ORIGINAL

NEWPORT MUNICIPAL AIRPORT
T-HANGAR LEASE AGREEMENT

BETWEEN: The City of Newport, an Oregon Municipal Corporation (Lessor)

AND: Irene Cochran (Lessee)

EFFECTIVE DATE:

RECITALS

A. The Newport Municipal Airport (Airport) is operated by and under the jurisdiction of Lessor. In accordance with sound Airport management practices, the Airport rules and regulations and the Airport Plan of Development, as updated and amended from time to time, and other relevant policies of Lessor, certain areas of the Airport are reserved for each of the several types of activities that occur.

B. Lessee desires to lease T-hangar No. 5.

AGREEMENT

1. Lease. For the purpose stated in this Agreement and on the other terms and conditions stated herein, Lessor leases to Lessee T-hangar No. 5.

2. Initial Term for a New Lease. The period of the Lease will be five (5) years, commencing March 1, 2013, and expiring March 1, 2018, subject to earlier termination in accordance with the terms of this Agreement.

3. Extension Term. Provided Lessee is not in default in the performance of any term or condition of this Lease, Lessee shall have the option to extend this Lease for two (2) additional terms of one (1) years per term, commencing with the expiration of the first or additional term, upon the following conditions:

   3.1 The extension option may be exercised at any time between 360 and 60 days prior to the expiration of the initial term, or any extension term, with written notice given to Lessor by the Lessee. If not exercised within such period and in such manner, the option to extend shall be void. Even if exercised timely, the granting of the option is conditional upon the provisions in this Paragraph 3.

4. Basic Rent.

   4.1 Basic rent is $180.00 per month until January 1, 2014. On January 1, 2014, the basic rent will be $195.00 per month. Basic rent shall be due and payable on a monthly basis unless other arrangements are made;

prorated to the first day of the month following signing, and due on the first day of each month thereafter.

4.2 Any payments or partial payments not made under this Lease shall bear interest at the rate of twelve percent (12%) per annum until paid.

5. **Adjustments to Basic Rent.**

5.1 CPI Adjustment. Beginning on January 1, 2015, the basic rent provided in Paragraph 4 shall be increased each year by a percentage equal to the percentage change in the Consumer Price Index statistics published by the United States Bureau of Labor. Comparisons shall be made using the index entitled, "U.S. City Average/All Items and Major Group Figures for all Urban Consumers Portland Area (1982-84 = 100)," or the nearest comparable data on changes in the cost of living, if such index is no longer published. The change shall be determined by comparison of the figure for the previous January 1, with that of January 1 of the current year. In no event shall this calculation cause a reduction in base rent below that payable during the preceding year. The proposed adjustment shall be presented to the Lessee by the City thirty (30) days prior to the effective date of the assessment.

5.2 Challenge. Lessee may give Lessor notice, within thirty (30) days of the notice of rental adjustment, challenging Lessor's figures. If any such challenge is not made within thirty (30) days, Lessee's challenge to the figures presented by Lessor shall be deemed waived. The challenge shall be restricted to Lessor's calculations of increases relating to Lessee and, if not resolved by the parties, will be referred to arbitration as described in Paragraph 23.

6. **Use of the Leased Premises.** Use of the Leased Premises is limited to aeronautical uses. Use of the leased premises for commercial or business use is prohibited. The Lessee may use the Leased Premises for the following purposes and for no other purpose (including commercial use) without the prior written approval of the City Manager:

6.1 Construction of an aircraft for private use by the Lessee in accordance with Airport rules and regulations;

6.2 Storage of aircraft;

6.3 Maintenance and repair of Lessee's aircraft by Lessee or by a person or firm in accordance with current and applicable future Airport rules and regulations.

7. **Lessee's Additional Use Rights.** Lessee shall have the use of Airport facilities and navigational aids for the purpose of landing, taking off, and taxiing of Lessee's

aircraft, and related rights of ingress and egress 24 hours a day, subject to the current or any amended laws, rules, regulations, ordinances, and resolutions of applicable governmental bodies, including Lessor.

