

St. Louis City Ordinance 64875

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 255

INTRODUCED BY ALDERMAN JAMES SHREWSBURY

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 a restated and eighth amendment to the St. Louis Airport Property Lease at Lambert-St. Louis International Airport made the 26th day of December, 1956 (the **◆ Airport Property Lease ◆**), which was authorized under Ordinance 48138 approved December 26, 1956; this **◆ Restated and Eighth Amendment ◆** between the City and Midcoast Aviation, Inc., a corporation of the State of Missouri, which was approved by the Airport Commission and is attached hereto as ATTACHMENT **◆ A ◆** and is made a part hereof, is a complete restatement of and the eighth amendment to the Airport Property Lease as previously amended; 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 a restated and eighth amendment to the St. Louis Airport Property Lease at Lambert-St. Louis International Airport made the 26th day of December, 1956 (the **◆ Airport Property Lease ◆**), which was authorized under Ordinance 48138 approved December 26, 1956; this **◆ Restated and Eighth Amendment ◆** between the City and Midcoast Aviation, Inc., a corporation of the State of Missouri, which was approved by the Airport Commission and is attached hereto as ATTACHMENT **◆ A ◆** and made a part hereof, is a complete restatement of and the eighth amendment to the Airport Property Lease as previously amended and is to read substantially in words and figures as set out in ATTACHMENT **◆ A ◆**.

SECTION TWO. This being an Ordinance for the preservation of public peace, health, or safety, it is hereby declared an emergency measure as designed in Article IV, Section 20 of the City Charter and shall become effective immediately upon its approval by the Mayor of the City of St. Louis.

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT
MIDCOAST AVIATION, INC.

RESTATED AND AMENDED
LEASE AGREEMENT
NO. AL-34

TABLE OF CONTENTS

INTRODUCTION Page 1

ARTICLE I: DEFINITIONS Page 2

ARTICLE II: PREMISES Page 5

ARTICLE III: AGREEMENT TERM Page 9

ARTICLE IV: RENT AND FEES Page 11

ARTICLE V: USE OF PREMISES Page 14

ARTICLE VI: LESSEE'S OPERATIONS Page 20

ARTICLE VII: CONSTRUCTION OR ALTERATION OF IMPROVEMENTS Page
23

ARTICLE VIII: INSURANCE AND INDEMNIFICATION Page 25

ARTICLE IX: ASSIGNMENT AND SUBLETTING Page 30

ARTICLE X: TERMINATION OF AGREEMENT IN ENTIRETY BY REASON OF
DEFAULT Page 31

ARTICLE XI: MINORITY BUSINESS ENTERPRISE (MBE) AND WOMEN
BUSINESS ENTERPRISE (WBE) PARTICIPATION Page 33

ARTICLE XII: MISCELLANEOUS PROVISIONS Page 35

SIGNATURES Page 42

AIRPORT NUMBERAL-34.....

LAMBERT ST. LOUIS INTERNATIONAL AIRPORT
RESTATED AND AMENDED LEASE AGREEMENT

THIS RESTATED AND EIGHTH AMENDMENT, made and entered into as
of the day of , ("Agreement"), by and between CITY OF ST. LOUIS, a
municipal corporation of the State of Missouri ("City") and Midcoast Aviation,
Inc., a Corporation of the State of Missouri, ("Lessee").

WITNESSETH, That:

WHEREAS, City now owns, operates and maintains an international airport
known as "Lambert St. Louis International Airport", located in the County of
St. Louis, Missouri ("Airport"); and

WHEREAS, this Agreement is a complete restatement of the St. Louis Airport Property Lease made the 26th day of December, 1956, by and between City and Lessee (as successor to Young Aviation Corporation), as amended by Amendment to Lease Indenture dated June 30, 1960, (The First Amendment), as further amended by Amendment to St. Louis Airport Property Lease dated June 15, 1965, (The Second Amendment), as further amended by Amendment to Lease Indenture dated July 2, 1971, (The Third Amendment), as further amended by Amendment to St. Louis Airport Property Lease dated April 30, 1974, (The Fourth Amendment), as further amended by Amendment to St. Louis Airport Property Lease dated August 1, 1977, (The Fifth Amendment), as further amended by Agreement and Sixth Amendment of Lease dated June 21, 1985, (The Sixth Amendment), as further amended by Seventh Amendment to Lambert-St. Louis International Airport Lease dated August 19, 1989, (The Seventh Amendment), (hereinafter collectively referred to as the "Airport Property Lease").

WHEREAS, it is the intent of both the parties that upon the Effective Date of this Agreement set forth below, the terms, covenants, and conditions of the Airport Property Lease will no longer be in effect; and

WHEREAS, Lessee and its predecessors have occupied certain premises described in the Airport Property Lease (the "Premises") since December 26, 1956 and operated as a Fixed Base Operator; and

WHEREAS, a Fixed Base Operator is important to the operations of the Airport; and

WHEREAS, Lessee warrants and represents that it has fulfilled its obligations under the Airport Property Lease and warrants and represents that it has maintained the Premises in good condition; and

WHEREAS, Lessee desires to continue to lease the Premises for its operations at the Airport; and

WHEREAS, City is willing to lease the Premises to Lessee; and

WHEREAS, this Agreement is necessary to reflect current Airport business practices and ensure Airport compliance with Federal Aviation Administration orders and assurances;

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

ARTICLE I DEFINITIONS

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

"Agreement" shall mean this document and any subsequent amendments thereto, duly approved by City and Lessee.

"Air Operations Area" ("AOA") shall mean the part of the Airport where aircraft operate, load, unload and/or are serviced.

"Airport" shall mean as stated in the preamble hereof. "City" and "Airport" are used interchangeably throughout this Agreement.

"Airport Properties Department" shall mean that department of the St. Louis Airport Authority that has as its primary responsibility the administration of all tenant, permittee, concessionaire and other space at the Airport, and shall be Lessee's point of contact with the Airport on all issues related to this Agreement.

"City" shall mean as stated in the preamble hereof. "City" and "Airport" are used interchangeably throughout this Agreement.

"Common Use" shall mean the non-exclusive use in common by Lessee and other duly authorized users of the Airport and appurtenances together with all facilities, improvements, and equipment and services which have been or may hereafter be provided for such Common Use.

"Contract Year" shall mean a consecutive twelve (12) month period commencing on the first day of the term of this Agreement.

"Director" shall mean the Director of Airports of the City of St. Louis or his/her authorized designee.

"Discharge" shall have the meaning ascribed to such term by 1001(7) of the Oil Pollution Act of 1990, 33 USC 2701(7).

"Effective Date" shall mean April 30, 2000.

"Extremely Hazardous Substance" shall mean any substance designated or considered to be an extremely hazardous substance pursuant to 302(a) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 USC 11002(a).

"Fixed Base Operator" shall mean a facility which provides for the convenience of the public a place for fueling, servicing, storing, maintaining, and repairing aircraft and other aviation-related services commonly required by owners and operators of General Aviation aircraft.

