

## HERMISTON MUNICIPAL AIRPORT

### Hangar Ground Lease

The City of Hermiston ("CITY") enters into this Hangar Ground Lease agreement with the Michael and Loy Stratton Living Trust dated March 21, 2003 ("TENANT") effective as of the latest date on the signature pages and agrees as follows:

1. Premises: City leases to Tenant and Tenant takes the space shown in Exhibit A, with dimensions of 60 ft. x 70 ft. which is 4,200 sq. ft. (herein referred to as the "Premises").
2. Term: The term of this Lease is 20 years from December 1, 2023 to November 30, 2043.
3. Option to Renew: Upon the keeping of all the terms of this Lease, TENANT shall have the option of renewing this Lease for one additional ten-year term if CITY receives a written request for renewal from TENANT no earlier than 5 years before the expiration of the Lease, and no later than six months before the expiration of the Lease. All of the terms and conditions of the Lease shall apply during the renewal term. The Rent payable during each such extension period shall be the fair market rent for the premises and any additional space leased by the TENANT, taking into account the inducements being offered in the market and excluding the value of any improvements that have been constructed or installed at the expense of the TENANT. In any event, the Basic Rent per annum shall not be less than the Basic Rent payable in the last year of the expiring term.
4. First Refusal: During the final term of this Lease Agreement, should the CITY receive a fully executed expression of interest, including but not limited to a letter of intent, offer to purchase from a third party concerning the development, use or lease of Premises, CITY shall provide a written notice to the TENANT of such interest. TENANT shall have thirty (30) days to match the terms, and if TENANT so elects to match the offer, the CITY shall accept the TENANT's matching offer. Should the TENANT decline to match the offer, the CITY shall be free to accept the third party's proposal. A memorandum of the Right of First Refusal shall be recorded in the Deed Records of Umatilla County.
5. Rent: The annual rent is \$0.35 per square foot (4,200 square feet), which shall be paid at Hermiston City Hall, 180 NE 2<sup>nd</sup> Street, Hermiston, Oregon, on or before the first day of January each year, however the rent for the initial year shall be prorated to reflect the partial year of December 1, through December 31, 2023, and the first rent payment shall be due and payable March 31, 2024. Annual rent shall increase to \$0.37 per square foot effective January 1, 2028, and shall increase to \$0.39 per square foot effective January 1, 2035.
6. Fees and Charges: Nothing contained in this Lease shall preclude CITY from establishing other reasonable and non-discriminatory fees and charges applicable to aircraft operating at the Airport, including aircraft owned or operated by TENANT, at such time as CITY deems appropriate. TENANT expressly agrees to pay such fees and charges as if they were specifically included in this Lease. In the event TENANT engages in any activity or provides any service at the Airport for

which other companies operating at the Airport pay a fee to CITY, TENANT shall pay CITY fees equivalent to those paid by such other companies for engaging in such activities or providing such services.

7. Use of Premises: TENANT agrees that the premises shall be used for operation of a general aviation aircraft hangar. TENANT shall not change the use of the premises without prior written consent of the CITY. No equipment, materials or supplies of any nature, other than road licensed vehicles no larger than a pickup truck, shall be parked and/or placed around the exterior of this hangar.
8. Deadline for Improvements: The intention of this ground lease is to facilitate the construction and operation of an aircraft hangar. This agreement shall automatically terminate on December 31, 2025, if Tenant does not have a Certificate of Occupancy for the building by then.
9. Title to Improvements: Upon expiration or termination for default or otherwise of the Lease or any extensions, title to all structures and improvements shall be vested in TENANT. For this reason, it is expressly agreed by TENANT that the structures will be removed and the property cleared within 180 days of any termination date.
10. Alterations: TENANT will make no alterations in or additions to the Premises, including painting without first obtaining the written consent of the CITY in order that an overall plan maybe followed, which consent will not be unreasonably withheld
11. Conditions for Improvements: TENANT will not use or permit on the premises anything that would violate any City or State or Federal law, code, ordinance, or administrative rule. TENANT shall confirm that the hangar and all construction when constructed will conform to City of Hermiston ordinances and with all FAA regulations, including but not limited to any Part 77 set back or height requirements. TENANT shall not start construction of any part of this hangar until the construction plans have been approved by the City of Hermiston and by the City engineering firm, currently Precision Approach Engineering. TENANT acknowledges that it is responsible for cost of constructing and maintaining the first fifty feet of parking apron located adjacent to the aircraft hangar door. In addition, at any location TENANT'S aircraft accesses the taxiway from the hangar TENANT is responsible for the construction of a 30 feet paved approach surface extending from the taxiway. All such apron and approaches construction must be approved by the Airport Engineering firm for compliance with FAA regulations.
12. Americans with Disabilities Act: TENANT shall comply with the requirements of "The Americans with Disabilities Act" (ADA) as published in the Federal Register, Volume 56, and all state and local building requirements. Additionally, the TENANT shall comply with the requirements of the ADA in its design and construction on the Premises.
13. Taxes and Assessments: If by reason of this Lease the real property occupied by TENANT becomes taxable under the laws of the State of Oregon, the obligation to pay the taxes shall be added to the rental obligation of TENANT, the amount to be included in a written notice given TENANT once each year.

