

## ACCESS AGREEMENT

This **ACCESS AGREEMENT** ("Agreement") is effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between:

(i) **Webco Industries, Inc.**, and its affiliates, including Phillips & Johnston, Inc. (collectively, "Company"), having its principal place of business at 9101 West 21<sup>st</sup> Street, Sand Springs, Oklahoma 74063; and

(ii) \_\_\_\_\_ ("Entering Party"), having a place of business at \_\_\_\_\_.

Company and Entering Party are hereinafter sometimes referred to individually as a "Party," or collectively, as the "Parties."

Company owns/leases and/or operates various lots, properties and facilities located in various states (such lots, properties and facilities shall be referred to hereinafter as the "Facilities"). Entering Party desires permission to enter Company's Facilities for the purpose of \_\_\_\_\_ (the "Purpose").

Company hereby agrees to grant permission to Entering Party to enter the Facilities for the Purpose stated above, but only at times and in manners agreeable to Company, and pursuant to the terms of this Agreement. Such permission is revocable by Company upon notice to Entering Party. Entering Party acknowledges the valuable consideration extended by Company in granting such permission, and Entering Party does in return agree as follows:

1. **INDEMNITY.** TO THE FULLEST EXTENT PERMITTED BY LAW, ENTERING PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD COMPANY AND ITS AFFILIATED ENTITIES AND THE OFFICERS AND EMPLOYEES OF EACH OF THEM (COLLECTIVELY REFERRED TO HEREINAFTER AS "INDEMNITEES") HARMLESS FROM AND AGAINST ANY LIABILITY, LOSS, DAMAGE, CAUSE OF ACTION, PENALTY, FINE, COST (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES), CLAIM OR STRICT LIABILITY CLAIM ARISING OUT OF OR IN ANY WAY INCIDENT TO THE ACTIVITIES PERFORMED BY ENTERING PARTY OR ITS CONTRACTORS OR SUBCONTRACTORS HEREUNDER, ON ACCOUNT OF PERSONAL INJURIES, DEATH, DAMAGE TO PROPERTY, OR DAMAGE TO THE ENVIRONMENT AND REGARDLESS OF WHETHER SUCH HARM IS TO ENTERING PARTY, INDEMNITEES, THE EMPLOYEES OR OFFICERS OF EITHER, OR ANY OTHER PERSON OR ENTITY, AND REGARDLESS OF HOW SUCH INJURY/DEATH/DAMAGE IS CAUSED (BY INDEMNITEES' NEGLIGENCE, THE NEGLIGENCE OF THIRD PARTIES, OR OTHERWISE), BUT EXCLUDING INJURY/DEATH/DAMAGE TO THE EXTENT CAUSED BY THE SOLE NEGLIGENCE OF INDEMNITEES. ENTERING PARTY'S DUTIES UNDER THIS PARAGRAPH SHALL SURVIVE THE TERMINATION, REVOCATION, OR EXPIRATION OF THIS AGREEMENT. ENTERING PARTY SHALL MAINTAIN, AT ITS COST, INSURANCE COVERING THIS INDEMNITY PROVISION.

2. **SAFETY.** Entering Party shall at all times strictly follow all requests and instructions given by Company regarding safety and health matters in or at the Facilities. Notwithstanding

the preceding sentence, Entering Party shall at all times be responsible, for the safety and health of its (and its contractors' or subcontractors') employees and agents present at the Facilities or elsewhere in connection with this Agreement. Entering Party also warrants that when transporting any product that is classified as Hazardous Materials, under applicable law, Entering Party assumes full responsibility that its (and its contractors or subcontractors) employees have been screened to safely handle material while en route and that the transported material will arrive at stated destination in safe manner. Entering Party shall have developed and implemented U.S. Department of Transportation Security Plans in compliance with 49 C.F.R. 172.800 and Entering Party will furnish a true and correct copy thereof to Company, upon Company's request.

3. **CONDUCT OF ACTIVITIES.** Entering Party agrees that it and its contractors and subcontractors will conduct their activities hereunder (i) in accordance with all applicable governmental laws, rules, and regulations and good standard industry practices; and (ii) in a manner that does not interfere with the operations of others (Company or third parties) at the Facilities. Furthermore, Entering Party agrees that it and its contractors and subcontractors will not take photographs, videos or any recordings of any kind, character or nature while at the Facilities. Company makes no representation as to any conditions at the Facilities, and Entering Party shall rely solely on Entering Party's own examination and investigation of the conditions that may affect Entering Party's activities on or at the Facilities. Entering Party shall be responsible for promptly repairing and remediating, at its sole expense, any damage to the Facilities' property or the environment that arises out of Entering Party's activities hereunder.

4. **TERM.** This Agreement shall be effective as of the date first written above, and shall continue in effect thereafter until terminated by either Party upon notice to the other Party.

5. **ASSIGNMENT, SUBCONTRACTORS, AMENDMENTS.** This Agreement may not be assigned in whole or in part by Entering Party without the prior written consent of Company, nor shall activities be performed under this Agreement by a contractor or subcontractor of Entering Party without the prior written consent of Company. No amendment to this Agreement shall be valid unless made in writing and signed by authorized representatives of both Parties.