"Foreign Object Damage" ("FOD") shall mean damage caused by an object foreign to an aircraft, being either ingested into an engine, lodged in a tire or mechanism, or otherwise causing material damage which renders the system/equipment unusable or unsafe for operations.

"General Aviation" shall mean that portion of civil aviation which encompasses all facets of aviation except certificated air carriers and large aircraft commercial operators.

"Gross Revenue" shall mean the gross receipts from all sales made, services performed and rents or fees Lessee charges or collects from subtenants or other users of the Premises for cash or credit resulting from Lessee's activities at the Airport. Only the following may be excluded or deducted, as the case may be, from Gross Revenues: federal, state, county and municipal sales taxes or other sales taxes separately stated and collected from customers.

"Hazardous Substance" shall mean any substance designated or considered to be a hazard pursuant to 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601(14).

"Hazardous Waste" shall mean any substance designated or considered to be a hazardous waste pursuant to either 1004(5) of the Resource Conservation and Recovery Act, 42 USC 6903(5) or 260.360(10) R.S.Mo.

"Higher and Better Use" shall mean any use of the Premises or any portion thereof, other than Fixed Base Operator, as designated on the Airport's FAA approved Airport Layout Plan.

"Improvements" shall mean without limitation, existing buildings, structures, facilities, fixtures or any appurtenances thereto on the Premises, including but not limited to concrete aircraft ramp, parking lot, fuel facility and any other

structures or facilities which are existing or may be hereafter built or erected by Lessee or City upon the Premises.

"Infectious Waste" shall mean any substance designated or considered to be an infectious waste pursuant to 260.360(13) R.S.Mo.

"Landing Area" shall mean those portions of the Airport (exclusive of buildings, hangars, and aircraft storage areas), provided for landing, take-off and taxiing of aircraft, including without limitation approach and turning zones, aviation easements, easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection herewith.

"Lessee" shall mean as stated in the preamble hereof.

"Metropolitan" shall mean the greater metropolitan St. Louis area.

"Minority Business Enterprise" ("MBE") shall mean a sole proprietorship, partnership or corporation owned, operated and controlled by a Minority Group Member(s) who have at least fifty-one percent (51%) ownership. Minority Group Member(s) must have day to day operational and managerial control, with an interest in capital and earnings commensurate with their percentage of ownership. Minority Group Member(s) means persons legally residing in the United States who are Black or Hispanic.

"Oil" shall mean any substance designated or considered to be an oil pursuant to 1001(23) of the Oil Pollution Act of 1990, 33 USC 2701(23).

"Parking Apron" or "Aircraft Ramp" shall mean that part of Premises which is used for parking of aircraft and support vehicles and the loading and unloading of passengers and cargo. The exact location is shown on Exhibit "B" of this Agreement.

"Pollutant" shall mean any substance designated or considered to be a pollutant pursuant to 502(6) of the Federal Water Pollution Act, 33 USC 1362(6).

"Premises" shall mean a location or locations described in Section 201 that has or have been designated by City for the occupancy and use by Lessee for its conduct of business and for other uses herein specifically provided for.

"Release" shall have the meaning ascribed to such term by 101(22) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601. (22).

"Reportable Quantity" ("RQ") shall mean as designated by 10CSR24-2.010.

"Special Waste" shall mean any substance as designated by 10CSR80-2.010.

"Solid Waste" shall mean any substance designated or considered as a solid waste pursuant to 260.200(25) R.S.Mo.

"Sublessee" shall mean a third party conducting business on the Premises which is incidental, necessary or customary to the proper use of the Premises and under agreement with Lessee.

"Toxic Pollutant" shall mean any substance designated or considered to be a toxic pollutant pursuant to 502(13) of the Federal Water Pollution Control Act, 33 USC 1362(13).

"Women's Business Enterprise" ("WBE") shall mean a sole proprietorship, partnership or corporation, owned, operated and controlled by a woman or women who have at least fifty-one percent (51%) ownership. The woman or women must have day to day operational and managerial control, and an interest in capital and earnings commensurate with their percentage of ownership.

ARTICLE II PREMISES

Section 201. Premises. City hereby leases and demises to Lessee and Lessee takes from City, a tract of land containing approximately 20 acres (871,200 sq. ft.) together with all Improvements thereon, hereinafter collectively referred to as the "Premises" and more fully described on Exhibit "A" and shown on Exhibit "B" (which are attached hereto and made a part hereof), subject to the reservations set forth in Section 202 hereof. As of the Effective Date of this Agreement, the Improvements without limitation consist of:

The terminal/office building is a two-story structure of steel and glass construction. The overall area of the building is approximately 9,248 sq. ft.

Hangar 1 is a one-story pre-engineered metal structure containing approximately 15,600 sq. ft. with an attached lean-to addition containing approximately 3,600 sq. ft.

Hangar 2 is of construction similar to Hangar 1, except that it has an additional lean-to. The hangar area is approximately 15,600 sq. ft., with approximately 3,600 sq. ft. additions on both the east and west sides of the hangar.

Hangar 3 is also of similar construction, except that the addition wraps around the west and north sides of the hangar. The hangar space is approximately 15,600 sq. ft., and the addition is approximately 6,825 sq. ft.

Hangar 4 is of newer construction and is much larger than the other buildings. The hangar space is approximately 30,360 sq. ft., and the additions are approximately 11,600 sq. ft.

Improvements include a fuel facility, a concrete aircraft ramp on the south side of the terminal/office building and hangars, and a parking lot on the north side of the terminal/office building and hangars.

Lessee warrants and represents that it has fulfilled its obligations under the Airport Property Lease and warrants and represents that it has maintained the Premises in good condition.

Lessee acknowledges that it accepts and receives the Premises in an "AS IS" condition with no warranties or representations of any kind, expressed or implied, either oral or written, made by City or any of its agents or representatives with respect to the physical, environmental or structural conditions of the Premises or any portion thereof or otherwise including but not limited to, soil conditions of the land and structural conditions of the buildings or facilities or the presence or absence of any hazardous or toxic substances, materials, gases or waste in, on or under the Premises, including but not limited to asbestos and asbestos-related materials, water, sewage or utilities serving the Premises or any other matter or thing affecting or relating to the Premises, except as expressly set forth in this Agreement. City and Lessee agree that the existence and definition of hazardous or toxic substances, materials, gases, or waste, shall be construed herein in accordance with all applicable federal, state or local laws, statutes or regulations relating to the protection of human health or the environment. City without limitation expressly disclaims and negates, as to the Premises: a) any implied or express warranty of merchantability, b) any implied or express warranty of fitness for a particular purpose, and c) any implied warranty with respect to the condition of the Premises, its compliance with any zoning or other rules, regulations, laws or statutes applicable to the Premises including but not limited to the Americans with Disabilities Act, the uses permitted on the Premises, or any other matter or thing relating to the Premises or any portion thereof. City does represent and warrant to Lessee that

the Premises can be used for the operation of a Fixed Base Operator facility, subject to all applicable laws.

