

TIE-DOWN LEASE AGREEMENT

THIS LEASE AGREEMENT is made by and between the CITY OF AUBURN, a Municipal Corporation (hereinafter referred to as the "CITY"), and the person referenced in Paragraph 1 of this LEASE Agreement as the LESSEE (hereinafter referred to as the "LESSEE"):

1. GENERAL INFORMATION FOR LEASE.

(PLEASE PRINT)

LESSEE NAME:				
LESSEE NUMBERS: HOME: _____ WORK: _____ CELL: _____ EMAIL: _____				
LESSEE MAILING ADDRESS:				
LESSEE BILLING ADDRESS:				
PERSON TO CONTACT IN AN EMERGENCY:		TELEPHONE:		
PILOT NAME:		TYPE:	LICENSE #	
AIRCRAFT MAKE AND MODEL:			REG. #	
NAME (S) OF REGISTERED OWNER(S) OF AIRCRAFT:				
AIRPORT:	INITIAL TIE DOWN #	INITIAL LEASE FEE:	TERM START DATE:	RECEIPT OF INSURANCE CERT.

2. LEASE. The CITY hereby grants to LESSEE a revocable LEASE to store an aircraft in a relocatable aircraft tie-down space.

A. The tie-down space shall be used for the storage of only one aircraft owned, leased, or under a long-term use agreement by LESSEE. The operational aircraft stored at the tie-down space must be insured, registered with the Airports Manager, and the Federal Aviation Administration ("FAA"). A Certificate of Aircraft Registration for each aircraft must be on file with the Airport Manager. Storage of any operational aircraft within the tie-down space that is not properly registered and insured shall be deemed to be a breach of this LEASE Agreement.

B. The tie-down space may also be used for the parking of LESSEE's automobile at such times as the tie-down space is not occupied by the aircraft.

C. No bailment is created by this LEASE Agreement.

3. LOCATION. The initial location of the aircraft tie-down space to be used pursuant to this LEASE Agreement shall be determined by the Airport Manager in the exercise of his reasonable discretion. The initial location of the aircraft tie-down space to be used pursuant to this LEASE Agreement shall be that tie-down space referenced as the initial tie-down in Paragraph 1 of this LEASE Agreement. The CITY retains the right to change the location to be used pursuant to this LEASE Agreement for the following reasons that include: construction, safety, flooding, natural disasters, aircraft access and other similar reasons. The CITY, through the Airport Manager, shall provide thirty (30) days prior written notice to LESSEE of any change in location, including the reason for such change.

4. **TERM.** The term of this LEASE Agreement shall commence on the date referenced in Paragraph 1 of this LEASE Agreement as the term start date and shall continue for a 12-month period. The LEASE agreement can be renegotiated, if needed, without terminating the LEASE.

5. **LEASE FEES.** LESSEE shall pay to the CITY as a monthly LEASE fee, without deduction, setoff, prior notice or demand, the appropriate amount for the tie-down space. This monthly lease fee shall be subject to change by resolution of the City Council of the CITY. The initial monthly lease fee shall be the amount referenced in Paragraph 1 of this LEASE Agreement as the initial lease fee and is payable in advance on the first day of each month, commencing on the date the term commences, and continuing during the term. The LEASE fee for the first month of this LEASE Agreement shall be paid on the day the term commences. Fees not paid when due are subject to late fees and penalty charges. LESSEE assumes all risk of loss if payments are made by mail.

6. **INDEMNIFICATION.** The CITY shall not be liable to LESSEE and LESSEE hereby waives all claims against the CITY for any injury or damage to any person or property in or about the aircraft tie-down area and airport area by or from any cause whatsoever, except injury or damage to LESSEE resulting from the acts or omissions of the CITY or the CITY's authorized agents.

LESSEE shall hold the CITY harmless from and defend the CITY against any and all claims or liabilities for any injury or damage to any person or property whatsoever (1) occurring in, on or about the airport tie-down space, or any part of it and (2) occurring in, on or about any part of the airport property when that injury or damage was caused in part or in whole by the act, neglect, fault of or omission of any duty by the LESSEE, its agents, servants, employees or invitees.

7. **RELEASE AND DISCHARGE.** CITY shall not be responsible for, and assumes no liability arising from fire, theft, damage or loss to LESSEE's property, including without limitation, the aircraft or any other items unless such fire, theft, damage or loss is solely the fault of CITY. LESSEE hereby releases and discharges the CITY from all claims and demands by LESSEE for loss of or damage to LESSEE's property.

