

## Attachment E

### XXXXXX STATE AIRPORT COMMERCIAL/NONCOMMERCIAL ACCESS AGREEMENT

This Commercial Access Agreement is between the State of Oregon, acting by and through its Department of Aviation (AVIATION), and XXXXXXXX (PERMITTEE). AVIATION and PERMITTEE agree as follows:

#### DEFINITIONS

- "Airport" – The XXXXX State Airport, in XXXXX County, Oregon.
- "Air Operations Area" - Any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.
- "Access" – The ingress and egress between the Property and public-use area of the Airport
- "Access Agreement" - The written document that defines the terms of access and fair market value of entry for entry of aircraft, personnel, and/or vehicles onto a public use airport and the location of access described on the Airport Layout Plan (ALP) and in the agreement exhibits.
- "Access Point" - The location at which the Property abuts the public-use area of the Airport, at which PERMITTEE shall be granted a right of ingress and egress under the terms of this agreement, as depicted on the attached Exhibit "B".
- "Based Aircraft" – Lawfully registered aircraft listing XXXXXXXX State Airport on the aircraft registration and required to be registered.
- "Public-Use Area" - That portion of the Airport that is available for public use as permitted by AVIATION, as such may change from time to time.
- "Property" - That parcel of real property owned by PERMITTEE, depicted on the attached Exhibit "A".
- "Through-the-Fence Operations" - Through-the-fence operations are those activities permitted by an airport sponsor through an agreement that permits access to the public landing area to independent entities or operators offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not a part of the airport property. The obligation to make an airport available for the use and benefit of the public does not impose any requirement for the airport sponsor to permit access by aircraft from adjacent property.
- "Taxilane" – The portion of the aircraft parking area used for access between taxiways and aircraft parking positions.

## RECITALS

- I. AVIATION owns and operates the Airport for the benefit of the public.
- II. Safe, efficient, and controlled access to the publicly-owned taxiways, aprons, and runways of the Airport for commercial entities promotes economic growth, employment, and aviation-related innovation and commerce at the Airport and in surrounding communities. As the Airport sponsor, AVIATION seeks to allow such access in a manner that complies with federal funding agreements, and federal and state law.
- III. PERMITTEE is a commercial enterprise that desires to obtain a right of ingress and egress from the Property through the Access Point to and from the Airport's public-use area for itself, its tenants, employees, agents, contractors, unit owners, and invitees for the purpose of conducting its aviation-related business.

## TERMS

### 1. RIGHT OF ACCESS:

- a. AVIATION hereby grants to PERMITTEE a non-exclusive right of access between the Property and the public-use area of the Airport at the Access Point for the uses described in this Agreement as depicted in Exhibit "B". In making this grant, AVIATION reserves the authority to (i) revoke access if, in its reasonable sole discretion, AVIATION determines that the access poses a risk to the safe and efficient operation of the Airport, and (ii) relocate the Access Point upon sixty (60) days' written notice to PERMITTEE, for the purpose of accommodating airport development, third parties or others to whom AVIATION grants access. This grant is contingent on the continued ownership and operation of the Airport by AVIATION, and upon the continued compliance by PERMITTEE with all of the conditions of this agreement.

### 2. TERM:

- a. The term of this agreement is *(no more than)* twenty (20) years, beginning **XX/XX/20XX** (the "Effective Date") and ending **XX/XX/20XX**, with one five (5) year renewal option from the date the agreement is executed by both parties hereto.

### 3. NO REAL PROPERTY INTEREST:

- a. The Parties agree that the right of access granted by this agreement does not create an interest in real property and shall neither burden the Airport nor benefit the Property.