8. **Restriction on Assignment and Sublease.** Lessee shall not assign this Lease, or any interest herein, or sublease the Leased Premises without the prior written consent of Lessor. As a condition of any consent to assignment, Lessor may require one or more of the following:

   8.1 Updating Lease. Lessor may require or allow Lessee and/or the assignee to execute Lessor's then current form of hangar site Lease, or a partial or complete amendment of this Lease to incorporate the terms and provisions of Lessor's then current form of hangar site Lease.

   8.2 Environmental Assessment. If Lessor reasonably believes that there is a question regarding hazardous materials or other environmental issues that relate to Lessee's use of the premises, Lessor may require, as a condition of assignment, an environmental assessment. Such assessment would be at Lessee's expense, as a condition of approval of assignment.

9. **Specific Obligations of Lessee.** In connection with Lessee's occupancy and use of the Leased Premises, the following specific conditions shall apply:

   9.1 Compliance with Laws. Lessee shall comply with all applicable laws, ordinances, rules, and regulations of any governmental bodies having jurisdiction over the Airport with respect to Lessee's activity in relation to the use and occupancy of the Leased Premises, and of the Airport in general. Any act or failure to act by Lessee or by any subtenant, employee, invitee, or agent of Lessee in violation of any such laws, ordinances, rules, and regulations shall be deemed a violation of this Lease.

   9.2 Airport Rules and Regulations. Lessee's obligation under Paragraph 9.1 shall include, but not be limited to, the rules and regulations of the Airport. Lessor reserves the right to adopt additional rules and regulations and amend existing and future rules and regulations which govern the Leased Premises and the facilities at the Airport used by the Lessee in connection with the Leased Premises. Lessee agrees to observe, obey, and abide by all such rules and regulations currently existing or hereafter adopted or amended. Any action or failure to act by Lessee or by any subtenant, employee, invitee, or agent of Lessee which is in violation of such rules and regulations shall be deemed a violation by Lessee of this Lease.

   9.3 Environmental Laws. Lessee's obligations under this Lease specifically include, but are not limited to, strict and timely compliance with all environmental laws. Lessee shall ensure that all operations on the Leased Premises comply with all environmental laws and orders of any

governmental authorities having jurisdiction under any environmental laws. Lessee shall exercise extreme care in handling hazardous substances and shall undertake any and all preventive, investigatory, or remedial action (including emergency response, removal, containment, and other remedial action) which is either required by any applicable environmental laws or orders of any governmental authority having jurisdiction under such laws, or necessary to prevent or minimize property damage, personal injury or damage to the environment or threat of any such damage or injury, by releases of, or exposure to, hazardous materials in connection with the Leased Premises or operations thereon. Lessee shall immediately notify Lessor upon becoming aware of any leak, spill, release or disposal of hazardous substances on, under, or adjacent to the Leased Premises. In the event Lessee fails to perform any of Lessee's obligations under this paragraph, Lessor may, but shall not be required to, perform such obligations at Lessee's expense. In performing any such obligations of Lessee, Lessor shall at all times be deemed the agent of Lessee and shall not, by reason of such performance, be deemed to be assuming any responsibility of Lessee under any environmental law or to any other third party. At any time Lessor reasonably requests, Lessee shall provide to Lessor further assurance of Lessee's compliance with this paragraph. The assurances shall be in a form and substance satisfactory to Lessor, in Lessor's sold discretion, and may include but not be limited to, Lessee providing to Lessor an environmental audit or assessment from a source acceptable to Lessor, at Lessee's expense.

9.3.1 As used in this Agreement, the term "environmental laws" means all state, federal, and local statutes, regulations, and ordinances relating to the protection of human health and the environment.

