

**Caldwell Industrial Airport
TENANT AGREEMENT**

This agreement is for the lease of real property at the Caldwell Industrial Airport, which airport is located at 4814 E. Linden Street, Caldwell, Idaho 83605.

Lessee (name and address):

Lessee or Authorized Agent

Telephone Number

LOT #(s): _____

(hereinafter, "premises")

THIS AIRPORT TENANT AGREEMENT (sometimes referred to hereinafter as "lease" or "agreement") is made and entered into this ____ day of _____, 20 ____, by and between the City of Caldwell, Idaho, an Idaho municipal corporation of 411 Blaine Street, Caldwell, Idaho 83605 (hereinafter "Lessor"), and _____, whose address is listed above (hereinafter, "Lessee").

WHEREAS, Lessor is the Owner and Operator of the Caldwell Industrial Airport;

WHEREAS, Lessor has the authority to enter into tenant agreements for the purpose of leasing property to accommodate public use of such facility;

WHEREAS, Lessee desires to lease from Lessor a parcel of airport property, identified above as the premises and more particularly described below;

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the matters described above, and the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

1. **PREMISES LEASED:** Lessor leases to Lessee, and Lessee leases from Lessor, that certain real property located at the Caldwell Industrial Airport, upon the terms and conditions set forth in this lease, the premises identified above and shown on **Exhibit "A,"** attached hereto and incorporated herein by this reference as if set forth in full.

2. **TERM OF LEASE:** The term of this lease shall commence on _____ (the "Effective Date"), and continue for a period of _____ (____) years from the effective date of this lease, terminating on _____. (**NOTE:** *Termination day is less one day of commencement day*) (**NOTE2:** *Length of term is directly related to whether hangar is city-owned – make sure the term is correct based on the circumstances for each lease, as shown by Lessee's selection of Option 1, 2 or 3 in Section 5 below*). If this Tenant Agreement is for property which has not previously been leased at the airport, or which is not being leased at the time this Tenant Agreement is to be executed, select Option 1 by placing a checkmark in the box adjacent thereto. If this Tenant Agreement relates to property for which an existing Tenant Agreement is in place, which shall be terminated at the time this Tenant Agreement is executed, select Option 2 by placing a checkmark in the box adjacent thereto.

1. This Tenant Agreement pertains to property not subject to a previous lease agreement as of the "Effective Date."

2. This Tenant Agreement pertains to property subject to a previous lease agreement as of the "Effective Date."

3. **ANNIVERSARY DATE:** If Option 1 was selected in Section 2 above, then when the term "Anniversary Date" is used in this lease, it means the same date as the Effective Date in each succeeding year of the lease. However, if Option 2 was selected in Section 2 above, then when the term "Anniversary Date" is used hereinafter, it shall refer to the date upon which the previously existing lease commenced and the date upon which rental payments came due under the previous lease, which, as set forth in Section 6 below, shall be the date upon which future payments under this Tenant Agreement shall be due.

4. **OPTION TO RENEW:** If the Lessee remains in good standing throughout the term of this lease, and no events of breach or default have occurred during the pendency of the lease term, then Lessee shall have the right to renew this lease for a period of twenty (20) years, subject to and contingent upon the Lessee giving written notice to the Lessor no earlier than one year and no later than 120 days prior to the termination date of this agreement. Lessor reserves the right to set all terms and conditions of any lease renewal. In the event that this lease involves a hangar or structure owned by the Lessor, Lessee's option to renew under this paragraph shall be for a term no longer than the initial term of this lease or five (5) years, whichever is shorter.

5. **HANGAR:** The parties agree that one, and only one, of the following circumstances exists on the leased property, and the Lessee has selected that applicable provision by checking the box next to its description (check one only):

1. An existing hangar or structure, owned or to be acquired by Lessee, or owned by any other person or entity (other than the City), is currently located on the leased property, for an initial term not to exceed 20 years.