14. Events of Default: The occurrence of any of the following events shall constitute a default of this Lease:
- A. TENANT's failure to (i) pay the rent, or any other sums payable hereunder for a period of ten (10) days after written notice by CITY of the date due, or (ii) maintain the insurance required by Article 23, Insurance as required by this Lease;
  - B. TENANT's failure to observe, keep or perform any of the other terms, covenants, agreements or conditions of this Lease or in the Airport Rules and Regulations for a period of thirty (30) days after written notice by CITY. If the default is of such a nature that it cannot be completely remedied within the 30-day period, this provision shall be complied with if Tenant begins correction of the default within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable;
  - C. The bankruptcy of TENANT;
  - D. TENANT's vacating or abandoning the Premises;
  - H. TENANT's interest under this Lease being sold under execution or other legal process;
  - I. TENANT's failure to comply with its environmental obligations, any laws, programs, or audits promulgated by CITY or applicable regulatory agencies which may be revised from time to time.
15. Remedies: In the event of any of the foregoing events of default, CITY, at its election, may exercise any one or more of the following options or remedies, the exercise of any of which shall not be deemed to preclude the exercise of any others herein listed or otherwise provided by statute or general law at the same time or in subsequent times or actions:
- A. Terminate TENANT's right to possession under the Lease and re-enter and retake possession of the Premises and relet or attempt to relet the Premises on behalf of TENANT at such rent and under such terms and conditions as CITY may deem best under the circumstances for the purpose of reducing TENANT's liability. CITY shall not be deemed to have thereby accepted a surrender of the Premises, and TENANT shall remain liable for all rent until a new tenant has been, or with reasonable efforts could have been secured, or other sums due under this Lease and for all damages suffered by CITY because of TENANT's breach of any of the covenants of the Lease.
  - B. Declare this Lease to be terminated, ended and null and void, and re-enter upon and take possession of the Premises whereupon all right, title and interest of TENANT in the Premises shall end subject to the requirements of Article 9.
  - C. Seek damages for the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured and any other sums due and payable forthwith and may take legal action to recover and collect the same.
16. Assignments or Subleases: This may be done only with prior written consent of the CITY which consent shall not be unreasonably withheld.

17. Right of Entry: CITY shall have the right to enter the Premises after twenty-four (24) hours notice to TENANT and at reasonable times to inspect the Premises for the purpose of determining whether TENANT is in compliance with the requirements of this Lease. The CITY may enter the premises in case of an emergency. In such case, the CITY shall log any such entry at the Airport Manager's office during normal Working hours and notify TENANT.
18. Ground Maintenance: The Tenant shall maintain the Premises in reasonably neat, clean, and orderly condition.
19. Compliance with Laws, Rules and Regulations, Ordinances: TENANT shall at all times comply with applicable federal, state and local laws and regulations, Airport Rules and Regulations, Airport Minimum Standards, and other mandates whether existing or as promulgated from time to time by the federal, state, or local government including but not limited to permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. This shall include, but not be limited, to TENANT precluding its employees, agents, customers, or invitees from entering upon any restricted area of the Airport as noted in procedures, rules or regulations of the Federal, State or Local Governments or the CITY.
20. Airport Operation and Access: CITY does not agree that it will operate and maintain this airport continuously in the future.
21. Airport Security: TENANT must provide for security of the property, and CITY expressly assumes no duty to provide security.
22. Corrective Action by City: In the event of damage by TENANT other than wear and tear, the CITY may make repairs or take any other corrective action necessary for the protection of the property and operation of the lease. CITY shall first give TENANT thirty days written notice and demand for correction except in case of emergency when no notice will be required. If TENANT commences a corrective action within the thirty days of written notice and TENANT provides notice to the CITY that additional time is needed to complete the corrective action, a grant of additional time to complete the action within a reasonable time period shall not unreasonably be withheld. TENANT shall pay CITY for all costs and expenses incurred in curing the defaults or repairs upon presentation of a bill therefor as additional rent.
23. Insurance: TENANT shall carry premises liability insurance with limits of \$1,000,000 per occurrence and \$1,000,000 in the aggregate and agrees to adjust the amounts and coverages to meet standards set up in Airport Rules and Regulations as well as State and Federal Rules, present and future, and to include CITY as an additional insured (not less than maximum set in Oregon Tort Claims statute).
24. Indemnifications: TENANT shall indemnify and hold harmless the CITY, officers, agents contractors and employees from and against any and all claims, demands, loss or liability of any kind or nature which the CITY, officers, agents and employees, or any of them, for injury to or death of persons or damage to property caused by or contributed to by the negligence of TENANT, in the use of the premises described in the Agreement, including the use of the Airport and its facilities.

