

LEASE OF TERMINAL BUSINESS SPACE

THIS LEASE is made and entered into this ____ day of _____, 2016, between the **CITY OF SALEM**, an Oregon municipal corporation, herein called "Lessor" and **HUT AIRPORT SHUTTLE, INC.**, an Oregon company herein called "Lessee."

WHEREAS, Lessor owns and operates an airport known as Salem Municipal Airport (Airport) in Salem, Marion County, Oregon.

WHEREAS, Lessee desires to lease certain premises in the terminal building located at the Airport for the conduct of Lessee's business.

IN CONSIDERATION of the mutual covenants and agreements set out herein, the parties do hereby mutually agree as follows:

1. PREMISES. Lessee shall have the use of the premises (Premises) at the Airport described in this section and shall have rights in connection therewith as follows:

1.1 To use, in common with others, the common areas at the Terminal Building together with all facilities and services which have been provided at or in connection with the Terminal Building.

1.2 To use, exclusively, two ticket counter spaces (Airline Counters 1 and 2) and two office spaces (Spaces 103 and 104) consisting of approximately 504 total square feet, located in the Terminal Building, and designated on Exhibit "A" attached hereto and by this reference incorporated herein, for the operation of an airport shuttle service.

2. TERM. The term of this Lease, shall be for a period of five (5) years, commencing June 1, 2016 and ending on May 31, 2021. Should Lessee holdover the Premises after the expiration of the primary term or any option term, such holding over shall constitute a tenancy from month to month only, and may be terminated by either party upon thirty (30) days written notice. During such tenancy, Lessee shall be bound by all of the terms, covenants and conditions herein specified so far as applicable.

3. RENTAL FEES AND REPORTS. For the use of the premises and for the rights granted by this Lease, Lessee agrees to pay Lessor, at the time and in the manner provided, the following rental and fees:

3.1 **Rental of Terminal Space.** Monthly rent for the terminal space leased exclusively to Lessee, as provided in Paragraph 1.2, shall be as follows:

Years 1-3	June 1, 2016 – May 31, 2019	\$756.00 (approx. \$1.50 p.s.f.)
Years 4-5	June 1, 2019 – May 31, 2021	\$812.70 (approx. \$1.61 p.s.f.)

3.2 **Additional Charges.** In addition to the rent for the leased Premises, Lessee shall pay to Lessor an additional \$75.00 per month which consists of the following charges:

Bus Parking	1 shuttle bus space @ \$15.00 per month, per space
Employee Parking	4 reserved parking spaces @ \$15.00 per month, per space

The Additional Charges may be subject to upward adjustment in the event Lessee's use of these amenities so warrants, or applicable fees at the Airport are increased. Lessor shall provide Lessee with sixty (60) day notice of any increase in the Additional Charges, at which time Lessee will be provided the option to cancel or modify its use accordingly.

3.3 **Customer Parking Fees.** Lessee's customers shall be charged a reduced terminal parking rate of \$2.00 per 24 hour period for the use of the paid parking spaces at the airport terminal.

4. MAINTENANCE, SERVICES, AND IMPROVEMENTS. Lessor, during the term of this Lease, shall:

4.1 Provide and pay for all electricity, water and sewer, used or incurred on the leased premises. Lessor reserves the right to charge Lessee for excessive use of any utilities paid for by Lessor. "Excessive use" means consumption of electricity, water or sewer service substantially in excess of commercially reasonable use for the type of activity undertaken by Lessee, and the leased space, as reasonably determined by Lessor.

4.2 Keep all leased area facilities and basic building structure in an acceptable state of repair.

5. RULES AND REGULATIONS. Lessee and its employees and agents will obey such reasonable rules and regulations as may be promulgated, from time to time, by Lessor or its authorized agents in charge of the Airport to ensure the safe and orderly conduct of operations and traffic to, from or upon the Premises and Airport property in general, and Lessee and its employees and agents will obey such rules and regulations

as may be promulgated, from time to time, by the United States or any department or agency thereof and by the State of Oregon for like purposes.

Lessee agrees to abide by all acceptable conditions of Chapter 9 of the Salem Revised Code.

5.1 Lessee agrees to observe and obey all the regulations and laws, or any future changes in the regulations and laws, of all local, state or federal agencies having jurisdiction over the Leased Premises relating to Lessee's use and occupying of the Lease Premises.

5.2 No machinery, equipment, or property of any kind, except shuttle vehicles shall be stored or kept outside of the buildings; and any wrecked, permanently disabled, or otherwise unsightly vehicle shall not be kept on the AIRPORT premises.

