

EXHIBIT D

FORM OF RENTAL AGREEMENT

(Buchanan Fields Airport Business Park / Building Unit No. __ - __)

This rental agreement ("**Rental Agreement**") is dated _____, 201__, and is between Montecito Commercial Group, LLC, a California limited liability company (the "**Sublessor**"), and _____, a _____ (the "**Subtenant**").

RECITALS

A. Pursuant to the Lease Agreement between Sublessor and the County of Contra Costa (the "**County**") dated April 10, 2018 (the "**Lease**"), Sublessor is the lessee of that certain real property consisting of approximately 3 acres of land located at Buchanan Field Airport (the "**Airport**") in Concord, California (the "**Project Premises**"). A copy of the Lease is attached as Exhibit A.

B. Sublessor has developed the Project Premises by constructing a multi-tenant light industrial business park and other improvements.

C. The parties desire to enter into this Rental Agreement for the purpose of subleasing to Subtenant a portion of the Project Premises consisting of approximately _____ square feet of office and warehouse space that is identified as the Premises on Exhibit B (the "**Premises**").

The parties therefore agree as follows:

AGREEMENT

1. **Definitions.** Except as otherwise defined herein, capitalized terms have the meanings given to such terms in the Lease.

2. **Sublease.** Subject to the terms and conditions of this Rental Agreement and the terms and conditions of the Lease, Tenant hereby subleases to Subtenant, and Subtenant hereby subleases from Tenant, the Premises.

3. **Term.** The initial term of this Rental Agreement begins on _____, 20__ (the "**Commencement Date**") and ends on _____, 20__, unless terminated earlier in accordance with its terms (the "**Expiration Date**") (the "**Term**").

4. **Rent.**

4.1. **Rent.** Beginning on the Commencement Date and continuing throughout the Term of this Rental Agreement, Subtenant shall pay Sublessor _____ (\$_____) monthly in advance on the first day of each month as rent for the Premises ("**Rent**"). Rent is

subject to adjustment if Ground Rent under the Lease is modified pursuant to Section 6 of the Lease.

4.2. Rent Payment. Rent will be prorated for any partial month. Rent is payable without notice or demand and without any deduction, offset, or abatement, in lawful money of the United States of America. Subtenant shall pay Rent directly to Sublessor at the address set forth below Tenant's signature hereto or such other address as may be designated in writing by Tenant.

4.3. Utilities. Subtenant shall pay to Sublessor the Subtenant's percentage of utilities that are not separately metered.

4.4. Triple Net Lease. This Rental Agreement will be interpreted and enforced as a triple net lease to Sublessor so that it is without cost to Sublessor during its term.

4.5. Late Payment; Interest. If Rent is not paid by Subtenant within ten (10) calendar days after the due date, Sublessor may impose a late payment fee of ten percent (10%) per annum, but in no event greater than the maximum rate allowable under law. Such late payment fee will be added to the amount due and owing to Sublessor. The assessment of late charges or the payment of same by Subtenant does not in any manner prejudice or diminish the rights of Sublessor to pursue its rights available at law or equity hereunder.

4.6. Security Deposit. Subtenant shall deposit \$_____ with Sublessor upon execution of this Rental Agreement as a security deposit. Sublessor may draw against the security deposit to satisfy any monetary defaults by Subtenant and upon any such default and demand by Sublessor, Subtenant shall promptly replenish the security deposit by making a payment to Sublessor in the amount drawn against the security deposit.

5. Holdover. Subtenant shall surrender the Premises on or before the Expiration Date in accordance with the terms of this Rental Agreement. Subtenant indemnifies, and will defend and hold Sublessor harmless from and against all losses, costs, claims, liabilities and damages resulting from Subtenant's failure to surrender the Premises on the Expiration Date in the condition required under the terms of this Rental Agreement (including, without limitation, any liability or damages sustained by Sublessor as a result of a holdover of the Premises by Sublessor occasioned by the holdover of the Premises by Subtenant). In addition to such other rights and remedies that may be available to Sublessor under law or equity, Subtenant shall pay Sublessor holdover rent equal to two hundred percent (200%) of the Rent (at the rate in effect at the time of the Expiration Date) for any period from the Expiration Date through the date Subtenant surrenders the Premises in the condition required hereunder.

6. Maintenance. Subtenant shall maintain the Premises in conformance with the maintenance requirements of the Lease. In the event Subtenant fails to cause such maintenance to be commenced and diligently performed to completion within fifteen (15) days after written notice from Sublessor requesting the maintenance in question, Sublessor may undertake the specified maintenance for the account of Subtenant and Subtenant shall promptly reimburse Sublessor's actual cost and expenses incurred in connection therewith. Subtenant may not make any alterations or improvements to the Premises, except in accordance with the Lease and with the prior written consent of the Sublessor and of the Director of Airports as required by the Lease.

