possession under the terms of its Sublease, if (a) any Rent or other payment due from Lessee hereunder remains unpaid for more than five (5) days after the date it is due; (b) Lessee files a voluntary petition in bankruptcy or makes a general assignment to the benefit of, or a general arrangement with, creditors; (c) there is an involuntary bankruptcy filed against Lessee that has not been dismissed within thirty (30) days of filing; (d) Lessee becomes insolvent; (e) a receiver, trustee, or liquidating officer is appointed for Lessee's business; or (j) if Lessee violates or breaches any of the other covenants, agreements, stipulations or conditions herein, and such violation of breach shall continue for a period of ninety (90) days after written notice of such violation or breach is sent to Lessee, (each a "Default") Lessor may at its option, declare this Lease forfeited and the term hereof ended, or without terminating this Lease elect to re-enter and attempt to relet, in which event Lessee authorizes Lessor to relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rent or rents and upon such other terms and conditions as Lessor in its sole discretion deems advisable. Upon each such reletting, all rents received by Lessor from such reletting shall be applied, first, to the payment of any amounts other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting and renovation, including brokerage fees and attorneys' fees; third, to the payment of rent due and unpaid hereunder, and the residue, if any shall be held by Lessor and applied to payment of future rent as the same may become due and payable hereunder. If rent received from such reletting during any month are less than that to be paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor, and Lessee covenants and agrees to pay Lessor for all other expenses resulting from its Default, including, but not limited to, brokerage commissions, attorneys fees and the



reasonable cost of converting the premises for the benefit of the next lessee. Delinquent rent and other payments shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid. In the event of any Lessee Default hereunder and entry in, or taking possession of, the Premises, Lessor shall have the right, but not the obligation, to remove from the Premises all personal property located therein, and may store the same in any place selected by Lessor, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, with the proceeds of such sale to be applied to the cost of such sale and to the payment of charges for storage, and to the payment of any other sums of money which may then be due from Lessee to Lessor under any of the terms hereof.

29. ASSIGNMENT AND SUBLEASE

Lessee shall not, by operation of law or otherwise, assign or sublease any portion of the Premises except as set forth below.

a. Lessee may assign this Lease to a successor person or entity after approval by the Lessor subject to the following process:

- 1) Lessee shall provide to Lessor notice of intent to assign Lease no less than sixty (60) days prior to the intended assignment. Such notice shall be in writing and shall at a minimum include: The assignee's name, representative, mailing and e-mail addresses, telephone and facsimile numbers.
- 2) The Assignee shall, at least forty-five (45) days prior to the intended assignment date, provide: (i) full and complete information, as requested by Lessor, as to Lessee's financial ability and operational/business experience to successfully conduct business in the Premises and meet the obligations, financial and otherwise, under this Lease, including references; and (ii) assignee's proposed business plan for operations under the Lease in the Premises (collectively, "Assignee's Documentation").
- 3) Lessor shall, within thirty (30) days of receipt of the complete Assignee's Documentation, approve the assignment/assignee unless it articulates in writing a reasonable basis for rejection consistent with its then-current approval criteria for tenants at Bayview Business Park or it articulates in writing the basis for its reasonable determination that the assignee cannot meet the terms of this Lease; provided, that Lessor's consent may, in any event, be conditioned on the requirement that there be no uncured defaults in the Lessee's obligations under this Lease by or at the date of the assignment and/or that the assignee meet certain reasonable conditions to assure compliance with the terms of the Lease, regulatory requirements, the Lessor's mission,

vision and/or development standards.

b. The consent of Lessor to any assignment or sublease shall not in any manner be construed to relieve Lessee from: 1) the requirement to obtain Lessor's express written consent to any other or further assignment upon a showing of compliance with Section 3(c); 2) its duties and obligations under the Lease.

c. Lessor reserves the right to adopt a policy or policies which specifically exclude certain types of business activities that are inconsistent with Lessor's planned development of the Skagit Regional Airport or the Bayview Business Park. Lessee hereby agrees to comply with all such policy or policies that are not inconsistent with the paragraph entitled "BUSINESS PURPOSE."

d. If the Lease shall be terminated as a consequence of result of any default by Lessee, or there occurs any voluntary termination of this Lease agreed to between the Lessor and Lessee ("Lease Termination"), then:

(i) Provided Sublessee at such time is not in default under the terms of the Sublease beyond any applicable notice and cure periods provided for in the Sublease, unless Lessor elects in its sole discretion to waive such default:

(A) as a result of such Lease Termination: Sublessee shall not be evicted from the Premises, the Sublease shall not be cut off or terminated, and Sublessee's occupancy and possession of the Premises under the Sublease will not be affected or disturbed;

(B) the Sublessee shall continue in full force and effect as a direct lease between Lessor and Sublessee upon all of the then-executory terms, conditions and covenants as are set forth in the Sublease and which shall be applicable after such attornment; and

(C) Sublessee shall not be named or joined as a party defendant (unless required by law) in any action, suit or proceeding which may be instituted or taken by Lessor to enforce the performance or observance by Lessee of the provisions of the Lease and/or to recover damages from Lessee for any breach thereof; and

(ii) Sublessee shall attorn to Lessor and recognize Lessor as the Lessor under the Sublease, affirm its obligations under the Sublease and (without limitation of the forgoing) make payments of sums due under the Sublease to Lessor.