2. A City-owned, existing hangar or structure currently located on the leased property, for an initial term not to exceed 2 years.

3. No building is currently located on the leased premises, and Lessee intends to construct a new hangar thereon consistent with the terms and conditions of this lease and all applicable laws, for an initial term not to exceed 20 years.

5A. HANGAR CONSTRUCTION (if applicable): If box number "3" was selected by the Lessee in Section 5 above, then it is agreed and understood that Lessee intends to construct an aircraft hangar upon the leased premises, subject to the following conditions:

a. The construction of all facilities, together with landscaping, fencing and parking, shall be in accordance with plans to be reviewed and approved in writing by the Lessor before construction begins. All plans, specifications and construction activities shall comply with and be subject to all applicable laws and ordinances of the City of Caldwell, the State of Idaho, and of the United States.

b. Any additions or alterations to any structure located on the leased premises shall be reviewed and approved in writing by the Lessor before commencement of construction.

c. Hangar construction must be commenced by the Lessee no later than one year following the Effective Date of this agreement. If Lessee does not obtain all necessary approvals and commence construction within one year following the Effective Date of this agreement, this lease will terminate, without the need for further notice, on the first anniversary of the Effective Date. Construction shall be completed on each and every lot or lots leased by Lessee no later than two years from the Effective Date of this agreement. Construction shall be deemed complete when the hangar or structure is eligible for or in receipt of a certificate of occupancy. If Lessee does not complete construction, except for reasons which the Lessor agrees to be beyond Lessee's control, this lease will terminate on the second anniversary of the Effective Date. If, however, prior to the second anniversary of the Effective Date, Lessee requests in writing an extension of time in which to complete construction already commenced and substantially underway, Lessor may grant an extension of time, not to exceed one hundred twenty (120) days, in which to complete said construction. If construction is commenced but not completed during the initial two year period or any extension thereof, any structure or improvements remaining on the leased premises shall be dealt with in accordance with Section 35 below.

6. **RENT, RENTAL ADJUSTMENTS, AND LATE FEES:** Lessee agrees to pay to the Lessor for the use of the leased property (one of the following choices must be checked):

1. An annual rent of \$ _____ per square foot, for a total annual charge of \$ _____, payable on the Anniversary Date of each year of the lease term.

2. A monthly rent of \$ _____ per month, payable on the ____ day of each month during the pendency of the Lease. (NOTE: *monthly rent is only available for tenant agreements involving city-owned buildings*).

Lessor may, by resolution of the Caldwell City Council, periodically adjust the annual or monthly rental payment. Any such adjustment shall become effective for the annual rental payment due on the next Anniversary Date or for the monthly rental payment due following the next Anniversary Date. Such adjustments shall not occur more frequently than once each year.

Lessee acknowledges and agrees to pay a late charge of \$50.00 for each and every failure to remit the annual or monthly rental payment on or before the Anniversary Date of each year of this lease (or, in the case of monthly rental payments, on or before the monthly due date). For each month following the Anniversary Date for which the annual rental payment is not remitted, or monthly due date for which the monthly rental payment is not remitted, an additional charge of \$25 shall be added to the delinquent amount. While Lessor may send an invoice to Lessee prior to each Anniversary Date or monthly due date to remind Lessee as each payment comes due, Lessee understands and agrees that it will not rely solely upon the receipt of an invoice from Lessor but, rather, will itself ensure that each rental payment is paid as it comes due. Lessee further agrees to pay a \$25.00 service charge for any check returned by Lessee's bank, in addition to any applicable late fee.