Section 202. Reservations. The grant of lease hereunder is subject to the following reservations and conditions.

A. City reserves the right (but shall not be obligated to Lessee) 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 in this regard.

B. City reserves the right further to develop or improve the Landing Area and all publicly-owned air navigation facilities of the Airport as 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. 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 which in the sole and absolute opinion of City would limit the usefulness of the Airport or constitute a hazard to aircraft.

D. During the time of war or national emergency City shall have the right to enter into an agreement with the United States Government for use of part or all of the Landing Area, the publicly-owned air navigation facilities and/or other areas or facilities of the Airport including the Premises and the rights granted herein. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended immediately upon receipt of written notice from City.

E. It is understood and agreed that the rights granted by this Agreement to Lessee will not be exercised by Lessee in such a way as to interfere with or adversely affect the use, operation, maintenance, expansion or development of the Airport.

F. There is hereby reserved to City, its successors and assigns, 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 Premises herein conveyed, together with the right to cause or allow in said airspace 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.

G. This Agreement shall become subordinate to provisions of any existing or future agreement between City and the United States of America or any agency thereof relative to the operation, expansion, improvement, development, or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the operation, improvement, development, expansion or maintenance of the Airport.

H. City reserves all gas, oil and mineral rights in and under the soil; provided, however, that City, in the exercise of such rights, shall not materially interfere with the surface of the soil or with Lessee's use of the Improvements thereon.

I. City reserves the right to grant utility and maintenance rights-of-way to itself and others over, under, through, across or on the Premises provided that such use will not unreasonably and materially interfere with Lessee's use of the Premises, and provided further that such reservation or grant of rights shall not directly result in cost or expense to Lessee.

Section 203. Access. Subject to the terms, covenants and conditions of this Agreement, Lessee has the right of free access, ingress to and egress from the Premises, for Lessee's employees, agents, guests, patrons and invitees. Subject to the terms, covenants and conditions of this Agreement, City reserves and shall have the right to access, ingress to and egress from the Premises without charge therefor, 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, provided that such right will not unreasonably and materially interfere with Lessee's use of the Premises. If Lessee is not present to permit entry and entry is necessary, City may, in case of emergency, forcibly enter the Premises without rendering City liable therefor, except for any damage caused by its gross negligence or willful misconduct. Nothing contained herein shall be construed to impose upon City any duty of inspection or repair of the Premises except as expressly and specifically provided for herein.

Lessee hereby acknowledges that City is required by Federal Aviation Regulations ("FAR"), Part 107 as amended, to "adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to the AOA". Lessee understands that 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 the ASP in connection with Lessee's exercise of the privileges granted to Lessee hereunder for the full term hereof. Lessee further warrants, covenants and agrees, throughout the term of this Agreement, at its own cost, to prepare facilities and procedures, satisfactory to City, designed to prevent and deter persons and vehicles from unauthorized access to the AOA from and through any Premises controlled or used by Lessee in accordance with the provisions of the aforesaid FAR Part 107, and ASP for the Airport.

Lessee hereby acknowledges that it understands that its security procedures and facilities on the Premises, to meet the requirements of the aforesaid FAR Part 107, shall include but not be limited to:

- A. fencing and locked gates;
- B. Airport-approved badging, badge display, escort and challenge procedures applicable to persons authorized to enter 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 establish positive control for preventing the entrance of unauthorized persons and vehicles onto the AOA.

ARTICLE III AGREEMENT TERM

Section 301. Initial Agreement Term. The Initial Term of this Agreement shall be for a period of five (5) years commencing on April 30, 2000 and expiring on April 29, 2005, unless sooner terminated in accordance with other provisions of this Agreement.

City, in its sole and absolute discretion, may terminate this Agreement at any time during the Initial Term, for Higher and Better Use, by giving Lessee one (1) year prior written notice with no liability or cost to City of any kind whatsoever including but not limited to any relocation benefits or moving cost under federal, state, or local statutes, laws, ordinances, orders, judgements or regulation, including but not limited to, the Uniform Relocation Assistance and

Real Property Acquisition Policies Act as amended, Sections 4601, et seq. and the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, 49 C.F.R. Section 24. Such termination shall be deemed a no fault cancellation.

Section 302. Renewal Agreement Terms. Provided Lessee is in compliance with all the terms, covenants, and conditions of this Agreement, Lessee may renew this Agreement upon all the same terms and conditions, for two (2) additional five (5) year terms. The Renewal Agreement Terms shall be exercised by written notice to City not later than one (1) year prior to the last day of the initial or subsequent renewal term.

City, in its sole and absolute discretion, may terminate this Agreement at any time during the Renewal Agreement Terms, for Higher and Better Use, by giving Lessee one (1) year prior written notice with no liability or cost to City of any kind whatsoever including but not limited to any relocation benefits or moving cost under federal, state, or local statutes, laws, ordinances, orders, judgements or regulation, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act as amended, Sections 4601, et seq. and the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, 49 C.F.R. Section 24. Such termination shall be deemed a no fault cancellation.

Section 303. Surrender of Possession. No notice to quit possession at the expiration date of the term of this Agreement, or at the earlier termination hereof, shall be necessary. Lessee warrants, covenants, and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it will peaceably surrender possession of the Premises in as good condition, reasonable wear and tear, acts of God, and other casualties excepted, and City shall have the right to take possession of the Premises with or without due process of law. In the event Lessee does not vacate the Premises during the prescribed time period, Lessee does hereby agree that 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.

Lessee warrants, covenants and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it shall (i) remove all products or wastes stored in underground and aboveground storage tanks located on the Premises, which were installed or used during the term of this Agreement or the Airport Property Lease, (ii) perform tank tightness testing on all underground and aboveground storage tanks and connecting piping, installed or used during the term of this Agreement or the Airport Property

Lease, (iii) either remove or repair any tanks or piping which fail such tests, and (iv) promptly remove, remediate, decontaminate, and/or restore any soil, groundwater, or surface water affected by leaks, spills, Discharges, or Releases from such storage tanks or connecting piping. Such removal, remediation, decontamination, and/or restoration shall be performed by Lessee in a manner consistent with any applicable environmental laws. In the event that City is required to undertake actions to bring the Premises into compliance with the foregoing provision or any applicable environmental laws, as a result of any of the above described leaks, spills, Discharges or Releases, and Lessee's failure to correct same, Lessee shall reimburse City for any expenses so incurred, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal and/or remediation, and disposal costs.

Lessee warrants, covenants and agrees that, at the expiration date of the term of this Agreement, or at the earlier termination hereof, it shall return the Premises to City free of any and all Hazardous Substances, Extremely Hazardous Substances, Hazardous Wastes, Special Wastes, Solid Wastes (unless disposal of Solid Waste on the Premises is otherwise specifically permitted by the terms of this Agreement), Oil, petroleum product or derivative, Infectious Wastes, Pollutants, Toxic Pollutants, toxic substances, or other chemical substances or materials subject to federal, state, or local regulation, which were placed, stored, used, generated, manufactured, produced, treated, Released, Discharged, disposed, and/or spilled on, under, or about the Premises by Lessee, its officers, agents, employees, consultants, contractors, subcontractors, licensees, independent contractors, guests, patrons and invitees since the time of Lessee's initial entry upon the Premises under this Agreement or the Airport Property Lease. In the event that City is required to undertake actions to bring the Premises into compliance with the foregoing provision or any applicable environmental laws as a result thereof and Lessee's failure to correct same, Lessee does hereby warrant, covenant and assure that it shall reimburse City for any expenses so incurred, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal, and/or remediation, and disposal costs.