7. **Use.**

7.1. **Specific Use Permitted; Subject to Lease.** The Premises may only be used for light industrial business and related purposes, as more fully described in the Lease. Subtenant's use of the Premises is subject to the provisions of the Lease. In the event of any conflict between the provisions of this Rental Agreement and the Lease, the provisions of the Lease control. Subtenant warrants that it has received and read the Lease.

8. **Insurance.** Subtenant shall obtain and keep in full force and effect during the Term the insurance described below. Subtenant shall add Sublessor and County, their officers, agents and employees, as additional insureds (for their respective interests), in any policy of insurance carried by or on behalf of Subtenant in connection with this Rental Agreement. Subtenant shall provide Sublessor and County with certificates of insurance upon their request.

8.1. **Commercial General Liability and Property Damage Insurance.** Subtenant shall obtain and maintain commercial general liability insurance with an insurance carrier having a rating of at least A- or P status (pooled insurance coverage). Subtenant shall cause such insurance to have a combined single limit coverage of Two Million Dollars (\$2,000,000) for all damages due to bodily injury, sickness or disease, or death to any person and damage to property, including loss of use thereof arising out of Subtenant's leasehold interest, occupation, maintenance, or use of the Premises and all operations necessary or incidental thereto.

8.2. **Property and Fire Insurance.** Sublessor shall insure for fire and extended coverage risks all personal property, improvements, and alterations in, on or about the Premises. Sublessor shall cause such insurance to be in an amount equal to one hundred percent (100%) of the insurable, full replacement value of any improvements located on the Premises and to include vandalism and malicious mischief endorsements.

9. **Indemnification.** Subtenant shall indemnify and hold Sublessor and County harmless from any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys' fees, caused by the willful misconduct or the negligent acts, errors, or omissions of Subtenant, its officers, agents or employees in using the Premises pursuant to this Rental Agreement, except to the extent caused or contributed to by the structural, mechanical, or other failure of hangars or buildings owned or maintained by Sublessor.

10. **Assignment.** Subtenant may not assign or transfer its interest in this Rental Agreement.

11. **Inspection.** Subtenant shall grant access to the Premises to authorized representatives of County or Sublessor at all reasonable times for the purpose of examining and inspecting the Premises. Except in cases of emergency, inspections may occur only with reasonable prior notice to the Subtenant. At all times, Subtenant shall provide Sublessor with a means of access to the interior of the Premises (whether by way of key, lock combination or other means).

12. **Default.** The occurrence of any of the following is a default by Subtenant under this Rental Agreement:

12.1. Payment. Subtenant's failure to pay any Rent or other charge when due, if the failure continues for ten (10) days after such payment is due.

12.2. Safety. Subtenant's failure to cure a safety hazard immediately upon notice from Sublessor or County to do so. If, in the sole discretion of the County's Manager of Airports, the required cure cannot be completed within twenty-four (24) hours, Subtenant's failure to perform is a default if Subtenant fails to undertake to correct the safety hazard within twenty-four (24) hours and diligently and continuously proceeds to complete the cure as soon as reasonably possible.

12.3. Other. Subtenant's failure to perform any other obligation under this Rental Agreement if the failure continues for thirty (30) days (or if such default cannot reasonably be remedied within such thirty (30) days, within such time as may reasonably be required to remedy the default up to an aggregate of ninety (90) days, provided Subtenant diligently commences curing such default within the first thirty (30) days and diligently proceeds to cure such default) after written notice of the failure from Sublessor or County to Tenant.

13. Remedies. Sublessor, in addition to any remedies available to it at law or in equity, has the following rights and remedies upon the occurrence of a default. These remedies are cumulative and not exclusive.

13.1. Terminate and Repossess. In the event of a default by Subtenant under this Rental Agreement, Sublessor may terminate this Rental Agreement and Subtenant's right to possession of the Premises. No act by Sublessor other than giving written notice to Subtenant will terminate this Lease. Sublessor's acts of maintenance, efforts to re-let the Premises, or the appointment of a receiver on Sublessor's initiative to protect Sublessor's interest under this Rental Agreement do not constitute a termination of Subtenant's right to possession. Upon termination of this Rental Agreement, Sublessor has the right to recover from Subtenant:

- (1) The worth, at the time of the award, of the unpaid Rent and fees that had been earned at the time of the termination of this Rental Agreement;
- (2) The worth, at the time of the award, of the amount by which the unpaid Rent and fees that would have been earned after the date of termination of this Rental Agreement until the time of award exceeds the amount of the loss of Rent and fees that Subtenant proves could have been reasonably avoided;
- (3) The worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent and fees that Subtenant proves could have been reasonably avoided; and
- (4) Any other amount, and court costs, necessary to compensate Tenant for all detriment proximately caused by Subtenant's Default.

