

**ORDINANCE #69384
Board Bill No. 264**

An Ordinance recommended and approved by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the Lambert–St. Louis International Airport® Lease Agreement AL-226 (the "Lease Agreement"), between the City and Jet Linx St. Louis, LLC (the "Lessee"), a limited liability company organized and existing under the laws of the State of Delaware, granting to the Lessee, subject to and in accordance with the terms, covenants, and conditions of the Lease Agreement, certain rights and privileges in connection with the occupancy and use of the Leased Premises, which is defined and more fully described in Section 201 of the Lease Agreement that was approved by the Airport Commission and is attached hereto as **ATTACHMENT "1"** and made a part hereof; containing a severability clause; and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Director of Airports and the Comptroller for the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the Lambert–St. Louis International Airport® Lease Agreement AL-226 (the "Lease Agreement"), between the City and Jet Linx St. Louis, LLC (the "Lessee"), a limited liability company organized and existing under the laws of the State of Delaware, granting to the Lessee, subject to and in accordance with the terms, covenants, and conditions of the Lease Agreement, certain rights and privileges in connection with the occupancy and use of the Leased Premises, which is defined and more fully described in Section 201 of the Lease Agreement that was approved by the Airport Commission and is to read in words and figures substantially as set out in **ATTACHMENT "1"**, which is attached hereto and made a part hereof.

SECTION TWO. The sections or provisions of this Ordinance or portions thereof shall be severable. In the event that any section or provision of this Ordinance or portion thereof is held invalid by a court of competent jurisdiction, such holding shall not invalidate the remaining sections or provisions of this Ordinance unless the court finds the valid sections or provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the illegal, unconstitutional or ineffective section or provision that it cannot be presumed that the Board of Aldermen would have enacted the valid sections or provisions without the illegal, unconstitutional or ineffective sections or provisions; or unless the court finds that the valid sections or provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION THREE. This being an ordinance for the preservation of public peace, health, or safety, it is hereby declared an emergency measure as defined in Article IV, Section 20, of the City’s Charter and shall become effective immediately upon its approval by the Mayor of the City.

ATTACHMENT "1"

THE CITY OF ST. LOUIS

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



JET LINX ST. LOUIS, LLC

LEASE AGREEMENT

NO. AL- 226

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AIRPORT NUMBER AL- 226

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of the ____ day of _____, 2013, by and between The City of St. Louis, a municipal corporation of the State of Missouri, as lessor, and Jet Linx St. Louis, LLC, a limited liability company organized and existing under the laws of the State of Delaware, as Lessee.

WITNESSETH, THAT:

WHEREAS, the City owns, operates and maintains the Lambert-St. Louis International Airport®, located in the County of St. Louis, Missouri;

WHEREAS, the City currently leases certain Airport premises to the Government for use by the MoANG under Lease Agreement AL-53, as amended;

WHEREAS, the MoANG has stated that it is willing to relinquish to the City a portion of the premises it leases under Lease Agreement AL-53, as amended, including the Leased Premises (“**Relinquished Premises**”);

WHEREAS, Lessee wishes to lease a portion of the Relinquished Premises but understands that the City may not lease such property until it has been relinquished and vacated by the Government to the City, and the City has gained possession and control of it upon terms and conditions acceptable to and authorized by the City; and

WHEREAS, the City is willing to lease the Leased Premises to Lessee and the Lessee is willing to lease the Leased Premises from the City under terms as set forth herein.

NOW, THEREFORE, for and in consideration of the promises, representations, warranties, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the City and Lessee agree as follows:

**ARTICLE I
DEFINITIONS**

Section 101. Definitions. The following words and phrases shall have the following meanings:

“**Access Area**” means the landside access to the Leased Premises that is located within the Premises leased by the City to Lessee and consisting of a roadway connecting the public roadway known as Lambert International Boulevard to the remainder of the Lessee’s Leased Premises, which is more fully described in Section 201 entitled “Leased Premises”.

“**Affiliate**” or “**Affiliate of Lessee**” shall mean any entity which directly or indirectly through one or more intermediaries, controls or is controlled by or is under the common control with the Lessee.”

“**Aircraft Operating Area**” or “**AOA**” means those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exists or as the same hereafter may be added to, modified, changed, or developed.

“**Airport**” means Lambert-St. Louis International Airport®, together with any additions, improvements, or enlargements made from time to time.

“**Airport Properties Department**” means that department of the St. Louis Airport Authority that has as its primary responsibility the administration of all tenant, lessee, permittee, concessionaire and other space at the Airport, and shall be Lessee’s point of contact with the Airport or the City on all issues related to this Lease Agreement.

“**Approval Date**” shall mean the later of the following: (a) the Effective Date and (b) the date the Government has relinquished and vacated the Leased Premises to the City and the City gains possession and control of the Leased Premises upon terms and conditions acceptable to and approved and authorized by the City.

“**Bankruptcy Code**” means the Federal Bankruptcy Code as set forth in 11 U.S.C. §§ 101 et seq., and as it may be amended from time to time.

“**Build-Out Period**” shall mean the period of time beginning on the Commencement Date in which the construction or modification of the Leased Premises hereof is ongoing and which shall end on substantial completion of such construction or modification, as evidenced by a certificate of occupancy, temporary certificate of occupancy, or similar governmental approval, not to exceed ninety (90) days (see Article IV).

“**City**” means The City of St. Louis, Missouri, the owner and operator of the Airport.

“**Commencement Date**” shall mean no later than the tenth (10) day following the Approval Date; provided, however, that unless otherwise agreed to in writing by the City and Lessee as provided for in Section 301, the Commencement Date shall be no later than one hundred and fifty (150) days after the Effective Date. The City shall promptly notify Lessee in writing of the Approval Date and the Commencement Date (the “**Commencement Date Notice**”).

“**Construction Costs**” mean Construction Cost as defined in Section 602 below.

“**Contract Year**” means a consecutive twelve (12) month period commencing on the first day after the last day of the Build-Out Period and each successive twelve (12) month period thereafter during the term of this Lease Agreement.

“**days**” or **Days**” means consecutive calendar days unless otherwise expressly provided herein.

“**Director**” means the Director of Airports of the City of St. Louis or his/her authorized or designated representatives.

“**Effective Date**” means the date on which this Lease Agreement has been signed and executed by both the Lessee and the City as shown on the signature page of this Lease Agreement and written by the City on page 3 of this Lease Agreement.

“**Environmental Laws**” means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, Environmental Permits, permits, permit conditions, and orders relating to the generation, emission, discharge, release, use, storage, transportation, or disposal of pollutants, contaminants, Hazardous Materials, wastes, hazardous substances, or chemicals or the preservation or

regulation of the environment or natural resources including, without limitation, the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.*, and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 *et seq.*; the Noise Control Act, 42 U.S.C. §4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended by the Hazardous and Solid Waste, Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C §9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §5101 *et seq.*; the Endangered Species Act, 16 U.S.C. §1531 *et seq.*; the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. §2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. §2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, U.S.C. §10101 *et seq.*, as such statutes and laws may be amended from time to time, all regulations, rules, executive orders, policies and instructions pertaining to and lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time.

“**Environmental Permits**” means any and all permits, licenses, approvals, authorizations, consents, or registrations required by applicable Environmental Laws, whether federal, state or local, and any duly filed environmental covenant or land use restrictions applicable to the Airport or the Leased Premises.

“**Event of Default**” means an Event of Default as defined in Section 1101.

“**Existing Environmental Conditions**” means as stated in Article VII, Section 703 of this Lease Agreement entitled “Existing Environmental Conditions”.

“**Federal Aviation Administration**” or “**FAA**” means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

“**Government**” means the United States of America that currently leases the Relinquished Premises from the City for use by the Missouri Air National Guard (“**MoANG**”).

“**Hazardous Materials**” means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum or crude oil or any fraction thereof, natural gas, source material, special nuclear material, byproducts, pesticides, hazardous waste, toxic substance, or any material defined or treated as a hazardous substance, regulated special waste, pollutant or contaminant (or comparable term) under any of the Environmental Laws. City and Lessee stipulate and agree that the existence and definition of Hazardous Materials shall be construed herein in accordance will all applicable federal, state, City or local laws statutes or regulations relating to the protection of human health or the environment.

“**Improvements**” means, without limitation, buildings, structures, facilities, fixtures or any appurtenances thereto existing on the Leased Premises, including but not limited to concrete aircraft ramp, parking lot, buildings and hangars, or any other structures or facilities which exist as of the Commencement Date, or may be built, installed, refurbished, modified, or constructed by the City or the Lessee, including any sublessee, on the Leased Premises in accordance with the terms of this Agreement, including, without limitation, Article VI.

“**Indemnified Parties**” or “**Indemnitees**” means the Indemnified Parties or Indemnitees as defined in Section 903(A).

“**Itinerant Aircraft**” means any aircraft that is operating at the Airport whose owner does not have a written agreement with Lessee or an Affiliate of the Lessee to manage, utilize, maintain, or operate such aircraft or utilized in support of Lessee’s charter business or an Affiliate of the Lessee’s charter business.

“**Leased Premises**” means the Leased Premises including Improvements, as defined in Section 201.

“**Lease Agreement**” means this Lease Agreement AL-226 and any subsequent amendments thereto, duly approved by the City and Lessee.

“**Lessee**” means Jet Linx St. Louis, LLC, a limited liability company organized and existing under the laws of the State of Delaware and a party to this Lease Agreement.

“**Minimum Capital Investment**” means the minimum investment required of the Lessee for the refurbishment and improvement

of the Leased Premises as set forth in Section 602 and as outlined in Exhibit “C”.

“**Remediation Costs**” means any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation: (i) required by the appropriate governmental agency responsible for enforcing applicable Environmental Laws or Environmental Permits, and/or (ii) attributable to Hazardous Materials left on City property in excess of applicable remediation standards derived by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Missouri Department of Natural Resources or other governmental health agency as appropriate for commercial property, safe for occupational exposure or Airport use or which are in violation of Environmental Laws or Environmental Permits, and caused by, or arising out of, Lessee’s operations at the Airport or the Lessee’s operations, activities, use, occupancy and/or lease of the City’s property during the term of this Lease Agreement. Remediation Costs include reasonable investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys’ fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities caused by or arising out of Lessee’s handling, use, storage, release, disposal, generation, emission or discharge of Hazardous Materials at the Airport including the Leased Premises.

“**Remediation Work**” means the Remediation Work as defined in Section 702.C.

“**Removable Fixtures**” shall mean all personal property, trade fixtures, furnishings, equipment and fixtures installed by the Lessee that are not permanently affixed to any wall, floor or ceiling in the Lease Premises and identified as Removable Fixtures as provided for in Section 601.J.

“**Rules and Regulations**” means those lawful rules and regulations including, without limitation, ordinances, and operating directives promulgated by the Director, the Airport Commission, and/or the City from time to time, as the case may be, for the orderly operation of the Airport.

“**Security Deposit**” means the Security Deposit as defined in Section 411.

“**Term**” means the Term of this Lease Agreement as provided for in Section 301.

ARTICLE II LEASED PREMISES

Section 201. Leased Premises. The City hereby leases and demises to Lessee, and Lessee takes from the City, separate tracts of land containing in the aggregate approximately 2.1 acres together with all Improvements existing or that may be constructed or made therein in accordance with Article VI, hereinafter collectively referred to as the “**Leased Premises**” and more fully described on **Exhibit “A”** and shown on **Exhibit “B”**.

Section 202. Acceptance of Leased Premises. Subject to the Government relinquishing and vacating the Leased Premises as provided for herein, Lessee hereby acknowledges that it accepts and receives the Leased Premises in an “**AS IS**” condition with no warranties or representations of any kind, expressed or implied, either oral or written, made by the City or any of its agents or representatives with respect to the physical, environmental or structural conditions of the Leased Premises or any portion thereof or otherwise including but not limited to: soil conditions of the land, structural conditions of the buildings or facilities, the geotechnical condition of the Leased Premises, the presence or absence of any Hazardous Materials, any underground or aboveground storage tanks or repositories and related equipment, asbestos and asbestos related materials, water, sewage utilities serving the Leased Premises, or any other matter or thing affecting or relating to the Leased Premises, except as expressly set forth in this Lease Agreement. The City without limitation expressly disclaims and negates, as to the Leased Premises: any implied or expressed warranty of fitness for a particular purpose; any implied warranty with respect to the condition of the Leased Premises; its compliance with any zoning or other rules, regulations, laws or statutes applicable to the Leased Premises, including but not limited to the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*); the uses permitted on the Leased Premises; or any other matter or thing relating to the Leased Premises or any portion thereof. Lessee may terminate this Lease Agreement without cause at any time prior to the Commencement Date, as provided for in Section 305 entitled “Termination Prior to the Commencement Date.”

Section 203. Reservations. The grant of lease hereunder is subject to the following reservations and conditions.

- A. The City reserves the right, but shall not be obligated, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee or Sublessee in this regard.
- B. The City reserves the right to develop or improve the landing area and all publicly-owned air navigation facilities of the Airport as the City in its sole and absolute discretion sees fit, regardless of the desires or views of Lessee, and without interference or hindrance of any kind.
- C. The City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport, including the Leased Premises, which in the sole and absolute opinion of the City would limit the usefulness of the Airport or constitute a hazard to aircraft.
- D. The rights granted by this Lease Agreement to Lessee shall not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance, expansion or development of the Airport.
- E. The City reserves, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises herein conveyed, together with the right to cause or allow in said airspace or within the Leased Premises such noise, vibration, fumes, dust, fuel particles, illuminations, interference with television, radio or any other type of transmission and other effects as may be caused in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.
- F. The City reserves all gas, oil and mineral rights in and under the soil; provided, however, that the City, in the exercise of such rights, shall not unreasonably or materially impair or interfere with Lessee's use of the Leased Premises.
- G. The City reserves the right to grant utility and maintenance rights-of-way to itself and others over, under, through, across or on the Leased Premises; provided, however, that such use will not unreasonably or materially impair or interfere with Lessee's use of the Leased Premises, or result in any material added expense to Lessee in conducting its operations hereunder.

Section 204. Access to the Leased Premises.

- A. Subject to the provisions of this Lease Agreement, the Lessee shall have the right of ingress to and egress from the Airport, including the Leased Premises, for Lessee's employees, agents, contractors, guests, members, aircraft owner's invitees, licensees, suppliers of materials and providers of service, and its or their equipment, vehicles, machinery, and other property; provided, however, that the foregoing shall not preclude the City from: (i) subjecting such persons to the Rules and Regulations, (ii) requiring such persons to enter into an agreement with the City when such access is required on an ongoing basis, or (iii) imposing any charge, permit or license fee for the right to do business at the Airport; and further provided that ingress to and egress from the Airport may be conditioned on adherence to security requirements, and may be limited on temporary bases for security reasons.
- B. Lessee expressly acknowledges and agrees that land side ingress to and egress from the Leased Premises shall be through the Access Area, which is wholly contained within the Leased Premises and which connects public roadways to the remainder of the Leased Premises. Lessee further acknowledges and agrees that before exercising any rights to transit through the Access Area in the regular course of business, Lessee shall, at its sole cost and expense, make and install the improvements and alterations to the Access Area and to the Leased Premises sufficient to ensure Lessee's safe access through the Access Area in accordance with the provisions of this Lease Agreement. Such improvements may include, but shall not necessarily be limited to: (i) installing, operating, and maintaining such gate and access control modifications as may be necessary in accordance with security regulations and restrictions, (ii) paving of connections between Access Area and the remainder of the Leased Premises, (iii) re-striping the pavement within Access Area to establish clearly demarcated ingress and egress lanes, and (iv) making all paving and curb cuts necessary to connect public and other roadways to the Access Area and throughout the remainder of the Leased Premises. All plans and specifications for any improvement or alterations to be made to the Access Area shall be performed in accordance with and subject to the provisions of this Lease Agreement including, without limitation, the requirements of Article VI. Lessee acknowledges and understands that the City is also contractually required to submit to American Airlines Inc. for its review and approval all design, specs, or construction plans regarding any pathway or roadway improvements made within or to the Access Area. It shall be the

City's responsibility to request the necessary approvals from American Airlines, Inc.