6. **DEFAULT BY LESSEE.** This Lease is upon the express condition that, if any one or more of the following events of default occur, to wit:

- a. Filing a petition of voluntary or involuntary bankruptcy with respect to the Lessee.
- b. The making by the Lessee of any general assignments for the benefit of creditors.
- c. The abandonment or discontinuance of any operation at the AIRPORT by the Lessee or the failure to conduct any service, operation, or activity which the Lessee or Licensee has agreed to provide under the terms of this contract or Chapter 9 of the Salem Revised Code. If this condition exists for a period of ten (10) days without prior written consent of the Lessor, it will constitute an abandonment of the land or facilities and the lease shall become null and void. This provision shall not apply to inactivity caused by labor disputes or any of the acts, as limited, specified in Section 10.5 hereof.
- d. The failure to pay the rent herein reserved or any part thereof or other charges and payments required by the terms of this lease within ten (10) days after written notice of Lessee's failure to make such payment has been given by Lessor to Lessee; no such written notice shall be required if written notice for a previous similar default shall have been given to Lessee during the twelve (12) month period preceding.
- e. The failure of the Lessee to remedy any default, breach or violation of the Salem Airport Rules and Regulations by Lessee or its employees within thirty (30) days after notice from Lessor.
- f. Violation of any of these standards and rules and regulations or

failure to maintain current licenses required for its operation under Salem Revised Code Chapter 9.

g. Intentionally supplying the Lessor with false or misleading information or misrepresenting any material fact on the application or documents, or in statements to or before the Lessor; or intentional failure to make full disclosure on financial statement or other required documents.

h. Lessee shall fail to observe or perform any other of the provisions herein and on the part of Lessee to be observed and performed, and such failure shall continue for a period of thirty (30) days after written notice thereof given by Lessor to the Lessee.

Lessor, upon the occurrence of any such event of default, or at any time thereafter during the continuance of such default, may terminate this lease by giving written notice to Lessee. The notice to terminate may be included in a notice of failure of compliance given under paragraph (d) above. Upon such termination, Lessor then, or at any time thereafter, may re-enter the leased premises or any part thereof and thereupon take possession of the said premises and may expel and remove from the leased premises Lessee and those claiming under Lessee and their effect, at Lessee's expense and store the same without demand or notice or resort to any legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, or Lessor may then or at any time thereafter bring any action for possession of said premises or any part thereof as provided by law without prejudice to any other remedy or right of action which Lessor may have for arrears of rent or for any proceeding or the breach of contract. The foregoing shall not be a limitation upon the rights of remedies of the Lessor, but shall be in addition to any rights of remedies which the lessor may have at law or equity.

7. CANCELLATION BY LESSEE. This Lease shall be subject to cancellation by Lessee in the event of any one or more of the following events:

7.1 Governmental Interference. The lawful assumption of the United States Government, or any authorized agency thereof, of the operation, control or use of the AIRPORT and the facilities in such a manner and to such an extent as to materially interfere with Lessee's operation thereon for a period of at least ninety (90) days.

7.2 Injunction. Issuance of any court or competent jurisdiction of any injunction in any way preventing or restraining the use of the AIRPORT in such a manner and to such an extent as to materially interfere with the operation of Lessee's business operation, and remaining in force of injunction for a period of at least ninety (90) days.

7.3 **Termination by Lessee.** This Lease may be terminated by Lessee by not less than ninety (90) day's prior written notice to Lessor. Such termination is in addition to and not in lieu of any other remedy at law or equity.

8. **ENVIRONMENTAL.** Lessee shall not use or allow any agents, contractors or subtenants to use the leased premises to generate, manufacture, refine, transport, treat, store, handle, recycle, release or dispose of any hazardous materials, other than as reasonably necessary for the operation of Lessee's activities as contemplated under this Lease. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including but not limited to, those substances, materials and wastes in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. Sec. 172. 101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. part 302) and amendments thereto, petroleum products and their derivatives and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Law.

Other than as contemplated in the preceding paragraph above, Lessee shall not cause or permit any hazardous materials to be brought upon, used, kept or stored in or about the leased premises by Lessee, its agents or contractors without prior written consent of Lessor, which Lessor shall not unreasonably withhold as long as Lessee demonstrates to Lessor's reasonable satisfaction that such hazardous substance is necessary or useful to Lessee's business and will be used, kept and stored in compliance with Environmental Laws and in a manner that minimizes the likelihood of releases on or to the leased premises.

Lessee shall cause its use of the leased premises and all operations conducted thereon to comply with all Environmental Laws and orders of any governmental authorities having jurisdiction under any Environmental Law and shall obtain, keep in effect and comply with all governmental permits and authorizations required by Environmental Laws with respect to the use of the leased premises or operations. Lessee shall furnish Lessor with copies of all such permits and authorizations and any amendments or renewals thereof and shall notify Lessor of any expiration or revocation of such permits or authorizations. As used herein the term "Environmental Law" shall mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health and the environment.

Lessor has not conducted an assessment of the environmental condition of the leased premises, or property that is the subject of the right of first refusal, and Lessor makes no representations or warranties with respect to compliance of the premises with Environmental Laws.