7. **USE:** Lessee shall use and occupy the leased premises as permitted by any and all applicable ordinances, rules, laws and regulations, currently in force or as amended, and in accordance with the applicable provisions of the Airport's "Minimum Standards," and "Rules and Regulations" currently in place or as amended (copies of which available upon request at the office of the Airport Manager), for the purpose of [check the appropriate box]:

1. **Private, non-commercial aircraft storage** (only permissible aircraft maintenance is on Lessee's own aircraft as performed by Lessee or by regular employees of Lessee). If Lessee selects this box, Lessee shall be considered an "Airport Tenant" (Category VIII under "Fixed Base Operators") as that term is used and defined in the Minimum Standards, and shall comply with all portions of the Minimum Standards and Airport Rules and Regulations applicable thereto.

2. **Acting as a "Fixed Base Operator" ("FBO") other than an "Airport Tenant."** If Lessee selects this box, Lessee shall use the leased premises consistent with one or more of the categories of "Fixed Base Operators" set forth in the Minimum Standards, other than Category VIII).

It is agreed that the only activity which Lessee may conduct on the leased premises, directly or

indirectly, alone or through others, is that which is authorized under the terms of the agreement. Lessee understands and agrees that the right of ingress and egress to runways, taxiways, and aprons, now and hereinafter designed by Lessor shall be subject to all Airport Rules and Regulations, Minimum Standards, laws, regulations, grant obligations, policies and ordinances now or hereinafter adopted, and that the use of said runways, taxiways and aprons shall be in common with others and that the same shall not be obstructed by Lessee or closed to the right of use or travel by others. Lessor shall provide Lessee with a copy of the most current version of the above cited Airport Rules and Regulations and Minimum Standards at the time of execution of this agreement. Lessor shall provide notice to Lessee prior to any amendments to said documents, the most current versions of which may be obtained from the Airport Manager.

It is understood by both parties that nonaeronautical uses and storage are not permitted at the Caldwell Industrial Airport, and that if Lessee is found to be conducting a nonaeronautical use upon the leased premises, said activity shall be grounds for breach and default under this agreement. For all purposes, the term "Nonaeronautical Use" shall be construed consistently with how the term is used and defined on an ongoing basis by the FAA. To assist the parties in understanding how that term has been defined at or near the time of execution of this document, as of September 30, 2009, under Order 5190.6B, the Director of the Airport Compliance and Field Operations Division (ACO-1) has defined "Aeronautical Use" as "all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe. Services located on the airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo are considered aeronautical uses." Order 5190.6B at § 18.3(a). Order 5190.6B then provides that "All other uses of the airport are considered nonaeronautical." Order 5190.6B at § 18.3(c).

8. PROHIBITION AGAINST EXCLUSIVE RIGHTS: In accordance with the FAA Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, 49 U.S.C. § 40103(e), and other federal law, rules, regulations and orders governing the use and operation of airports, and the Airport Improvement Program (AIP) and other grant assurances, nothing contained herein shall be construed to authorize the granting, either directly or indirectly, of an "exclusive right," as that term is used in the above cited authority. To the extent any term or condition of this lease or any other agreement, express or implied, between the Lessee and Lessor can be considered to grant an exclusive right in violation of the above-cited authority, the parties agree that said term or condition shall be treated as null and void *ab initio*.

9. AMENDMENTS AND MODIFICATION: Lessor reserves the right to amend this lease upon giving Lessee 180 days written notice of such amendment or modification, so long as the amendment or modification is necessary to comply with FAA rules or regulations other Federal or State regulations governing the use of Airports, or to bring this lease agreement into compliance with Municipal, State or Federal laws, rules, regulations, ordinances, FAA policies, orders, advisory circular documents, grant obligations/assurances, or any obligation the City of Caldwell may have with respect to the FAA. Any amendment or modification shall take place on the Anniversary Date of this lease. In the event Lessee does not agree to such amendment or modification, this lease shall terminate following the expiration of 180 days prior written notice of such changes or amendments. Any modification to this lease shall be attached to or become a part of this lease, and any such amendment or modification shall be signed and dated by both Lessor and

Lessee.

10. SUBORDINATION CLAUSE: This lease shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States or State of Idaho relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the airport. Furthermore, this lease may be amended to include provisions required by these agreements with the United States or the State of Idaho.