#### 4. CONSIDERATION:

- a. In consideration for the right of access granted herein, PERMITTEE shall pay monthly to AVIATION the greater of the following amounts per OAR 738-010-0025: shall pay a fee for each aircraft based on the adjacent property, based on aircraft's maximum gross landing weight as set forth OAR 738-010-0025 and listed for convenience in Exhibit A.
  - 1) A fee for each aircraft based on the adjacent property which is the subject of this permit. The per aircraft fee is based on aircraft maximum gross landing weight at the rate published in OAR 738-010-0025 and listed for convenience in Exhibit A; or
  - 2) \$XX.XX (Category airport rate)
- b. Payment is due annually on the Effective Date of the agreement, and thereafter each year in advance and without notice, not later than the anniversary of the Effective Date, on the 1<sup>st</sup> day of each month for the previous month. At time of payment, PERMITTEE shall also submit to AVIATION a detailed report listing each based aircraft showing aircraft class per OAR 738-010-0025, N-number, aircraft type, weight and the hangar or tie-down number where the aircraft is stored.
- c. AVIATION will annually review the consideration payable to AVIATION. Based on its review, AVIATION will adjust the monthly fee to ensure fair, reasonable, and nondiscriminatory rates. Adjustment shall be based on the Consumer Price Index-Urban of the state of Oregon, provided that no adjustment shall exceed three percent (3%) of the access payment for the previous CPI increase.

#### 5. OPTION TO RENEW:

- a. PERMITTEE may renew this agreement for one additional term of five (5) years, provided PERMITTEE is in compliance with federal grant assurances and state regulations.

#### 6. LATE PAYMENTS AND RETURNED CHECKS:

- a. If any payment due under this agreement is not paid within ten days after its due date, PERMITTEE shall owe and shall pay to AVIATION an administrative charge of ten percent of the amount due per month. Failure to make full payment including the administrative charge within 30 days after the date the payment is due is a default. Imposition of an administrative charge on delinquent payments does not constitute a waiver of any of AVIATION's rights to pursue its legal remedies under the law or as provided in this Agreement.

- b. If any check to AVIATION for payment under this Agreement is returned to AVIATION by PERMITTEE's bank unpaid for any cause, PERMITTEE shall owe to AVIATION a \$50 fee in addition to the amount of the check and any administrative charge owed under the above paragraph. Amounts due AVIATION are considered unpaid until AVIATION receives payment from the bank.

## 7. USES AND PROHIBITIONS:

- a. PERMITTEE shall use the Airport and Access Point exclusively for movement of aircraft and personnel authorized by AVIATION. No other use of the Airport and Access Point is permitted.
- b. PERMITTEE's use of the Airport and that of its employees, agents, tenants, contractors, and other authorized persons should be limited to the public-use area and the Access Point and is limited to use by aircraft meeting the Airport's FAA design criteria. Aircraft that do not meet airport design criteria will operate at their own risk and be liable for damage caused to airport property. Permittee is responsible for all guests, employees, agents and contractors under their cognizance.
- c. Unless otherwise permitted by AVIATION, automobiles, bicycles, trucks, fuel trucks, motorcycles, and other vehicles, pedestrians, or animals, shall not be allowed on the Air Operations Area.
- d. PERMITTEE shall not use or permit to be used any portion of the Airport or other state-owned property for storage of personal property except in areas designated by AVIATION. AVIATION may compel removal of such personal property at PERMITTEE's sole expense. If such personal property is not removed upon reasonable request, AVIATION may remove the same and charge the cost of the removal to PERMITTEE. Reasonable is defined as immediately when safety is affected and within 48 hours for other requests.
- e. The transport of dangerous articles or magnetized materials by or under the control of PERMITTEE, its agents, employees, contractors, tenants, customers or other designees over AVIATION'S property shall be done in strict accordance with 49 CFR part 175 and policies of the Federal Aviation Administration.
- f. PERMITTEE shall not use or permit to be used a lot or structure on or adjacent to the airport as a base or site for maintaining, repairing, or selling aircraft or aviation fuel to the public or individuals. PERMITTEE retains the right to construct, rebuild, or maintain aircraft provided that this activity is non-commercial. No flight instruction is to be conducted, and no aircraft is to be allowed to be used for flight instruction, on or from the airport property by MEMBERS, residents, homeowners, or PERMITTEE without the express written consent of AVIATION and compliance with AVIATION's Operating Minimum Standards, set out in Oregon Administrative Rules, Chapter 738.035.