8. **INSURANCE REQUIREMENTS.** LESSEE shall obtain aircraft or general liability insurance against liability for financial loss resulting from bodily injury, including death or personal injury, and damage to property caused by the ownership, operation, storage, and use of the aircraft arising from or related to the rental of the tie-down space. The limit of liability shall be no less than One Hundred Thousand Dollars (\$100,000.00) per person/occurrence. The City of Auburn, its elected officials, officers, employees, and volunteers shall be added as additional insureds. The policy shall be endorsed to state that it shall not be canceled, or the limits reduced prior to thirty (30) days written notice being provided to the City of Auburn. A certificate evidencing the above insurance shall be provided to the Airport Manager or his/her designee at the execution of this LEASE Agreement and annually thereafter or at the request of the Airports Manager or his/her designee. CITY reserves the right, in its sole discretion to revise these insurance requirements at any time, with thirty (30) days prior written notice to LESSEE.

9. **REPAIR AND MAINTENANCE.** LESSEE shall immediately inform the Airport Manager of any and all repairs to the tie-down space and tie-down devices that LESSEE believes necessary or appropriate. LESSEE shall maintain the tie-down space in good and neat appearance and in a safe condition at all times. LESSEE, at its sole cost and expense shall immediately repair any and all damage to the tie-down space caused or contributed to by LESSEE, its agents, employees and/or invitees. Upon termination of this LEASE Agreement, LESSEE shall return the tie-down space to the CITY in substantially the same condition as the tie-down space existed at the commencement of this LEASE Agreement, ordinary wear and tear excepted.

10. **RULES AND REGULATIONS.** LESSEE shall, at LESSEE's sole cost and expense, comply with all of the requirements of all city, county, state and federal authorities now in force, or which may hereafter be in force, pertaining to LESSEE's use of the tie-down space, and shall faithfully observe in the use of the tie-down space all city and county ordinances and state and federal statutes and regulations, now in force or which may hereafter be in force.

11. **RIGHT TO INSPECT.** The CITY and its authorized officers, agents, employees, volunteers, contractors, subcontractors and other representatives shall have the right to inspect the tie-down for business purposes, including, but not limited to the following purposes:

- A. To inspect the tie-down at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether LESSEE has complied with or is complying with the terms and conditions of this LEASE Agreement;
- B. To make repairs, additions or alterations as may be necessary or convenient for the conduct, safety, improvement or preservation of the airport;
- C. For emergency purposes; and
- D. In the exercise of CITY police power.

Except for inspections for the purposes listed in subparagraphs 11B, 11C, and 11D, the CITY shall provide LESSEE written notice at least forty-eight (48) hours in advance of the inspection. No inspection by or on behalf of the CITY of the tie-down space shall cause or constitute a termination of the LEASE Agreement, or be deemed to constitute an interference with LESSEE's use thereof.

12. **SECURING THE AIRCRAFT.** LESSEE shall be solely responsible for securing the aircraft stored at the tie-down space.

13. **FUELING.** All self-fueling of aircraft shall be conducted with the applicable FAA rules and regulations and the Auburn Municipal Code.

14. **COMMERCIAL ACTIVITY.** LESSEE shall not conduct any commercial activity on or at the tie-down space, or on or at the Auburn Municipal Airport, unless such activities are pursuant to a separate written agreement signed by both LESSEE and the CITY.

15. **MAINTENANCE OF AIRCRAFT.** LESSEE shall not engage or use the service of a person for hire in connection with any aircraft work, maintenance or repair at the tie-down space. LESSEE shall not perform major repair or maintenance work or non-routine, non-preventative maintenance on the aircraft at the tie-down space without prior written approval of Airports Manager. LESSEE shall not engage in commercial maintenance activities at the tie-down space. These provisions shall not limit the aircraft owner or pilot from performing routine, preventative maintenance on the aircraft as permitted by the Federal Aviation Regulations. Under no circumstances shall LESSEE perform the following activities:

- A. Application of flammable finishes (paint, dope, chemical stripping, epoxy, resin, etc.);
- B. Making, breaking or repairing any fuel system connections or components (carburetor, valves, lines, tanks, etc.);
- C. Washing or painting the aircraft;
- D. Welding or storage of welding equipment; or
- E. Use open flames or other sources of ignition such as electric or fueled heaters.