11. COMPLIANCE WITH LAWS AND REGULATIONS: Lessee agrees to observe and obey during the term of this lease all laws, ordinances, rules, and regulations promulgated and/or enforced by Lessor or by other proper authority having jurisdiction over the conduct of operations at the airport, and to do all things necessary to stay or become in compliance with the same. Lessee further specifically agrees to comply with all requirements of the FAA, including but not limited to, those requirements originating out of the City of Caldwell's relationship with the FAA, or which find their origin in relation to grants or other contractual arrangements between the City of Caldwell and the FAA. Lessor reserves the right to amend this lease in conformance with the provisions of Section Nine (9) hereinabove to conform with any changes in Municipal, State or Federal laws, rules, regulations and ordinances. If at any time it is discovered that the provisions of this lease violate or are in any way inconsistent with current or later enacted Municipal, State or Federal laws, rules, regulations, ordinances, FAA policies, orders, advisory circular documents, grant obligations/assurances, or with any obligation the City of Caldwell may have with respect to the FAA, Lessor shall have the right to amend this lease in conformance with the provisions of Section Nine (9) hereinabove as necessary to make this lease agreement consistent therewith.

12. UTILITIES: It is expressly agreed that during the full term of this Lease, Lessee shall pay, when applicable, all electricity, power, trash removal and other utilities used in or about said premises. In the event that Lessee is leasing an existing hangar, which hangar is grouped together with any number of other hangars on one utility meter, Lessee agrees to pay for its proportionate share of said utility used, to be calculated by the square footage of his hangar in proportion to the total square footage of all hangars sharing the meter. Alternatively, Lessee may, at his own expense or in cooperation with other lessees at the airport, provide for installation of utility meters specific to their hangar.

13. TAXES AND ASSESSMENTS: Lessee shall pay, promptly as the same become due, all taxes and assessments of any kind that may be levied against the leased premises or Lessee's leasehold interest in the leased premises during the term of this lease. Lessee shall also pay promptly any and all undisputed taxes or assessments levied against the personal property of the Lessee or against any buildings which may exist, or which Lessee may construct, on the leased premises.

14. LIENS: Lessee shall not suffer or permit any lien to be filed against the leased premises or any part of Lessee's leasehold interest by reason of work, labor, services, or materials performed or supplied by Lessee or anyone holding the premises or any part thereof under Lessee.

If any such lien is filed against the premises or Lessee's leasehold interest, Lessee shall cause the same to be discharged of record within sixty (60) days after the date of filing the same. Failure to obtain release of such lien constitutes an act of default on part of Lessee.

15. ASSIGNMENT, HYPOTHECATION OR SUBLEASING: Lessee may not, at any time during the term of this lease, assign, hypothecate or transfer this agreement or any interest in it. Lessee may not sublet the leased premises, or any portion thereof, without the prior written consent of Lessor. Lessor shall not unreasonably withhold its consent when requested.

16. MAINTENANCE: Lessee shall maintain the structures located on the leased premises in good order and make repairs as necessary. Maintenance of the leased premises shall specifically include, but not be limited to, landscaping, seal coating of the asphalt area, and ensuring that all leased surfaces not covered by asphalt or concrete are kept in a weed free condition, as needed. No outside storage shall be permitted except with the prior written approval of the Lessor.

17. LESSOR'S LIEN: If Lessee selected option "1" or "3" in Section 5 above, it is agreed between the parties that Lessor shall have a valid lien upon any and all buildings or structures belonging to Lessee, or in which Lessee has any interest and to the full extent of that interest, located on the leased premises, as security for the payment of rent and fulfillment of the faithful performance of the covenants and conditions of this lease. This is to say that Lessor may distraint such property for any rent or damages that may be due hereunder, whether the same be exempt from execution or not, and that Lessee in that case, hereby waives all legal right which Lessee now has, or may have, to hold or retain any such property under any exemption laws in the State of Idaho.