## 8. ORGANIZED PUBLIC ACTIVITIES:

- a. PERMITTEE shall obtain AVIATION's approval to conduct, host, promote or hold any organized public aviation activity, airshow, fly-in, rally, competition, exhibition or display that makes use of the Access Point or Airport. PERMITTEE shall request such approval in writing on an application form supplied by AVIATION not less 30 days prior to the activity, setting forth facts pertinent to the planned activity.
- b. Based on the information supplied by PERMITTEE and at AVIATION's sole reasonable discretion with due regard to airport operational benefit, AVIATION may approve or deny the application. AVIATION may request that PERMITTEE modify the nature of the planned activity if the safety or the efficiency of Airport operations or interests of other Airport users so require.
- c. If the application is granted, with or without modifications, PERMITTEE and all participants in the planned activity shall indemnify, save and hold the State of Oregon and AVIATION harmless under the terms of Section 13 of this Agreement for all injuries to persons or property of any nature whatsoever arising out of the conduct of the planned airshow, fly-in, rally, competition, exhibition or display.
- d. At any activity approved and conducted under this section, PERMITTEE shall make available a Unicom radio, or its equivalent, and a fully qualified operator thereof, advising aircraft traffic that the scheduled activity is in progress; and
- e. At PERMITTEE's sole expense, PERMITTEE shall dispose of all debris, litter, and other personal property remaining on the Airport, public-use area or Access Point within 24 hours of the activity's conclusion. All areas of the Airport and Access Point shall be returned to the same condition or better at the end of the scheduled activity.

## **9. HAZARDOUS SUBSTANCES:**

- a. PERMITTEE shall not store, dispose of, or release or allow any hazardous substances as defined in OAR 738-005-0010(67) or petroleum products to be released on any portion of the Access Point, Property or Airport. PERMITTEE shall recycle petroleum products and dispose of hazardous substances in accordance with the Oregon Department of Environmental Quality's rules, regulations and 1200Z permit, which are available by contacting the Oregon Department of Environmental Quality. All costs associated with the use of Hazardous Substances or petroleum products, including but not limited to costs of cleanup, removal, remediation, and compliance with federal, state and local environmental requirements, are the sole responsibility of PERMITTEE. PERMITTEE shall indemnify and hold AVIATION harmless from any and all claims, losses, damage, costs, attorney fees and other expenses incurred by AVIATION in connection with the remediation of hazardous substances in, on, upon or under the Access Point or any portion of the Property or the Airport. All hazardous substances and petroleum products shall be used, handled, cleaned up, removed and remediated in accordance with federal, state and local requirements.

## **10. MAINTENANCE OF ACCESS SITE AND AIRPORT:**

- a. PERMITTEE shall maintain the Access Point in a safe condition at all times.
- b. PERMITTEE shall post the Property and Access Point against trespassing and exercise control over the Access Point to prevent unauthorized use of the Access Point. Signage shall not interfere with or obstruct taxiing aircraft. AVIATION may require PERMITTEE to replace, relocate or remove signs that AVIATION determines to be inadequate, improper or a safety hazard. PERMITTEE may be required to add signage for safety as directed by aviation.
- c. PERMITTEE shall maintain the Access Point, the public-use area of the Airport, (immediately around the access point) and Property in a reasonably clean and neat fashion, and shall not permit the accumulation of rubbish, junk, aircraft or automobile parts or any other material.
- d. AVIATION shall maintain the runways, public taxiways, and aircraft parking area at the Airport. AVIATION retains sole authority to determine the methods and schedules by which any maintenance or necessary construction is to be performed. AVIATION may close the Airport whenever it deems it necessary for reasons of public safety or convenience. AVIATION shall make a good faith effort to provide advance notice of Airport closures when possible, but no advance notice is required when closure of the Airport is due to weather, acts of God, or other unforeseen circumstances.