- C. The City, at the City's cost, shall relocate and reinstall fencing required to separate the Access Area from other premises owned by the City but not included in the Leased Premises. Lessee shall cooperate in good faith with the City regarding the City's relocation of such fencing.
- D. The Lessee, subject to and in accordance with the provisions of this Lease Agreement, shall have the non exclusive right for ingress and egress for pedestrians, vehicles and aircraft over the paved area between Building 115 and Building 121 at all times ("**121 Access Area**"). The Lessee agrees that, at Lessee's cost, the Lessee shall keep the paved area between Building 115 and Building 121 and the AOA free of ice and snow to the extent necessary for Lessee's business operations (see Section 502 entitled "Snow Removal").

Section 205. Access to the Leased Premises by the City. The City reserves and shall have the right to access, ingress to and egress from the Leased Premises without charge therefore, for its employees, contractors, agents, guests, patrons and invitees, its or their suppliers of materials and furnishers of service, and its or their equipment, vehicles, machinery and other property, as may be reasonable under the circumstances, and with as little interruption of Lessee as may be reasonably practical, and upon compliance with Lessee's reasonable security procedures. If Lessee is not present to permit entry and entry is necessary, the City may, in case of emergency, forcibly enter the Leased Premises without rendering the City liable therefore, except for any damage caused to Lessee's property as a result of such entry or any costs, damages or liabilities arising from City's negligence or willful misconduct. The City's right to access the Leased Premises shall be without charge therefore, and shall be for any purpose necessary for, incidental to, or connected with the City's rights and obligations hereunder, or the City's capacity as the Airport owner or operator, including, but not limited to, collecting environmental samples and/or performing environmental studies, inspections and/or the remediation. Lessee shall in good faith coordinate and cooperate with the City's environmental sampling, studies, inspections, and remediation efforts.

Section 207. Section 206. Security. Lessee hereby acknowledges that the City is required by 49 C.F.R. Part 1500, as amended from time to time ("**TSA 1500**"), to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to the Security Identification Display Area ("**SIDA**") as defined in TSA 1500 and/or the AOA. Lessee understands that the City has met said requirements by developing an Airport Security Program ("**ASP**") for the Airport, and Lessee warrants, covenants and agrees to be fully bound by and immediately responsive to the requirements of TSA 1500 and the ASP in connection with Lessee's exercise of the privileges granted hereunder during the Term, and to impose similar requirements on any sublessees. Lessee, at its own cost, shall cause facilities and procedures to be prepared, reasonably satisfactory to the City, designed to prevent and deter persons and vehicles from unauthorized access to the SIDA and/or the AOA from and through any Leased Premises in accordance with the provisions of TSA 1500 and the ASP. Lessee hereby acknowledges that it understands that its security procedures and facilities on the Leased Premises to meet the requirements of TSA 1500 and the ASP, shall include but not be limited to:

- A. fencing and locked gates;
- B. City-approved badging, badge display, escort and challenge procedures applicable to persons authorized to enter the SIDA and/or the AOA;
- C. an electronic entry control system or a manned guard system where gates or doorways cannot reasonably be controlled by locks; and
- D. other facilities and procedures as may be required to control the entrance of persons and vehicles onto the SIDA and/or AOA.

Lessee shall not do or permit its agents, employees, contractors, licensees, invitees, or suppliers, to do anything at the Airport that would be in conflict with or violate the requirements of any federal, state, or local law, regulation or security directive regarding airport security, TSA 1500, or the ASP, as they may be amended from time to time. Lessee shall be responsible for obtaining and coordinating any security badging, vehicle decals, and/or any other actions required to ensure that Lessee's agents, employees, contractors, licensees, invitees, suppliers are in compliance with all security requirements. Lessee shall be responsible for all costs associated with obtaining such badge and/or access privileges.

Section 208. Encumbrances on Leased Premises. Lessee accepts the Leased Premises subject to any and all then existing easements or other encumbrances and the City shall retain the right to install, lay, construct, maintain, repair and operate such sanitary

sewers, drains, storm water sewers, utilities, pipelines, manholes, connections, water, oil or gas pipelines, and telephone, communication or telegraph lines, power lines and such other appliances and appurtenances necessary or convenient in connection therewith, over, in, upon, through, across and along the Leased Premises, or any part thereof, and to enter thereupon at reasonable times for any and all such purposes; provided, however, that no right of the City provided for in this Section 207 shall unreasonably or materially impair or interfere with Lessee's use of the Leased Premises, or result in any material added expense to Lessee in conducting its operations hereunder.

ARTICLE III AGREEMENT TERM

Section 301. Term. The term ("**Term**") of this Lease Agreement shall begin on the Commencement Date and shall end at 11:59 p.m. (local prevailing time) on the last day of the eighth (8) Contract Year, unless sooner terminated in accordance with other provisions of this Lease Agreement; provided, however, that this Lease Agreement shall be deemed null and void if: (a) the Commencement Date is more than one hundred and fifty (150) days after the Effective Date, and/ or (b) the Government fails or refuses to timely vacate the Leased Premises and timely relinquish possession and control of the Leased Premises to the City upon terms and conditions acceptable to and authorized and approved by the City (see Section 305 below). The Lessee and City agree that the Commencement Date may be extended up to an additional ninety (90) days (up to a total of two hundred and forty (240) days) from the Effective Date with the written approval of the Director, on behalf of the City, and the Lessee.

Section 302. Surrender of Possession. The City shall not be required to notify Lessee to quit possession of the Leased Premises at the expiration of this Lease Agreement. Upon the expiration or the early termination as hereinafter provided, Lessee shall peaceably surrender possession of the Leased Premises in good condition, reasonable wear and tear excepted, and the City shall have the right to take possession of the Leased Premises with or without due process of law (see Section 601.J, entitled "Title to Improvements"). If Lessee does not vacate the Leased Premises as set forth herein, Lessee does hereby agree that the City may use any remedy at law or in equity including, but not limited to, a writ of possession to carry out the transfer of possession. Before acceptance by the City of the Leased Premises as set forth herein, the City and Lessee shall perform a joint inspection of the Leased Premises being surrendered to the City. Lessee shall perform any reasonable maintenance work requested by the City so that all mechanical systems are fully functional and all facilities are protected from the weather. Said inspection shall be conducted at the early termination, or within ninety (90) calendar days prior to the expiration, of this Lease Agreement. Upon surrendering of possession, Lessee shall give to the City, without charge, all building plans (i.e., as-built drawings) and mechanical specification manuals on all systems built or installed in the Leased Premises by Lessee.

Lessee covenant, warrants, and agrees that all obligations of Lessee pursuant to Section 702.C entitled "Environmental Remediation" and any closure or other obligations under Environmental Laws shall be timely completed by Lessee prior to the expiration of the Term, or as soon as practicable after the earlier termination hereof, in accordance with and subject to the terms, covenants, and conditions of this Lease Agreement including, without limitation, Article VII. Lessee covenants, warrants and agrees that no less than six (6) months prior to the expiration of the Term, or as soon as practicable after the earlier termination hereof, unless otherwise agreed to in writing by the City, Lessee shall timely submit its written plan for completing its Remediation Work in accordance with this Lease Agreement including, without limitation, Article VII.

Section 303. Removal of Above-Ground Fuel Storage Tanks. Lessee covenants, stipulates, warrants, and agrees that at the expiration of the Term, or as soon as practicable after the earlier termination hereof, unless otherwise agreed to in writing by the City, Lessee, at Lessee's sole expense, shall promptly and timely: (i) remove all products or wastes stored in any above ground storage tanks located on the Leased Premises, which were installed, operated, and/or used by the Lessee and/or any other person or entity during the Term of this Lease Agreement ; (ii) remove any above ground tanks including, without limitations, any connecting piping, tubing structures, facilities, secondary containment structures or facilities, or other related equipment or fixtures; and (iii) promptly remove, remediate, decontaminate, and/or restore any soil, groundwater, or surface water affected by leaks, spills, discharges, or releases from such above ground storage tanks or connecting piping, tubing, structures, facilities, or other related equipment or fixtures. Such removal, remediation, decontamination, and/or restoration shall be performed by Lessee in a manner consistent with all Environmental Laws and Environmental Permits. In addition, any obligations of Lessee pursuant to Section 702.C entitled "Environmental Remediation" hereof shall be promptly and timely completed by Lessee in accordance with the provisions of this Lease Agreement including, without limitation, Article s VI and VII. In the event that City is required to undertake actions to bring the Leased Premises into compliance with the foregoing provision or any applicable Environmental Laws or Environmental Permits, as a result of any of the above described leaks, spills, discharges or releases, and Lessee's failure to promptly and timely correct same, Lessee shall timely reimburse City for any expenses in accordance with Section 702.E entitled "Corrected Action by City".

Section 304. Early Termination. Lessee shall have a right to terminate this Lease Agreement (the "**Right to Terminate**") effective

on a date after the third (3) Contract Year of the Term by delivering written notice of the exercise of its Right to Terminate at least ninety (90) days prior to the termination date.

Section 305. Termination Prior to the Commencement Date. Either Party may, by written notice, terminate this Lease Agreement without cause at any time prior to the Commencement Date. (See Section 202 entitled "Acceptance of Leased Premises").

ARTICLE IV RENT AND FEES

Section 401. General. Lessee, for and in consideration of the rights and privileges granted herein, agrees to promptly and timely pay the rents and fees and any other charges, expenses, or other payments due the City as set forth in this Lease Agreement, without demand during the Term.

Section 402. Rent Payment. Beginning on the first day after the Build-Out Period, Lessee shall pay rent to the City for the Leased Premises equal to a ground rental rate of Eighty Five Thousand Dollars (\$85,000.00) per annum. Rent payments shall be due in twelve (12) equal monthly installments, paid in advance, on or before the first day of each month.

Section 403. Landing Fees. Lessee shall timely report and remit to the City any Landing Fees related to Lessee's activities at the Airport that the City may establish or impose from time to time in accordance with the City's Rules and Regulations ("**Landing Fees**"). The Landing Fees to be remitted to the City shall be for each aircraft landing operated by Lessee or by any other aircraft operator that is operating at the Airport from the Leased Premises and that is not listed on the most current list issued by the City of aircraft operators having an agreement with the City for use of the Airport.

Section 404. Unpaid Rent and Fees. All unpaid rents, fees, or charges due to the City hereunder shall bear a service charge of one and one-half percent (1½%) per month if same are not paid and received by the City when due, and Lessee agrees that it shall pay and discharge all costs and expenses including reasonable attorneys' fees, court costs and expenses incurred or expended by City in collection of said delinquent amounts due including service charges.

Section 405. Notice, Place and Manner of Payments. Payments to the City required by this Lease Agreement shall be made at the office of the Director at the address as set forth in Section 1201 below, or at such other place or by whatever payment method that the City may determine as the City may hereafter notify Lessee, and shall be made in legal tender of the United States.

Section 406. Additional Fees, Charges and Rents. Lessee shall pay additional fees, charges and rents under the following conditions:

- A. if the City has paid any sum or sums or has incurred any obligation or expense for which Lessee has agreed to pay or reimburse the City; or
- B. if the City is required or elects to pay any sum or sums or incurs any obligations or expense because of the failure, neglect or refusal of Lessee to perform or fulfill any of the terms, covenants or conditions of this Lease Agreement.

Such payments shall include all interest, costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees, charges and rent thereafter due hereunder. Each and every part of such payment shall be recoverable by the City in the same manner and with like remedies as if it were originally a part of the rent payments as set forth herein.

Section 407. Prompt Payment of Taxes and Fees. Lessee warrants, covenants and agrees to pay promptly all lawful general taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and acquire and keep current all permits, licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport.

Section 408. Security Deposit

- A. Amount and Form of Security Deposit. Upon execution of this Lease Agreement, Lessee shall provide the City with an irrevocable letter of credit, or other security or instrument acceptable to the City ("**Security Deposit**") in an amount equal to three (3) months of estimated rents, Landing Fees, and any other estimated payments due the City pursuant to this Lease

Agreement, as reasonable determined by the City. The amount of the Security Deposit may be adjusted from time to time by the City to reflect changes in the Lessee's financial obligations to the City under this Lease Agreement. The Security Deposit shall guarantee the faithful performance by Lessee of all of its obligations hereunder and the payment of all rents, Landing Fees, and other charges and payments due to the City. The Security Deposit shall be in such form and with such company licensed to do business in the State of Missouri as shall be acceptable to the City, within its reasonable discretion. The Security Deposit is not the sole or exclusive remedy of the City and shall not be construed, in and of itself, as adequate assurance of Lessee's future performance.

- B. Term of Security Deposit. The Security Deposit shall remain in full force and effect throughout the term of this Lease Agreement and shall extend at least one hundred and twenty (120) days following the expiration or early termination of this Lease Agreement. Lessee shall provide at least sixty (60) days prior notice of the date on which any Security Deposit expires or is subject to cancellation.
- C. City's Right to Use Security Deposit; Replenishment. If Lessee commits or is under an Event of Default pursuant to Section 1101, the City shall have the right to use the amounts of such Security Deposit to pay Lessee's rents, Landing Fees, or any other fees, charges, expenses or amounts owed to the City by Lessee then due and payable, or to apply the proceeds to any cost or expense or material damages incurred by the City as a result of Lessee's default, or Event of Default under Section 1101. If any such Security Deposit, or portion thereof, is used as stated in this Subsection, Lessee shall replenish or provide a renewal or replacement Security Deposit up to the full amount set forth in Subsection 408.A within 10 days of being notified to do so by the City. The City's rights under this Section shall be in addition to all other rights and remedies provided to the City hereunder.

Section 409. Collection and Payment of Airport Fees and Charges. When applicable, Lessee or its designee shall timely report, collect, and remit Airport fees and charges assessed by the City to the Lessee and/or any sublessees and/or third party suppliers/operators conducting aeronautical services and/or other business to the public on the Leased Premises. Such Airport fees and charges may include, without limitation, aircraft Landing Fees, Fuel Flowage Fees, and other fees and charges that the City may establish or impose from time to time in accordance with the City's Rules and Regulations or due and payable under the terms of this Lease Agreement.

If applicable, Lessee or its designee shall timely submit to the City by the fifteenth (15th) day of each month, two (2) copies of an accurate landing report and a fuel flowage report for the preceding month and the fees associated with those reports, as the case may be, regardless of whether such fees were actually collected by the Lessee or its designee. Lessee acknowledges, stipulates and agrees that if the Lessee fails to collect said Landing Fees or Fuel Flowage Fees, Lessee will timely promptly pay the fees from its own resources. Said landing reports and fuel flowage reports shall be in a form acceptable to the City.

The "**Fuel Flowage Fee**" to be remitted to the City shall be for each gallon of aviation fuel, as measured by a metering system acceptable to the Director, delivered on the Leased Premises into the aircraft of aircraft operators that are not listed on the most current list issued by the City of aircraft operators having an agreement with the City for use of the Airport, as established by the City from time to time.

ARTICLE V USE OF LEASED PREMISES

Section 501. Use. The City hereby grants to Lessee, subject to all the terms, covenants, and conditions of this Lease Agreement, permission to occupy and use the Leased Premises to conduct aircraft management, storage, servicing and maintenance and aircraft charter business at the Airport for aircraft it or an Affiliate of the Lessee owns, leases, charters, maintains or manages and the aircraft is utilized in support of its charter business, including the right to make new Improvements in accordance with Article VI.