16. **PROHIBITED MATERIALS; NUISANCE PROHIBITED.** LESSEE shall not store or use combustible chemicals or materials at the tie-down space except as permitted by the Fire Department. LESSEE shall not store, dispense or otherwise handle fuel, compressed gasses or other hazardous materials. LESSEE shall properly dispose of all wastes and hazardous materials in a legal manner and in appropriate receptacles. LESSEE shall not create a nuisance or perform any other act or thing which interferes with the quiet enjoyment of the airport by any other Lessee or tenant or member of the public. For purposes of this paragraph, hazardous materials include, but are not limited to: (A) Substances which are flammable, explosive, corrosive, radioactive, toxic; (B) Those asbestos-containing materials defined and described in Environmental Protection Agency Report No. 56/5-85-024 (June 1985) whether or not friable, or any related or successor report, or other applicable government regulations defining or describing such materials; (C) Pesticides as defined by Section 136(u) of FIFRA (7 U.S.C. Section 136) as may be present in soil or

groundwater; (D) "Hazardous wastes" as defined in Section 25117 of the California Health and Safety Code, or as a chemical that is known to the State of California "to cause cancer or reproductive toxicity" under the Safe Drinking Water and Toxic Enforcement Action of 1986, California Health and Safety Code sections 25249.5, et. seq.; and (E) Any material or substance defined hazardous materials, substances or waste, or toxic materials, substances or waste as those terms or similar terms are defined by any other federal, state or local law, rule, regulation, ordinance or order.

17. NO DAMAGE; COMPLIANCE WITH CODES. LESSEE shall not by his own or his agents', employees' or invitees' actions cause any damage to the CITY's property. The use of the tie-down space shall conform to all Airport rules and regulations and local building and fire codes.

18. PROPELLER & ROTOR-BLADE BLAST. LESSEE shall not run the engines of any aircraft with the propeller or rotor-blade blast directed in a manner that would cause harm to, or jeopardize the safety of any person, aircraft, building or other facility or equipment at the airport. All engine run-ups shall be conducted only on runway run-up aprons.

19. TAXATION. The privileges granted in this LEASE Agreement may be subject to taxation and/or assessment. In such event, LESSEE shall pay before delinquency, all taxes or assessments which at any time may be levied by the State, County, City or any other tax assessment levying body upon the leased premises and any improvements or fixtures located thereon. LESSEE shall also pay all taxes, assessments, fees, and charges on all merchandise, fixtures, and equipment owned or used thereon.

20. AIRCRAFT. LESSEE is the owner/lessee/authorized user of the aircraft referenced in Paragraph 1 of this LEASE Agreement. LESSEE shall supply proof of registration, lease or use agreement for the above listed aircraft to the Airports Manager prior to the commencement of the term of this LEASE Agreement and shall subsequently provide such information to the Airports Manager upon request. LESSEE shall keep all operational aircraft maintained in accordance with FAA criteria and supply evidence of such maintenance to the Airports Manager upon request.

If LESSEE ceases to own, lease or be subject to a long-term use agreement for the aircraft listed above, this LEASE Agreement will terminate unless LESSEE purchases, leases, or becomes subject to a long-term use agreement for another aircraft within ninety (90) days from the cessation of ownership, leasehold or use of the aircraft listed above. Prior to the expiration of the ninety (90) day period, LESSEE shall submit to the Airport Manager a copy of the registration, lease or use agreement for the new aircraft and shall update the information in this paragraph and Paragraph 1 of this LEASE Agreement concerning the aircraft.

LESSEE shall notify the CITY in writing within ten (10) days of any change in aircraft ownership or substitution or addition of aircraft.

21. NOTICES. Any notices required to be given under this LEASE Agreement shall be in writing and shall be deemed properly delivered, given or served when personally delivered to the CITY or LESSEE, or in lieu of such personal service, sent by United States mail, registered or certified, return receipt requested, addressed to LESSEE at the address referenced in Paragraph 1 of this LEASE Agreement as LESSEE's mailing address and to the CITY as follows: CITY OF AUBURN, Attention Airport Manager, 1225 Lincoln Way, Auburn, California 95603.

In the event of personal service, notice shall be deemed given when personally served. In the event of service by mail, notice shall be deemed to have been given seventy-two (72) hours after deposit of same in the United States mail post box in the State of California, postage prepaid, addressed as set forth above, or upon the date of the signed return receipt, whichever is sooner. LESSEE shall keep his current mailing address and telephone number on file with the Airports Manager during the term of this agreement and shall notify the Airports Manager in writing within fifteen (15) days of any change of address or telephone number.