## **11. FIRE PREVENTION:**

- a. PERMITTEE shall exercise due and reasonable care and caution to prevent and control fires on the Premises. PERMITTEE shall comply with all relevant state, county, and local fire laws, codes and rules. Local and state fire marshals may enter the Premises to determine compliance with fire prevention laws, codes and rules.

## **12. INDEMNIFICATION:**

PERMITTEE SHALL CONDUCT ITS ACTIVITIES UNDER THIS AGREEMENT AT PERMITTEE'S OWN RISK, AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE STATE OF OREGON AND AVIATION AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ARISING OUT OF, OR RELATING TO THE INTENTIONAL MISCONDUCT, OR RECKLESS OR NEGLIGENT ACTS OR OMISSIONS OF PERMITTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

## **13. INSURANCE:**

- a. Airport Liability Insurance: PERMITTEE shall maintain in force during the term of this Agreement airport liability insurance covering the Access Point, the Property, the Airport, and operations of PERMITTEE, including operation of aircraft. Combined single limit for bodily injury and property damage must not be less than \$1,000,000 per occurrence.
- b. Additional Insured: The above described insurance shall be provided by an insurance company authorized to do business in the State of Oregon and shall be primary and exclusive of any carried by the State of Oregon and shall be exhausted first. The liability insurance coverages required in this Agreement must include the State of Oregon, the Oregon Department of Aviation, and their respective officers and employees as additional insureds. Coverage must be severable for all insured or covered under cross-liability of all insured.
- c. Notice of Cancellation: There must be no cancellation of any insurance required under this section, or potential exhaustion of aggregate limits, without 30 days written notice from PERMITTEE or its insurer(s) to AVIATION.
- d. Certificates of Insurance: As evidence of the insurance coverage required under this agreement, PERMITTEE shall furnish certificate(s) of insurance to AVIATION no later than the effective date of this Agreement. The certificate(s) must clearly reflect compliance with the relevant terms of this section and be obtained from insurers with a Best's rating of not less than "A" or with approved Oregon surplus lines insurers.

- e. Adjustments: The parties agree that in the event the insurance limitations required herein are determined by legislation, court action or otherwise to be inadequate, the insurance requirements shall be adjusted within thirty days to comply with the new requirements.
- f. Failure to maintain insurance: Failure to keep required insurance in effect or failure to provide proof, upon request by AVIATION, of continuance of such insurance is grounds for default and termination pursuant to ODA regulation and this agreement.

#### **14. ASSIGNMENT:**

- a. PERMITTEE shall not assign, delegate or otherwise transfer any of its rights or obligations under this agreement without first obtaining the written consent of AVIATION, which AVIATION will not unreasonably withhold. This agreement is binding upon and inures to the benefit of each of the parties, and, except as otherwise provided, their permitted legal successors and assigns.

#### **15. RECORDS:**

- a. PERMITTEE shall keep proper books of account and other records pertaining to its airport access payment records. The books and records shall be available at all times during normal business hours to AVIATION and its authorized representatives, including but not limited to the Oregon Secretary of State and the Federal Government, which may inspect all such books and records to ascertain compliance with the terms and conditions of this agreement.

#### **16. AIRPORT REGULATIONS:**

- a. PERMITTEE's use of the Access Point and Airport under this agreement is subject to all existing and future regulations adopted by the FAA and State Aviation Board relative to the operation of the Aurora State Airport, and PERMITTEE agrees to comply with all of the provisions of such regulations. The operations conducted at this airport must be in compliance with all applicable Federal Aviation Regulations, grant assurances, Oregon AVIATION Laws, and traffic patterns as established at the Airport.

