

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION
LAND USE LICENSE**

The STATE OF MONTANA, Department of Transportation, Aeronautics Division, P.O. Box 201001, Helena, MT 59620-1001, (“Licensor”), hereby grants a LAND USE LICENSE to occupy and use lands owned by the State of Montana, Department of Transportation, Aeronautics Division subject to the following terms and conditions:

1. LICENSEE

Name

Street Address

City State Zip Code

Home Phone XXX-XXX-XXXX

Work Phone XXX-XXX-XXXX

- 2. DESCRIPTION-** Licensee is allowed access, for private aviation activity only, to the Whitefish Airport from Licensee’s adjoining private property, through the Licensor’s perimeter fence, as depicted in attached Exhibit A
- 3. DURATION-** The term of this license will run from [DATE] up to and including[DATE], unless terminated in accordance with this license.
- 4. RENTAL-** Beginning upon acceptance of this license, and for the term of this license, Licensee agrees to pay Licensor an annual fee, as shown below. The license fee will be due July 1st annually. The fee is as follows:
- July 1,[YEAR] \$[AMOUNT]
 - July 1, [YEAR] \$[AMOUNT]
 - July 1,[YEAR] \$[AMOUNT]
 - July 1,[YEAR] \$[AMOUNT]
- 5. LICENSED ACTIVITY-** This license authorizes access through the perimeter fence for the following activities only:
- A. Conducting air and ground operations;
 - B. Taking off and landing an aircraft on the runway surfaces;
 - C. Taxiing to and from the runway;
 - D. Temporary aircraft parking;
 - E. Fueling by the on-field Fixed Base Operation (FBO) should one be established on the airport.
- 6. TERMS AND CONDITIONS-** Licensee agrees to the following terms and conditions of Whitefish Airport use:

- A. Licensor, as owner and operator of the Whitefish Airport maintains the turf strip as a recreational and emergency airport on a partial year basis. The Airport is closed to all traffic at times when the ground is saturated, covered with snow, or otherwise deemed unsafe for normal use. Closure determinations are made solely by Licensor.
 - B. Licensor or its contractors are the only party to maintain, plow, repair, or make alterations to the Airport.
 - C. Fence connections at the Airport property line allowing access to Licensee's property must be made by the Licensee, at Licensee's expense, but the fence and gate plans must be approved by Licensor.
 - D. The access granted by this License Agreement is private access only and may not be used as access for other private parties, or for public use unless specifically approved by Licensor.
7. **RESERVATIONS-** The State of Montana reserves all rights and interests to the land under this license other than those specifically granted by this license.
8. **UNLAWFUL USE-** If any part of the lands or premises under this license are used or allowed or permitted to be used for any purpose contrary to the laws of the State of Montana or the United States, such unlawful use shall, at the discretion of the Licensor, constitute sufficient reason for the cancellation of this license.
9. **COMPLIANCE WITH LAWS-** Licensee agrees to comply with all applicable federal, state, county and city laws and regulations in effect at the date of this license or which may, from time to time, be adopted, and which do not impair the obligations of this license agreement.
10. **CHOICE OF LAW AND VENUE** This license agreement is governed by the laws of the State of Montana. Parties agree that any litigation concerning this agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees except as otherwise stated in this Agreement.
11. **BINDING EFFECT-** All covenants and agreements herein set forth between the parties hereto shall extend to and bind their successors, assigns and legal representatives.
12. **FIRE PREVENTION AND SUPPRESSION-** Licensee assumes all responsibility for performing, at Licensee's own cost and expense, all fire prevention and suppression work necessary or required to protect the forage, trees, buildings, and structures on the land to the same extent as if the land was owned by the Licensee.
13. **LICENSOR ACCESS-** Representatives of Licensor shall at all reasonable times have the right to inspect or use the access.