18. NON-DISCRIMINATION: Lessee, for himself, his personal representative successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that: (1) no person on the grounds of race and color or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of the leased premises or any facilities now or later located thereon; (2) 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 benefits of, or otherwise subjected to discrimination; (3) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR, 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 amended, or other state or federal laws, rules, regulations or policies governing the operation of the airport. A violation or breach of any of the nondiscrimination covenants constitutes an act of default.

19. AIRPORT DEVELOPMENT AND CITY'S OPTION OF RELOCATION: Lessor reserves the right to further develop or improve the landing area and other areas on the airport as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance. Therefore, the parties do hereby agree that in the event the City of Caldwell undertakes

an airport renovation and/or expansion which requires the use of all or a portion of the real property herein leased, the Lessor shall give the Lessee one (1) year written notice of its intent to exercise this option of relocation. The Lessor reserves the right to either purchase the premises at appraised value or relocate the premises to a new location on the airport. In the event that the City exercises the option to relocate the premises the Lessor shall negotiate in good faith with Lessee regarding the location of the new leased premises hereinafter referred to as the "new site." The new site shall, to the extent possible, provide comparably similar airport access and location as the real property herein being leased. The Lessor shall then construct such building upon the new site in conformance with the federal and state law and the ordinances of the City of Caldwell, and said building shall be comparable in size and in quality to the building then existing upon the leased premises, giving allowances for changes in standards and conditions from the time period in which the building was built to the date this provision becomes applicable. Lessee shall then transfer to the new site.

It is understood and agreed however that the option to relocate to a new site or in the alternative to purchase the present site at the appraised value is solely the decision and within the discretion of the Lessor.

20. RIGHT TO INSPECT: Lessor reserves the right to enter upon the leased premises upon forty-eight (48) hours prior written notice to Lessee for the purpose of making any inspection necessary to the proper enforcement of the covenants and conditions of this agreement.

21. SIGNS: Lessee agrees that no signs or advertising may be erected without the prior written consent of Lessor.

22. LABOR CONTRACTS AND EMPLOYEES: The parties hereto expressly covenant and agree that all labor contract and employment agreements with employees shall be made directly with Lessee and that all such employees shall be deemed solely the employees of Lessee and in no way employees of Lessor. Lessee covenants and agrees to indemnify and hold harmless Lessor from any liability for any acts of employees of Lessee or any acts of persons working for Lessee under a labor contract.

23. WASTE PROHIBITED: Lessee shall not commit any waste or damage to the premises hereby leased or permit any waste or damage to be done thereto.

24. ACCESS, INGRESS, EGRESS AND DRIVING PLAN; GATE CARDS: Lessor grants to Lessee the right of access, ingress to and egress from the leased premises to the taxiway and to the public streets by Lessee and its employees, licensees or invitees, so long as said rights are always exercised in conformance with any existing or hereinafter adopted policy, rule, regulation or law affecting or regulating such activity for the care, operation, maintenance and protection of the airport and the public, including the Driving Plan, or any amendment thereto.

Lessee understands, agrees and accepts that as a tenant at the airport Lessee is required to receive and complete Driving Plan training, and that the completion of such training, as evidenced by a certificate from the Airport Manager, is a required term and condition of this lease. Lessee, therefore, agrees to complete such training, if Lessee has not already done so, within thirty (30)

days of execution of this lease. If Lessee is a business entity, Lessee shall complete said training by and through each and every agent or employee of Lessee who will drive on the airport. Lessee shall ensure that all agents and employees comply with this section. Failure to comply with this section following thirty (30) days notice of breach on this basis shall constitute grounds for default of this tenant agreement. Lessor reserves the right to require annual review of the Driving Plan training by the lessee and or its agents and employees.

Should amendments be made to the existing Driving Plan, Lessee agrees to participate in any additional Driving Plan training Lessor shall deem necessary.