ARTICLE IV RENT AND FEES

Section 401. General. Lessee, for and in consideration of the rights and privileges granted herein, agrees to pay the rents and fees set forth in this Agreement, without demand during the term of this Agreement.

Section 402. Rent Payment. Lessee will pay to City, an annual rent of Six Hundred Eighty-Five Thousand Dollars (\$685,000). This rent will be paid in equal monthly amounts of Fifty-Seven Thousand Eighty-Three Dollars and Thirty-Three Cents (\$57,083.33), in advance, on or before the first day of each month of the term of this Agreement. In the event the Federal Aviation Administration ("FAA") determines the payment terms under this Agreement to be unreasonable or otherwise not in compliance with federal requirements, those terms will be modified, retroactive to the Effective Date, to an amount that the FAA agrees is in compliance with federal requirements.

As of the Effective Date, the annual rent as set forth in this Section 402 shall be reviewed each and every five (5) years thereafter, and shall be adjusted only upward, effective on the anniversary date, in accordance with the "Consumer Price Index-Cities" (CPI U) published by the Bureau of Labor Statistics of the United States Department of Labor with 1993 being the base 100. The index number indicated in the column for the City of St. Louis, Missouri, titled "ALL ITEMS" for the month that this Agreement becomes effective shall be the base index number. Thirty (30) days prior to the end of each five (5) year period shall be the current index number. The current index number shall be divided by the base index number. From the quotient thereof, there shall be subtracted the integer one (1), and any resulting positive number shall be multiplied by 100, the product of which shall be deemed the percentage thereof added to the current annual rent. All such adjustments shall be made to the nearest one-tenth (1/10) of a percentage point. In the event that any time during the term hereof the United States Bureau of Labor Statistics shall discontinue the issuance of "Consumer's Price Index-Cities" (CPI-U) then in such event the parties hereto agree to use any other standard nationally recognized cost of living index then issued and available, which is published by the United States Government, which is most similar to the discontinued "Consumer's Price Index-Cities" (CPI-U).

Section 403. Annual Revenue Statement. Within one hundred twenty (120) days after each Contract Year and within one hundred twenty (120) days after the expiration or early termination of this Agreement, Lessee will furnish to City a statement certified by an independent Certified Public Accountant showing the total Gross Revenue and the aggregate amount attributable to MBE/WBE participation, if any, for said Contract Year from the operations of Lessee on the Premises.

Section 404. Collection and Payment of Fees. Lessee will collect and remit to City the following fees:

- A. Landing Fee;
- B. Fuel Flowage Fee;
- C. Other fees established from time to time by City.

All fees listed above will be collected from those aircraft operators who are not listed on the most current list issued by City of aircraft operators having an agreement with City for use of the Airport.

Lessee will submit to City by the fifteenth (15th) day of the second and each succeeding month of the term hereof, two (2) copies of accurate landing and fuel flowage reports for the preceding month and the fees associated with those reports. Lessee may retain fifteen percent (15%) of the landing and fuel flowage fees collected. If Lessee fails to collect the fees, then Lessee will pay the fees from its own resources.

Section 405. Landing Fee and Fuel Flowage Fee.

A. The Landing Fee, collected by Lessee and remitted to City, will be for each aircraft landing of aircraft operators who are not listed on the most current list issued by City, of aircraft operators having an agreement with City for use of the Airport.

B. The Fuel Flowage Fee, collected by Lessee and remitted to City, will be for each gallon of aviation fuel, as measured by a metering system acceptable to the Director or his designee, delivered into the aircraft of aircraft operators who are not listed on the most current list issued by City, of aircraft operators having an agreement with City for use of the Airport.

Section 406. Fee and Rent Payment Bond. Lessee agrees to furnish a bond in a form acceptable to City in the principal amount of \$200,000. City may require Lessee to increase principal amount of bond to reflect any increase in annual rent due City. Said increase to be made by Lessee upon the receipt of written notice from the Director at any time during the term of this Agreement. Such bond will guarantee the payment of all rents, fees and other terms, conditions and covenants of this Agreement. The bond will be in the form of a standard commercial guaranty bond running to City, written by a surety company authorized to do business in Missouri and (1) having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less than Class

VIII and (2) shown on the most recent U.S. Treasury Circular No.570 as having an "underwriting limitation" of at least the amount of the penal sum of the bond. The bond will be kept in full force and effect during the term hereof. City may agree to another form of deposit which will provide equal protection of City's interest. If City cashes the bond, Lessee agrees to furnish a replacement bond in the same principal amount within thirty (30) days.

Section 407. Unpaid Rent and Fees. All unpaid rent and fee payments due City hereunder shall bear a service charge of one and one-half percent (1½%) per month if same is not paid and received by City on or before the 30th of the month in which said payments are due, and Lessee agrees that it shall pay and discharge all costs and expenses including attorneys' fees, court costs and expenses incurred or expended by City in collection of said delinquent amounts due including service charges.

Section 408. Notice, Place and Manner of Payments. Payments shall be made at the Office of Director at the address as set forth in section 1201 below, or at such other place in the City of St. Louis, Missouri as City may hereafter notify Lessee and shall be made in legal tender of the United States.

Section 409. Additional Fees, Charges and Rents. Lessee shall pay additional fees, charges and rents under the following conditions:

- A. If City has paid any sum or sums or has incurred any obligation or expense for which Lessee has agreed to pay or reimburse City; or
- B. If 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 Agreement and City has provided Lessee with thirty (30) days written notification of such failure, neglect or refusal.

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 City in the same manner and with like remedies as if it were originally a part of the basic fees, charges and rent, as set forth herein.

For all purposes under this paragraph, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any

sum or sums by City for any work done or material furnished at the Premises shall be prima facie evidence against Lessee that the amount of such payment was necessary and reasonable.

Section 410. 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 licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport.

Section 411. Accounting Records and Reports. Lessee will during the term hereof keep in the Metropolitan area true, accurate, complete and auditable records of all business conducted by it at the Airport, for the previous five (5) Contract Years, and for five (5) years following the expiration or early termination of this Agreement. These records will be accessible during usual business hours to City or its duly authorized agents or auditors upon not less than five (5) business days prior notice.

Section 412. Audit. City reserves the right to audit Lessee's books and records of receipts at any reasonable time during normal business hours, upon not less than five (5) business days prior notice, for the purpose of verifying fees paid and Gross Revenue reported hereunder.