(iii) The foregoing provisions shall be effective and self-operative without the need for further instruments, provided that, upon the written request of

either party, Lessor and Sublessee shall execute and deliver to each other such instruments and estoppel certificates as each party may reasonably request to evidence and confirm such agreement.

- (iv) In the event of a Lease Termination, Lessor and Sublessee agree to execute a new lease of the Premises immediately following such Lease Termination pursuant to which Lessor shall lease the Premises to Sublessee, and Sublessee shall lease the Premises from Lessor, upon all of the then-executory terms, conditions and covenants as are set forth in the Sublease and which are applicable after such attornment.
- (v) In of event shall Lessor be bound by or be liable for any acts, omission or defaults of Lessee under the Sublease prior to the Lease Termination or any obligation to provide any services or perform any repairs, construction, maintenance, replacement or restoration provided for the Sublease to be performed before the date that Lessor becomes the Lessor of the Sublessee under the Sublease in accordance with the terms hereof; and any amendment, modification, surrender or other termination of the Sublease made in each case without the prior written consent of Lessor.
- (vi) Lessor agrees that, except as may be agreed to by Sublessee, it will not enforce against Sublessee any amendment or modification of the Lease made subsequent to the effective date hereof that diminished in any material respect Sublessee's right under the Sublease, or materially increases in any material respect Sublessee's obligation under the Sublease.

e. Lessee, and any of its permitted successors and assigns, may encumber its interest in this lease in favor of a third-party lender ("Leasehold Mortgagee") with Lessor's prior written consent, substantially in the Port's standard form of consent to assignment, as set forth in Exhibit 3.

### 30. LESSOR'S RIGHT TO ENTER PREMISES

Lessor and/or its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the purposes set forth below. Except in the event of bona fide emergencies, Lessor shall provide notice to Lessee and any Sublessee not less than two business days in advance of any such inspection.

a. To determine whether or not the Premises are in good condition or whether the Lessee is complying with its obligations under this Lease; and

- b. To do any necessary maintenance and to make any restoration to the Premises that the Lessor has the right or obligation to perform; and
- c. To repair, maintain or improve the Aprons Improvements Lease Premises; and
- d. To do any other act or thing necessary for the safety or preservation of the Premises.

Lessor shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Lessor's entry onto the premises as provided in this section. Lessor shall conduct its activities on the Premises as provided herein in a manner that will cause the least inconvenience, annoyance or disturbance to the Lessee.

31. RETENTION OF AIRSPACE RIGHTS BY LESSOR

Lessor retains the public and private right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or as hereinafter used, for navigation of or flight in said airspace and for use of said airspace for taking off from, landing on or operating at Skagit Regional Airport.

32. FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

Lessee agrees:

- a. To prevent any operation on the Premises which would produce electromagnetic radiation of a nature which would cause interference with security gates, any existing or future navigational aid or communication aid serving Skagit Regional Airport, or which would create any interfering or confusing light or in any way restrict visibility at the Airport; and
- b. To prevent any use of the Premises which would interfere with landing or taking off of aircraft at Skagit Regional Airport, or otherwise constitute an aviation hazard.

33. NOTICES

All notices or payment hereunder may be delivered or mailed. Below are the addresses of the parties:

LESSOR: Port of Skagit County  
15400 Airport Drive  
Burlington, WA 98233

Phone: (360) 757-0011  
FAX: (360) 757-0014

LESSEE: Mike Dyberg, dba Dyberg Aviation  
1500 E. College Way, PMB 593  
Mount Vernon, WA 98273

Phone: (253) 906-7930

34. MISCELLANEOUS

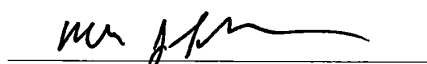
It is mutually agreed and understood that time is of the essence of this lease and that a waiver of any Default of Lessee shall not be construed as a waiver of any subsequent Default, and that any notice required to be given under this lease may be given by United States Mail addressed to the party identified in the paragraph entitled "NOTICES" of this lease.

IN WITNESS WHEREOF, the parties have caused this instrument to be signed on the date and year first above written.

LESSOR:

PORT OF SKAGIT COUNTY

  
Commission Vice President

  
Commission Secretary

LESSEE:

MIKE DYBERG

  
Mike Dyberg, Owner

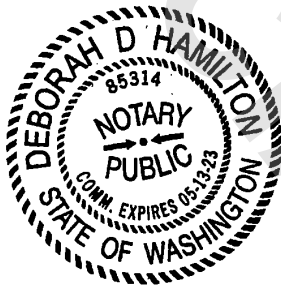
STATE OF WASHINGTON )

) ss.

COUNTY OF SKAGIT )

On this 31<sup>st</sup> day of July, 2019, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Steve Omdal and William Shuler, to me known to be the vice president and secretary, respectively of the Port Commission of the Port of Skagit County, a municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

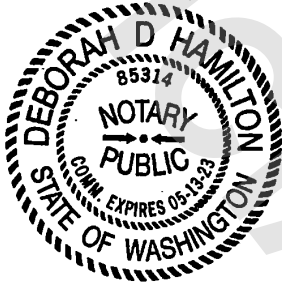
Witness my hand and official seal hereto affixed the day and year first above written.



Deborah D. Hamilton  
Notary Public in and for the state of  
Washington, residing at Burlington WA  
My commission expires: 5/13/23  
Printed Name: Deborah D. Hamilton

COUNTY OF SKAGIT )

Witness my hand and official seal hereto affixed the day and year first above written.



Printed Name: Deborah D. Hami Hon