Section 502. Repairs and Maintenance. Lessee shall, throughout the Term, at its own cost, and without any expense to the City, keep, repair and maintain the Leased Premises, including the interior and exterior, structural and non-structural portions of all Improvements, including, without limitation, the plumbing, heating, lighting, air conditioning, fire protection systems, and other systems in connection therewith, in good and safe condition, sanitary and neat order, and shall make all necessary repairs and maintenance thereto, ordinary and extraordinary, foreseen and unforeseen, and shall make all necessary replacements thereto of like quality when beyond repair, including but not limited to offices, hangars, buildings, aircraft ramp, parking lots and fuel facilities. Lessee shall restore, rehabilitate, or replace all Improvements that may be destroyed or damaged by fire, casualty or any other cause whatsoever (see Article IX). The City shall not be obligated to perform any maintenance or make any repairs or replacements of any

kind, nature or description, to the Leased Premises, or any Improvements, unless and to the extent such damage is the result of the act or omissions of the City or its employees,, contractors, or agents.

- A. Custodial Services. Lessee shall be responsible for all cleaning, custodial and janitorial services required to meet its obligations hereunder. Without limiting the generality of the foregoing, Lessee shall keep all portions of the Leased Premises in an orderly, neat, clean and safe condition and in good repair. Lessee shall keep all papers and debris picked up from the Leased Premises and sweep the pavements thereon as often as reasonably necessary to keep clean, and keep all grass mowed, and shrubbery and other plantings pruned, trimmed and maintained to high standards.
- B. Snow Removal. Lessee warrants, represents, and agrees that it is solely responsible for removal of all snow and ice from within the Leased Premises as necessary for Lessee's business operations to access the airfield and/or any portion of the Leased Premises (see Section 204.D entitled "121 Access Area"). Lessee shall provide for snow and ice removal to allow, at a minimum, emergency or fire protection access to the Leased Premises.
- C. Trade Fixtures. Lessee shall keep all trade fixtures on the Leased Premises in good and safe condition, order and repair at all times. Should damage occur, repair and/or replacement shall be made by Lessee on a timely basis. All trade fixtures that become damaged so as not to present a good appearance or that become incapable of being kept in good and safe working order shall be removed and, if applicable, replaced by Lessee. All maintenance, repair and replacement of trade fixtures shall be at Lessee's sole cost and expense.
- D. Security of Leased Premises. In addition to the security requirements set forth in Section 206, Lessee shall, at its sole cost and expense, take such measures as may be necessary to cause the Leased Premises to be kept secure and safe at all times. The City shall have no obligation or responsibility to keep the Leased Premises policed, secure or safe.
- E. Repair & Maintenance Reports. Lessee shall, throughout the Term, if any, within thirty (30) days of the end of each Contract Year and within thirty (30) days after the expiration or early termination of this Lease Agreement, submit to the City a report identifying any and all repair and maintenance in excess of \$25,000 completed on the Leased Premises during the preceding Contract Year.
- F. Pavement Maintenance. Lessee shall, within sixty (60) days of the start of the third Contract Year and the Seventh Contract Year, submit to the City a detailed and sealed report prepared by a independent and qualified State of Missouri registered professional engineer who shall conduct an annual pavement inspection of all aircraft pavement within the Leased Premises in compliance with FAA Advisory Circular 150/5380-6 Guidelines and Procedures for Maintenance of Airport Pavements ("**FAA AC 150/5380-6**"), as amended from time to time, and ASTM D 5340 Standard Test Method for Airport Pavement Condition Index Surveys ("**ASTM D 5340**"), as amended from time to time. The detailed and sealed report submitted to the City shall also include, if applicable, plans and schedules for repair or replacement of any found defects or deficiencies in accordance with FAA AC 150/5380-6 and ASTM D 5340.
- G. Waste Disposal. Lessee, at its sole cost and expense, shall also provide for complete, sanitary handling and disposal of all solid waste, trash, garbage and refuse (liquid or solid) in accordance with all local, state and federal rules and regulations and the standards established by the Director applicable to all City tenants at the Airport. Such standards may require the use of special devices including, but not limited to, special containers, compactors, and disposal systems. Lessee agrees, at its cost, to promptly provide and install same and to abide by such standards.
- H. Recycling. If the City establishes a recycling program, Lessee will fully participate in said recycling program. Lessee must comply with all applicable City, local, county, state and federal regulations regarding recycling.
- I. Obstruction Lights. Lessee shall, at its sole cost and expense, provide and maintain obstruction lights and all similar equipment or devices now or at any time required by any applicable Rules and Regulations, law, rule or regulation or ordinance, or any municipal, state or federal regulation.
- J. Storage. No unscreened storage will be permitted on the exterior areas of the Leased Premises.

Section 503. Utilities. Lessee at its cost shall install and/or otherwise provide for and pay for all utilities used on the Leased Premises.

Section 504. Interference to Operations of Airport. Lessee warrants, covenants, and agrees that no obstructions to air navigation, as such are defined from time to time by application of the criteria of 14 C.F.R. Part 77, or subsequent and additional

regulations of the FAA, will be constructed, permitted to be constructed, or permitted to remain on the Leased Premises, and if any such obstructions are constructed, Lessee shall immediately remove them at its expense. Lessee shall not increase the height of any structure or objects or permit the growth of plantings of any kind or nature whatsoever that would interfere with the line of sight of the control tower of the Airport and its operations. Lessee shall not install any structures, objects, machinery or equipment that would interfere with operation of navigation aids or that would interfere with the safe and efficient operations of the Airport, or interfere with the operations of other tenants and users of the Airport.

Section 505. Inoperable Aircraft. The Lessee agrees that any aircraft left in non-flyable condition shall not be parked or stored on the Leased Premises for a period in excess of sixty (60) days without the prior written approval of the City, unless the aircraft is undergoing maintenance that despite commercially reasonable efforts takes longer than sixty (60) days to complete. Non-flyable aircraft shall not be moved from the Leased Premises to other areas of the Airport without the express written approval of the Director.

Section 506. City's Right to Enter, Inspect, and Perform Corrective Actions. The City shall have the right to enter upon the Leased Premises: (i) to inspect the Leased Premises for any purpose necessary for, incidental to, or connected with Lessee's obligations hereunder; and (ii) to perform any work therein that may be necessary by reason of Lessee's failure to make any repairs, perform any work or maintenance, or do anything required of Lessee under this Lease Agreement; provided, however, that except in cases of emergency, the City shall give Lessee notice of such failure, and shall not perform such work unless Lessee has failed to do so within thirty (30) days after receipt of such notice; and further provided that if such work is not reasonably capable of being performed within thirty (30) days, Lessee shall have as much time as it reasonably takes, provided Lessee is diligently pursuing the necessary work. Lessee shall pay to the City all reasonable costs and expenses related to such work by the City plus an administrative charge of fifteen percent (15%) immediately upon demand thereof. Nothing herein shall imply any duty on the part of the City to perform such inspections, make any repairs or perform any work on the Leased Premises, and the performance thereof by the City shall not constitute a waiver of Lessee's default in failing to make any repairs or performing any work required of Lessee under this Lease Agreement. The City shall not in any event be liable for cessation of revenues, inconvenience, annoyance, disturbance, loss of profits or any other damage or loss whatsoever to Lessee or any other party by reason of making such repairs or performing such work or maintenance on the Leased Premises or on account of bringing materials, supplies and equipment onto or through the Leased Premises during the course thereof, and the obligations and duties of Lessee under this Lease Agreement shall not thereby be waived or affected in any manner whatsoever. Except in the case of an emergency, the City shall provide twenty-four (24) hours prior written notice to the Lessee before any entry or inspection of the Leased Premises.

ARTICLE VI CONSTRUCTION OR MODIFICATION OF THE LEASED PREMISES

Section 601. Obligations, Rights and Procedures.

- A. General. Lessee may, at its sole cost and expense, refurbish, install, construct or make Improvements on the Leased Premises in accordance with plans prepared by Lessee; provided, however, that any plans to demolish, excavate, refurbish, install, construct or make any Improvements or any environmental or geotechnical testing or assessments, shall be submitted to the Airport Properties Department for the City's review and approval as provided for in this Article VI. Additionally, any demolishing, excavation, refurbishing, construction on, or alteration to, the Leased Premises that requires permitting from St. Louis County, Missouri, or any municipality in which the Leased Premises are located must also receive the prior written approval of the City as provided for in this Article VI. Lessee shall comply with the requirements of all applicable laws, Environmental Permits, Environmental Laws, and building codes and the City's Rules and Regulations governing tenant construction, alterations, and improvements. Notwithstanding anything to the contrary in this Lease Agreement including, without limitation, Article VII and this Article VI, Lessee acknowledges, warrants, stipulates, and agrees that the Lessee shall not build, install, or construct any new buildings or new structures within the Leased Premises and/or excavate or disturb any soil within the Leased Premises, except as expressly authorized and provided for in: i) Section 204.B regarding the improvements and alternations to the Access Area, ii) Section 605 entitled "Installation of Above-Ground Fuel Storage Tank", and Section 606 entitled "Addition to Building 115", all subject to the applicable provisions of this Lease Agreement.
- B. Submittals to the City. Lessee covenants, stipulates, warrants and agrees that all such work that requires the City's approval shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director. In additions Lessee shall:
- i. submit a signed Tenant Construction or Alteration Application (TCA) including complete plans, construction

- drawings and specifications, and construction schedules to the Airport Properties Department for the City's review and approval. Lessee will begin work on proposed improvements only after it has received the written approval of its TCA including its detailed project plans and specifications and construction schedules from the City;
- ii. submit a St. Louis County building permit number not more than 30 days following submission of the TCA to the Airport Properties Department. A building permit number shall be required prior to the start of any construction or modification to the Leased Premises. (A building permit number is required before the TCA can be approved.);
 - iii. submit the contractor's Builders Risk Insurance, Commercial General Liability and Automobile Liability Insurance certificates in accordance with Section 901.B(v) and the required performance and payment bonds to the Airport Properties Department not more than 45 days following the TCA approval by the Airport Properties Department and prior to beginning of work (see Sections 601.C & 601.D below);
 - iv. submit a certificate of completion and a certified copy of a St. Louis County occupancy or use permit to the Airport Properties Department promptly after the completion of the Improvement (see Section 601.I); and
 - v. submit to the Airport Properties Department a copy of its Environmental Impact Statement not more than thirty (30) days following submission of the TCA, if an Environmental Impact Statement is required by any municipality, political jurisdiction, or federal or state regulatory agency with respect to the Leased Premises.
- C. Contractor's Builders Risk and Liability Insurance. In any contract relating to the excavation or demolition at, construction or modification of, refurbishment or improvement to the Leased Premises, Lessee shall require each of its contractors and suppliers to carry policies of Builders Risk Insurance, Commercial General Liability and Automobile Liability Insurance in accordance with Section 901B(v).
- D. Payment & Performance Bonds. Lessee shall require each of its contractors and suppliers of construction materials to furnish a Performance Bond and a Payment Bond each in the full amount of any contract and in a form acceptable to City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 RSMo. Copies of the bonds shall be given to City for approval before work begins. Any sum or sums derived from said Performance and Payment Bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.
- E. Federal Aviation Administration Review. Prior to commencement of any excavation on, demolition of, construction at, or alteration or refurbishment to the Leased Premises, Lessee shall submit all preliminary plans, drawings and specifications to the FAA for any review and approval that may be required, with a copy to the Airport Properties Department. The preliminary plans shall show plot plans, the location and elevations of buildings and other structures, shall indicate proposed exterior materials and finishes for all structures, and shall include any additional information that may be required by FAA.
- F. Landscaping and Screening. Lessee shall provide and install appropriate landscaping and screening, including lawn, shrubbery, trees, bushes, vines and other plantings and screenings on the Leased Premises as part of the construction of any new Improvements. All proposed landscaping plans and screening designs shall be submitted to the Director for review and approval. Lessee further agrees to provide any further landscaping and fencing that may be required, during the term hereof, by the Director, for security purposes.
- G. TCA Review and Approval by City. Lessee acknowledges, stipulates, and agrees that following receipt of the TCA including detailed project documents, the City in its sole determination may perform on the Leased Premises certain environmental investigations, sampling, or testing and, if necessary or desirable, remediation of Existing Environmental Conditions at the City's cost, and the City shall obtain, any required approvals related thereto, in accordance with Environmental Laws. Lessee covenants, warrants, stipulates and agrees to cooperate in good faith with the City throughout this process. Lessee acknowledges, understands, and agrees that the City's approval of any excavation or the disturbance of the soil as expressly authorized herein (see Section 601.A), the demolition, construction, alteration, and/or refurbishment to the Leased Premises, may be subject to the City's completing the work described herein and complying with Environmental Laws, as well as other City applicable reviews and approvals. Lessee acknowledges, stipulates, and agrees that the City's approval of Lessee's TCA or plans, the City's pre-job sampling, investigations, or testing including, if necessary or desirable, the remediation of Existing Environmental Conditions at the City's costs, and the City's obtaining

of approvals from the appropriated governmental agency responsible for enforcing applicable Environmental Laws, could require significant changes and/or delays to the Lessee's excavation, demolition, construction, alteration or refurbishment schedule. Lessee shall take into consideration the City's approval process and remediation obligations hereunder when developing its demolition and/or construction schedules especially if an authorized excavation or disturbance of soil is contemplated. Lessee shall hold the City harmless from any expenses or costs including, without limitation, loss of profits associated with any delay related to the City's approval process or remediation obligations hereunder. In the event of significant delays (thirty (30) days or more), resulting directly from the City's remediation obligations, the Director, on behalf of the City, shall in good faith agree to a reasonable extension of time for performance of Lessee's obligations under this Lease Agreement including, if applicable, a reasonable extension of the Build-Out Period.

H. Conduct of Work Following Approval of TCA. No authorized excavation or disturbance of soil under this Lease Agreement (see Section 601.A), or demolition at, construction or modifications of, refurbishment or Improvement to, the Leased Premises, or any environmental or geotechnical test or assessment, shall commence until after Lessee has received the written approval of its TCA from the City. Lessee also understands and agrees that certain work elements described in the TCA may require separate or additional approval from the City and/or the FAA before proceeding with the specific work element. As such, Lessee understands and agrees that ongoing coordination with the City at all times is crucial. Lessee agrees to provide the City at least thirty (30) days written notice prior to commencement of any work at the Lease Premises involving the excavation or disturbance of soils for the City's review and prior written approval. The City reserves the right to have a representative(s) present at the work site during such excavation.

I. Hazardous Materials Discovered During Work.

1. City shall receive at least thirty (30) days written notice prior to commencement of any work at the Leased Premises involving an authorized excavation of soils. The Lessee's TCA noting the Lessee plans regarding the excavate of soil and requesting the City's prior written approval in accordance with the terms of this Agreement can constitute such required notice; provided Lessee also provides at least ten (10) days written notice prior to commencement of any work at the Leased Premises involving an authorized excavation of soil so that the City may have a representative present at the work site during such authorized excavation. In the event Hazardous Materials are encountered during any excavation, demolition, construction, modification or refurbishment of the Leased Premises, Lessee shall promptly notify the City, and a determination will be made by the City regarding whether the Hazardous Materials are an Existing Environmental Condition to be remediated by the City. If the Hazardous Materials constitute an Existing Environmental Condition, the City shall investigate and, if necessary, remediate said Hazardous Materials, in accordance with applicable Environmental Laws and then seek reimbursement from the Government. Lessee shall, in good faith but at no direct cost, cooperate with the City in all respects to ensure that the City receives appropriate reimbursement from the Government, if applicable. The City and Lessee may agree in writing that Lessee or its designee is to perform certain environmental investigation and remediation of Hazardous Materials that constitute an Existing Environmental Condition within the Leased Premises. Such work shall only be performed by Lessee or its designee subject to the prior written approval by the City of detailed work plans submitted by Lessee, and with ongoing consultation and cooperation with the City during the performance of the work. The City shall timely reimburse or pay to Lessee or its designee such approved reimbursable costs related to the investigation and remediation work by Lessee or its designee that is requested and authorized in writing by the City, in accordance with the provisions more fully described in Section 601.I.2 below. Whether performed by the City or by Lessee or its designee, such investigations, remediation, and required approvals may result in construction delays for the Lessee; Lessee shall hold the City harmless from any expenses or costs including, without limitation, loss of profits associated with such delays. However, in the event of a delay of thirty (30) days or more as a direct result of such investigation and/or remediation, the Director, on behalf of the City, shall in good faith negotiate and agree to a reasonable extension of time for performance of Lessee's obligations under this Lease Agreement including, if applicable, an extension of the Build-Out Period.

