

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

City Clerk
City of Lompoc
100 Civic Center Plaza
Lompoc, CA 93436

[SPACE ABOVE FOR RECORDER'S USE ONLY]
Exempt from filing/recording fees per Govt. Code §27383

**LEASE AGREEMENT FOR
AIRCRAFT STORAGE
LOMPOC AIRPORT**

This Lease Agreement is made by and between the City of Lompoc, a California municipal corporation (**City**), and Jeff Thomas, doing business as Flight Support Lompoc (**Lessee**) on June 1, 2019.

RECITALS

A. City owns and operates an airport commonly known as the Lompoc Airport, hereinafter referred to as "**Airport**."

B. City desires to provide needed airport services, such as a licensed mechanic holding an Airframe and Power Plant license with Inspection Authority available.

C. City wishes to have such services available to Airport patrons for a reasonable number of hours and at reasonable rates.

D. Lessee desires to lease a portion of Airport for the purpose of providing aircraft maintenance, storage of aircraft parts, aircraft restoration, flight instruction, aircraft sales and other related aeronautical activities as may be approved, in writing, by the Aviation/Transportation Administrator.

E. Lessee has read and understands the rules and regulations that apply to the Lompoc Airport.

NOW, THEREFORE, incorporating the foregoing Recitals herein, it is mutually agreed as follows:

1. Premises. City hereby leases to Lessee, and Lessee hereby hires from City, upon the terms and conditions herein set forth, those certain premises located at the Airport (**Premises**), comprising a hangar of approximately 9,070 square feet, an outside

area of approximately 1,650 sq. ft. and three (3) tie down spaces, all more particularly identified as outlined in Exhibit A, attached hereto and made a part hereof by this reference. (Tie-down spaces will be reassigned during the West Coast Piper Cub Fly-in). All oil, gas and mineral rights are expressly reserved from this Lease Agreement.

2. Term. The term of this Lease Agreement (**Term**) shall be for a period of five years commencing on June 1, 2019, and terminating on May 31, 2024, unless sooner terminated as provided in this Lease Agreement. Lessee shall have the option to extend the Term for an additional five years by notifying the City, in writing, no later than January 30, 2024.

3. Use of Premises.

A. Lessee shall use the Premises solely for the purpose of operating an aircraft maintenance business, storage of aircraft parts, aircraft restoration, flight instruction, aircraft sales and other aeronautical activities as may be approved, in writing, by the Aviation/Transportation Administrator. Lessee shall be, employ, or contract with, a currently licensed Federal Aviation Administration (FAA) Airframe/Power Plant mechanic with Inspection Authority available, to be available for hire by the general public (airport patrons) a minimum of 40 active or on-call hours per week. (Lessee to provide schedule and after hours contact number.) Lessee further agrees that any activity, including but not limited to, repair and maintenance of aircraft in the boundary of the Airport, which violates Fire Codes, causes structural or other damage to Airport property, including surfaces, or detracts from a clean and orderly appearance of the Airport, or the Premises, is prohibited. Lessee agrees to limit all repair, maintenance, installation or other aeronautical activity service performed on any aircraft to the extent permitted by FAA regulations and all other applicable laws.

B. Lessee shall make the hangar available, at no cost, up to five days per calendar year for the West Coast Piper Cub Fly-in. Event dates will be set by the Aviation/Transportation Administrator with notice given to Lessee at least 30 days prior to the event.

4. Rent. Lessee agrees to pay to City at 100 Civic Center Plaza, Lompoc, California 93436, as rent for the use and occupancy of the Premises the amounts hereinafter provided during the term of this Lease Agreement. Partial months shall not be prorated. Rent is due on the first day of each month while this Lease Agreement is in effect.

A. Initial Rent. Initial monthly rent shall be at the rate of twenty cents (\$.20) per square foot, based on the square footage of the hangar only (9,070 square feet), or \$1,814.00 total per month, commencing June 1, 2019, and continuing through May 31, 2020.