“The worth, at the time of the award,” as used in (1) and (2) of this Section, is to be computed by allowing interest at the rate of ten percent (10%) per annum or the maximum rate permitted by law, whichever is less. “The worth, at the time of the award,” as used in (3) of this Section, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

13.2. Cure. Sublessor, at any time after the occurrence of a default, may cure the default at Subtenant’s cost, provided Sublessor has given Subtenant (i) in the case of default involving a safety hazard, twelve (12) hours’ notice, and (ii) in the case of any other default, three (3) days written notice. If at any time, as a result of Subtenant’s default, Sublessor pays any sum to cure a default or does any act that requires the payment of any sum, the sum paid by Sublessor will be deemed Supplemental Rent payable by Subtenant upon demand, together with interest thereon at the lesser of (x) ten percent (10%) per annum and (y) the maximum rate allowed by the law from the date of the expenditure until repaid.

14. Surrender. On or before the Expiration Date or any sooner termination of this Rental Agreement, Subtenant shall remove all of its personal property, furnishings and equipment from the Premises and shall surrender the Premises to Sublessor in (a) good condition, order and repair, reasonable wear and tear excepted, (b) free of Hazardous Materials (as defined in the Lease) used, stored, handled, manufactured transported, released, discharged, emitted or disposed of by Subtenant or its agents, employees, contractors or invitees and (c) in accordance with the Lease. Subtenant shall repair any damage to the Premises caused by Subtenant's removal of its personal property, furnishings and equipment. If the Premises are not so surrendered, then Subtenant is liable to Sublessor for all costs incurred by Sublessor in returning the Premises to the required condition, plus interest thereon at the rate of three percent (3%) over the prime rate then being charged by Bank of America, N.A. but in no event greater than the maximum rate permitted by law.

15. Notices. Unless at least five (5) days prior written notice is given in the manner set forth in this paragraph, the address of each party for all purposes connected with this Rental Agreement is the address set forth below their signatures at the end of this Rental Agreement. All notices, demands or communications in connection with this Rental Agreement are to be properly addressed and delivered as follows: (a) personally delivered; or (b) submitted to an overnight courier service, charges prepaid; or (c) deposited in the mail (certified, return-receipt requested, and postage prepaid). Notices will be deemed delivered upon receipt, if personally delivered, one (1) business day after being so submitted to an overnight courier service and three (3) business days after deposit in the United States mail. All notices given to the County under the Lease will be considered received only when delivered in accordance with the Lease.

16. Estoppel Certificate. At any time and from time to time either party will execute, acknowledge and deliver to the other a written statement certifying that this Rental Agreement is in effect without modification of the provisions hereof (or if there have been modifications, a statement thereof), and that neither party is in default hereunder (or if any such default exists, a description thereof). Any such certificate will be delivered within ten days after request is made therefor.

17. **Successors and Assigns.** This Rental Agreement binds and inures to the benefit of the parties hereto and their respective successors, heirs, legal representatives and assigns.

18. **Choice of Law.** This Rental Agreement is governed by the laws of the State of California.

19. **Invalid Provisions.** If any covenant, condition or provision contained herein is held to be invalid by any court of competent jurisdiction, such invalidity does not invalidate any other covenant, condition or provision of this Rental Agreement; provided that the invalidity of such covenant, condition or provision does not materially prejudice either Sublessor or Subtenant in their respective rights and obligations contained in the valid covenants, conditions or provisions of this Rental Agreement.

20. **Drafting Conventions.** The section headings and captions of this Rental Agreement are, and the arrangement of the Rental Agreement is, for the sole convenience of the parties to this Rental Agreement. The section headings, captions, and arrangement of this Rental Agreement do not in any way affect, limit, amplify or modify the terms and provisions of this Lease.

The Rental Agreement is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Rental Agreement and their counsel have read and reviewed this Rental Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply to the interpretation of this Rental Agreement. The definitions in this Rental Agreement apply equally to both singular and plural forms of the terms defined.

If any date specified in this Rental Agreement as a date for taking action falls on a day that is not a business day, then that action may be taken on the next business day.

[Signature page follows]

[Signature page to Rental Agreement]

The parties are signing this Rental Agreement as of the day and year first above written.

SUBLESSOR

SUBTENANT

MONTECITO COMMERCIAL
GROUP, LLC,
a California limited liability company

By: _____

Name
Title

By: _____

Name
Title

Address: 27226 Via Industria
Temecula, CA 92590
Attn:

EXHIBIT A
TO RENTAL AGREEMENT

Lease between

Sublessor and County of Contra Costa

dated _____

EXHIBIT B
TO RENTAL AGREEMENT

Description of Premises