Eligibility or continuing eligibility for an access card to airport security gates shall be contingent upon ongoing compliance with this section.

25. FIRE HAZARDS: The Lessee shall not do anything in the leased premises or bring or keep anything therein which will increase the risk of fire, or which will conflict with the regulations of the fire department or any fire laws, or with any fire insurance policies on the buildings, or with any rules or ordinances established by the board of health, or with any municipal, state or federal laws, ordinances or regulations.

26. LIABILITY: Lessor shall not be liable for any injury or damage which may be sustained by any person or property of the Lessee or any other person or persons resulting from the condition of said premises or any part thereof, or from the street or subsurface, or from any other source or cause whatsoever not resulting from Lessor's negligence; nor shall the Lessor be liable for any defect in the building and structures on said described premises, latent or otherwise, and Lessee agrees to indemnify and hold harmless Lessor from such liability.

27. LIABILITY INSURANCE: If Lessee will be acting as a Fixed Base Operator (and Lessee has selected either Option 2 or both Options 1 and 2 under Section 7 above), then Lessee shall maintain a commercial general liability insurance policy in the minimum amount of **\$1,000,000 each occurrence \$2,000,000 aggregate** covering the above described premises during the term of this Lease with an insurance company licensed by the Idaho Department of Insurance, all at the sole cost and expense of Lessee, in accordance with the Airport Rules and Regulations, Airport Minimum Standards or any modifications or amendments thereto. Lessee shall provide Lessor with a certificate of insurance for said insurance. Lessee understands and agrees that if the Airport Minimum Standards or Rules and Regulations, or any subsequent modifications or amendments thereto, require Lessee (due to Lessee's particular category of Fixed Base Operator) to procure insurance in an amount exceeding the limits noted above, Lessee shall procure and maintain insurance in said greater amounts.

If Lessee will solely be occupying the leased premises for private, non-commercial aircraft storage (and Lessee selected only Option 1 under Section 7 above), then Lessee shall maintain a general liability insurance policy in the minimum amount of **\$500,000 each occurrence \$1,000,000 aggregate** covering the above described premises during the term of this Lease with an insurance company licensed by the Idaho Department of Insurance, all at the sole cost and expense of Lessee, in accordance with the Airport Rules and Regulations, Airport Minimum Standards or any

modifications or amendments thereto. Lessee shall provide Lessor with a certificate of insurance for said insurance.

28. FIRE AND EXTENDED COVERAGE INSURANCE: Lessee shall maintain fire insurance on the building or structure with an insurance company licensed by the Idaho Department of Insurance for the full replacement value and may maintain fire and extended coverage on the contents and personal property of Lessee located within said structures, as Lessee desires. In the event of loss or damage to the structure by fire or other catastrophe, Lessee shall have a period of one hundred eighty (180) days to complete the reconstruction, repair or replacement of said structure. At the option of the Lessee, the Lessee shall have a period of one hundred twenty (120) days to remove any structures or portions thereof, restore any structures or portions thereof and restore the site to a condition acceptable to the Lessor. If the Lessee does not restore the site to an acceptable condition within one hundred twenty (120) days, the Lessee will be responsible for any costs incurred by the Lessor in restoring the site to an acceptable condition.

29. ATTORNEY'S FEES: In the event an action is brought to enforce any of the terms or provisions of this lease, or enforce forfeiture thereof for default thereof by either of the parties hereto, the prevailing party to such action or collection shall be entitled to recover from the losing party a reasonable attorney's fee together with such other costs as may be authorized by law.

30. NOTICES: All notices required to be given to each of the parties hereto under the terms of this agreement shall be given by personal delivery or by depositing a copy of such notice in the United States mail, postage prepaid and registered or certified, return receipt requested, to the respective parties hereto at the following address:

Lessor:

City of Caldwell (Attn: Caldwell Industrial Airport)

411 Blaine St.

Caldwell, ID 83605

Lessee:

or to such other address as may be designated by writing delivered to the other party. All notices given by certified mail shall be deemed completed as of the date of mailing, except as otherwise expressly provided herein.