B. Rent Adjustments. The then current rent (**Base Rent**) shall be adjusted each July 1 during the Term of this Lease Agreement by the Percentage Increase in the "Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average-All Items (1982-1984=100)", published by the Bureau of Labor Statistics of the United States Department of Labor, plus 1%. If the Index shall cease to be published, there shall be substituted therefore a price index (or combination of indices, with such adjustments as may be required to afford compatibility), published by the Bureau of Labor Statistics or its successor government agency, which is intended to be representative of substantially similar changes in the cost of living. "**Percentage Increase**" shall mean the percentage equal to a fraction, the numerator of which shall be the change in the Index from March of the year prior to the adjustment year to March of the year in which the adjustment will take place. The fraction's denominator shall be the Index for March of the year prior to the adjustment year. In no event shall the Base Rent decrease. For illustration purposes only, the adjustment shall be calculated as follows:

$$\text{Base Rent} + [\text{Base Rent} (\text{percentage of CPI Increase} + 1\%)] = \text{New Rent}$$

Assuming that Base Rent is \$1,814, CPI for March 2019 is 250, and CPI for March 2020 is 260, then:

$$\text{New Rent} = \$1,814 + [\$1,814 (10/250 + 1\%)] = \$1,814 + (\$1,814)(0.05) = \$1,905.$$

5. Late Charges. Rent payments, and other costs and charges authorized hereunder, not received by City by the tenth day of the month when due are subject to a late penalty, without notice to Lessee, of 1.5% per month.

6. Costs of Lease. Lessee shall promptly pay all costs and expenses, including utilities. (Utilities include, but are not limited to, gas, electricity, telephone, telecommunication, water, sewer and refuse collection services.) Lessee also agrees to reimburse City for any and all expenses that City incurs in modifying existing utilities for Lessee's benefit relating to possession and use of the Premises. The possessory interest created by this Lease Agreement may be subject to taxation, and Lessee may be subject to the payment of taxes levied on such interest. Lessee acknowledges its actual knowledge of the existence of a possessory interest tax and receipt of this notice of Lessee's potential tax liability. Lessee agrees that it is solely responsible for the timely payment before delinquency of possessory interest taxes and any other tax, levy or assessment upon the Premises, the aircraft, Lessee's personal property, improvements, and fixtures upon the Premises.

7. Aircraft Lien. Lessee consents and agrees that City may levy a lien against Lessee's aircraft, improvements, fixtures, and personal property upon the Premises. Such lien shall exist and continue to secure all unpaid amounts which Lessee owes to City. Such lien shall not relieve Lessee from compliance with this Lease Agreement, including the obligation to pay rent as provided herein. If Lessee does not fully and

immediately discharge all unpaid amounts, then City is hereby granted and shall have the right to take and recover possession of Lessee's aircraft, improvements, fixtures, and to satisfy City's lien in accordance with California Code of Civil Procedure Sections 1208.61 through 1208.70 and any other applicable common laws or statutory provisions. City may also take and recover possession of personal property stored on the Premises and exercise its lien against the same without notice or other action, and in addition thereto, City shall have and recover all costs and expenses including attorneys' fees in connection with repossession and disposal of the aircraft, improvements, fixtures, and personal property and enforcement of City's lien.

8. Condition of Premises.

A. Lessee has inspected the Premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent or patent. Lessee will keep and maintain the Premises, improvements, and fixtures in a clean, safe, and orderly condition at all times. Lessee shall not commit or suffer to be committed any waste upon the Premises, improvements, and fixtures or commit or allow any nuisance or other act which may disturb or interfere with the Airport, its surroundings, the departure and arrival of aircraft, or other aircraft operations and uses. If Lessee shall fail to perform the obligations under this paragraph, after 21 days written notice setting forth such failure, then City shall have the right to perform the same and to charge Lessee therefor, and Lessee shall pay the City such costs upon City's demand. A written condition report of the Lease property will be notated in a walk through with Lessor and Lessee to define "as-leased" condition. A document produced from that walk through will be attached to this Lease Agreement as Exhibit B.

B. Lessee shall not, nor allow any other person to, park or keep any vehicle (other than aircraft), motor home, trailer, boat, or other recreational vehicle or inoperable vehicle on the assigned Premises without City's advance written consent. Lessee may park operational airport work vehicles in the outside area noted in the Lease Agreement.

C. Lessee shall not use, keep, store or place in or on the Premises any petroleum products or any materials that are in any way hazardous, toxic, radioactive or explosive, except those which are necessary and appropriate to accomplish the purpose of this Lease Agreement. All such materials shall be used, stored, handled, dispensed and disposed of as required by applicable governmental regulations and laws. Any spills of such materials by Lessee anywhere on the Airport shall be immediately reported to the Aviation/Transportation Administrator and cleaned up by Lessee, at Lessee's sole expense, in accordance with standards of the industry and applicable governmental regulations and laws.