#### **17. COMPLIANCE WITH THE LAW:**

- a. PERMITTEE shall comply with all laws, ordinances, rules and regulations promulgated by any lawful authority of the United States, the State of Oregon, or any municipal subdivision having authority over or jurisdiction of the premises, including, but not limited to safety, health, sanitary, fire, electrical and building codes, zoning and state and local comprehensive plans and criminal laws, relating to its use of the Access Point, Airport and the Property under this Agreement.



- b. PERMITTEE shall register annually with AVIATION any aircraft owned by PERMITTEE and based at the Airport, in compliance with ORS 837.015 , “Registration of aircraft” and 837.040 “Persons required to register aircraft”
- c. PERMITTEE and any pilot operating any of PERMITTEE’s aircraft, other than out-of-state pilots not conducting commercial operations, shall register with AVIATION as required by ORS 837.020, “Registration of Pilots.”

**18. PROTECTION OF THE AIRPORT'S IMAGINARY SURFACES:**

- a. AVIATION may take any action it considers necessary to protect the Airport’s imaginary surfaces, as defined in Federal Aviation Regulations (FAR), Part 77, and Oregon Administrative Rules against obstructions, and may prevent PERMITTEE from constructing, altering, erecting, or placing any structure, building or object on the Property, Access Point, or the Airport which, in the opinion of AVIATION, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- b. PERMITTEE shall submit notice to the Federal Aviation Administration (FAA) of any and all proposed construction or alteration on or adjacent to the Property to AVIATION on FAA Form 7460-1 "Notice of Proposed Construction or Alteration" as prescribed in FAR § 77.17. PERMITTEE shall obtain AVIATION’s written approval prior to commencing any construction activities on Aviation Property.

**19. AVIATION’S RIGHT OF ENTRY:**

- a. AVIATION may enter through the Access Point at any reasonable time to ascertain compliance with the terms of this Agreement.

**20. DEFAULT:**

- a. The following are events of default:
  - i. Default in access fee: Failure of PERMITTEE to pay any fee or other charge within 60days after it is due.
  - ii. Default in Other Covenants: Failure of PERMITTEE to comply with any term of this Agreement, other than payment of fees or other charges, within 30 days after written notice by AVIATION specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 30-day period, PERMITTEE will not be in default if PERMITTEE 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.

- iii. Abandonment: Failure of PERMITTEE to pay for or use the Access Point, unless such failure is excused under other provisions of this Agreement.
- iv. Bankruptcy: PERMITTEE enters bankruptcy proceedings and the trustee in such proceedings fails to assume this Agreement.

## **21. REMEDIES:**

- a. Upon the occurrence of any one or more events of Default, and after giving PERMITTEE notice as provided in Oregon Administrative Rule 738-015-0090, AVIATION may exercise any one or more of the following remedies, or any other remedy available in law or equity:
  - i. Remove or occupy any property of either PERMITTEE or PERMITTEE'S unit owners located on any portion of the Airport;
  - ii. Deny PERMITTEE or PERMITTEE'S unit owners any of their rights under the terms of this agreement, including the rights of ingress and egress to and from the Point of Ingress/Egress.
  - iii. Recover all unpaid fees due under this agreement, and damages caused by the default including attorney fees, including an administrative fee equal to ten percent of such past due fees or amounts; or
  - iv. Terminate this agreement, by written notice mailed to PERMITTEE at the addresses set forth in the signatures section of this agreement, and pursue all additional remedies available at law or in equity.

## **22. TERMINATION:**

This Agreement shall terminate upon:

- a. Mutual written agreement of the parties.
- b. Conveyance, sale or transfer of PERMITTEE's interest in the Property.
- c. Termination upon Default.
  - i. Upon the occurrence of any one or more events of Default and notice required under this Agreement, AVIATION may, in addition to any other remedy available in law or equity, terminate this Agreement by giving written notice to PERMITTEE, as provided in Oregon Administrative Rule 738-015-0090.