31. CONFLICT OF PROVISIONS OF LEASE: In the event there is any conflict between provisions of this lease and the applicable Minimum Standards and/or Airport Rules and

Regulations, unless otherwise specifically noted in this lease, the applicable Minimum Standards and Rules and Regulations shall control over the terms and conditions of this lease.

32. TIME IS OF THE ESSENCE: Time and the strict and faithful performance of each and every one of the conditions of this agreement is expressly made the essence of this agreement.

33. TERMINATION BY LANDLORD: In any of the following events which shall constitute "events of default," Lessor shall have the right at Lessor's election, immediately to terminate this agreement, or to terminate Lessee's tenancy hereunder:

1. Lessee shall fail to pay rent in the amounts and at the times and in the manner provided herein, and that failure shall continue for sixty (60) or more days after written notice of it shall have been given to Lessee.

2. Lessee shall make an assignment for the benefit of creditors, or shall file a petition in bankruptcy, or shall be adjudged a bankrupt, and that adjudication be not stayed or vacated within sixty (60) days later, or the interest of Lessee under this agreement shall be levied upon and sold upon execution or shall by operation of law become vested in another person, firm or corporation because of the insolvency of Lessee; or in the event that a receiver or trustee shall be appointed for Lessee or the interest of Lessee under this agreement, and such appointment has not been vacated within sixty (60) days later.

3. Lessee shall vacate or abandon the premises, or any portion thereof, or shall permit them to remain vacant or unoccupied without first obtaining consent of Lessor.

4. Lessee shall fail to observe any other provision of this agreement after sixty (60) days written notice given by Lessor of such failure.

In the event of notification of default by Lessor to Lessee, Lessee shall pay, in addition to all arrearages as may exist under the notice of default, the reasonable attorney fees incurred by Lessor in determination of the default and notification to the defaulting Lessee.

34. DEFAULT: Upon the occurrence of any of the events of uncured, material default specified herein, Lessee's right to possession of the leased premises shall, at the Lessor's option, terminate and Lessee shall surrender possession immediately. In that event Lessee grants to Lessor full license to enter into the premises, or any part of them, to take possession with or without process of law, and to remove Lessee or any other person who may be occupying the premises, or any part of them, and Lessor may use that force in removing Lessee and that other person as may reasonably be necessary. And Lessor may repossess itself of the premises as of its former estate, but that entry of the premises shall not constitute a trespass or forcible entry or detainer, nor shall it cause a forfeiture of rents due, nor waiver of any agreement or promise in this lease that is to be performed by Lessee. Lessee shall make no claim of any kind against Lessor, its agents and representatives by reason of that termination or any act incident to it.

At its option, Lessor may terminate this agreement for any uncorrected default. Lessor may

sue for all damages and rent accrued or accruing under this agreement or arising out of any breach of it.

If it so elects, Lessor may pursue any other remedies provided by law for the breach of this agreement or any of its terms or conditions. No right or remedy conferred here on or reserved to Lessor or Lessee is intended to be exclusive of any other right or remedy, and each right and remedy shall be in addition to any other right or remedy given, or now or later existing at law or at equity or by statute.

The acceptance of rent by Lessor, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach of this agreement by Lessee, or the giving or making of any notice or demand, whether according to any statutory provision or not, or any act or series of acts except an express waiver in writing, shall not be construed as a waiver of Lessor's right to act or of any other right here given Lessor, or as an election not to proceed under the provisions of this agreement.

The obligation of Lessee to pay the rent reserved here during the balance of the term of this agreement shall not be deemed to be waived, released or terminated by the service of any sixty (60) day notice, other notice to collect, demand for possession, or notice that the tenancy here created will be terminated on the date there named, the institution of any action of forcible detainer or ejectment or any judgment for possession that may be rendered in action, or any other act or acts resulting in the termination of Lessee's right to possession of the leased premises. Lessor may collect any rent due from Lessee, and payment or receipt of that rent shall not waive or affect any notice, demand or suit, or in any manner waive, affect, change, modify or alter any rights or remedies Lessor may have by virtue of this lease agreement.