D. Lessee shall be allowed to place signage on the hangar for commercial purposes both for aircraft visibility and vehicle visibility. Lessee shall not

construct or place signs, awnings, marquees, advertising, or promotional structures upon the Premises or Airport without the prior written permission of the Aviation/Transportation Administrator. Such permission shall not be unreasonably withheld but must meet City standards. If Lessee fails to remove any such signs, displays, advertisements or decorations within twenty-four (24) hours after written notice from City, then City may remove them at Lessee's sole expense.

E. Lessee hereby agrees that Lessee will not permit or suffer any liens of any kind to be filed against the Premises as a result of any obligation, malfeasance, negligence, or omission of Lessee, and that Lessee shall diligently take all necessary and proper steps to remove and discharge any liens which are filed.

9. Alterations. Lessee shall not alter the Premises without City's prior written consent except as herein set forth. If City so consents, then alterations shall be made at the sole cost and expense of Lessee and only after Lessee obtains any and all required permits.

10. Insurance. Lessee shall not occupy the Premises before obtaining the insurance specified below and providing proof the same to the City's satisfaction. Insurance amounts may be adjusted annually by the City Manager.

A. Bodily Injury and Property Damage. During the term of this Lease Agreement and any extension thereof, Lessee shall continuously maintain an insurance policy providing for liability insurance in amounts of not less than \$1,000,000 per occurrence for death and personal injury.

B. Personal Property. Lessee understands and agrees that it is Lessee's sole responsibility to obtain insurance covering Lessee's aircraft and other personal property as well as any other aircraft and personal property which is located on the Premises. Notwithstanding any provision to the contrary, Lessee specifically waives any claim against City for theft, loss, or damage of any kind or from any source whatever that may occur to Lessee's and others, aircraft or personal property located on the Premises.

C. Fire and Extended Coverage Insurance. Throughout the Term, at Lessee's sole cost and expense, Lessee shall keep or cause to be kept insured, for the mutual benefit of City and Lessee, all improvements located on or appurtenant to the Premises, whether constructed at the time of signing this Lease Agreement or not, against loss or damage by fire and such other risks as are now or hereafter included in an extended coverage endorsement in common use of structures, including vandalism and malicious mischief. The amount of the insurance shall be sufficient to prevent either Lessee or City from becoming a co-insurer under the provisions of the policies, but in no event shall the amount be less than 100% of the actual replacement cost, excluding the cost of replacing excavations and foundations, but without deduction for depreciation

(herein called full insurable value). In the event payment are made for repairs, payments of proceeds for repair, restoration, or reconstruction of improvements shall be made monthly on architect's certificates until the work is completed and accepted. Any insurance proceeds remaining after complying with the provisions of this Lease Agreement relating to maintenance, repair, and reconstruction of improvements shall be the Lessee's sole property.

D. Documentation. Lessee shall present to City a certificate evidencing the required coverage, naming the City of Lompoc as additional insured. All insurance required by express provisions of this Lease Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All such policies shall be non-assessable and shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act or negligence of City that might otherwise result in failure of the insurance, (ii) insurer waives the right of subrogation against City and against City's agents and representatives, (iii) the policies are primary and non-contributing with any insurance that may be carried by City, and (iv) the policies cannot be canceled or materially changed except after 30 days' written notice by the insurer to City. Lessee shall furnish City with copies of all such policies upon their receipt.

11. Indemnification. Lessee shall defend, indemnify, and hold City harmless from, and reimburse City for, any loss, cost, expense, liability, or damages of every kind or nature, including but not limited to injury to or death of any person or destruction of the Premises in connection with or related to, the use by Lessee or any third party (including officers, directors, employees and invitees) of the Premises or any facilities located thereon in connection with the business being conducted by Lessee. In addition, Lessee shall defend, indemnify, and hold City harmless from any breach or default in the performance of any obligation to be performed by Lessee under this Lease Agreement, any violation of governmental law or regulation, or any intentional misconduct or negligence of Lessee, or any officer, agent, employee, guest, or invitee of Lessee, regardless of whether such intentional misconduct or negligence was active or passive.

In the event of the occurrence of any event which is an indemnifiable event pursuant to this Section, Lessee shall notify City promptly and, if such event involves the claim of any third person, Lessee shall assume all expenses with respect to, the defense, settlement, adjustment, or compromise of any claim; provided that City may, if it so desires, employ counsel at its own expense to assist in the handling of such claim. Lessee shall obtain the prior written approval of City, which shall not be unreasonably withheld, before entering into any settlement, adjustment, or compromise of such claim. Lessee shall reimburse City or any third party (including officers, directors, and employees of the City) for any legal expenses and costs incurred in connection with or in enforcing the indemnity herein provided. All indemnification obligations hereunder shall survive the expiration or earlier termination of this Lease Agreement. Notwithstanding the generality of the foregoing, the Lessee's obligation to indemnify the City shall not

extend to liability caused by the negligence or willful misconduct of the City, its officers, employees or agents on the Premises, or events or activities conducted by City.