ARTICLE V USE OF PREMISES

Section 501. Use. City hereby grants to Lessee, subject to all the terms, covenants, and conditions of this Agreement, permission to occupy and use the Premises for conduct of business as a Fixed Base Operator at the Airport or other lawful uses as are incidental, necessary or customary to the proper use of the Premises. For this right, Lessee shall operate facilities and provide services consistent with the high quality of facilities and services provided by other Fixed Base Operators at this and similar Airports and in accordance with minimum standards required by City. Section 502. Compliance with Laws and Regulations. Lessee shall comply with all Rules and Regulations which City or the Director may establish from time to time, including but not limited to, the requirements of the Airport Certification Manual on file at Director's office. In addition, Lessee shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, city, local and other governmental authorities, now or hereafter applicable

to the Premises or to any adjoining public ways, as to the manner of use or the condition of the Premises or of adjoining public ways.

Lessee further agrees to abide by all federal, state, and local laws, regulations, and ordinances related to: (1) the transportation, storage, use, manufacture, generation, disposal, Discharge, spilling, or Release of Hazardous Substances and/or Extremely Hazardous Substances; (2) the transportation, storage, use, manufacture, generation, treatment, disposal, Discharge, Release, or spilling of Hazardous Wastes; (3) the transportation, storage, use, recovery, disposal, Discharge, Release or spilling of Oil or other petroleum products or derivatives; (4) the Discharge of effluents, Pollutants and/or Toxic Pollutants to publicly owned treatment works, stormwater systems, or to waters of the United States or tributaries thereof; (5) the emission of any regulated substance into the air; (6) the transportation, storage, treatment, disposal, Discharge, Release, or spilling of Infectious Waste; (7) the transportation, storage, treatment, recycling, reclamation, disposal, Discharge, Release or spilling of Solid Wastes; and (8) the transportation, storage, treatment, recycling, or disposal of waste tires, waste Oil, used Oil, and/or used lead-acid batteries. In addition, Lessee shall promptly notify the appropriate governmental authorities and Director or his/her designee of any violation of any environmental laws that occur in connection with the Premises, and of which Lessee, its agents, employees, contractors, or invitees have actual knowledge. Lessee's failure to comply with any provision of this section or any environmental laws shall be considered a material breach of this Agreement for which City, at its sole option, and at any time, may terminate this Agreement and seek other remedies at law or in equity subject to the terms of Article X below.

Within ninety (90) days of the Effective Date of this Agreement and within thirty (30) days of any additions or changes, Lessee shall furnish the Director or his/her designee the following:

Copies of all the Material Safety Data Sheets ("MSDS") for any Hazardous or Extremely Hazardous Substances, which require an MSDS pursuant to the Hazard Communication Standard, found in 29CFR 1200 and existing on or brought onto the Premises.

Copies of all Emergency Planning Community Right-to-Know Act ("EPCRA") (Superfund Amendment Reauthorization Act, Title III) inventories filed with the Environmental Protection Agency ("EPA") for the Premises or written documentation showing that Lessee was not required to file an EPCRA inventory. Copies of all Hazardous and Special Waste manifests from waste originating or stored on the Premises.

Copies of all reports documenting spills, leaks or Releases of hazardous materials, Hazardous or Extremely Hazardous Substances, or Hazardous or Special Wastes on the Premises including documentation of notification to federal, state, and local authorities which have jurisdiction. In addition, Lessee shall furnish copies of all sampling and characterization reports for sampling and characterization which was conducted on the Premises including but not limited to, soils, surface water, or ground water.

Copies of all correspondence with regulatory agencies including federal, state, and local authorities which have jurisdiction in regard to environmental management of resources, i.e., air, soil, surface water, and ground water at the Premises.

Copies of all environmental compliance and waste management plans including but not limited to Waste Management Plans, Waste Minimization and Pollution Prevention Awareness Plans, Waste Analysis Plans, Storm Water Pollution Prevention Plans, Health and Safety Plans, or any other environmental health and safety management plans.

Section 503. Repairs and Maintenance. Lessee shall, throughout the term of this Agreement, at its own cost, and without any expense to City, keep, repair and maintain the interior and exterior, structural and non-structural portions of the Premises including all Improvements and without limitation the plumbing, heating, lighting, air conditioning, and other systems in connection therewith, in good and safe condition, sanitary and neat order, and will make all necessary repairs and maintenance thereto, ordinary and extraordinary, foreseen and unforeseen, and will make all necessary replacements thereto of like quality when beyond repair, including but not limited to offices, hangars, aircraft ramp, parking lots and fuel facility. Lessee shall restore, rehabilitate, or replace all Improvements that may be destroyed or damaged by fire, casualty or any other cause whatsoever. City shall not be obligated to perform any maintenance or make any repairs or replacements of any kind, nature or description, to the Premises or Improvements.

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 the exterior portions of the Premises or Improvements in an orderly, neat, clean and safe condition and in good repair, and shall remove all dirt, trash, snow and ice therefrom.

Lessee shall keep all trade fixtures on the 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 which become damaged so as not to present a good appearance or which become incapable of being kept in good and safe working order shall be removed and replaced by Lessee. All maintenance, repair and replacement of trade fixtures shall be at Lessee's sole cost and expense. Lessee shall, at its sole cost and expense, take such measures as may be necessary to keep the Premises secure and safe at all times. City shall have no obligation or responsibility to keep the Premises policed, secure or safe.

Lessee shall, throughout the term of this Agreement, within thirty (30) days of the end of each Contract Year and within thirty (30) days after the expiration or early termination of this Agreement, submit to City a report identifying any and all repair and maintenance in excess of \$10,000 completed on the Premises or any Improvements, including aircraft ramp, during the preceding Contract Year.

Lessee shall, throughout the term of this Agreement, within sixty (60) days of the start of each Contract Year, submit to City a report by an independent engineering company certifying that the aircraft ramp is in satisfactory condition together with plans and schedules for repair or replacement of any found defects or deficiencies.

City shall be the sole and absolute judge of the adequacy of maintenance performed by Lessee, and may upon written notice, require specific maintenance work to be completed at Lessee's cost.

If, during the term hereof, it shall become necessary to perform repairs and/or maintenance on any part of the Premises affecting runways, taxiways, roads, streets, aircraft ramp or areas affecting other tenants, or the public, Lessee shall first obtain the written consent of Director and shall, without cost or expense to City, restore the affected area to the satisfaction of Director.

Lessee warrants, covenants and agrees, without cost or expense to City during the term hereof, to perform the following:

A. Good Condition. Keep all Improvements in good and safe order and condition.

B. Obstruction Lights. Provide and maintain obstruction lights and all similar equipment or devices now or at any time required by any applicable law or ordinance, or any municipal, state or federal regulation.

C. Housekeeping of Premises. Provide for complete, proper and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation as a Fixed Base Operator; provide and use suitable, covered metal receptacles for all garbage, trash and other refuse on or about the Premises; and not store boxes, cartons, crates, drums or the like on the outside of the buildings, except in screened areas as provided in Section 503G below, or dump any waste matter of any nature, in a liquid state or otherwise, on the Premises nor to permit contamination of the sewers or the Airport's drainage control systems.