9.3.2 In this Agreement, the term "hazardous materials" is used in its very broadest sense and refers to materials that, because of their quantity, concentration or physical, chemical, or infectious characteristics, may cause or pose a present or potential hazard to human health and to the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported, or otherwise handled on the Leased Premises. The term includes, without limitation, petroleum products or crude oil or any fraction thereof, and any and all hazardous or toxic substances, materials, or wastes as defined by or listed under the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and any other environmental laws.

9.4 Signs. In addition to complying with any rule(s) or regulation(s) of Lessor pertaining to signs, Lessee shall not permit to be maintained any sign on the leased Premises or at the Airport without the prior written approval of the Airport Operations Manager. This approval and rules and regulations

are in addition to any rules or regulations that would apply to this site by any applicable governmental jurisdiction.

9.5 Aviation Easement. Lessee acknowledges that its rights to use the property shall be secondary and subordinate to the operation of the Airport. Lessor reserves a right of flight for the passage of aircraft in the airspace above the Leased Premises together with the right to cause noise inherent in the operation of aircraft. Lessee shall not take any action or construct any improvements that interfere with the navigational aids of flight operations of the Airport.

9.6 Security. Lessee recognizes its obligation to comply with federal airport security regulations. Lessee shall reimburse Lessor in full for any fines or penalties levied against Lessor for security violations as a result of any actions on the part of Lessee, its agents, guests, or employees.

10. Liability to Third Parties.

10.1 Lessee's Indemnification. Lessee shall at all times indemnify, protect, defend, and hold harmless Lessor, its officers, agents, and employees from any claims, demands, losses, actions, or expenses, including attorney's fees, to which Lessor may be subject by reason of any property damage or personal injury arising or alleged to arise from the acts or omissions of Lessee, its agent, or its employees, or in connection with the use, occupancy, or condition of the Leased Premises.

10.2 Liability Insurance Required. Lessee shall procure and maintain throughout the term of this Lease and any extension, at Lessee's cost, public liability and property damage insurance from a company authorized to do business in the State of Oregon with the combined single limit of not less than $1,000,000 for bodily injury, death, personal property or property damage in connection with Lessee's use or occupancy of the Leased Premises, or the exercise of enjoyment of rights or privileges granted by this Lease. Lessor shall have the right to require Lessee to increase the limits of such coverage from time to time to an amount deemed by Lessor to be reasonable in view of conditions and circumstances existing at the time of such increase. Such circumstances include any modification by either court ruling or legislative change to the maximum recovery allowed under the Oregon Tort Claims Act. The insurance shall name Lessor, its officers, agents, and employees as additional insureds with the stipulation that the insurance, as to the interests of Lessor, shall not be invalidated by any act or neglect or breach of contract by Lessee. Lessee shall provide Lessor with a certificate of insurance evidencing the required coverage, with a thirty (30) day notice of cancellation or material change in coverage and shall provide Lessor with such evidence that the policy remains in force as Lessor may require from time to time.

11. **Subordination**. This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the State of Oregon and/or 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 expenditure of state or federal funds for the development of the Airport, or any amendments thereto.

12. **Cessation of Airport Operation**. Lessor, regardless of the terms of this lease, as a result of any orders of the State of Oregon, the United States, or any other governmental instrumentality, may cease airport operations. Lessee acknowledges Lessor's right to cease such operations and releases Lessor from any and all damage claims by Lessee against Lessor as a result of such cessation of operations. This release does not apply to any other party who may be the basis for Lessor's cessation of operations. Subject to the orders of cessation, Lessee shall be granted a period of twelve (12) months free of any rents and fees in which to cause the Leased Premises to be restored to a condition free of all improvements, including hangars and debris. Lessor shall not be liable to Lessee for any damages related to loss in use of the Leased Premises due to action under this paragraph. This provision does not eliminate any obligations of Lessee as a result of liability or indemnification obligations as set forth in other provisions of this lease.