12. Right of Entry. City's authorized agents shall have the right and privilege of entering the Premises for the purposes of inspection, performing necessary improvements, determining whether the terms of this Lease Agreement are being kept and performed, and posting notices of nonresponsibility. City shall provide Lessee with 24-hour notice prior to entry except in an emergency.

13. Default or Breach. If Lessee (i) fails to pay or cause to be paid any tax, assessment, insurance premium, lien, claim, charge, or demand herein provided to be paid or caused to be paid by Lessee at all times and in the manner herein provided, (ii) defaults in the payment of any installment of rent or any other sum when due and provided, (iii) fails to commence or to complete the construction, repair, restoration, or replacement of the hangar and any other improvements in and about the Premises within the times and in the manners herein provided, (iv) fails to use, maintain, and operate the Premises as herein required, or abandons the Premises, or (v) defaults in the performance of or breach of any other term, covenant, condition, or restriction of this Lease Agreement herein provided to be kept or performed by Lessee, then City may give written notice to remedy such default or breach. If the default or breach is remedied within 30 days following such notice, then this Lease Agreement shall continue in full force and effect. If such default or breach is not remedied within 30 days following such notice, then City may, at its option, terminate this Lease Agreement, and, in addition to all of the remedies, City may re-enter and re-lease the Premises, and all improvements shall become the sole property of City. Upon termination, all subleases, at the option of City, shall terminate. Such termination shall not waive any remedy available to either party because of such default or breach. Each term and condition of this Lease Agreement shall be deemed to be both a covenant and a condition. Upon default or breach by Lessee, City may, in addition to all other remedies available in law or equity, recover all damages proximately resulting from the breach or default, including, but not limited to, the cost of recovering the Premises and the total balance of lease payments due under this Lease Agreement for the remainder of the Lease Agreement term, which sum shall be immediately due City from Lessee.

Appointment of a receiver to take possession of Lessee's assets, Lessee's general assignment for the benefit of creditors, Lessee's insolvency, and Lessee's taking or suffering action under the Bankruptcy Act are breaches of this Lease Agreement. Upon any such event, City shall have the option to terminate this Lease Agreement or to require Lessee to provide additional security by means of a cash security deposit, advance rental payments, or such other action as City deems prudent to protect the Premises and the public fisc.

Lessee agrees that failure to maintain the required insurance, or to cause the breach of any clause in this Lease Agreement, or to fail to abide by any Airport rule or

regulation, shall be deemed a material breach of this Lease Agreement and subject to the default provisions described above.

14. Surrender of Premises. Upon expiration of the Term, all buildings, structures, facilities, improvements or alterations thereto constructed by Lessee shall become part of the land upon which they are erected, and title thereto shall, upon termination, automatically vest in City. Lessee shall leave the surrendered Premises and any other property in a well maintained manner as notated in Exhibit B of this Lease Agreement. Any improvements made during the course of this Lease Agreement shall become the property of City and shall be surrendered in good and clean condition.

Notwithstanding the foregoing, all uncompleted or partially or totally destroyed improvements shall, at City's option, be removed prior to surrender of the Premises, and the site of such improvements shall be returned to the same condition as prior to the execution of the Lease Agreement.

15. Holding Over. If Lessee remains in possession of the Premises, or any part thereof, after the expiration of the Term, or any extensions of the Term granted pursuant to Section 2, such occupancy shall be a tenancy from month-to-month, cancelable upon 30 days written notice upon the terms and conditions that existed during the last year of the Term.

16. Assignment/Subletting. Neither this Lease Agreement nor any interest herein shall be assigned, either voluntarily or involuntarily, by Lessee, or by operation of law or otherwise, nor shall the Premises, or any part thereof, be sublet by Lessee without the prior written consent of the City. Such sublease shall be subject to such other conditions as may be imposed by City. Any such assignment or sublease without such prior written consent of City shall be void. City shall have the right to assign or transfer this Lease Agreement or any rights in or to it. Lessee will be allowed to sub-lease hangar space to an FAA mechanic/contractor to accommodate required maintenance needs.