2. Lessee shall cause all requests for reimbursement or disbursements of funds ("**Request for Reimbursement**") for authorized reimbursable costs incurred by the Lessee or its designee on behalf of the City pursuant to Section 601.I.1 above to be submitted to the City within ninety (90) calendar days of payment of the charges by the Lessee or its designee. Each Request for Reimbursement shall include the following: (1) adequate documentation and explanation supporting that the costs for which reimbursement are sought are authorized reimbursable costs in accordance with the terms of this Lease Agreement; (2) a detailed breakdown of the billing totaling the amount of the Request for Reimbursement; (3) copies of invoices, contracts, and/or such other proof of payment or

documentation supporting the Lessee's Request for Reimbursement; and (4) such other documentation as may be reasonably requested in writing by the City to determine whether the costs are an authorized reimbursable cost in accordance with the terms of this Lease Agreement. The City shall have sixty (60) calendar days from the date of its receipt of the Request for Reimbursement to process and pay the amount of the Request for Reimbursement. Should City reasonably dispute or object to any claimed reimbursable cost or any item or amount shown on any Request for Reimbursement and/or supporting documentation or explanation provided by the Lessee, or reasonably dispute or object to the adequacy of such supporting documentation and explanation, the City may withhold payment in part or in full; provided that the City shall, within that same sixty (60) calendar day period, timely pay the balance to which the City has no reasonable objection or dispute. If the City reasonably disputes or objects to a Request for Reimbursement or any cost item therein, such dispute or objection shall be set forth in writing and submitted to the Lessee; after which the matter shall be addressed in good faith by the parties as quickly as reasonably possible. In the event the parties are unable to resolve any disagreement through good faith negotiations, the dispute will be promptly resolved by upper management of both parties hereto.

- J. Mechanics' and Materialmen's Liens. Lessee covenants and agrees to use its best efforts to prevent or not permit any mechanic's or materialmen's or any other liens or encumbrances to be attached to or foreclosed upon the Leased Premises or any part thereof, including, without limitation, any Improvements, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason. If such lien or encumbrance is filed, Lessee warrants, represents and agrees that Lessee will take immediate steps to have the lien promptly removed.
- K. Certificates of Completion. Upon the completion of any new Improvements hereunder, Lessee shall submit to the Director a copy of its acceptance letter certifying completion, and a certified copy of any certificate or permit that may be required by any federal, state, or local government or agency in connection with the completion or occupancy thereof by Lessee. Lessee, at its cost, shall deliver to the City duplicate copies of as-constructed plans and specifications of the Improvements within sixty (60) days after the date on which Lessee has certified completion thereof. If Lessee fails to provide as-constructed or "as built" drawings, Lessee shall pay to the City all reasonable costs and expenses related to recreating plans and specifications by the City plus an administrative charge of twenty percent (20%) immediately upon demand thereof.
- L. Title to Improvements. Title to the Leased Premises including all new Improvements constructed, installed, or placed in or on the Leased Premises by Lessee (including all alterations, modifications, refurbishments, and enlargements thereof), that are not Removable Fixtures, shall become part of the Leased Premises with title vesting in City upon expiration or earlier termination of this Lease Agreement, unless otherwise agreed to in writing by the City; subject, however, to Lessee's obligation to operate, repair, maintain and replace, and its right of possession, use and occupancy during the Term and in accordance with this Lease Agreement (see Section 302 entitled "Surrender of Possession"). For purposes of this Lease Agreement "Removable Fixtures" shall mean all personal property, trade fixtures, furnishings, equipment and fixtures installed by the Lessee that are not permanently affixed to any wall, floor or ceiling in the Leased Premise and for purposes of this Lease Agreement shall also include any above ground fuel storage tanks including, without limitation, any connecting piping, tubing, secondary containment structures, facilities or other related structures, equipment or fixtures (see Section 303 entitled "**Removal of Above-Ground Fuel Storage Tank**"). Within one hundred fifty (150) calendar days of the Commencement Date, Lessee shall submit a list of such Removable Fixtures in writing to the Director for the Director's review and approval, and Lessee shall periodically update such list as necessary or as requested by City.

All Removable Fixtures shall remain the property of Lessee, and shall be removed by Lessee at date of expiration or the early termination of this Lease Agreement unless otherwise agreed to in writing by the City and Lessee. Lessee shall be entitled to remove from the Leased Premises its Removable Fixtures upon the expiration or early termination of this Lease Agreement; provided, however, that if after thirty (30) days following the expiration or early termination of this Lease Agreement, Lessee fails to remove its Removable Fixtures from the Leased Premises, such Removable Fixtures may at the City sole determination be deemed by the City as being abandoned by the Lessee (see Section 302 entitled "Surrender of Possession"), subject to any extension of time hereafter granted in writing by City to Lessee. In addition to whatever other rights are available to the City, with prior notification of Lessee, the City may: (i) remove, sell or store Lessee's property at Lessee's expense, or (ii) take title to Lessee's property in lieu of removal on behalf of Lessee. If the City takes title to such property or otherwise dispose of the property, the City shall be entitled to all proceeds of sale of such Lessee property as liquidated damages for its failure to timely remove its Removable Fixture in accordance with the terms of this Lease Agreement.

Section 602. Minimum Capital Investment. Lessee shall expend a “**Minimum Capital Investment**” of Five Hundred Thousand Dollars (\$500,000) for the construction, refurbishment and improvement of the Leased Premises as outlined on **Exhibit “C”**, which is attached hereto and titled “Construction/Improvement Plan & Schedule”, which costs shall include, without limitation: (i) site refurbishment and improvement costs, (ii) construction costs, (iii) demolition costs, (iv) cost of an above ground fuel storage tank but excluding any other Removable Fixtures, (v) financing costs, and (vi) associated architectural, legal, permit, insurance, construction bonds and engineering fees (“**Construction Costs**”); provided, however, that all such costs may be properly capitalized in accordance with generally accepted accounting principles. Lessee agrees that Three Hundred and Fifty Thousand Dollars (\$350,000) must be spent within eighteen (18) months of the Commencement Date.

Lessee further agrees that an additional One Hundred and Fifty Thousand Dollars (\$150,000) must be spent by the end of the Sixth Contract Year.

Lessee and City acknowledge and agree that the parties may agree to change, modify and/or amend Exhibit C titled “Construction/Improvement Plan & Schedule” administratively in writing without a formal amendment to this Lease Agreement. The Director, on behalf of the City and in the best interest of the City and the traveling public, is hereby authorized to make such changes, modifications, or amendments.

Section 603. Certification of Minimum Capital Investment. Within ten (10) calendar days after the end of the second Contract Year, Lessee shall provide to the Director a Capital Expenditures Report (“**Report**”) detailing the Construction Costs incurred by Lessee for the construction, refurbishment and improvement of the Leased Premises in regard to the Minimum Capital Investment (see Section 602). The Report shall be prepared from records of the Lessee, in accordance with generally accepted accounting principles, and supported appropriate documentation as reasonably requested by the Director. The Report shall be verified by a sworn statement of an authorized officer of the Lessee, including a certification that the Construction Costs were made for the construction, refurbishment and improvement of the Leased Premises. Lessee is encouraged by City to productively expend the Minimum Capital Investment; however, in the event Lessee actual expenditures for Construction Costs expended in the first eighteen months are less than Three Hundred Fifty Thousand Dollars (\$350,000.00), the difference shall be an item of additional payment due and payable to the City within thirty (30) days after receipt of an invoice for such difference from the City (“**18 Month Shortfall**”).

Within one hundred and twenty days of the end of the Sixth Contract Year, Lessee shall provide to the Director a subsequent Report detailing the Construction Costs incurred by Lessee for the construction, refurbishment and improvement of the Leased Premises in regard to the additional One Hundred and Fifty Thousand Dollars (\$150,000) of the Minimum Capital Investment (see Section 602). The Report shall be prepared from records of the Lessee, in accordance with generally accepted accounting principles, and supported appropriate documentation as reasonably requested by the Director. The Report shall be verified by a sworn statement of an authorized officer of the Lessee, including a certification that the Construction Costs were made for the construction, refurbishment and improvement of the Leased Premises. In the event Lessee actual total expenditures for Construction Costs expended by the end of the Sixth Contract Year are less than the Minimum Capital Investment, the difference (less any 18 Month Shortfall previously paid by Tenant to the City) shall be an item of additional payment due and payable to the City within thirty (30) days after receipt of an invoice for such difference from the City.

Section 604. Signs. Lessee shall not, without the prior written approval of the Director erect, maintain or display any signs on the Leased Premises. The term “sign” as used herein, shall mean advertising signs, billboards, banners, identification signs or symbols, posters, displays, logos, or any similar devices. Subject to the foregoing, Lessee shall have the right to install such identification signs as may be necessary for the proper conduct of its services as contemplated hereunder. Lessee shall comply with all rules promulgated by the Director regarding the placement of signs and advertising in the Leased Premises. Prior to the erection, construction or placing of any sign, Lessee shall submit to the Director and the FAA, if applicable, for approval, drawings, electrical details, sketches, designs, elevations, mounting details and dimensions of such signs. Any conditions, restrictions, or limitations with respect to the use thereof as stated by the Director in writing shall become conditions of this Lease Agreement.

Section 605. Installation of Above-Ground Fuel Storage Tank. Consistent with the Airport Rules and Regulations, Environmental Permits, Environmental Laws, and the provisions of this Lease Agreement, Lessee may construct one (1) above-ground storage tank of no more than 20,000 gallons to store jet fuel on the Leased Premises, provided that the City approves the location, materials of construction, operating plan, spill control measures and coordination with all Environmental Permits and Environmental Laws applicable to the City and the Airport. No part of the tank and its associated piping or equipment may be located below the ground surface and no soil may be disturbed or excavated in the construction or maintenance of the tank, piping or containment. Lessee shall provide secondary containment to prevent release of the tank and associated piping and equipment contents to soil, ground water or surface water of sufficient volume to contain the entire capacity of the tank, plus additional capacity to

contain accumulated precipitation. Accumulated precipitation shall not be released from the containment unless such accumulated precipitation is not impacted by the tank contents. Lessee shall take all measures specified by American Petroleum Institute standards for construction, design, maintenance and operation of petroleum above-ground storage tanks. The tank shall be operated in full conformance with Environmental Permits and Environmental Laws. Upon lease termination, unless otherwise agreed to and directed by the Director, Lessee shall remove the tank, associated piping and equipment, and secondary containment from the Leased Premises and shall assess the potential that released Hazardous Materials may be present at the Leased Premises from the operation of the tank, piping and equipment (see Section 303 entitled "Removal of Above-Ground Fuel Storage Tanks"). Any assessment plan must be timely submitted to the City for its review and approved by the City. If Hazardous Materials are released from the tank, Lessee shall immediately notify the City and fully contain and clean up such Hazardous Materials to the satisfaction of the City (see Article VII entitled "Compliance with Laws and Regulations").

Section 606. Addition to Building 115. The City hereby agrees that the Lessee may add an addition of up to 3,000 square feet to Building 115, subject to and in accordance with the provisions of this Lease Agreement.

ARTICLE VII COMPLIANCE WITH LAWS AND REGULATIONS

Section 701. Observance and Compliance With Laws

- A. Lessee, its officers, directors, employees, agents, and its contractors and suppliers while such contractors and suppliers are providing services to Lessee, shall comply with:
- i. all applicable federal, state and local laws and ordinances, including directives of the FAA applicable to the Lessee's operation within the Leased Premises and at the Airport;
 - ii. the Rules and Regulations governing the Airport; and
 - iii. the provisions of the Airport certification manual, as it may be amended from time to time.
- Lessee shall make reasonable efforts to cause its passengers, guests, members, and invitees to comply as well.
- B. Upon Lessee's request, the City shall promptly provide a copy of the Rules and Regulations and the Airport certification manual.
- C. Notwithstanding anything to the contrary, references herein to a statute or law shall be deemed to be a reference to: (i) such statute or law as it may be amended from time to time, and (ii) all ordinances, regulations, rules, executive orders, policies and instructions pertaining, and lawfully promulgated pursuant, to such statute or law as they now exist or may be amended from time to time.

Section 702. Compliance with Environmental Laws

Lessee warrants, covenants, and agrees that Lessee shall comply with any and all applicable Environmental Laws including any plans, monitoring, recordkeeping or programs prepared in conformance with Environmental Laws or Environmental Permits. Further, Lessee, on behalf of itself, does hereby covenant, stipulate, represent, and warrant as follows:

A. Environmental Permits.

- I. Lessee shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Lessee engages within the Leased Premises or at the Airport.
- ii. Lessee shall comply with any requirement imposed by an Environmental Permit obtained by the City that is or are applicable to Lessee or Lessee's activities within the Leased Premises or at the Airport, including any plans, monitoring, recordkeeping or programs prepared in conformance with such Environmental Permits or Environmental Laws; provided, however that the City shall adequately give notice to Lessee of applicable Environmental Permits and associated requirements, including all applicable deadlines for compliance set forth in such Environmental Permits.

- iii. The City and Lessee shall cooperate to ensure compliance with the terms and conditions of any Environmental Permit, Environmental Law and any associated requirements to insure safety and to minimize cost of compliance.
- B. Duty to Notify City. In the event of any release or threatened release of Hazardous Materials caused, handled or owned by Lessee, its employees, agents, contractors, suppliers, passengers, guests, licensees, or invitees, and which is required by applicable Environmental Laws, Environmental Permits, Rules and Regulations, or any plan or program prepared in response to Environmental Laws or Environmental Permits to be reported by Lessee or by City, whether as a result of negligent conduct or otherwise, at, on, under or about the Leased Premises or the Airport, or any portion thereof, or in the event any written claim, demand, complaint or action is made or taken against Lessee that pertains to Lessee's failure or alleged failure to comply with any Environmental Laws or Environmental Permits at the Airport or which pertains to the release of Hazardous Materials by Lessee at the Airport including the Leased Premises, Lessee shall notify the City as soon as reasonably practical of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If Lessee is required, by any Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or threatened release of Hazardous Materials at, on, under or about the Leased Premises or the Airport, or any part thereof, Lessee shall simultaneously provide a copy of such notice or report to the City.
- C. Environmental Remediation. Lessee shall promptly undertake with all due diligence all necessary steps to remedy and remove at its cost any Hazardous Material, or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of Lessee or its agents, employees, contractors, licensees, invitees, or suppliers at the Airport including the Leased Premises, whether resulting from negligent conduct or otherwise during the Term of this Lease Agreement ("**Remediation Work**"). Such Remediation Work shall be consistent with remediation standards established by or derived from the appropriate government agency responsible for enforcing Environmental Laws or Environmental Permits at the Airport. Except in the event of an emergency, such Remediation Work shall be performed after Lessee submits to the City a written plan for completing such Remediation Work and receives the prior approval of the City through notice; provided, however, that the City's approval shall not be unreasonably withheld or delayed. The City expressly reserves the right to review and approve: any proposed remedial investigations, remedial work plans, interim and final remedies, institutional controls, including environmental covenants, or other associated documents prior to submittal to the relevant governmental agencies responsible for enforcing Environmental Laws or Environmental Permits and prior to recording any instrument or the land title. Specific cleanup levels for any Remediation Work by Lessee shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits and be consistent with the commercial use of the Airport, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits or for establishing cleanup levels. Neither an ongoing remediation, including any testing or monitoring, nor the use of institutional controls, shall either unreasonably or materially impair or interfere with the City's use and enjoyment of its property or the Airport, or that of current and future Airport users or tenants. Upon reasonable notice, the City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice at City's sole expense. Such inspection shall not unreasonably interfere with Lessee's operations. The City shall have sole discretion to determine if it will agree to impose any environmental covenants, deed restrictions or other institutional controls on land owned by the City (see Section 702.J below).
- D. Access for Environmental Inspection. Upon reasonable notification to Lessee, the City shall have access, ingress to, and egress from the Leased Premises without charge therefore, as may be reasonable upon the circumstances, and with as little interruption of Lessee's operations as reasonably practical, and upon compliance with Lessee's reasonable security procedures to inspect the same in order to confirm that Lessee is using the Leased Premises in accordance with the requirements of this Section 702. Lessee shall cooperate fully with any such inspections. If Lessee is not present to permit entry and entry is necessary, the City may, in case of emergency, forcibly enter the Leased Premises without rendering the City liable therefore, except for any damage caused to Lessee's property as a result of such entry or any costs, damages or liabilities arising from the City's negligence or willful misconduct. If the City's inspection results in any type of written report, the City shall provide Lessee a reasonable opportunity to timely review and comment on a draft of the report. Lessee shall provide to City for its review and comment copies of: any and all notices to Lessee of alleged non-compliance issued by governmental agencies responsible for enforcing Environmental Laws or Environmental Permits; non-privileged draft official submittals (proposed final drafts) prepared by, or on behalf of, Lessee responding to such alleged non-compliance; and any and all consent orders or administrative determinations, whether preliminary or final, issued by such governmental agencies. The City agrees to maintain the confidentiality of the documents produced in accordance with this Subsection to the extent consistent with the City's legal obligations.