25. Arbitration: Any dispute or claim that arises out of or that relates to this Agreement, or to the interpretation or breach thereof, or to the existence, validity or scope of this Agreement or the arbitration agreement shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., or the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The parties acknowledge that mediation usually helps parties to settle their dispute. Therefore, any party may propose mediation whenever appropriate through the organizations named above or any other mediation process or mediator as the parties may agree upon.
26. Personal Property: Any personal property of TENANT or of others placed in the leased Premises shall be at the sole risk of TENANT or the owners thereof, and CITY shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage, and TENANT hereby waives all rights of subrogation or recovery from CITY for such damage, destruction, or loss.
27. Applicable Law and Venue: This Lease shall be construed in accordance with the laws of the State of Oregon. Venue for any action brought pursuant to this Lease shall be in Umatilla County, Oregon. Any action for breach of or enforcement of any provision of this Lease shall be brought in the court of appropriate jurisdiction in and for Umatilla County, Oregon.
28. Attorney Fees: In the event legal action is required hereunder to enforce the rights of the parties pursuant to this Lease each party in such action shall pay its own costs and attorney's fees, including appellate fees.
29. Invalidity of Clauses: The invalidity of any portion, article, paragraph, provision, or clause of this Lease shall have no effect upon the validity of any other part or portion thereof.
30. Notices and Communications: All notices or other communications to CITY or to TENANT pursuant hereto shall be deemed validly given, served, or delivered, upon delivery in person or by courier service, and if mailed upon three (3) days after deposit in the United States mail, certified and with proper postage and certified fee prepaid, addressed as follows:

TO CITY:  
 City of Hermiston  
 Attn: City Manager  
 180 NE 2<sup>nd</sup> Street  
 Hermiston, OR 97838

TO TENANT:  
 Mike and Loy Stratton  
 866 SW Angus Court  
 Hermiston, OR 97838

or to such other address as the addressee may designate in writing by notice to the other party delivered in accordance with the provisions of this paragraph.

31. Relationship of the Parties: TENANT is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and CITY shall in no way be responsible for such acts or omissions.

32. Quiet Enjoyment: CITY covenants that TENANT shall and may peaceably and quietly have, hold and enjoy the demised Premises and all parts thereof for the term hereby granted, subject to the terms and provisions hereof.
33. Eminent Domain: In the event any federal, state, or local governmental entity shall, by exercise of the right of eminent domain or any other power, acquire title in whole or in part of the Airport, including any portion assigned to TENANT, TENANT shall have no right of recovery whatsoever against CITY but shall make its claim for compensation solely against such governmental entity.
34. Force Majeure: Neither the CITY nor TENANT shall be deemed in violation of the Lease if it is prevented for performing any of its obligations hereunder by reasons of Acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions or any other circumstances for which are not in its control. In the event of circumstances as outlined above the CITY and TENANT shall mutually agree upon an equitable adjustment of the rates, fee and changes payable to the CITY, determined by the precise nature of the events causing the non-performance of the TENANT's obligation hereunder.
35. Miscellaneous: All of the terms and provisions hereof shall be binding upon and the benefits inure to the parties hereto and their heirs, personal representatives, successors and assigns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. This Lease represents the complete agreement between the parties and any prior understandings or representations, whether written or verbal, are hereby superseded. This Lease may subsequently be amended only by written instrument signed by the CITY and TENANT hereto.
36. Time of Essence: Time is of the essence in payment of rent and complying with all terms of this Agreement.

IN WITNESS THEREOF the parties affix their signatures:

CITY OF HERMISTON

THE MICHAEL AND LOY STRATTON LIVING TRUST  
DATED MARCH 21, 2003

\_\_\_\_\_  
By: Byron Smith, City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: Michael C. Stratton, Trustee  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: Loy L. Stratton, Trustee  
Date: \_\_\_\_\_