13. **Airport Development**. Regardless of the term of this lease, Lessor, at Lessor's discretion or as a result of any orders of the State of Oregon, United States, or any other governmental unit having authority over the property may require the cessation of use of the specific Leased Premises for their leased purposes, prior to the expiration of this lease for the purpose of airport development. At Lessor's option and expense, Lessor shall either (1) dismantle and move to another leasable premises on the Airport property, and there re-erect Lessee's improvement(s) or, (2) purchase Lessee's improvement for fair market value as determined below. If Lessor acts under the first option, the lease reference to location of the Leased Premises shall change, and all other remaining terms of the expired lease shall continue in full force and effect.

    Fair market value under the second option shall be for an amount not less than the fair market value of the improvement immediately prior to determination as determined by an appraisal conducted by an independent appraiser engaged by Lessor. Specifically, the appraiser shall not determine salvage value, but rather the fair market value of the improvement, assuming the Airport was to remain in existence or the party to continue to use the leased area. Purchase price shall be determined and all funds transferred within 180 days of termination. Obligations of removal shall be Lessor's. This action does not eliminate any obligations of Lessee as a result of any liability or indemnification obligations as set forth in other provisions of this lease.

14. Removal of Personal Property and Fixtures.

14.1 Lessee shall remove all personal property and return the Leased Premises to proper condition upon the end of the term(s), or other cessation of use by Lessee, as set forth below. Lessee shall remove all Tenant property except fixtures permanently or semi-permanently affixed, which shall become property of the Lessor upon lease termination or abandonment by Lessee, and restore the grounds to a clean and orderly condition free of all debris.

14.2 Abandonment. If Lessee abandons the Leased Premises, Lessor may treat such abandonment as a default under this Lease, and Lessor may exercise any rights it may have as in the case of default for which Lessee is not entitled to notice. Lessee shall be deemed to have abandoned the Leased Premises if it fails to occupy the same for a period of three (3) months; however, Lessor may consider Lessee to have abandoned the Leased Premises by other acts, words, or conduct evidencing abandonment or intent to abandon the Leased Premises. Any personal property remaining on the Leased Premises sixty (60) days after termination of this Lease for any reason shall be deemed as abandoned by Lessee and Lessor may make any disposition of such personal property as it deems appropriate. Lessor may charge Lessee for the reasonable costs incurred in disposing of such personal property. Upon abandonment, Lessee loses all rights and options set forth in Paragraph 18.1. Lessee remains responsible for all Lessors' costs.

15. Default. Lessee shall be in default under this Lease upon the occurrence of any one or more of the following events (time of payment and performance being of the essence):

15.1 Failure of Lessee to pay any rent or other charges within thirty (30) days after the same becomes due.

15.2 Except as otherwise provided in this Paragraph 19, the failure of Lessee to comply with any term or condition, to fulfill any obligation, or to cure any violation of this Lease within thirty (30) days after written notice by Lessor specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within thirty (30) days, this provision shall be deemed complied with if Lessee begins correction of the default within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable, within thirty (30) days after written notice by Lessor specifying the nature of the default with reasonable detail, unless a shorter time line is set forth in the Lease for the specific default alleged. Lessor may require, as part of the cure of any violation by Lessee, reimbursement from Lessee for any and all costs and expenses incurred by Lessor by reason of Lessee's violation of this Lease.

15.3 If Lessee cures a deficiency in the manner described in Paragraph 19.2, Lessee's subsequent failure to comply with the same term or condition within twenty-four (24) months shall constitute immediate default without requirement of notice or opportunity to cure.

15.4 If Lessee sub-leases or otherwise assigns its interests in this Agreement, except in accordance with the provisions of the Agreement, default shall be automatic without requirement of notice or opportunity to cure.