- E. Corrective Action by City. If Lessee fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities at the Airport including the Leased Premises, or if Lessee fails to conduct necessary Remediation Work in a timely manner as required under this Lease Agreement including, without limitation, Sections 302 & 702, the City, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may enter the Leased Premises and take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants for which Lessee is responsible under this Lease Agreement and remedy Lessee's non-compliance with this Lease Agreement. All Remediation Costs incurred by the City shall be paid or reimbursed by Lessee as provided for herein. The City shall add the cost of the Remediation Work plus actual administrative costs, to the rent, fees or charges due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of said rent, fees, or charges. Subsequent to receipt of the City's notice to perform the Remediation Work, the Lessee shall not undertake performance of such Remediation Work without the specific prior authorization from the City. Remediation Work, if necessary, and any other actions taken by the City pursuant to this Section, shall be performed in accordance with the provisions of Subsection 702(C), but only after first having provided notice to Lessee of such failure to comply, and 30 days within which Lessee may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Lessee's compliance reasonably requires more than thirty (30) days to complete, the City may enter the Leased Premises and take such reasonable and necessary measures to achieve compliance only upon Lessee's failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.
- F. Review of Environmental Documents. At the reasonable request of the City, and at City's expense, Lessee shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Lessee has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to Environmental Laws or Environmental Permits and which pertain to the Airport or the Leased Premises, and which would be discoverable in litigation.
- G. Cumulative Remedies. All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, Hazardous Materials releases, or any actual or threatened violations of any applicable Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City's right to indemnification as provided under this Section shall survive the expiration or termination of this Lease Agreement.
- H. Pollution Control. In addition to all other requirements of this Lease Agreement, Lessee, at its cost, shall manage all its operations at the Airport including the Leased Premises in compliance with all applicable Environmental Laws, Environmental Permits, and with applicable best management practices outlined and delineated in the Airport's Storm Water Pollution Prevention Plan ("SWPPP") and Storm Water Management Plan, which shall be provided to Lessee at Lessee request. Lessee shall prepare and submit its own SWPPP to the Airport Environmental Office within thirty (30) calendar days of the City's written request for the City's review and possible comments.
- I. Spill Prevention Control and Countermeasures ("SPCC") Plan. Lessee shall comply with all applicable Environmental Laws pertaining to the proper storage of any Hazardous Materials including, without limitation, oil or petroleum based products within the Leased Premises. Lessee shall prepare and submit a SPCC Plan to the Airport Environmental Office within thirty (30) calendar days of the City's written request for the City's review and possible comments. The SPCC must comply with the requirements of 40 C.F.R. Part 112, regardless of the quantity of petroleum stored, and provide the same level of protection concerning the proper storage and use of any Hazardous Materials on the Leased Premises as is provided for petroleum or oil in 40 C.F.R. Part 112.
- J. Environmental Covenants. Lessee will not object to and, if requested by the City, will subordinate any rights it has under this Lease Agreement to an environmental covenant or environmental land use restriction which (i) restricts the use of groundwater underlying the Leased Premises or the Airport; (ii) limits the use of the Leased Premises to nonresidential uses; (iii) restricts access to soil underlying the Leased Premises or the Airport; or (iv) any other restriction requested by the City to address the presence of Hazardous Materials at the Leased Premises, regardless of when such Hazardous Materials became present at the Leased Premises, provided that such restriction does not prohibit the Lessee's operations at the Leased Premises.
- K. Investigation and Remediation by the Department of Defense. Lessee is hereby notified that the Leased Premises were formally operated by the MoANG and/or other military agencies of the Government. The Department of Defense is presently in the process of assessing the presence of Hazardous Materials at, on, under or emanating from the Leased Premises as a result of such military operations, such assessment may not be complete, and additional Hazardous Materials

may be identified after the Effective Date. Upon reasonable notice, Lessee shall grant full and complete access to the Leased Premises, without charge therefore, to the Department of Defense, the Missouri Department of Natural Resources (“MoDNR”), or any other governmental agencies or departments responsible for enforcing and/or implementing Environmental Laws or Environmental Permits (“Governmental Authority”), and its, or their respective employees, authorized agents, consultants, contractors, and subcontractors, and its, or their equipment, vehicles, and machinery, as may be reasonable under the circumstances, and with as little interruption of Lessee’s operations as may be reasonably practical, and upon compliance with Lessee’s reasonable security procedures, at such times and locations as designated by the Governmental Authority for the purposes of performing environmental investigations, test, studies, sampling, and removal or remediation activities, as determined by the Governmental Authority, in its sole discretion. Lessee shall cooperate with such Governmental Authority and shall allow such access and shall not interfere with the conduct of the Governmental Authority’s investigations, testing, studies, sampling, and removal or remediation activities. Lessee shall take any reasonable measure required by such Governmental Authority to reduce exposure to Hazardous Materials identified by the Governmental Authority, if any. The City makes no warranties or representations of any kind regarding the scope of or conduct of the investigation, removal, studies, sampling, testing, or remediation to be conducted by the Governmental Authority at the Leased Premises, which shall be conducted at the Governmental Authorities’ discretion.

Section 703. Existing Environmental Conditions. Notwithstanding anything to the contrary in this Lease Agreement including, without limitation, this Article VII, Lessee shall have no liability for, and no responsibility or obligation to, City, its Board of Aldermen, or the Airport Commission to remove, remediate, decontaminate, and/or restore any soil, groundwater, or surface water affected by any Hazardous Materials which: (i) are or were released, discharged, disposed, and/or spilled on, in, under, about, around, or from the Leased Premises by City, its officers, agents, employees, consultants, lessees, sublessees, licensees, independent contractors, lessees, guests, patrons, tenants, and invitees, excluding the Lessee, any of its sublessees, and/or the officers, employees, agents, consultants, contractors, lessees, sublessees, licensees, independent contractors, invitees, assigns, representatives, guests, patrons, and invitees of the Lessee or any of its sublessees; (ii) migrate or move or migrated or moved onto, into, or under the Leased Premises from other property owned or operated by City or any of its tenants (excluding Lessee), or another third-party not affiliated with Lessee, except and to the extent such migration or movement is caused or contributed to by Lessee; or (iii) were present prior to the Commencement Date (collectively, “Existing Environmental Conditions”). Lessee acknowledges and agrees that the term “Existing Environmental Conditions” and this Section 703 shall not apply to Hazardous Materials located in, on, within or as a part of the Improvements, and that the City, its Board of Aldermen, and the Airport Commission shall have no responsibility for any costs associated with addressing Hazardous Materials as part of the maintenance, demolition, renovation, or disposal of Improvements; or any part thereof, or the maintenance, removal, abatement, mitigation or remediation of Hazardous Materials located in, or, within or as a part of the Improvements, and that all such cost and expenses, including any costs to comply with Environmental Laws, shall be the responsibility of Lessee.

ARTICLE VIII OPERATIONS

Section 801. Standards of Service. Lessee shall furnish a first class, limited service operation serving the needs of Lessee’s members and customers at the Airport, and offer high quality, prompt and efficient services that are adequate to meet all reasonable demands thereof at the Airport on a fair, equal and nondiscriminatory basis to all Lessee’s members or customers (but not including the general public or Itinerant Aircraft) and in a manner that will reflect credit upon Lessee and City. Lessee shall provide quality services and products and shall equip, organize, put into service and manage efficiently their aircraft management, storage, servicing, and maintenance and aircraft charter business at the Airport for aircraft it or an Affiliate of the Lessee owns, leases, charters, maintains or manages and the aircraft is utilized in support of its charter business.

Section 802. Hours of Operation. Lessee shall inform the Airport Properties Division of its hours of operation and changes thereto.

Section 803. Pricing. Lessee will charge fair, reasonable and nondiscriminatory prices on a basis substantially similar to the prices charged for similar services at this and other airports serving like users; provided, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar price reductions to volume purchasers as may be allowed under law.

Lessee represents, warrants and agrees that if the City receives a complaint alleging that the Lessee has or is charging unfair, unreasonable and/or discriminatory prices for services or products provided by the Lessee at the Airport, that the Lessee will, within ten (10) days of written notice from the Director of such complaint, provide the Director without limitation schedules of fees for all services and products offered at the Airport, and any other information or documentation requested by the Director in order to

determine whether the Lessee is in compliance with this section's requirements regarding fair, reasonable and nondiscriminatory pricing.

Section 804. Personnel.

- A. Lessee shall employ only properly trained, efficient, pleasant, neat, clean and courteous personnel, each of whom shall be proficient in the duties to be performed in the operation of this Lease Agreement. Lessee agrees that it will be responsible for ensuring that its employees abide by all applicable laws, rules and regulations. Lessee shall use its best efforts to prohibit and restrain its visitors and employees from objectionable behavior. Upon notice from the Director concerning objectionable conduct or appearance of any persons, Lessee shall immediately take all steps necessary to correct the cause of the objection.
- B. Lessee shall provide staff in adequate numbers to provide a high level of service.

Section 805. Manager. Lessee shall at all times retain one or more qualified, competent and experienced managers who shall manage and supervise the operations and the facilities and represent and act for Lessee. The manager shall ordinarily be available during regular business hours. A responsible subordinate shall be in charge and available at all times during the manager's absence.

Section 806. Equipment. Lessee shall provide for all equipment in sufficient number necessary to perform its business activity at the Airport.

Section 807. Fueling. Lessee shall have the right to fuel within the Leased Premises the aircraft it or an Affiliate of the Lessee owns, leases, charters, maintain, or manage and the aircraft is utilized in support of its charter business. Lessee, subject to and in accordance with the provisions of this Lease Agreement, shall also have the right to contract with aircraft fuelers that have the contractual right to sell fuel and/or put fuel into aircraft at the Airport. Lessee acknowledges, stipulates and agrees that the Lessee shall not have the right to fuel Itinerant Aircraft and that no Itinerant Aircraft shall be fueled within the Leased Premises.

Section 808. Aircraft Maintenance. Lessee shall have the right to conduct aircraft maintenance on its Leased Premises; provided, however, that aircraft maintenance shall not be performed on Itinerant Aircraft.

Section 809. Transition Period. During any future transition of the Leased Premises to another lessee, if applicable, Lessee does hereby warrant, represent and agree to use its best efforts to assure a smooth transition. Lessee agrees to closely coordinate the planning and execution of the transition with the Director.

Section 810. Communication.

- A. Lessee shall be available for meetings with Airport personnel as necessary upon forty-eight (48) hours prior written notice in person or by telephone.
- B. Lessee shall be responsible for notifying the Airport Properties Department of any problem, which substantially reduces service levels or sales or in any way impairs Lessee's operation.

Section 811. Separate Agreements. The City reserves the right to require third-party suppliers/operators of materials or furnishers of services doing business at the Airport including the Leased Premises to secure an agreement or permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City for conducting such activity at the Airport including the Leased Premises.

**ARTICLE IX
INSURANCE AND INDEMNIFICATION**

Section 901. Insurance.

- A. *General.* Lessee at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, its officers, agents and employees and Lessee to be insured on an occurrence basis against the risk of claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the acts or omissions of Lessee, its officers, agents, and employees pursuant to this Lease Agreement both on the Leased Premises and the Airport.

- B. *Risks and Minimum Limits of Coverage.* Lessee shall procure and maintain the following policies of insurance:
- i. Commercial General Liability Including Aircraft Liability in an amount not less than \$10 million per occurrence and in aggregate, where applicable. Such coverage shall be single limit liability with no annual aggregate.
 - ii. Automobile Liability Insurance in an amount not less than \$10 million primary (no excess), combined single limit per occurrence for automobiles used by Lessee in the course of its performance hereunder, including Lessee's non-owned and hired autos.
 - iii. Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Lessee elects to be self-insured, Lessee shall comply with the applicable requirements of law. Lessee shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Lessee's failure to comply with the provisions of this Subparagraph. The indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Lessee are not employees of the City for any purpose, and that employees of the City are not employees of Lessee.
 - iv. Contents Insurance. Lessee shall be solely responsible for obtaining insurance policies that provide coverage for losses of Lessee owned property.
 - v. Builders Risk Insurance. During any period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction for which Lessee contracts, Lessee shall carry, or shall require its contractors or suppliers to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment and personal property). Lessee may elect to self-insure for individual projects with a total cost of \$50,000 or less. In addition, Lessee or its contractor(s) or supplier(s) shall carry not less than \$3 million of commercial general liability (single limit liability with no annual aggregate) and not less than \$3 million of automobile liability insurance coverage (including owned, non-owned and hired vehicles) during the period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction. The policy limits set forth in this subsection shall be per occurrence/aggregate (see Section 601.C).
 - vi. Other Property Coverage. Lessee shall provide an "**All Risk**" insurance policy providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by norm and which covers all Improvements which are existing as of the Effective Date or may be hereafter erected, placed, installed, or constructed on the Leased Premises including, without limitation, any trade fixtures and equipment or Removable Fixtures. Coverage shall be for one hundred percent (100%) of the full replacement value of such Improvements and shall include loss of use coverage. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment, personal property or Removable Fixtures). Such property insurance coverage shall also extend to damage, destruction and injury to City owned or leased property and City personnel, caused by or resulting from work, acts, operations, or omissions of Lessee or its officers, agents, employees, consultants, contractors, licensees, independent contractors, and invitees, and contractual liability.
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized to do business in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A-," or other insurers or insurance syndicates of similar recognized responsibility.
- i. Form of Policies. The insurance may be in one or more policies of insurance.
 - ii. Non-waiver. Nothing the City does or fails to do shall relieve Lessee from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
 - iii. Insured Parties. Each policy, except those for Workers' Compensation and Employer's Liability, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all

renewal certificates, to the extent of Lessee's indemnification obligations hereunder. Upon City's request, Lessee shall provide City with an endorsement consistent with the requirements of this Subsection. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Lessee in its operations.