D. Maintenance of Buildings and Structures. Maintain all buildings and structures on the Premises to prevent exterior or interior damage from water or other elements. This requirement includes immediate replacement of broken windows, doors and locks with like materials.

E. Care of Premises and Streets. Keep all papers and debris picked up from the Premises and sweep the pavements thereon as often as necessary to keep clean, and keep all grass mowed, and shrubbery and other plantings pruned, trimmed and maintained to high standards. Provide for essential street, walk, pavements maintenance within the Premises and, in addition, provide for snow and ice removal within the Premises to allow, at a minimum, emergency or fire protection access.

F. Drainage Facilities. Comply with the Airport's Stormwater Detention Design Criteria and Guidelines dated December 1986 as revised from time to time, as well as any and all applicable federal, state, and municipal regulations. Lessee shall establish a system of periodic inspection, cleaning and maintenance to keep watercourses, catch basins and other drainage structures on the Premises functioning at full design capacity. Inspection, cleaning and maintenance intervals shall be established by Director with reports to be submitted within thirty (30) days of completion of each inspection, cleaning and maintenance. Lessee shall see that special care is taken to pile removed snow in a location that will permit the water generated by the melting of such snow piles to flow into the drainage system of the Premises.

G. Storage. No unscreened storage will be permitted on the exterior areas of the Premises.

H. Environmental Responsibilities. Lessee shall, in the event of a spill or Release on the Airport of a Hazardous or Extremely Hazardous Substance or Oil product in a RQ notify federal, state, and local regulatory agencies which have jurisdiction and the Director or his/her designee immediately. In the event

the spill or Release is less than a RQ Lessee shall notify the Director or his/her designee immediately of all spills or Releases of Hazardous or Extremely Hazardous Substances or Oil products.

Lessee shall be responsible for defining the nature and the extent of the spill or Release and for remediation of the affected media to standards specified in MDNR Clean Up Levels for Missouri (CALM), September, 1998 as revised or amended. Lessee shall forward copies of generated reports, notifications, and clean up verification, to the Director or his/her designee within thirty (30) days of completion.

Lessee hereby assumes all responsibility and liability related to or arising from any and all obligation for environmental protection, compatibility and responsibility related to Lessee's use of the Premises or its operations.

Section 504. Right to Enter, Inspect and Make Repairs. City and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of Lessee's operations as is reasonably practicable) to enter upon and in the Premises for the following purposes:

A. To inspect such Premises during normal business hours upon not less than forty-eight (48) hours prior notice (except during any construction being performed thereon or in the event of an emergency, and then at any time) to determine whether Lessee has complied and is complying with the terms, covenants and conditions of this Agreement.

B. To perform any work therein that may be necessary by reason of Lessee's failure to make any repairs or perform any work or maintenance required of Lessee under this Agreement; provided, however, that except in cases of emergency, 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. Lessee shall pay all reasonable costs and expenses related to such work plus a charge of fifteen percent (15%) for overhead to City immediately upon demand thereof. Nothing herein shall imply any duty on the part of City to perform such inspections, make any repairs or perform any work on the Premises, and the performance thereof by 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 Agreement. 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 Premises or on account of bringing materials, supplies and equipment onto or through the Premises during the course thereof, and the obligations and duties of Lessee under this Agreement shall not thereby be waived or affected in any manner whatsoever. City shall, however, make any such repairs or conduct any such work under this Section in a reasonable manner so as to minimize any interference with the conduct of Lessee's business at the Premises.

To make inspections, testings, reports, surveys, environmental inspections, studies and assessments as City in its sole and absolute discretion may determine to make. City shall, however, make any inspections, testings, reports, surveys, environmental inspections, studies and assessments in a reasonable manner so as to minimize any interference with the conduct of Lessee's business at the Premises.

Section 505. Utilities. Lessee shall provide for and pay for all utilities used on the Premises.

Section 506. Interference to Air Navigation. Lessee agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of FAR Part 77 or subsequent and additional regulations of the FAA, will be constructed or permitted to remain on the Premises. Any obstructions will be removed by Lessee at its expense. Lessee agrees not to 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 and its operations. Lessee further agrees not to install any structures, objects, machinery or equipment that would interfere with operation of navigation aides 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.

ARTICLE VI LESSEE'S OPERATIONS

Section 601. Standards of Service. Lessee shall furnish a first class, full service operation serving the needs of users of 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 categories of users 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 Fixed Base Operator operation.

Section 602. Hours of Operation. The minimum hours of operation for serving users of the Airport shall be 24 hours, every day. Lessee may not change the hours of operation without written request to and written approval of the Director. The Director may require Lessee to change its hours of operation to reflect changing operational circumstances at the Airport.

Section 603. 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 604. Personnel.

A. Lessee shall require its employees to wear appropriate uniforms and badges to indicate the fact and nature of their employment. 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 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 lessees, 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.

C. Lessee warrants, acknowledges and agrees that it will conduct an employee background check of each of its personnel who are employed in a facility located beyond a security checkpoint if required by the FAA and/or the Airport. Lessee recognizes and agrees that the security requirements may change and Lessee agrees that it will comply with all such changes throughout the term of this Agreement.

Section 605. 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 606. Required Services. Lessee will be prepared to provide services and sales to companies operating aircraft into the Airport, which are necessary to the operation of such aircraft. The services will include but are not limited to:

A. Aircraft ground handling;

B. Aircraft fueling;

C. Aircraft deicing;

D. Removal of wastes from aircraft;

E. Limited aircraft maintenance; and

F. Any other services as may be designated by the Director from time to time as are normal and customary for Fixed Base Operator operations at airports similar in size and scope to the Airport.

Lessee will submit in writing to City a listing of all provided services and products, prior to the Effective Date of this Agreement. If at any time during the term of this Agreement Lessee changes the provided services and products, Lessee will provide written notice to the Director, prior to the implementation of those changes.

Section 607. Equipment. Lessee will have under its control sufficient equipment to provide the services required in Section 606 to all categories of General Aviation aircraft and in sufficient quantity to provide those services.

Section 608. Fueling. Lessee has the exclusive right to fuel aircraft within the confines of its leased space described on Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof and the nonexclusive right to fuel aircraft, with advance authorization of the Director, at certain other locations on the Airport. Lessee may add a reasonable fee for its own services in fueling aircraft.

Section 609. Transition Period. During any future transition of the 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 610. Operation.

A. Lessee shall be responsible for all aspects of the management and operation of the services required by this Agreement. Further, Lessee will provide and is responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies.

B. City shall not be responsible for any goods, merchandise or equipment used, maintained or stored at the facility, nor will it be responsible for damage to such goods or merchandise resulting from flood, fire, explosion, vandalism or other causes outside the control of City.

Section 611. Communication.

A. Lessee shall be available for meetings with Airport personnel as necessary upon forty-eight (48) hours prior written notice.

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.