Lessee shall undertake any and all preventative investigatory or remedial actions (including emergency response, removal, containment and other remedial actions) that are either: (a) required by an applicable Environmental Law or governmental authority as a direct result of Lessee’s use of or operation of the leased premises or (b) necessary to prevent or minimize any property damage (including damage to the leased premises) personal injury or damage to the environment, or the threat of any such damage or injury, by release of or exposure to hazardous materials in connection with the Lessee’s use of the leased premises or operations of the Lessee on the leased premises.

9. INDEMNITY. Lessee agrees to defend, indemnify, and hold harmless Lessor, its officers, agents, and employees against any expense, loss, or liability paid, suffered, or incurred as the result of any breach by Lessee of any covenant or condition of this Lease, or as the result of Lessee’s improvements, use or occupancy of the Premises, or any careless, negligent, or improper acts or omissions of Lessee. Lessee’s indemnity obligation under this Lease extends to the acts and omissions of any agent, officer, or employee of Lessee, any sublessee or operator and any agent, servant, customer, employee, visitor or licensee of any sublessee or operator. These indemnity obligations shall survive termination of this Lease for any reason notwithstanding any provision in this Lease to the contrary.

10. INSURANCE. Lessee shall obtain and maintain at its own cost the greater of indicated insurance coverage shown in Appendix 1 of Salem Revised Code Chapter 9 (and as such code chapter is amended) or coverage matching liability limits as follows:

General Aggregate	\$2,000,000	Products – Comp/Op Agg	\$2,000,000
Personal & Adv Injury	\$2,000,000	Fire Damage	\$50,000
Each Occurrence	\$2,000,000	Med Exp	\$5,000

Lessor reserves the right to require periodic adjustment of insurance coverage based upon then current industry standards.

Lessee shall furnish Lessor with a certificate, evidencing such coverage and any renewal thereof, which certificate shall show coverage underwritten by a responsible insurance carrier(s) which is authorized by the State of Oregon to provide such coverage in Oregon, and the following endorsements to the liability policy:

- a). The policy shall cover on an “occurrence” basis.
- b). The policy shall cover contractual liability.
- c). Broad Form property damage.
- d). “The City of Salem, Oregon, its officers, agents and employees” as additional named insured.
- e). An endorsement stating that coverage is primary insurance and that no other insurance in effect for the City will be called upon to contribute to a loss under this coverage.

- f). An endorsement stating that the insurance carrier underwriting such coverage shall give Lessor thirty (30) days written notice of cancellation of, or material alteration to, the policy.

11. ASSIGNMENT AND SUBLETTING. Lessee shall not at any time, without the prior written consent of Lessor, assign this Lease or any interest herein or sublease or transfer possession or control of the Premises or rights granted to Lessee.

12. TERMINATION BY LESSOR. Notwithstanding Sections 6 and 7 above, this Lease may be terminated or cancelled for any reason by the Lessor upon giving written notice to the Lessee ninety (90) days in advance of the date of termination.

13. NOTICES. Any notice permitted or required by this Lease shall be deemed given when placed in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO LESSOR:

CITY OF SALEM
Airport Manger
2990 25th Street SE
Salem, OR 97302

WITH A COPY TO:

CITY OF SALEM
Urban Development Department
350 Commercial Street NE
Salem, OR 97301

TO LESSEE:

HUT AIRPORT SHUTTLE, INC.
Attn: Doris Hutmacher
34030 Excor Road
Albany, OR 97321

14. NON-WAIVER. Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's rights to require strict performance of the same provision in the future or of any other provision.

15. NON-DISCRIMINATION. Lessee in the operation and use of the PREMISES and of the facilities at the AIRPORT shall not, on the grounds of race, color, or national origin, or sex, discriminate or permit discrimination against any person or group of persons in any manner prohibited by applicable law and shall abide by the provision of Part 21 of the Rules and Regulations of the Office of the Secretary of Transportation, effectuating Title VI of the Civil Rights Action of 1964.

16. SUBORDINATION TO FEDERAL AND STATE AGREEMENTS. This Lease shall be subject and subordinate to any existing or future agreement between the City and the United States or if the State of Oregon relative to the development, operation or maintenance of the AIRPORT, the execution of which agreement has been or may be required as a condition precedent to the expenditure of Federal or State funds for the development, operation or maintenance of the AIRPORT.

17. BINDING EFFECT. Subject to the restrictions set forth in Paragraph 12, this Lease shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

18. ACCESS BY LESSOR. Lessee shall allow Lessor's authorized representatives access to the PREMISES at all reasonable hours, for the purpose of examining and inspecting the PREMISES incidental to or in connection with the performance by Lessee's or Lessor's obligations under this Lease or any exercise of its governmental function.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

LESSOR:

LESSEE:

CITY OF SALEM
an Oregon municipal corporation

HUT AIRPORT SHUTTLE, INC.
An Oregon company

By: _____
Steven D. Powers

By: _____
Doris Hutmacher

Its: City Manager

Its: President

Date: _____

Date: _____

LIST OF EXHIBITS

Exhibit A – Floor plan of Leased Premises

Exhibit A

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