14. **AUDIT** Licensee grants to the Legislative Auditor, the Legislative Fiscal Analysts and Licensor auditors the right, without prior notice and during normal business hours, to audit, at their own costs and expense, all records, reports and other documents Licensee maintains in connection with this license.
15. **IMPROVEMENTS-** No improvements, including but not limited to such things as gates or signage, will be allowed on the property other than those specified within this license without written approval of Licensor.
16. **LOSS – DAMAGE-** Licensee covenants and agrees that it will not hold the State of Montana, Department of Transportation, Aeronautics Division, any of its agents, or employees responsible for any loss occasioned by fire, rain, windstorm, hail, or other natural disaster, or from theft, vandalism or other criminal acts, whether such cause be the direct, indirect, or merely a contributing factor in producing the loss to any airplane, automobile, personal property, parts or surplus that may be temporarily located on the airport property.
17. **HOLD HARMLESS AND INDEMNIFICATION-** To the extent of its liability pursuant to applicable law, Licensee shall be liable for injury or damage to any person or property incidental to or that may arise during and in consequence of the Licensee’s exercise of its rights granted hereunder, including but not limited to the use, operation and maintenance of the licensed area. Licensee agrees to protect, defend, indemnify, and hold the State of Montana, Department of Transportation, Aeronautics Division, its elected and appointed officials, agents, and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by Licensee’s employees or third parties on account of personal or bodily injury, death or damage to property, arising out of the acts or omissions of Licensee, its agents, servants, guests, visitors or sub-contractors, under this license.
18. **GENERAL LIABILITY INSURANCE-** Lessee shall maintain for the duration of the Lease at their cost and expense insurance against claims for injuries to persons or damages to property , including contractual liability, which may arise from or in connection with any act or omission by the Lessee and their agents, employees, representatives, assigns or subcontractors. This insurance shall cover such claims as may be cause by any intentional or negligent act or omission. The Lessee’s insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees and volunteers and shall apply separately to the facility and its location. General Liability insurance covering all operations under the Lease shall have coverage in the amounts of \$300,000 each occurrence and \$600,000 general aggregate. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the Lessee’s insurance and shall not contribute with it.
 - A. **Additional insured status:** The State, MDT, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds arising out of the activities

performed by or on behalf of Lessee, including the insured's general supervision of any Contractor; products, and completed operations; premises owned, leased, occupied or used.

B. Certificates of Insurance: Insurance is to be placed with an insurer with a Best's rating of no less than A-. Lessee must notify Lessor of any material change in insurance coverage, such as changes in limits, coverages, changes in status of policy, etc. Lessor reserves the right to require complete copies of insurance policies at any time.

19. **LIMITATION OF AUTHORITY-** Other than for the purposes specifically described in this agreement, Licensee agrees that it does not and shall not claim at any time any interests or estate of any kind or extent whatsoever in the premise by virtue of this license or Licensee's occupancy or use.
20. **TERMINATION-** Licensor reserves the right to terminate the permission hereby granted at any time by giving Licensee no less than sixty (60) days written notice of such termination, except Licensor may terminate the permission at any time, if Licensee fails to comply with, or abide by, each of the provisions hereof, or ceases to use the permission hereby granted. Licensee agrees to peaceably yield possession of these premises upon termination of this license or for any cause.
21. **DISCLAIMER OF WARRANTIES-** Licensee agrees to accept all facilities on the Whitefish Airport on an "as is" basis. MDT Aeronautics Division disclaims, and Licensee accepts such disclaimer, of any warranty, either expressed or implied of the condition and usability of tie-down area, taxiway, and runway.
22. **TRANSFER OR ASSIGNMENT-** Access is for current Licensee use only and cannot be transferred or assigned.
23. **AMENDMENT** - This license may be modified or amended only by written Amendment signed by the parties.
24. **HAZARDOUS WASTE-** Licensee must not store any personal property, solid waste, petroleum products, Hazardous Waste (Ignitable, Corrosive, Reactive, or Toxic) on any portion of airport premises. Licensee is aware that there are significant penalties for improperly disposing of the Hazardous Wastes or submitting false information regarding Hazardous Waste including the possibility of fine and imprisonment for knowing violations.
25. **NOXIOUS WEEDS-** Licensee shall be responsible for controlling any noxious weed introduced by Licensee's activity on the State-owned land. Licensee's methods of control must be reviewed and approved prior to implementation by Licensor.

- 26. **EFFECT OF NON-PAYMENT BY LICENSEE**-Licensee understands and agrees that, if Licensee fails to pay for the license, Licensors will not issue Licensee another license until noncompliance has been remedied.
- 27. **COUNTERPART EXECUTION** - This license may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same license. The counterparts of this license may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS MONTANA DEPARTMENT OF TRANSPORTATION, AERONAUTICS DIVISION, LAND USE LICENSE

THIS _____ DAY OF _____, 20__.

LICENSOR

LICENSEE

**MONTANA DEPARTMENT OF
TRANSPORTATION, AERONAUTICS
DIVISION**

NAME

By: _____ By: _____
Licensors Licensee

EXHIBIT A
ACCESS LOCATION MAP