Lessee hereby agrees to pay all reasonable expenses incurred by Lessor in obtaining lawful possession of the leased premises from Lessee, including reasonable attorney fees and costs, and to pay such other expenses as the Lessor may incur in putting the premises in good order and condition as herein provided, and also to pay all other necessary expenses or commissions paid by Lessor in re-leasing the premises.

35. TERMINATION OF AGREEMENT & OPTION TO PURCHASE IMPROVEMENTS: (a) Upon expiration or termination, for any reason, of this Airport Tenant Agreement, or any extension thereof, Lessee shall remove its personal property, including structures or buildings, and restore the premises to a condition acceptable to Lessor. If the parties have not entered into a renewed lease or a new lease agreement, and Lessee has not removed its personal property, including structures, buildings, or portions thereof, or sold said property to another party who has executed a new lease agreement with the Lessor, within 120 days after termination or expiration of this lease Agreement, Lessor shall have the right, but not the obligation, to purchase some or all of the personal property remaining on the leased premises, including structures or buildings, for the sum of One and No/100 dollar (\$1.00).

(b) Lessee, when tendered the above sum, will have no further right or interest in the above described personal property and agrees to execute any and all necessary sale documents, including but not limited to a Bill of Sale, and Lessor shall be entitled to possession and ownership of the

personal property. Prior to the exercise of Lessor's option herein provided for, Lessee shall have the right to sell and remove some or all of its personal property, including structures or buildings to a third party or parties, subject to any valid lien Lessor may have on said property or structures for unpaid rent or other amounts payable by Lessee to Lessor, and subject to Lessee's obligation to restore the premises to a condition acceptable to Lessor. However, no purchaser of any of Lessee's property shall have any right to continued occupancy of the leased premises without execution of a written agreement between said purchaser and Lessor.

36. BINDING EFFECT: The provisions and stipulations hereof shall inure to the benefit of and bind the heirs, executors, administrators, assigns and successors in interest of the respective parties hereto.

37. RECORDING: The parties hereto agree that they will not record a copy of this Agreement, Lessee's occupancy of said Premises being notice of Lessee's interest therein, provided however, that a memorandum of lease may be recorded.

38. LIST OF HOUSED AIRCRAFT: Lessee shall provide a list of all based aircraft (operational and airworthy aircraft based at a facility for a majority of any 12 month period) housed on the leased premises to the Airport Manager's office, and shall keep said list current at all times. The list shall include the name, address, and phone number of each aircraft's owner(s), the aircraft make and model, and aircraft registration numbers.

39. MISCELLANEOUS PROVISIONS:

a. Waiver: Any assent, express or implied, to any waiver of any condition, agreement or covenants herein contained shall not be deemed to apply to any subsequent breach of any term, condition or covenant herein contained.

b. Prior Agreements: This agreement supersedes all prior agreements between the parties hereto which have not been reduced to writing as of the date of this agreement, and which relate to the premises, and any such prior agreement shall have no force or effect upon and after the date of execution of this agreement.

c. Severability: In the case that any one or more of the provisions contained in this agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality or unenforceability of the remaining provisions shall not in any way be affected or impaired thereby.

d. Authority of Signatory: The person executing this agreement on behalf of Lessee warrants his or her authority to do so and to bind Lessee.

e. Idaho Law: This agreement shall be construed in accordance with the laws of the State of Idaho.

IN WITNESS WHEREOF, The Lessor and Lessee do execute this Airport Tenant Agreement the day and the year first above written.

LESSOR

CITY OF CALDWELL

Mayor

ATTEST:

CITY CLERK

LESSEE