- iv. Deductibles. Lessee shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Lessee's rights or increase Lessee's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 903 hereof.
 - v. Cancellation. Each policy shall expressly state that it may not be cancelled or materially modified unless the insurance company endeavors to give thirty (30) days advance Notice to the City.
 - vi. Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
 - vii. Certification of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.
 - viii. Liability for Premium. Lessee shall be solely responsible for payment of all insurance premiums required pursuant to this Lease Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Lessee fails to obtain the insurance as required herein or make premium payments, the City may, with written notification, effect such insurance or make such payments on Lessee's behalf and, after notice to Lessee, the City may recover the cost of those payments plus 15% administrative charge, from Lessee.
 - ix. Proof of Insurance. Prior to the Commencement Date of this Lease Agreement and at any time during the term hereof, Lessee shall furnish the City with certificates of insurance. Lessee shall use its best efforts to submit to the City a certificate showing that such insurance coverage has been renewed at least 5 days prior to the expiration of any such policy. If such coverage is canceled or materially modified, Lessee shall, within 15 days after the date of such notice from the insurer of such cancellation or material modification, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Lessee, the City shall have the right to examine Lessee's insurance policies at the Lessee's offices at the Airport.
- D. Maintenance of Coverage. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Lessee, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. City Right to Review and Adjust Coverage Limits. The City reserves the right at reasonable intervals during the term of this Lease Agreement to cause the insurance requirements set forth herein to be reviewed, at its sole cost, by an insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airport industry as well as that of Lessee, and, based on the written recommendations of such consultant, and in consultation with Lessee, to reasonably adjust the insurance coverages and limits required herein but not more often than every 24 months.

Section 902. Lessee Actions Affecting Insurance.

Lessee shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Lease Agreement. If such Lessee's act, or failure to act, causes cancellation of any policy, then Lessee shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Lessee does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Lessee shall immediately remedy such actions and/or pay the increase in premiums, upon notice from the City to do so; but in any event, Lessee will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 903. Indemnification.

- A. Lessee shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the “**Indemnified Parties**” or “**Indemnitees**”) from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys’ fees, court costs and expert fees) of any nature, arising out of and in connection with this Lease Agreement or the Lessee’s prior use or occupancy of the Leased Premises, the conduct of Lessee’s business, or Lessee’s use of its Leased Premises, the Access Area, or other areas or facilities at the Airport by Lessee, its agents, employees, contractors, representatives, or subcontractors, including, but not limited to:
- i) the acts or omissions of Lessee, its agents, employees, contractors, independent contractors, representatives, licensees, or suppliers;
 - ii) Lessee’s use or occupancy of the Airport, the Leased Premises, and the Access Area; and
 - iii) any violation by Lessee in the conduct of Lessee’s business or its use of its Leased Premises, the Access Area, or other areas or facilities at the Airport of any provision, warranty, covenant, or condition of this Lease Agreement.

Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

- B. Lessee shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Leased Premises, or which arise out of the operations of Lessee or by reason of Lessee’s occupancy of its Leased Premises under this Lease Agreement or any prior use or occupancy of the Leased Premises except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to lessee-related receipts. However, Lessee may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Lessee to contest or appeal the same. Lessee shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Lessee. Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.
- C. Lessee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Leased Premises, the Access Area, or the Airport, by Lessee, its agents, employees, contractors, or suppliers, in conjunction with Lessee’s use and/or occupancy of the Leased Premises under this Lease Agreement or any prior use or occupancy of the Leased Premise or its operations at the Airport. Lessee will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Lessee shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Lessee may enter into related to its activities within the Leased Premises or at the Airport, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Lease Agreement prohibiting or limiting assignments, subletting or subcontracting.
- D. Lessee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature arising from or based in whole or part upon the presence in, or the release into, the environment, the Leased Premises, the Access Area, or the Airport of any Hazardous Materials to the extent caused by, or resulting from, the acts or omissions of Lessee or its agents, employees, contractors, independent contractors, invitees, licensees, representatives, or suppliers whether resulting from negligent conduct or otherwise.

- E. If a prohibited incursion into the air operations area occurs, or if the Airfield Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Lessee's employees, agents, contractors, independent contractors, invitees, licensees, representatives, or suppliers, and such incursion or breach results in a civil penalty action against the City, Lessee shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Lessee of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.
- F. Lessee's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.
- G. The City shall promptly notify Lessee of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Lessee hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Lessee with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Lessee.
- H. The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Lessee is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the City harmless, the City shall promptly notify Lessee of such claim and, if Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and on behalf of the City, at Lessee's expense; provided, however, that Lessee shall immediately notify City if a conflict between the interests of Lessee and City arises during the course of such representation. Lessee shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Airport Director, in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or early termination of this Lease Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Lessee in accordance with this Section. Any final judgment rendered against the City for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.
- I. The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.
- J. Notwithstanding the provisions of this Section, Lessee shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements because, and to the extent, of the negligence or willful misconduct of the City, but only if the City is conclusively determined to be more than 10% liable due to contributory negligence.
- K. This Section shall survive the expiration or early termination of this Lease Agreement. Lessee understands and agrees that any insurance protection furnished by Lessee pursuant to this Article IX shall in no way limit Lessee's responsibility to indemnify and hold harmless the City under the provisions of this Lease Agreement.

Section 904. City Not Liable.

Unless otherwise expressly provided for in this Lease Agreement, the City shall not in any event be liable to Lessee for:

- A. any acts or omissions of Lessee, its officers, directors, employees, agents, contractors, independent contractors, licensees, representatives, or suppliers, or for any conditions resulting from the operations or activities of Lessee's directors, officers, employees, agents, contractors, independent contractors, licensees, representatives, or suppliers;

- B. Lessee's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
- C. any environmental conditions in existence at the Airport, or any part thereof, which condition may interfere with Lessee's business or other operations or activities, or which might otherwise cause damages to Lessee through loss of business, destruction of property, or injury to Lessee, its officers, directors, employees, agents, contractors, suppliers, passengers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or
- D. bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

ARTICLE X ASSIGNMENT AND SUBLETTING

Section 1001. Assignment. Lessee shall not assign, transfer, convey, sell, mortgage, pledge, or encumber (collectively “**Assign or Assignment**””) this Lease Agreement or any portions thereof without first obtaining the written approval of the City, which Assignment may be approved, conditioned, or denied by the City in its sole discretion.

Section 1002. Collateral Assignments. Subject to the prior written approval of the Director, which shall not be unreasonably withheld, and notwithstanding the provisions of Section 1001 above, Lessee may Assign, mortgage or otherwise pledge all or any portion of its rights, title or interest in the Leased Premises pursuant to this Lease Agreement, or any of its other rights under this Lease Agreement, as collateral to secure Lessee’s payment of a debt or performance of any other obligation of Lessee, but only as provided herein:

- A. An agreement pursuant to which Lessee pledges, Assigns or grants an interest in its rights under this Lease Agreement as collateral for the payment of a debt or performance of some other obligation of Lessee must take the form of a leasehold mortgage (“**Leasehold Mortgage**”), which may not extend beyond the Term of this Lease Agreement.
- B. Lessee may only grant a Leasehold Mortgage to secure the repayment of a loan, 100% of the proceeds of which i) Lessee (or an approved Assignee) uses to finance the construction of new improvements or the purchase of fixtures and equipment to be installed or placed on the Leased Premises or ii) an approved Assignee uses to purchase the leasehold estate of the Lessee hereunder.
- C. In the Leasehold Mortgage, the mortgagee (“**Leasehold Mortgagee**”) must expressly acknowledge, for the benefit of the City, that the Leasehold Mortgagee is acquiring no right, title or interest in the City’s fee title to the Leased Premises and that the Leasehold Mortgagee’s rights in and to any new improvements, fixtures or equipment are, at all times, subject to the terms and conditions of this Lease Agreement.
- D. Lessee must execute and record a memorandum of this Lease Agreement in the appropriate county land records, and Lessee must record the Leasehold Mortgage in the appropriate county land records.
- E. If Lessee grants a Leasehold Mortgage satisfying the requirements of this Section 1002, the City agrees to execute a subordination agreement with the Leasehold Mortgagee pursuant to which the City subordinates any statutory or common law lien that the City may have on the personal property of Lessee or on the new improvements. The Director on behalf of the City and in its best interest is hereby authorized to execute such a subordination agreement that is in accordance with this Section 1002. The City will not subordinate its fee interest in the Leased Premises, its interest under this Lease Agreement, or any rights which the City may have to the Improvements upon the expiration or early termination of this Lease Agreement. In the Leasehold Mortgage, the Leasehold Mortgagee must expressly acknowledge and agree that notwithstanding any other provision of the mortgage or related loan documents, the Leasehold Mortgagee will permit the Lessee to retain sufficient insurance proceeds available as a result of any damage to or destruction of the Improvements, fixtures, equipment, or Removable Fixtures located on the Leased Premises to permit Lessee to fully perform its obligations under this Lease Agreement.
- F. At the time that the City gives Lessee written notice of the occurrence of an Event of Default, the City shall simultaneously give the Leasehold Mortgagee a copy of that notice in a manner established for the delivery of notices hereunder at the

address for the Leasehold Mortgagee provided to the City by Lessee. No notice of default to Lessee will be effective until the City delivers the notice required by this subparagraph.

- G. The Leasehold Mortgagee may rectify an Event of Default on Lessee's part, but shall have no obligation to do so. The City will accept the Leasehold Mortgagee's performance of any of Lessee's obligations to the same extent as though the Lessee has performed. The City may exercise a remedy available to it by reason of an Event of Default on Lessee's part only if Lessee and the Leasehold Mortgagee fail to rectify such an Event of Default within (a) any time period specifically set forth in this Lease Agreement for a cure of a particular default; or (b) if no such time period is set forth, then within thirty (30) days after the date of the delivery of the notice required by virtue of Section 1002.F above; or (c) if such failure cannot with due diligence be cured within such thirty (30) day period, corrective action is timely instituted by Lessee or Leasehold Mortgagee within such thirty (30) day period and diligently and in good faith continuously pursued until the failure is properly corrected.
- H. Even though an Event of Default has occurred and neither the Lessee nor the Leasehold Mortgagee has provided for a cure within the times permitted by this Lease Agreement, the City will not terminate the Lease for a reasonable period of time, not to exceed two (2) years, from the date of the notice required by Section 1002.F above, if the Leasehold Mortgagee is then making: (I) prompt, diligent and continuous efforts to gain possession of the Leased Premises and to succeed to Lessee's interest in the Leased Premises by means of a foreclosure or the exercise of any other remedy available to the Leasehold Mortgagee by virtue of Lessee's default in respect of any of its obligations under the terms of the Leasehold Mortgage; provided that Leasehold Mortgagee avails itself of any such remedy, including commencing a foreclosure action, within ninety (90) days from the date of the City's notice required by Section 1002.F above; together with (ii) the payment to the City of all rent and fees due hereunder with respect to which Lessee becomes delinquent; and (iii) good faith efforts to rectify any other Events of Default contemporaneously with the efforts to gain possession of the Leased Premises.
- I. Upon the early termination of this Lease Agreement in bankruptcy, or otherwise, the Leasehold Mortgagee may request the City to approve an Assignment to a successor lessee meeting the criteria of this subparagraph (a "**Successor Lessee**"). In order for the City to be obligated to approve an Assignment in accordance with this subparagraph, the Leasehold Mortgagee must: (i) upon the date of the early termination of this Lease Agreement give written notice to the City that the Leasehold Mortgagee will request the approval of a Successor Lessee in accordance with Section 1004 below; and (ii) no later than sixty (60) days thereafter, timely request in writing that the City Assign this Lease Agreement to a Successor Lessee, which shall then be identified by the Leasehold Mortgagee; provided, however, that such a Successor Lessee must be reasonably acceptable to the City in terms of, but not limited to, experience, qualifications, technical competence (relative to comparable activities at other airports with leaseholds containing airfield access), and financial and administrative capacity. Simultaneously with Leasehold Mortgagee's request for this Lease Agreement to be assigned to a Successor Lessee, the Successor Lessee must also execute and deliver to the City a written plan to rectify within a reasonable period of time any default that exists at that time in respect of any of Lessee's obligations under the terms of this Lease Agreement. The provision of this subparagraph shall survive the early termination, or rejection or disaffirmance of this Lease Agreement by Lessee, and will continue in full force and effect thereafter for a period of sixty (60) days from such early termination, rejection or disaffirmance to the same extent as if this subparagraph were a separate and independent contract made by the City, Lessee, and the Leasehold Mortgagee. It being understood and agreed that the Assignment of this Lease Agreement to a Successor Lessee must be approved by the City's Airport Commission and its Board of Estimate and Apportionment and authorized by a City ordinance approved by the City's Board of Aldermen in accordance with City Ordinance 63687. The City agrees that the Leasehold Mortgagee shall be a third-party beneficiary to the terms of this Lease Agreement, but only to the extent required to fulfil the requirements of this Section 1002.
- J. Subject to and in accordance with the terms, covenants, and conditions of this Lease Agreement, the Leasehold Mortgagee will have the right to participate in the adjustment of any insured losses that become necessary by reason of damage or destruction occurring to Improvements, and the right to supervise and control the receipt and disbursement of insurance proceeds to the extent provided in agreements among Lessee, Leasehold Mortgagee, and any sublessees; provided, however, that any distribution of insurance proceeds must strictly comply with the requirements of this Lease Agreement.
- K. If a taking of any part of the Leased Premises occurs, the Leasehold Mortgagee subject to and in accordance with the terms, covenants, and conditions of this Lease Agreement will have the right to participate in any condemnation proceedings or settlement discussions pertaining to the Lessee's interests hereunder and the right to supervise and control the receipt and disbursement of all condemnation awards arising from such interests to the extent provided in agreements between or among the City, Lessee or Successor Lessee (if any), Leasehold Mortgagee, and any sublessees.

- L. The City will have no right, and expressly waives any right arising under applicable law, in and to the rentals that will become due to Lessee from any sublessee as long as Lessee's payments to the City are current and not delinquent; Lessee may Assign those rentals to the Leasehold Mortgagee without any consent or approval of the City. Nothing in this subparagraph shall alter the City's ownership of any Improvements as provided herein.
- M. Upon written request from time to time by Lessee, a Leasehold Mortgagee, a prospective Leasehold Mortgagee, or a prospective Successor Lessee, the City shall execute and deliver to the requesting party an estoppel certificate in the form reasonably requested by the requesting party. In each such certificate, the City shall certify, to the extent that it then has knowledge: (i) the amount of the monthly rents and fees that Lessee is then obligated to pay under the terms of this Lease Agreement and the date through which Lessee has paid those rents and fees, (ii) that this Lease is in full force and effect, (iii) the specific nature of any Event of Default that the City knows to exist in respect of either party's performance of its respective obligations under the terms of this Lease Agreement, and (iv) the specific nature of any defence or offset that the City may assert in connection with any effort on Lessee's part to enforce any of the obligations the City undertakes under the terms of this Lease Agreement. The Director in the best interest of the City is hereby authorized to execute and deliver said estoppel certificates on behalf of the City.
- N. City acknowledges that without the Leasehold Mortgagee's prior written consent, Lessee may not: (1) be bound by an amendment to this Lease Agreement, (2) exercise any right available to it under the terms of this Lease Agreement or at law to cancel this Lease Agreement, or (3) voluntarily surrender possession of the Leased Premises to the City. City further acknowledges that the Leasehold Mortgagee may not be bound by any amendment, cancellation or surrender that occurs in contravention of the foregoing provisions of this subparagraph.