17. Destruction of Premises. If the Premises are damaged or destroyed by fire, earthquake or other Act of God or any other causes so as to render them unfit for occupancy, except as caused by any of the Indemnifying Parties, then Lessee may terminate this Lease Agreement at its option; but if Lessee elects to reconstruct the Premises, then that shall be done within six months after the date of destruction or a date agreed upon by both parties in writing.

18. Security. City does not warrant the security of any of the Indemnifying Parties' property at the Airport, including, but not limited to, aircraft, fuels, tools, vehicles and related ground equipment.

19. Sole Agreement; Amendments. This Lease Agreement constitutes the sole and final agreement between City and Lessee respecting the lease of the Premises.

No prior agreement or understanding pertaining to lease of the Premises is effective. This Lease Agreement may be modified only by a writing signed by the parties.

20. Binding on Successors. This Lease Agreement and each of its provisions shall be binding upon, and shall inure to the benefit of, the respective heirs, executors, administrators, trustees, successors, and assigns of the parties.

21. Waiver. City's waiver of breach of any provision of this Lease Agreement shall not be treated as a continuing waiver of such provision or as a waiver of any future breach of the same or other provision of the Lease Agreement. City's acceptance of rent shall not be treated as a waiver of Lessee's previous breach of any provision of this Agreement. No custom or practice, which may arise or develop between the parties in the course of the term of this Lease Agreement, shall be construed to waive or diminish City's right to demand Lessee's performance of all terms, covenants, and conditions hereof, or to pursue any rights and remedies City may have if Lessee defaults in performance of this Lease Agreement.

22. General. If any term or provision of this Lease Agreement, or any application thereof, shall be invalid or unenforceable, then the remainder of this Lease Agreement, and any other application of its terms or provisions, shall not be affected thereby. The captions of this Lease Agreement are for the convenience of reference only and shall not define or limit any of the Lease Agreement's terms and provisions. The relationship created by this Lease Agreement is one of landlord-tenant. This Lease Agreement is not intended to create a joint venture or any relationship other than landlord-tenant.

Lessee's use of the Premises shall at all times fully comply with this Lease Agreement, Lompoc Municipal Code Chapter 4.04 (LMC Chapter 4.04), all applicable federal, state and local laws and regulations, and all signs and lawful instructions of Airport staff. In utilizing the Premises, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, sex, sexual preference or identity, marital status, religion or national origin. Lessee acknowledges it has read LMC Chapter 4.04 and agrees to abide by all of the Airport rules and regulations, no matter where set forth.

This Lease Agreement shall not be deemed to grant the exclusive right of any Airport use forbidden by Section 308 of the Federal Aviation Act of 1958, any other federal statute or regulation, or state or local law or other directive.

23. Jurisdiction. If any legal action is necessary to enforce the terms and conditions of this Lease Agreement, the parties agree that a court of competent jurisdiction in the County of Santa Barbara shall be the sole venue and jurisdiction for the bringing of such action.

24. Recordation of Lease. In accordance with Government Code Section 37393, this Lease Agreement shall be recorded in the Official Records of Santa Barbara County. Upon extension of the Term or any exercise of rights under this Lease Agreement to terminate, the parties shall execute and record an amendment to this Lease Agreement. All fees for recordation shall be paid by the lessee. Lessee shall cooperate with executing any documents reasonably required to effect this provision. Upon termination of the Lease Agreement, Lessee shall execute and acknowledge any documents reasonably requested by City in order to terminate the Lease Agreement of record. This obligation shall survive termination of this Lease Agreement for any reason.

25. Notices. Any notice required by law or pursuant to this Lease Agreement shall be deemed to be fully given when written and dispatched by certified mail, return receipt requested, postage prepaid, to the parties at the addresses below. Notices shall be deemed served on the date of postmark.

City

City of Lompoc
Attn: Aviation/Transportation
100 Civic Center Plaza
Lompoc, CA 93436

Lessee

Jeff Thomas

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the date first above written.

CITY OF LOMPOC, a municipal corporation

Lessee

By:

James Throop
City Manager

(Above signature must be notarized.)

Jeff Thomas

(Above signature must be notarized.)

Attest:

By:

Stacey Haddon, City Clerk

Approved as to form:

By:

Jeff Malawy, City Attorney

EXHIBIT A

DESCRIPTION OF PREMISES

(Immediately behind this page)

EXHIBIT B

CONDITION OF PREMISES IDENTIFIED DURING WALKTHROUGH

(Immediately behind this page)