ARTICLE VII CONSTRUCTION OR ALTERATION OF IMPROVEMENTS

Section 701. Construction or Modification By Lessee.

A. Lessee may, at its sole cost and expense, construct or modify improvements on the Premises in accordance with plans and specifications prepared by Lessee and approved by the Director subject to the requirements of this Article VII.

B. Lessee agrees that all such work shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director.

- Lessee shall submit a signed Tenant Construction or Alteration Application ("TCA") including complete construction drawings and specifications, as required by Section 702 below, to the Airport Properties Department.

- Lessee shall submit to the Airport Properties Department a building permit number from any and all municipalities, political jurisdictions and regulatory agencies not more than thirty (30) days following submission of the TCA. (A building permit number is required prior to the start of any construction or modification by Lessee.)

- Lessee shall submit the contractor's liability insurance certificates and performance and payment Bonds, required by Sections 705 and 706 below, to the Airport Properties Department not more than forty-five (45) days following the TCA approval by the Airport Properties Department and prior to beginning of work.

Lessee shall submit to the Airport Properties Department a copy of an occupancy permit from any and all municipalities, political jurisdictions and regulatory agencies, as required by Section 707 below, prior to occupancy.

- Lessee shall submit to the Airport Properties Department an original copy of the Environmental Impact Statement from any and all municipalities, political jurisdictions and regulatory agencies not more than thirty (30) days following submission of the TCA. (An Environmental Impact Statement is required before the TCA can be approved.)

Section 702. Preparations of Plans and Specifications. Lessee shall submit detailed drawings, plans and specifications for improving and equipping the Premises. Lessee will begin work on proposed improvements only after it has received the written approval of its plans and specifications from the Director or his/her designee.

Section 703. Federal Aviation Administration Review. All preliminary plans, prior to commencement of working drawings and specifications, shall be

submitted to the FAA for review and approval, as may be required, with a copy to the Airport Properties Department. The preliminary plans shall show plot plans, buildings and other structures and improvement locations and their elevations, and shall indicate proposed exterior materials and finishes on all structures. It shall be the responsibility of Lessee to file all necessary alteration and construction forms with the FAA for review and approval, as may be required, with a copy to the Airport Properties Department.

Section 704. 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 Premises as a part of the construction of any new improvements. All proposed landscaping plans and screening designs shall be submitted to Director for review and approval. Lessee further agrees to provide any further landscaping and fencing that may be required, during the term hereof, by Director, for the purposes of screening from view any area of the Premises.

Section 705. Contractor's Liability Insurance. In any construction contract appertaining to the Premises, Lessee shall require the contractor to cause City, its Board of Aldermen, Airport Commission and their respective officers, agents, and employees, to be insured against the risk of claims and demands, just and unjust, by third parties against City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, against and from all such claims and demands, with bodily injury limits of not less than \$1,000,000 as to any one person and \$10,000,000 as to any one occurrence, and with property damage limits of not less than \$10,000,000 as to any one occurrence. Said insurance shall be in a form agreeable to City, and Certificates showing proof of coverage shall be delivered to the Director.

Section 706. Performance and Payment Bonds. In order to insure the completion of new construction or modifications, and the payment of all laborers and material suppliers of projects costing in excess of \$10,000, Lessee shall require each of its contractors and suppliers of construction materials to furnish Performance and Payment Bonds in the full amount of any contract in a form acceptable to City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 R.S.Mo. (1994, as amended). 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.

Section 707. Certificates of Completion. Upon the completion of the improvements hereunder, Lessee shall submit to Director a copy of its acceptance letter certifying completion, and a copy of any certificate or permit which 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 City duplicate copies of "as constructed" plans and specifications of the new facilities on the Premises within sixty (60) days after the date on which Lessee has certified completion thereof.

Section 708. Signs. Lessee agrees that no new signs or advertising display shall be painted on or erected in any manner upon the Premises without the prior written approval of Director, and that such new signs shall conform to reasonable standards established by Director with respect to wording, type, size, design, color and location.

Section 709. Title to Improvements and Fixtures. Title to the Premises and all Improvements constructed or placed in or on the Premises by Lessee including all alterations, modifications and enlargements thereof shall become part of the Premises with title vesting in City upon expiration or earlier termination of this Agreement; subject however to Lessee's obligations to operate, repair, maintain, ensure, and replace and Lessee's right of possession and use and occupancy during the term in accordance with this Agreement.

Section 710. Mechanics' and Materialmen's Liens. Lessee agrees not to permit any mechanics' or materialmen's or any other lien to be foreclosed upon the Premises or any part or parcel thereof, or the Improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason.

ARTICLE VIII INSURANCE AND INDEMNIFICATION

Section 801. Liability Insurance.

Lessee shall obtain, at its sole expense and maintain at all times during the term of this Agreement, liability insurance, on an occurrence basis, against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors and invitees pursuant to this Agreement under the following types of coverage:

Comprehensive General Liability or Airport Premises Liability- \$10,000,000 Combined Single Limit;

Comprehensive Automobile Liability (any vehicles, including hired and non-owned vehicles) - \$10,000,000 Combined Single Limit.

The above referenced Comprehensive General Liability must provide, and be so stated on the evidence of insurance, for any claims that may arise from Lessee's operation of an automobile within the aircraft operating area (including but not limited to runways, taxiways, and all ramp area).

The minimum limits of coverage for the above classes of insurance shall equal a combined single limit as shown above or be comprised of such primary and excess policies of insurance as Lessee finds it feasible to purchase during the term of this Agreement.

Insofar as said insurance provides protection against liability for damages to a third party for bodily injury, death and property damage, City and its Board of Aldermen, Airport Commission, officers, agents and employees shall be named as Additional Insured. Such liability insurance coverage shall also extend to damage, destruction and injury to City owned or leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors, and invitees. In addition, such insurance shall include contractual liability insurance sufficient to cover Lessee's indemnity obligation hereunder. City, its officers, employees and agents shall have no liability for any premiums charged for such coverage, and the inclusion of City, and its Board of Alderman, Airport Commission, officers, employees and agents as Additional Insured is not intended to, and shall not, make City, its officers, employees and agents a partner or joint venture partner with Lessee in its operations hereunder.

Section 802. Property Insurance. Lessee shall, at all times during the Initial and any Renewal Terms of this Agreement, and at Lessee's sole expense, keep all Improvements which are existing or may be hereafter erected on the Premises insured against loss, damage or destruction by fire, lightning, extended coverage or other casualty and vandalism hazards for one hundred percent (100%) of the full replacement value of such Improvements, with loss payable to Lessee and to City as an Additional Insured. Any loss adjustment shall require the written consent of both Lessee and City. Such property insurance shall include loss of use coverage.

Insofar as said insurance provides protection against liability for damages to a third party for bodily injury, death and property damage, City and its Board of Aldermen, Airport Commission, officers, agents and employees shall be named as ◆Additional Insured◆. Such property insurance coverage shall also extend to damage, destruction and injury to City owned or leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of Lessee, its officers, agents, employees, consultants, contractors, licensees, independent contractors, and invitees and contractual liability. City, its officers, employees and agents shall have no liability for any premiums charged for such coverage, and the inclusion of City, and its Board of Alderman, Airport Commission, officers, employees and agents as Additional Insured is not intended to, and shall not, make City, its officers, employees and agents a partner or joint venture partner with Lessee in its operations hereunder.