15.5 Lessee shall also be in default in the event of:

1. Lessee's insolvency;

2. The filing by Lessee of a voluntary petition of bankruptcy action;

3. Adjudication that Lessee is bankrupt;

4. The filing of an involuntary petition of bankruptcy and the failure of Lessee to seek a dismissal of the petition within thirty (30) days after the filing; and

5. Abandonment of the Leased Premises.

16. **Inspections.** Lessor shall have, at all times during normal business hours, the right to enter into the Leased Premises and inspect Lessee's facilities and operations for the purposes of determining Lessee's compliance with its obligations under this Lease. Lessor shall provide at least 24 hours' notice before any inspection except in cases of emergency. Notice shall be sufficient if prominently posted on the building on the Leased Premises 24 hours prior to the inspection.

17. **Remedies on Default.** In the event of a default, the Lease may be terminated at the option of the Lessor by notice in writing to Lessee. The notice of termination may be included in a notice of failure of compliance given under Paragraph 15. If the Leased Premises is abandoned by Lessee in connection with a default, termination shall be automatic and without notice. If the Lease is terminated for any reason, Lessee's liability to Lessor for damages for breach shall survive such termination, and the rights and obligations of the parties shall be as follows:

17.1 Lessee shall vacate the Leased Premises immediately, remove any property of Lessee including any fixtures which Lessee is required to remove at the end of the Lease term, perform any cleanup, alterations or other work required to leave the Leased Premises in the condition required by this Lease at the end of the term, and deliver all keys to Lessor. Possession to any structure on the Leased Premises shall immediately

revert to Lessor and Lessee shall have no right or claim against Lessor as a result thereof.

17.2 Lessor may re-enter, take possession of the Leased Premises, and remove any persons or property by legal action or self-help with the use of reasonable force and without liability for damages.

17.3 Following re-entry or abandonment, Lessor may relet the Leased Premises and in that connection may relet all or part of the Leased Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession, and may make any suitable alterations and/or refurbish the Leased Premises, or change the character or use of the Leased Premises, but Lessor shall not be required to relet to any Lessee which Lessor may reasonably consider objectionable.

17.4 The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law or as set forth in this Agreement.

17.5 Any holding over after the expiration of the lease, with the written consent of Lessor, will be construed to be a tenancy from month to month, at 150% of the Basic Rent payable for the period immediately before the expiration of the Term and will otherwise be on the terms and conditions of this Lease. If Lessor consents to any such holding over, either party may thereafter terminate the tenancy at any time upon thirty (30) days' advance written notice to the other party. Any holding over without consent will be a tenancy at sufferance, which Lessor may terminate at any time without notice.

18. **Attorney Fees and Costs**. In the event any action or claim relating to the enforcement or interpretation of any of the terms of this Lease is made, except as stated in Paragraph 19, the successful party shall be entitled to recover all costs, fees, and expenses reasonably incurred, whether or not taxable as costs, including without limitation, attorney fees, inspection and investigation costs, copying charges, and all other related expenses.

In the event any litigation is commenced relating to this Lease, including but not limited to any action or participation by Lessee or Lessor in or connected with a case or proceeding under the Bankruptcy Code or any successor statute, the prevailing party shall be entitled to recover all costs, fees and expenses reasonably incurred, before and after trial, and on appeal and review, whether or not taxable as costs, including without limitation, attorney fees (including estimated fees to collect a judgment entered in favor of the prevailing party), witness fees (expert or otherwise), deposition costs, inspection and investigation

costs, copying charges and all other related expenses. Expenses incurred in the event of arbitration shall be treated as if they were expenses incurred in litigation.

19. Arbitration. If any contract dispute arises between the parties, it shall be decided by arbitration unless both parties agree to waive arbitration and proceed with litigation. Upon request for arbitration, the party requesting arbitration shall submit to the other party a list of the names of five independent arbitrators. The other party may select any one of the five. If the parties cannot decide on an arbitrator with qualifications that relate to the dispute at hand within fifteen (15) days, then either party may apply to the presiding judge of the Lincoln County Circuit Court to appoint the required arbitrator.