Section 1003. Subleases. Any sublease for space or granting of rights acquired hereunder shall be subject to the review and prior written approval of Director, which approval shall not be unreasonably conditioned or denied. At least sixty (60) days prior to any contemplated sublease of all or any part of the Leased Premises, Lessee must submit in writing a request to the Director. Such a request shall include a copy of the proposed sublease. No sublease shall be effective as it pertains to the City until such time as the City receives a fully executed copy of the approved sublease agreement as provided for above. All subleases shall, at a minimum, include provisions: (i) requiring strict compliance with all applicable provisions of this Lease Agreement; (ii) that the sublessee will use the facilities solely for the purposes identified in this Lease Agreement; (iii) that all terms of the sublease are subject to and subordinate to the provisions of this Lease Agreement; and (iv) that the term of the sublease shall expire immediately at the expiration or early termination of this Lease Agreement. Lessee shall be responsible for the performance of its sublessees and shall initiate and take all corrective action immediately should a sublessee fail to strictly comply with its sublease or any applicable provision of this Lease Agreement.

Section 1004. Request for Consent. If Lessee fails to obtain advance approval from the City for any Assignment or sublease, the City, in addition to the rights and remedies set forth elsewhere in this Lease Agreement and by law, shall have the right, in its sole discretion, to hold Lessee responsible for continued performance of its obligations throughout the Term, or to immediately terminate this Lease Agreement, and the assignee or sublessee shall acquire no interest or any rights to use the Leased Premises.

ARTICLE XI DEFAULT AND TERMINATION

Section 1101. Events of Default. Each of the following constitutes an "Event of Default" under this Lease Agreement if Lessee fails (unless otherwise expressly addressed in this Section 1101) for a period of thirty (30) days after written notice specifying such default by the City to cure such default; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such thirty (30) day period, shall not give rise to an Event of Default if corrective action is instituted by Lessee within such thirty (30) day period and diligently pursued until the failure is corrected ("Cure Period"):

- A. Lessee fails to punctually pay when due any Initial Rent, Adjusted Rent, or any other fee, charge or money payments required to be paid hereunder.
- B. Lessee fails or refuses to keep, perform and observe any promise, term, covenant, warranty, conditions, or other provision of this Lease Agreement, not otherwise expressly addressed in this Section 1101.
- C. Lessee fails to seek approval or consent from the City or Director whenever such approval or consent is required by this Lease Agreement.

- D. Any representation or warranty of a material fact made by Lessee in its dealings with the City, or in any certificate, affidavit, statement or report furnished to the City pursuant to or in connection herewith, proves untrue in any material respect as of the date of issuance or making thereof, and such materiality is then continuing at the time of the City's notice or an Event of Default.
- E. Lessee becomes insolvent (as such term is defined under Section 101 of the Bankruptcy Code, 11 U.S.C. Section 101 et seq. (the "**Bankruptcy Code**") or any successor statute thereto) and takes the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors. There shall be no Cure Period for this default.
- F. Lessee files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any state thereof, or under any law or statute of another country; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property; or an order for relief is entered by or against Lessee under any chapter of the Bankruptcy Code. There shall be no Cure Period for this default.
- G. Lessee is adjudged a debtor or bankrupt and/or an order is made approving a petition filed by any of Lessee's creditors or stockholders seeking Lessee's liquidation or reorganization under the Bankruptcy Code or under any other law or statute of the United States or any state thereof, and such order or decree is not stayed or vacated within 60 days of its issuance.
- H. A petition under any chapter of the Bankruptcy Code or an action under any federal or state insolvency law or statute, or an action under any insolvency law or statute of another country is filed against Lessee and is not dismissed or stayed within 60 days after the filing thereof.
- I. By or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Lessee and such possession or control continues in effect for a period of 60 days.
- J. Lessee becomes an entity in dissolution.
- K. The letting, license, or other interest of or rights of Lessee hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, by, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in Section 1001.E - J.
- L. Lessee fails to pay when due any taxes or assessments relating to its operation or its employees; provided, however, that any such failure shall not give rise to the City's right to terminate this Lease Agreement if Lessee is actively prosecuting or defending a related claim or suit in a court of competent jurisdiction or by appropriate government administrative procedure or by arbitration or mediation conducted by a recognized alternative dispute resolution organization.
- M. Lessee enters into an assignment or sublease which is not approved by the City in accordance with the provisions of Article X, and, if a sublease, it is not terminated within 10 days after notice by the City.

Section 1102. Termination by the City. Whenever an Event of Default has occurred, the City may, immediately and without further notification of such Event of Default, except as provided for in Section 1001, terminate this Lease Agreement and/or Lessee's rights granted hereby. The remedies set forth herein shall be in addition, and not concurrent, to all other remedies that are or may be available to the City at law or in equity to enforce the performance and observance of any obligation, agreement or covenant of Lessee hereunder. In no event shall this Lease Agreement or any rights or privileges hereunder be an asset of Lessee under any bankruptcy, insolvency, or reorganization proceeding.

Section 1103. Termination by Lessee. At any time that Lessee is neither in default nor has committed an Event of Default hereunder, Lessee may terminate this Lease Agreement by giving the City 30 days' advance notice upon or after the happening, and during the continuance of any failure by the City to keep, perform and observe any material promise, covenant, or other provision of this Lease Agreement for a period of 30 days after notice, specifying such failure and requesting that it be remedied, is given to the City by Lessee; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to Lessee's right to terminate this Lease Agreement if corrective action is instituted by the City within such 30 day period and diligently pursued until the failure is corrected.

Section 1104. Rights Cumulative. It is understood and agreed that the rights and remedies of the City and Lessee specified in this Article XI are not intended to be, and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto or any right that either party may have at law or in equity.

**ARTICLE XII
MISCELLANEOUS PROVISIONS**

Section 1201. Notice. Except as otherwise expressly provided in this Lease Agreement, all notices, including notifications, requests, authorizations, approvals, demands, and consents provided for hereunder shall be in writing and shall be delivered personally, or shall be sent by overnight mail with receipt, or shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, and, shall be addressed to the parties at the respective addresses set forth below. A party may change its address for receipt of notice by service of notice of such change in accordance herewith. Notice shall be deemed made, given, or received as follows: (i) if delivered by personal service, when delivered to the addressee; (ii) if by overnight mail, the next business day; and (iii) if by certified mail, three days after being deposited in the mails, postage prepaid and properly addressed.

If to the City:

Director of Airports,
Lambert-St. Louis International Airport
P.O. Box 10212, Lambert Station
10701 Lambert International Blvd.
St. Louis, Missouri 63145

with a copy to the Airport Properties Division Manager at the same address.

If to the Lessee:

James F. Mauze, Jr.
Jet Linx St. Louis, LLC
112 S. Hanley Rd., 2nd Floor
St. Louis, Missouri 63105

With a copy to:

Daniel Wofsey
Armstrong Teasdale LLP
7700Forsyth Blvd., #1800
St. Louis, Missouri 63105

Section 1202. Condemnation.

- A. Total Take - If the whole of the Leased Premises should be taken by the exercise of the power of eminent domain by any public entity, including the City, this Lease Agreement shall terminate as of the date of vesting of title in the condemning authority.
- B. Partial Take - If less than the whole of the Leased Premises, including any Improvements, should be taken by the exercise of the power of eminent domain by any public entity, including the City, then this Lease Agreement shall terminate only as to that portion of the Leased Premises so taken as of the date of the vesting in the condemning authority of title to such portion, but this Lease Agreement shall remain in full force and effect with respect to that portion of the Leased Premises not so taken, provided that the Director and the Lessee, after good faith discussions, determine that the remainder of the Leased Premises may be feasibly used for the purposes contemplated by this Lease Agreement. After a partial condemnation of the Leased Premises, the Initial Rent or Adjusted Rent, as applicable, shall be adjusted pro tanto.
- C. Possession by Lessee - Notwithstanding any termination of this Lease Agreement in whole or in part under Paragraphs A and B of this Section 1202, Lessee may remain in possession of each portion of the Leased Premises as shall be so taken at the applicable rent herein provided, until the condemning authority shall require Lessee to surrender such possession. Any rent or charge in the nature of rent which Lessee is required to pay to the condemning authority in consideration of such remaining in possession shall be paid by Lessee and shall reduce pro tanto the obligation of Lessee to payment

hereunder.

- D. Whether all or a portion of the Leased Premises should be taken in a condemnation proceeding, Lessee shall be entitled to receive from the City that portion of the condemnation award allocable to the then-remaining value, calculated in accordance with Missouri condemnation law, of any new Improvements made or installed by Lessee (taking into account the value of the City's ownership interest in such new Improvements at the expiration of this Lease Agreement in accordance with Section 601.J), as well as the value of Lessee's leasehold interest in the Leased Premises.

Section 1203. NonDiscrimination and Affirmative Action Program.

- A. Lessee hereto understands and agrees that the City in operation and use of the Airport will not discriminate or permit discrimination against any person or group of persons on the grounds of race, creed, color, religion, sex, age, disability, national origin or ancestry, in a manner prohibited by 49 C.F.R. Part 21. Lessee shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; Title VI of the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws. Lessee hereby agrees that its Leased Premises shall be posted to such effect as required by such regulation.
- B. Lessee agrees that in performing under this Lease Agreement, neither it nor anyone under its control including, without limitation, any sublessee, shall permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, age, disability, national origin or ancestry. Lessee shall take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, age, disability, national origin or ancestry. Such action must include, but shall not be limited to action to bar, employ, upgrade or recruit, expel, discharge, demote or transfer, layoff, terminate or create intolerable working conditions, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- C. Lessee shall state in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of Lessee, and shall cause such solicitations, advertisement or publications made by any sublessees to state, that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, age, disability, national origin or ancestry. All advertisements or solicitations for applicants for employment shall contain the phrase "An Equal Opportunity Employer." Lessee shall not make inquiry in connection with prospective employment, which expresses directly or indirectly any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin or ancestry.
- D. Lessee agrees that should it be determined by Lessee or the City that Lessee will be unable to conform to its approved positive employment program submitted to determine eligibility under the fair employment practices provisions of the Revised Code of the City of St. Louis, Lessee shall notify the Fair Employment Practices Division of the Civil Rights Enforcement Agency within ten (10) days of such determination, as to the steps to be taken by Lessee to achieve the provisions of its program.
- E. Lessee shall permit reasonable access by the City to such persons, reports and records as are necessary for the purpose of ascertaining Lessee's or sublessees, if any, compliance with fair employment practices.
- F. Paragraphs B through E of this Section 1203 covering discrimination and equal opportunity practices in all matters of employment and training for employment shall be incorporated by Lessee in all subleases, contracts or agreements it enters into with sublessees, suppliers, of materials or services, contractors and subcontractors, and all labor organizations, furnishing skilled, unskilled and craft union skilled labor, or who may perform any such labor or service in connection with this Lease Agreement.
- G. Whenever Lessee is sued by a Sublessee, tenant, subcontractor, vendor, individual, group or association as a result of compliance with the paragraphs (A through F) of these provisions relating to fair employment practices, Lessee shall notify the City in writing of such suit or threatened suit within ten (10) business days.
- H. In event of Lessee's or its sublessees', if any, noncompliance with nondiscrimination clauses of this Lease Agreement, or to furnish information or permit Lessee's books, records and account to be inspected within twenty (20) days from date requested, this Lease Agreement may be terminated or suspended, in whole or in part subject to Article XI above, and Lessee may be declared ineligible for further City contracts for a period of one year by option of the City; provided that if this Lease Agreement is terminated or suspended for failure to comply with fair employment practices, Lessee shall have

no claims for any damages or loss of any kind whatsoever against the City.

- I. Lessee will establish and maintain for the Term of this Lease Agreement, and shall cause any sublessees to establish and maintain, an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment and the City reserves the right to take such action as the City and the U.S. Government may direct to enforce the above covenants.
- J. Lessee assures that it shall undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered sublessees, if any, provide assurances to the City that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 C.F.R. Part 152, Subpart E, to the same effect.

Section 1204. No Personal Liability. No Alderman of the City, Commissioner of the Airport Commission, Director, officer, board member, employee or other agent of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Lease Agreement or because of any breach hereof or because of its or their execution of the Lease Agreement. Any administrative complaint brought against the City relating to any aspect of this Lease Agreement shall be brought against the City and not against named individual respondents.

Section 1205. Force Majeure. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the City or Lessee hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of the City or Lessee to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this Section is intended or shall be construed to abate, postpone or in any respect diminish Lessee's obligations to make any payments due to the City pursuant to this Lease Agreement.

The City shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, ordinance, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction.

Section 1206. Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions, warranties, and considerations of this Lease Agreement shall extend to and bind the legal representatives, successors, sublessees and permitted assigns of the respective parties hereto. This provision shall not constitute a waiver of any conditions regarding assignment or subletting contained in this Lease Agreement.

Section 1207. Quiet Enjoyment. Upon payment of all amounts due hereunder and performance of the covenants and agreements on the part of Lessee to be performed hereunder, the City shall not act or fail to act, except as otherwise provided by this Lease Agreement, in a manner that will prevent Lessee from peaceably having and, in accordance with the terms hereof, enjoying the quiet and peaceful possession of the Leased Premises.

Section 1208. Title to the Lease Premises. The Leased Premises from the date hereof until the expiration or early termination of this Lease Agreement shall be owned in fee simple title by the City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by the City as herein provided for the full term provided in this Lease Agreement.

Section 1209. Subordination to Agreements with the United States. This Lease Agreement is subject and subordinate to any existing or future agreements between the City and the United States of America or governmental authority, relating to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose and use Passenger Facility Charges (14 C.F.R. Part 158) ("PFCs") for the improvement or development of the Airport. Neither Lessee nor any sublessee shall cause the City to violate any assurances made by the City to the United States of America in connection with the granting of federal funds or the approval of such PFCs.

This Lease Agreement is also subordinate to the rights of the United States of America to operate all of the Airport, or any part

thereof, during time of war or national emergency. Such rights shall supersede any provisions of this Lease Agreement inconsistent with the operation of the Airport by the United States of America.

Section 1210. Modifications to Maintain Federal Compliance. In the event that the FAA requires, as a condition precedent to granting of funds for the improvement, development, or expansion of the Airport, modifications or changes to this Lease Agreement or determines this Lease Agreement to be inconsistent with City's grant assurances, current or future, Lessee agrees to consent to such reasonable amendments, modifications, or changes to this Lease Agreement as may be reasonably required to enable the City to obtain said funds or comply with the City's grant assurances.

Section 1211. Governing Law/Compliance/Venue. This Lease Agreement shall be deemed to have been made in, and be construed in accordance with the laws of the State of Missouri and is subject to the City's Charter laws and ordinances, as may be amended from time to time. The parties shall perform and comply in all material respects with laws, rules, orders, ordinances, regulations, Environmental Laws, Environmental Permits, decrees, judgments and requirements now or hereafter enacted or promulgated which are applicable to the Leased Premises. It is agreed by the parties hereto that any action at law, suit in equity, claim, demand or other judicial proceeding to enforce or construe this Lease Agreement, or regarding its alleged breach, shall be instituted only in a federal or state court in the City of St. Louis, Missouri. Lessee and the City hereby admit and consent to the jurisdiction and venue of such courts. The provisions of this section shall survive the expiration or termination of this Lease Agreement

Section 1212. Headings. The headings of the Articles and Sections of this Lease Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this Lease Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 1213. Amendments. Except as expressly provided for herein, this Lease Agreement may only be amended by a written agreement, duly authorized and executed by all the signatories to this Lease Agreement. It being understood that any amendment to this Lease Agreement must be approved by the City's Airport Commission and its Board of Estimate and Apportionment and authorized by a City ordinance approved by the City's Board of Aldermen.

Section 1214. Previous Agreements. It is expressly understood by the Parties that the provisions of this Lease Agreement shall in no way affect or impair the terms, covenants, conditions, or obligations of any other existing or prior agreement between the Lessee and the City.

Section 1215. Withholding Required Approvals. Unless otherwise expressly provided for herein, whenever the approval of the City, or Director, or of Lessee is required herein, no such approval shall be unreasonably requested, delayed, or withheld. The parties hereto shall cooperate with each other in all aspects and use best efforts to reach consensus and expedite any reviews.