- ii. Upon termination of this agreement, PERMITTEE and its agents, contractors, employees, tenants or other designees shall immediately cease use of the Access Point, and AVIATION may reenter, block and/or take possession of the Access Point and remove any persons or property therefrom by legal action or by self-help without liability for damages and without having accepted surrender of access. AVIATION may take possession of and remove any personal property belonging to PERMITTEE, its agents, contractors, employees, tenants or other designees located or affixed to the Airport property.
- iii. Damages. In the event of termination or retaking of possession of the Access Point following default, AVIATION may recover immediately, without waiting until the due date of any future fees or until the date fixed for expiration of the term of this Agreement, the following amounts as damages:
  - 1. All fees and charges prepaid by PERMITTEE;
  - 2. The loss of income from date of default until a new access agreement is, or with the exercise of reasonable efforts could have been, secured and paying access fees and charges; and
  - 3. The reasonable costs of reentry and repossession of the Access Point and any persons or property from the Access Point or Airport, as described in subsection b. above, including the cost of any cleanup, refurbishing, removal, and storage of said property, or any other expense occasioned by PERMITTEE's default, including any repair costs, attorney fees, and court costs.
- d. Termination for Airport Development: Relocation of Access Point. If AVIATION determines that relocation or termination of the Access Point is required for Airport development in accordance with the Airport Master Plan and FAA-approved Airport Layout Plan, AVIATION may offer an alternative Access Point to PERMITTEE, if available, or if no suitable alternative Access Point is available, or PERMITTEE chooses not to relocate within 10 days, this Agreement may be terminated by either party. Upon termination, PERMITTEE shall vacate and cease all use of the Access Point. No compensation is due for loss of renewal terms. AVIATION shall prorate and return to PERMITTEE any prepaid fees upon satisfactory vacation and closure of the Access Point.
- e. Termination Upon Necessary Closure or Sale of the Airport: If the State Aviation Board determines that it is necessary or advisable to abandon, close or convey the Airport due to the development or uncontrollable hazards to flight operations, lack of public use, prohibitive maintenance costs, legislative actions or other cause, AVIATION may terminate this Agreement upon 60 days written notice to PERMITTEE.

- f. Survival: Unless otherwise specified in this Agreement, all fees, charges or liabilities owing or arising under this agreement shall survive termination of this agreement.

**23. NO WARRANTY OF NON-INTERFERENCE BY ENTITIES OUTSIDE AVIATION'S CONTROL:**

- a. PERMITTEE acknowledges that actions of local government units, of parties holding land or living adjacent to the Airport, and of government entities not subject to AVIATION's influence and control, may have adverse impacts upon the number and character of flights and other operations at the Airport. However, if, through no fault of PERMITTEE, such actions by others make PERMITTEE's use of the Access Point, Airport or Property economically unfeasible, PERMITTEE may terminate this Agreement by giving written notice to AVIATION.

**24. NOTICES:**

- a. Any notices required under this agreement shall be in writing and given by personal delivery, facsimile or deposit in the regular United States Mail, postage prepaid. Any notice delivered by mail is deemed given three days after mailing as provided above. Any notice delivered by facsimile is deemed given when a confirmation of successful transmission is generated by the transmitting machine. To be effective against AVIATION, facsimile transmission must be confirmed by telephone notice to an employee at the Department of Aviation, at (503) 378-4880. Any communication or notice by personal delivery is deemed given when actually delivered. A party may designate a change of address by written notice to the other party.
- b. Notices to AVIATION must be directed to the following address and facsimile number:

Oregon Department of Aviation  
3040 25<sup>th</sup> Street SE  
Salem, Oregon 97302  
Phone: (503) 378-4880  
Fax: (503) 373-1688

- c. Notices to PERMITTEE must be directed to the address and facsimile number provided on the signature page of this Agreement.