22. ASSIGNMENT. The LEASE is personal to LESSEE and shall not be assigned, sublet or otherwise transferred in whole or in part to any other person or entity. A prohibited assignment, sublet or transfer of interest will be deemed to have occurred if:

A. Payment of the LEASE fee is made by any other person or entity, other than LESSEE, without the prior written consent of the CITY.

B. An aircraft not owned, leased or under a long-term use agreement by LESSEE and properly registered is stored at the tie-down space without the prior written consent of the CITY.

23. **TERMINATION.** This revocable LEASE may be terminated by either the CITY or LESSEE upon thirty (30) days prior written notice to the other party.

24. **BREACH OR DEFAULT OF LEASE AGREEMENT.** The occurrence of any of the following shall constitute a breach or default of this LEASE Agreement by LESSEE:

A. Failure to pay any fee due under this LEASE Agreement when due, if the failure to pay continues for three (3) days after notice of the failure has been given to LESSEE; and

B. Except as otherwise specifically provided in this LEASE Agreement, failure to perform any other provision of this LEASE Agreement if the failure to perform is not cured within ten (10) days after notice of the failure has been given to LESSEE. If the breach or default cannot be reasonably cured within ten (10) days, LESSEE shall not be in breach or default of this LEASE Agreement if LESSEE commences to cure the breach or default within the ten (10) day period and diligently and in good faith continues to cure the default.

Notices given under this paragraph shall specify the alleged breach or default and shall demand that LESSEE perform the provisions of this LEASE Agreement or pay the fee that is in arrears, as the case may be, within the applicable time period, or the LEASE Agreement is terminated. No such notice shall be deemed a termination of this LEASE Agreement unless the CITY so elects in the notice.

The CITY, at any time after LESSEE commits a breach or default of this LEASE Agreement, can cure the breach or default at LESSEE's cost. If the CITY, at any time, by reason of LESSEE's breach or default, pays any sum or does any act that requires the payment of any sum, the sum paid by the CITY shall be due immediately from LESSEE to the CITY at the time the sum is paid, and if paid at a later date shall be subject to late fees and penalty charges as shown in the CITY's then current Schedule of Fees. The sum, together with the late fees or penalty charges, shall be an additional fee owed to the CITY pursuant to this LEASE Agreement.

25. **ATTORNEY'S FEES.** In any dispute between the CITY and LESSEE, the prevailing party shall be entitled to recover from the other party all reasonable costs, including without limitation, reasonable attorney's fees. "Prevailing party" shall include without limitation, a party who dismisses an action for specific performance or for damages in exchange for sums allegedly due, performance for covenants allegedly breached or consideration substantially equal to the relief sought in the action, or which receives from the other party, in connection with any dispute, performance substantially equivalent to any of these.

26. **HEADINGS, REFERENCE, LAW AND JOINT AND SEVERAL LIABILITY.** The titles and headings of the various sections of this LEASE Agreement are intended solely for convenience of reference and are not intended to explain, modify or place any construction on any of the provisions of this LEASE Agreement. Masculine and feminine, or neutral gender and the singular and the plural number shall each be considered to include the other whenever the context so requires. This LEASE Agreement shall be governed and construed in accordance with the law of the state of California. If either party consists of more than one person, each such person shall be jointly and severally liable.

27. **NO WAIVER.** No waiver by a party of any provision of this LEASE Agreement or of the regulations governing the use of the tie-down space shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this LEASE Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this LEASE Agreement or at law.

28. **NO PARTY DEEMED DRAFTER.** In the event of a dispute between any of the parties hereto over the meaning of this LEASE Agreement, no party shall be deemed to have been the drafter hereof, and the principle of law that contracts are construed against the drafter shall not apply.

29. **ENTIRE AGREEMENT.** This LEASE Agreement contains all the representations and the entire understanding and agreement between the parties pertaining to the use of the tie-down space or any other matters connected therewith. All correspondence, memoranda, or oral or written agreements pertaining to the tie-down space or the parties hereto, which originated before the date of this LEASE Agreement are null, void and no longer in force and with no effect, and are replaced in total with this LEASE Agreement unless otherwise expressly stated in this LEASE Agreement. This LEASE Agreement shall not be altered, amended, or modified except by a writing signed by the CITY and LESSEE.

30. **DATE OF AGREEMENT.** The date of this LEASE Agreement shall be that date that it shall have been signed by the CITY.

CITY OF AUBURN

LESSEE

Dated: _____ [Printed Name] _____