    The Arbitrator shall proceed according to Oregon statutes governing arbitration, and any rules specifically adopted by the parties. If the parties do not agree upon rules for the arbitration, the Arbitrator shall establish rules and advise each respective party. The award of the Arbitrator shall have the effect provided in the Oregon Revised Statutes. The arbitration shall take place in Lane County. Costs of arbitration and attorney fees and costs may be awarded to a party at the discretion of the Arbitrator.

20. **Discrimination Prohibited.** In connection with Lessee's use and occupancy of the Leased Premises and the conduct of its operations at the Airport, Lessee shall be bound by the following non-discrimination requirements:

    20.1 General. Lessee will not discriminate against any person or class of persons by reason of race, color, national origin, sex, ancestry, creed, or on any other grounds prohibited by law.

    20.2 Civil Rights Act. Lessee will not on the grounds of race, creed, color, national origin or on any other prohibited grounds, discriminate or permit any discrimination against any person or group of persons in any manner prohibited by Part 21 of the Rules and Regulations of the Secretary of Transportation, effectuating Title VI of the Civil Rights Act of 1964. Without limiting the generality of the foregoing, Lessee agrees not to discriminate against any employees or applicants for employment because of race, creed, color, national origin or on any other prohibited grounds.

    20.3 FAA required terms. As required by the FAA, the following clauses are made part of Lessee's obligations under this Agreement:

        1. Lessee for itself, and its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for with a US Department of Transportation program or activity is extended or for another purpose involving the provision of similar

services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. Lessee for itself, and its heirs, personal representatives, successors in interest, and assigns, as a 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, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction or 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 the benefits of, or otherwise be subjected to discrimination; (3) that the Lessee shall use the premises in compliance with all requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

21. **Non-Waiver**. Waiver by either party of strict performances of any provisions of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provisions in the future or of any other provision. No act or omission shall constitute a waiver of this non-waiver clause.

22. **Notices**. Any notice required or permitted under this Lease shall be considered given when actually delivered in person or when deposited with postage prepaid in the United States mail as registered or certified mail:

To Lessor: Newport Municipal Airport
c/o City of Newport
169 SW Coast Highway
Newport, Oregon 97365

To Lessee: Irene Cochran
Address: P.O. Box 400
Port Saint Joe, Florida 32457

Phone: 850.227.5050
E-Mail: abacus@centurytel.net

Or to such other address as may be specified from time to time by either of the parties in writing.

23. **Interpretation and Liability.** In interpreting this Agreement, the singular shall include the plural. If Lessee consists of more than one individual or entity, each such individual and entity shall be jointly and severally liable for Lessee's obligations under this Lease.

24. **Inconveniences During Construction.** Lessee recognizes that from time to time during the term of this Lease, it will be necessary for Lessor to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance, and repair in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity requiring accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or temporarily interrupt Lessee's operations at the Airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, employees, contractors, and representatives by reason of such inconveniences or interruptions and, for and in further consideration of this Lease, Lessee waives any right to claim, damages or other considerations therefore, except that rent payable under this Lease shall be abated proportionately during and for such period of that access to the Leased Premises by aircraft of Lessee and its invitees is denied by reason of such interruptions.

25. **Rights Not Exclusive.** Except for Lessee's exclusive right to use and occupy the Leased Premises, nothing in this Lease shall be construed as granting an exclusive right to Lessee.

26. **Entire Agreement.** This Lease contains the entire Agreement between the parties concerning the Leased Premises and supersedes all prior agreements, oral and written. This Agreement may be modified only in writing and signed by the parties.

The individuals executing this Lease warrant that they have full authority to execute this Lease and that they have thoroughly read this Lease and received legal advice regarding this Lease.

LESSOR:

City of Newport
Municipal Airport

Jim Voetberg
City Manager

Signature

2/11/13
Date

LESSEE:

Irene Cochran
Address: P.O. Box 400
Port Saint Joe, Florida 32457

Phone: 850.227.5050
E-Mail: abacus@centurytel.net

Signature

2/7/2013
Date