**25. COVENANTS:**

- a. The covenants of this Agreement are continuing covenants, and waiver, whether express or implied by AVIATION or LESSEE, of any breach of these covenants may not be deemed a wavier of subsequent breaches.

**26. ENTIRE AGREEMENT:**

- a. This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and merges all prior and contemporaneous communications with respect to the rights and obligations hereunder. Any future agreements between the parties relative to this Agreement is ineffective to modify or discharge this Agreement, in whole or in part, unless it is in writing and executed with the same formalities as this instrument. PERMITTEE, by signing below, hereby acknowledges reading this Agreement, understanding it, and agreeing to be bound by its terms.

**27. SUBORDINATION TO FEDERAL-STATE AGREEMENTS:**

- a. The provisions of this Agreement shall be subordinate to any existing or future agreement between AVIATION and the United States 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 receipt of federal funds for the development of the airport. Failure of PERMITTEE to comply with any of the requirements of any existing or future agreement between AVIATION and the United States shall be cause for immediate termination of PERMITTEE's rights hereunder.
- b. During a time of war or national emergency, AVIATION may lease the landing area or any part of it to the United States for military or other federal government purposes, and, if this occurs, any term of this Agreement that is inconsistent with the any term in such a lease to the federal government is deemed to be suspended while such a lease is in effect. This Agreement shall be reinstated at such time as the lease with the federal government is terminated. Suspended time shall be considered as part of the term of this lease and will not extend the expiration date of this agreement. The fee to be paid by PERMITTEE to AVIATION provided for in Oregon Administrative Rule 738-010-0025 shall be waived during such time as any lease with the federal government is in effect.

**28. AVIATION'S RIGHT TO DEVELOP THE AIRPORT:**

- a. AVIATION reserves its right to further develop or improve the Airport in accordance with its duty to develop aviation within the State of Oregon as dictated by the demands of air traffic and aviation safety.

**29. NO EXCLUSIVE RIGHT:**

- a. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958.

**30. TIME:**

- a. Time is of the essence of every term of this Agreement.

**31. AUTHORITY:**

- a. All powers and authority conferred upon PERMITTEE by this Agreement are to be strictly construed, and no other power may be lawfully exercised by PERMITTEE without AVIATION's prior written consent. PERMITTEE has no authority to act on behalf of AVIATION, or to bind AVIATION to any third party, contractually or otherwise.
- b. The terms of this Agreement may not be construed to make PERMITTEE an officer, employee or agency of the State of Oregon or its Department of Aviation, as those terms are used in ORS 30.265.
- c. The person executing this Agreement on behalf of PERMITTEE represents that he or she has the legal power, right, and actual authority to bind PERMITTEE to the terms and conditions of this Agreement.
- d. The State Aviation Board, by duly-adopted Delegation Order No. 1, dated October 12, 2000, has authorized the Director of the Department of Aviation to act in its behalf in approving and executing this agreement.

EXECUTED by the parties as of the last date written below.

STATE OF OREGON, by and through its Department of AVIATION:

By: \_\_\_\_\_ Date: \_\_\_\_\_

As: STATE AIRPORTS MANAGER

**LESSEE: XXXXXXXX**

By: \_\_\_\_\_ Date: \_\_\_\_\_

As: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone (Daytime) \_\_\_\_\_ (Other) \_\_\_\_\_

Facsimile: \_\_\_\_\_

Exhibit “A”

Egress / Ingress  
Published Fee Schedule  
OAR 738-010-0025

Aircraft Weight Class	Weight Range	Monthly Fee per Aircraft
Class 1	Up to 5,000 lbs.	\$15/month
Class 2	5,001 to 10,000 lbs.	\$24/month
Class 3	10,001 to 20,000 lbs.	\$44/month
Class 4	20,001 to 30,000 lbs.	\$66/month
Class 5	30,001 to 40,000 lbs	\$88/month
Class 6	40,001 lbs. and over	\$120/month

SAMPLE

EXHIBIT “B”

SAMPLE