6. **CONFIDENTIALITY.** All information that Entering Party acquires from Company hereunder, directly or indirectly, and all information that arises out of the activities performed hereunder concerning such activities and/or proprietary processes involved in such activities including without limitation, information concerning Company's current and future business plans, information relating to Company's operations, and other Company-furnished information and know-how relating to such activities shall be deemed Company's "Proprietary Information." Company's Proprietary Information shall be held in strictest confidence by Entering Party (except to the extent any disclosures are reasonably necessary in the course of performing the activities hereunder or related services) and shall be used solely for purposes of performing such activities. The obligations under this Paragraph shall survive completion of such activities and termination of this Agreement.

7. **INSURANCE.** Entering Party shall, at all times during the term of this Agreement, maintain the insurance described hereunder. Entering Party shall provide to Company a Certificate of Insurance evidencing such insurance prior to commencing activities hereunder, and

periodically as needed thereafter to show continuing coverage. Such insurance coverages shall be independent of the indemnity provisions of this Agreement and are not designed solely to guarantee payment of Entering Party's indemnity obligations. Nothing contained in these provisions relating to coverage and amounts set out herein shall operate as a limitation of Entering Party's liability in tort or contract under the terms of this Agreement. In addition, in the event Entering Party is not required by state law to maintain worker's compensation or employer's liability insurance as required by subsection B below, Entering Party acknowledges and agrees that it shall indemnify Company against any and all worker's compensation claims made by Entering Party's employees in accordance with Entering Party's indemnity obligations under Section 1.

A. Commercial General Liability Insurance (with coverage no more restrictive than that provided for by standard ISO Form CG 00 01 01 96 with standard exclusions "a" through "n" or ISO Form CG 00 01 0790 with standard exclusions through "o," or ISO Form CG 00 01 07 98 or CG 00 01 10 01 with standard exclusions "a" through "o") with a minimum limit of \$1,000,000 per occurrence for Bodily Injury and Property Damages, and with Products and Completed Operations and Contractual Liability coverages, and shall name Company as an additional insured on such policy using Endorsements CG 20 10 04 13 and CG 20 37 04 13, with such insurance being primary to and not in excess of any other insurance available to Company. In no event shall Company's insurance, including but not limited to any self-insured deductible ("SIR") or deductible, be considered "other insurance" under the terms of Entering Party's policies;

B. Worker's Compensation as prescribed by applicable law and Employers' Liability Insurance with a minimum limit of \$500,000 each accident, \$500,000 disease policy limit, \$500,000 each employee, including insurance covering liability under the Longshoremen's and Harbor Workers' Compensation Act, the Merchant Marine Act of 1020 (Jones Act) and the Outer Continental Shelf Land Act, if applicable. Coverage will include an Alternate Employer Endorsement (WC 0003 01) naming Company as alternate employer and shall contain a waiver of the right of subrogation against the Company and an assignment of statutory lien, if applicable; and

C. Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000 per accident. This insurance will include contractual liability insuring the liabilities assumed by Entering Party under this Agreement, but excluding coverage for taxes.

The limits specified in A, B, and C above, may be satisfied with a combination of primary and Umbrella/Excess Insurance and shall name Company as an additional insured. Company acknowledges that the request of additional insured is unavailable under the Worker's Compensation Insurance.

The above described insurance shall include a requirement that the insurer or the Entering Party, should the insurer not be required to, provide Company with thirty (30) days written notice prior to the effective date of any cancellation or material change of the insurance. Entering Party, on behalf of its insurers, waives any right of subrogation that such insurers may have against Company arising out of this Agreement.

8. **SHIPPING DOCUMENTS.** To the extent Entering Party performs transportation services hereunder, and to the extent requested by Company, Entering Party shall provide copies to Company of all shipping documents (including but not limited to waybills, customer loading tickets, bills of lading, meter tickets and delivery receipts) that are generated or handled by Entering Party relating to any transportation services performed hereunder.

9. **INCIDENT NOTIFICATION.** Entering Party shall notify Company (and provide details as requested by Company) as soon as reasonably possible in the event any accident or other event occurs during the course of Entering Party's activities hereunder that involves non-compliance by Entering Party (its contractors or its subcontractors) with this Agreement or any applicable laws, regulations, ordinances or rules.

10. **ENTIRE AGREEMENT.** This Agreement embodies the entire understanding between the Parties with respect to the Purpose and, except as otherwise specifically stated herein, there are no contracts, agreements or understandings, oral or written, whether prior to or subsequent to the execution of this Agreement, whose provisions modify, supersede or eliminate the provisions contained herein. More specifically stated, none of Entering Party's terms and conditions, whether contained in a separately negotiated agreement between the Parties, stated orally or in writing on Entering Party's purchase order, invoice, or any other document whatsoever of Entering Party shall govern liability, indemnification, insurance and/or other provision set forth herein or otherwise and are hereby expressly excluded.

So agreed, executed on the dates indicated below, but effective at of the date first above written:

**WEBCO INDUSTRIES, INC.**

**[ENTERING PARTY]**

By: \_\_\_\_\_  
Michael P. Howard  
Chief Financial Officer

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_