Section 1216. Waivers. No waiver of default by either party of any of the terms, covenants or conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. No waiver shall be binding unless executed in writing by the party granting the waiver.

Section 1217. Invalid Provisions. If any covenant, conditions, or provision in this Lease Agreement is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, or conclusively determined to be inconsistent with federal law or FAA grant assurances, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Lease Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Lessee in its respective rights and obligations contained in the valid covenants, conditions, or provisions of this Lease Agreement.

Section 1218. Americans with Disabilities Act ("ADA"). Lessee shall be responsible for compliance with the ADA, and any other federal, state, or local laws or City Ordinances or regulations pertaining to the disabled individual having access to the Leased Premises.

Section 1219. Advertising. Neither Lessee nor any sublessee shall have the right to use trademarks, symbols, trade names or name of the Airport or the City, either directly or indirectly, in connection with any production, promotion service or publication without the prior written consent of the Director.

Section 1220. Time is of the Essence. The parties hereto expressly agree that time is of the essence in this Lease Agreement. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

Section 1221. Acknowledgment of Terms and Conditions. The parties affirm each has full knowledge of the terms, covenants, conditions and requirements contained in this Lease Agreement. Each party acknowledges that such party and its counsel, after negotiation and consultation, have reviewed and revised this Lease Agreement. As such, the terms of this Lease Agreement shall be fairly construed and the usual rule, of construction, if applicable, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed, in the interpretation of this Lease Agreement or any amendments, modifications or exhibits thereto.

Section 1222. Entire Agreement. The terms, covenants, warranties, conditions, and provisions of this Lease Agreement are intended by the parties as a final expression of their agreement with respect to said provision as are included in this Lease Agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. This Lease Agreement, together with all exhibits attached hereto and all documents incorporated herein by reference, constitutes the entire agreement between the parties hereto and all other representations or statements heretofore made, verbal or written are merged herein. Except as expressly provided for in this Lease Agreement, this Lease Agreement may be amended only by written agreement duly authorized and executed by all the signatories to this Lease Agreement.

Section 1223. Required Approvals. When the consent, approval, waiver, certification, or extension in time of performance of other party is required under the terms of this Lease Agreement, unless otherwise expressly stated herein (an “**Approval**”), the Approval must be in writing and signed by the party making the Approval. Whenever the Approval of the City or the Director is required, the Approval must be from the Director, which action the Director may take subject to applicable laws, regulations and ordinances of the City, and in the best interest of the City and the traveling public. Whenever the Approval of Lessee is required, the Approval must be from James Mauze or his authorized or designated representative.

Section 1224. Memorandum of Lease. The City and Lessee agree at the request of either party to execute a memorandum of this Lease Agreement in a recordable form for the sole purpose of giving notice of this Lease Agreement. The Director, on behalf of the City and in its best interest, is hereby authorized to enter into, execute and deliver said memorandum of lease.

Section 1225. Binding Contract; Counterparts. This Lease Agreement shall become effective and binding only upon the execution and delivery hereof by the City and Lessee. Lessee acknowledges and agrees that this Lease Agreement is contingent upon the approval of the City Board of Estimate and Apportionment and must be authorized by the City’s Board of Aldermen. This Lease Agreement and any companion document or instruments referred to herein, may be executed in any number of counterparts, each of which shall be original, but all of which together shall constitute one document or instrument.

Section 1226. Exhibits and Attachments. All exhibits attached hereto or described and expressly incorporated herein are fully incorporated into this Lease Agreement by this reference as if fully set out herein. The City and Lessee shall reasonably and in good faith finalize and attach all such exhibits and attachments to this Lease Agreement, which may not have been in final form as of the Effective Date.

Section 127. Prevailing Wage. Lessee and any sublessees shall comply with the applicable provisions of the City’s Prevailing Wage Law in accordance with and subject to City Ordinance No. 62124, as a condition of this Lease Agreement.

Section 1228. Right to Audit.

- A. The Lessee “records” shall be open to inspection and subject to audit and/or reproduction during normal working hours (upon not less than five (5) business days prior notice) and kept within the greater St. Louis metropolitan area. A City representative may perform such audits or an outside representative engaged by the City. The City or its designee may conduct such audits or inspections throughout the term of this Lease Agreement, and for a period of five (5) years after the early termination or the expiration of the Lease Agreement, or longer if required by law.
- B. The Lessee’s “records” as referred to in this Lease Agreement shall include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, communities, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the City’s reasonable judgment have any bearing on or pertain to any matters, rights, duties or obligations under

TITLE: _____

DATE: _____

TABLE OF EXHIBITS

- EXHIBIT "A" Description of Leased Premises**
- EXHIBIT "B" Depiction of Leased Premises**
- EXHIBIT "C" Construction/Improvement Plan & Schedule**

EXHIBIT "A"

DESCRIPTION OF LEASED PREMISES

LEASE AREA A

A tract of land being part of U.S. Survey 1993, Township 46 North, Range 6 East, St. Louis County Missouri, said tract being more particularly described as follows:

Commencing at the Southeast corner of Lot 1 of Natural Bridge Acres, as per plat recorded in Plat Book 15 Page 26 of the St. Louis County Recorder's Office, thence in a Northwestwardly direction North 65 degrees 02 minutes 38 seconds East 311.63 feet more or less to the Southeastern corner of a fence around the area used by American Airlines for parking, said point being the ACTUAL POINT of BEGINNING of the description herein; thence along said fence South 53 degrees 37 minutes 44 seconds West 94.33 feet to a point, thence leaving said fence line; South 35 degrees 25 minutes 51 seconds East 8.81 feet to a point of curve to the left, whose radius point bears North 53 degrees 37 minutes 44 seconds East 20.00 feet from the last described point, thence along the arc of said curve 22.51 feet to a point being on the asphalt for the West bound lines of the road known as Lambert International Blvd. thence along said asphalt line, South 63 degrees 01 minutes 17 seconds West 59.99 feet to a point of curve to the left, whose radius point bears North 41 degrees 30 minutes 25 seconds West 20.00 feet from the last described point, thence leaving said asphalt line along the arc of said curve 29.81 feet to the point of tangent, thence North 36 degrees 54 minutes 58 seconds West 25.78 feet, thence North 53 degrees 37 minutes 44 seconds East 67.96 feet to a point of curve to the left, whose radius point bears North 36 degrees 22 minutes 16 seconds West 16.00 feet from the last described point, thence along the arc of said curve, 24.93 feet to the point of tangent, thence North 35 degrees 39 minutes 09 seconds West 111.11 feet to a point, thence North 54 degrees 47 minutes 57 seconds East 40.51 feet to a point being in an existing fence line; thence along said fence line South 36 degrees 50 minutes 42 seconds East 20.01 feet, and South 35 degrees 39 minutes 09 seconds East 134.71 feet to the point of beginning and containing 9,670 Square Feet as per calculations by Doering Engineering during December 2012, this description is based upon field locations of the existing fences in the area, no boundary survey work was done for this description, bearings are base upon State Plane Coordinates, but the tie to the subdivision is calculated only and to be used for reference only.

LEASE AREA B

A tract of land being part of U.S. Survey 1993, Township 46 North, Range 6 East, St. Louis County Missouri, said tract being more particularly described as follows:

Commencing at the Southeast corner of Lot 1 of Natural Bridge Acres, as per plat recorded in Plat Book 15 Page 26 of the St. Louis County Recorder's Office, thence in a Northwestwardly direction North 65 degrees 02 minutes 38 seconds East 311.63 feet more or less to the Southeastern corner of a fence around the area used by American Airlines for parking, thence along the existing fence North 35 degrees 39 minutes 09 seconds West 134.71 feet to the ACTUAL POINT of BEGINNING of the description herein: thence continuing along said fence line the following courses and distances North 36 degrees 50 minutes 42 seconds West 10.00 feet, thence North 35 degrees 09 minutes 12 seconds West 71.67 feet, North 13 degrees 12 minutes 02 seconds East 2.56 feet, North 35 degrees 52 minutes 41 seconds West 22.37 feet, North 35 degrees 35 minutes 22 seconds West 22.64 feet, North 35 degrees 25 minutes 05 seconds West 103.49 feet, North 04 degrees 27 minutes 24 seconds West 29.34 feet and North 54 degrees 07 minutes 52 seconds East 57.66 feet, thence leaving said fence line, North 85 degrees 24 minutes 51 seconds East 25.67 feet, thence North 21 degrees 56 minutes 16 seconds East 60.12 feet, thence South 67 degrees 58 minutes 29 seconds East 277.18 feet; thence South 21 degrees 54 minutes 55 seconds West 174.33 feet, thence North 68 degrees 02 minutes 33 seconds West 36.19 feet and South 54 degrees 47 minutes 57 seconds West 129.57 feet to the actual point of beginning and containing 65,145 Square feet or 1.496 Acres as per calculations by Doering Engineering during December 2012, this description is based upon field locations of the existing fences in the area, no boundary survey work was done for this description, bearings are base upon State Plane Coordinates, but the tie to the subdivision is calculated only and to be used for reference only.

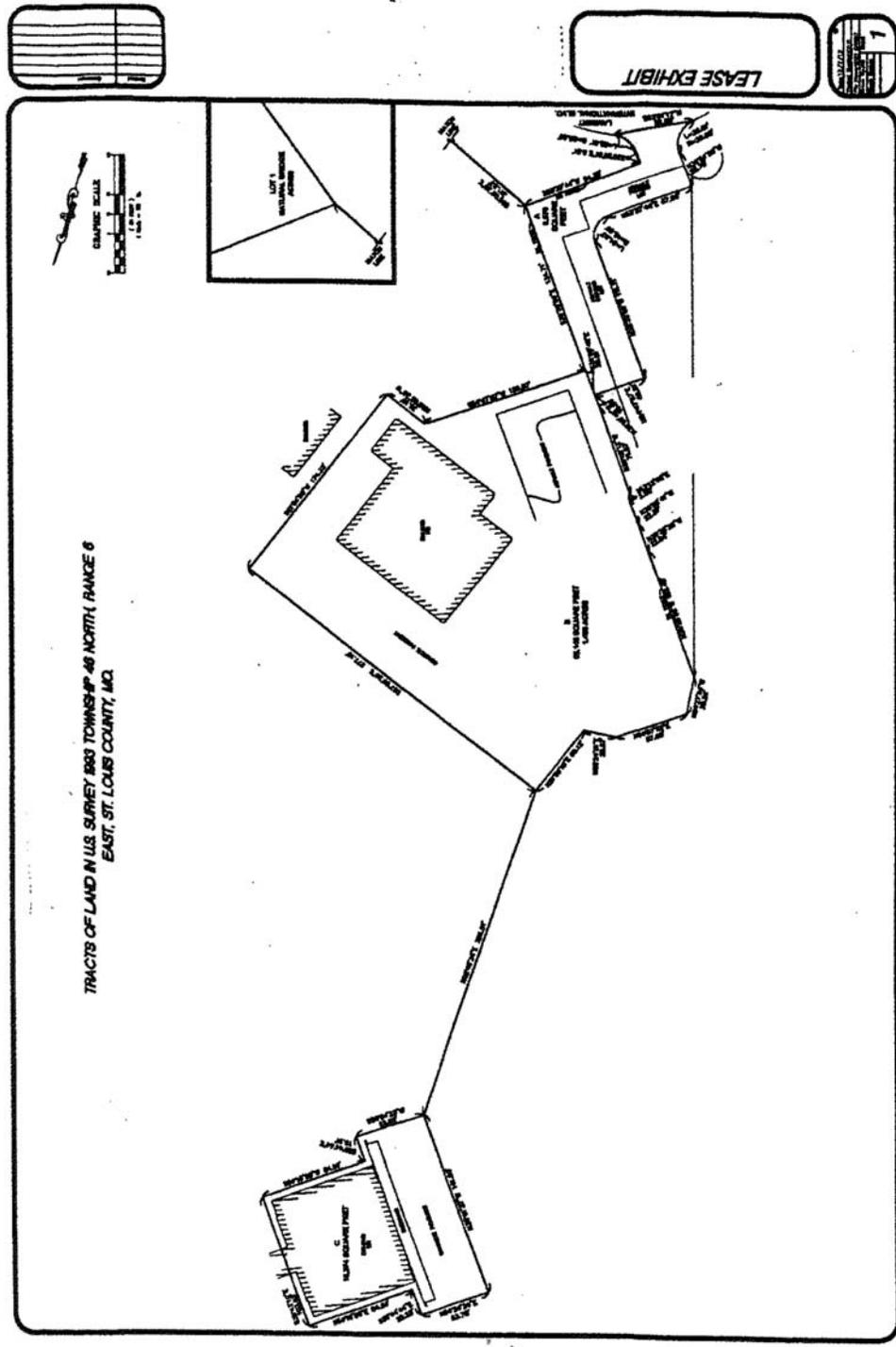
LEASE AREA C

A tract of land being part of U.S. Survey 1993, Township 46 North, Range 6 East, St. Louis County Missouri, said tract being more particularly described as follows:

Commencing at the Southeast corner of Lot 1 of Natural Bridge Acres, as per plat recorded in Plat Book 15 Page 26 of the St. Louis County Recorder's Office, thence in a Northwestwardly direction North 65 degrees 02 minutes 38 seconds East 311.63 feet more or less to the Southeastern corner of a fence around the area used by American Airlines for parking, thence along the existing fence North 35 degrees 39 minutes 09 seconds West 134.71 feet, North 36 degrees 50 minutes 42 seconds East 30.01 feet, North 35 degrees 09 minutes 12 seconds West 71.67 feet, North 13 degrees 12 minutes 02 seconds East 2.56 feet, North 35 degrees 52 minutes 41 seconds West 22.37 feet, North 35 degrees 35 minutes 22 seconds West 22.64 feet North 35 degrees 25 minutes 05 seconds West 103.49 feet, North 04 degrees 27 minutes 24 seconds West 29.34 feet, North 54 degrees 07 minutes 52 seconds East 57.66 feet, thence leaving said fence line, North 85 degrees 24 minutes 51 seconds East 25.67 feet, North 21 degrees 56 minutes 16 seconds East 60.12 feet, and North 02 degrees 45 minutes 34 seconds East 266.61 feet to the ACTUAL POINT of BEGINNING of the description herein: thence North 35 degrees 41 minutes 37 seconds West 141.60 feet, thence North 54 degrees 24 minutes 24 seconds East 53.78 feet, North 35 degrees 44 minutes 44 seconds East 20.23 feet, thence North 54 degrees 16 minutes 50 seconds East 84.54 feet, thence South 35 degrees 43 minutes 10 seconds East 103.03 feet, thence South 54 degrees 16 minutes 50 seconds West 84.50 feet, thence South 35 degrees 44 minutes 44 seconds

East 19.91 feet, thence South 56 degrees 04 minutes 23 seconds West 53.93 feet to the actual point of beginning and containing 16,374 Square feet as per calculations by Doering Engineering during December 2012, this description is based upon field locations of the existing fences in the area, no boundary survey work was done for this description, bearings are base upon State Plane Coordinates, but the tie to the subdivision is calculated only and to be used for reference only.

EXHIBIT "B"
Depiction of Leased Premises



TRACTS OF LAND IN U.S. SURVEY 583 TOWNSHIP 48 NORTH, RANGE 6
EAST, ST. LOUIS COUNTY, MO.

EXHIBIT C
Construction/Improvement Plan & Schedule

Construction of Access Road from Lambert International Blvd., including signage, to leased premises

Construction of up to 3,000 square foot addition on the west-side of Building 115

Remodel of interior of Building 115

Construction related to the installation of up to 20,000 Above Ground Fuel Storage Tank

Access Road and Addition and remodel to be completed within 90 days of commencement of construction.

EXHIBIT C

Approved: February 6, 2013