Section 803. Workers◆ Compensation. Lessee shall obtain, at its sole expense and at all times during the term of this Agreement for its employees working on Airport Premises Workers◆ Compensation insurance coverage at least at the statutory limits applicable to Lessee◆s operations in the State of Missouri.

Section 804. Waiver of Subrogation. Lessee, on behalf of itself and its insurers, hereby waives any claim or right of recovery from City, its Board of Aldermen, Airport Commission, officers, employees and agents for loss or damage to Lessee or its property or the property of others under Lessee's control, to the extent that such loss is covered by valid insurance policies. Lessee shall provide notice of this waiver of subrogation to its insurers.

Section 805. Evidence of Insurance. Certificates, or other evidence of insurance coverage and special endorsements required of Lessee in this Article, shall be delivered to Director in form and content satisfactory to City.

At least fifteen (15) days prior to the expiration of any such policy, Lessee shall submit to Director a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Lessee shall within fifteen (15) days after the date of such written notice from the insurer of such cancellation or reduction in coverage, file with Director a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

All policies of insurance required of Lessee herein shall be in a form and with a company or companies approved by City, and qualified to do insurance business in the State of Missouri. Each such policy shall provide that the policy may not be materially changed, altered or canceled by the insurer during its

term without first giving thirty (30) days written notice to Director. Each such insurance policy shall also provide primary coverage to City when any policy issued to City provides duplicate or similar coverage and in such circumstances, City's policy will be excess over Lessee's policy.

Lessee and City understand and agree that the minimum limits of the insurance herein required may become inadequate, and Lessee agrees that it will increase such minimum limits upon receipt of notice in writing from Director. Such notices to change shall, in general, be issued with no more frequency than every fifth year of this Agreement term; however, Director may, at any time, take note of indemnification awards being granted by the courts and direct a reasonable increase in the minimum limits of the insurance requirements at any time during the term hereof. City shall provide Lessee with such written notice and Lessee shall comply within sixty (60) days without any adjustment to the rents and fees set forth in this Agreement.

Section 806. Indemnification.

A. Lessee shall protect, defend, and hold St. Louis County, City, its Board of Aldermen, Airport Commission, officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement or the Airport Property Lease and/or the use or occupancy of the Premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, independent contractors or invitees regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole negligence of City. Director or his/her designee shall give to Lessee reasonable notice of any such claims or actions. Lessee shall also use counsel reasonably acceptable to the City Counselor of City or his/her designee, after consultation with Director or his/her designee in carrying out its obligations hereunder.

Lessee shall protect, indemnify, defend, and hold harmless St. Louis County, City and its Board of Aldermen and the Airport Commission and its officers, agents and employees against any lawsuits, administrative proceedings, claims, or administrative or judicial orders for any liability, cost, expenditure, injury, damage, penalty, or fine arising from or relating to Lessee's and its officers, agents, employees, consultants, contractors, subcontractors, licensees,

independent contractors, guests, patrons or invitees use, manufacture, generation, production, treatment, storage, transportation, disposal, Discharge, Release, or spilling, into or onto the air, water, soil, sewer system, or similar media of any Hazardous Substance, Extremely Hazardous Substance, Hazardous Waste, Solid Waste, Oil, petroleum product or derivative, Pollutant, Toxic Pollutant, toxic substance, or other chemical substance or material subject to federal, state, or local regulation, whether accidental or intentional, which occurs on or from the Premises during the term of this Agreement or the Airport Property Lease. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessee or City bears any liability or responsibility under any federal, state or local environmental laws, or other law, for any action or omission, and the consequences thereof, that occurred on or about the Premises during the term of this Agreement or the Airport Property Lease. This indemnification of City by Lessee includes, without limitation, all costs and expenses related to the sampling, testing, investigation, clean up, removal, remediation, decontamination, or restoration of the Premises and other affected areas, including, but not limited to, air, land, soil, or underground or surface water, as required by any federal, state, or local law, regulation, or ordinance, whether prompted by governmental action or private action, and also includes the costs of legal representation in connection with such sampling, testing, investigation, cleanup, removal, remediation, decontamination, or restoration of the Premises and other affected areas. Director or his/her designee shall give to Lessee reasonable notice of any such claims or actions. Lessee shall also use counsel reasonably acceptable to the City Counselor of City or his/her designee, after consultation with Director or his/her designee in carrying out its obligations hereunder.

Lessee agrees that if a prohibited incursion into the AOA occurs; or if the safety or security of the AOA, the Field and Runway Area, or other sterile area safety or security is breached by or due to the negligence or willful act or omission of any of Lessee's employees, agents, contractors, subcontractors, consultants, licensees, independent contractors, invitees, visitors, guests, patrons or Permittees and such incursion or breach results in a civil penalty action being brought against City by the U.S. Government, or if any other action or inaction by Lessee, its employees, agents, contractors, subcontractors, consultants, licensees, independent contractors, invitees, visitors, guests, patrons or Permittees results in a civil penalty action being brought against City by the U.S. Government, Lessee will reimburse City for all expenses, including attorney fees and litigation expenses, incurred by City in defending against the civil penalty action and for any civil penalty or settlement amount paid by City as result of such action or inaction, incursion or breach. City shall notify Lessee

of any allegation, investigation, or proposed or actual civil penalty sought by the U.S. Government related to action or inaction of Lessee. Civil penalties and settlements and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAR Part 107, Airport Security, FAR Part 108, Airplane Operator Security, or FAR Part 139, Certification and Operations: Land Airports Serving Certain Air Carriers. Lessee shall within thirty (30) days of notification by City reimburse City for such fines and/or penalties.

The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 807. Adjustment of Claims. Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of Lessee under this Agreement.

Section 808. Occupancy of Premises. Lessee agrees that it will not permit any act of omission or commission or condition to exist on the Premises which would increase the premium rate of insurance thereon or invalidate any such insurance.

ARTICLE IX ASSIGNMENT AND SUBLETTING

Section 901. Assignment and Subletting. Lessee may assign this Agreement by first obtaining the written approval of City, as provided for in Ordinance 63687, approved March 20, 1996. At least one hundred twenty (120) days prior to any contemplated assignment of this Agreement, Lessee shall submit a written request to the Director. No assignment shall be made or shall be effective unless Lessee shall not be in default on any of the terms, covenants and conditions herein contained. The party to whom such assignment is made shall expressly assume in writing the terms, covenants and conditions contained in this Agreement, however, such assignment shall not release Lessee from any of the terms, covenants, conditions or obligations of this Agreement. City does hereby reserve the right in its sole and absolute discretion and without cause or justification to reject any proposed assignment.

Any such assignment without the consent of City as provided for above shall constitute a default on the part of Lessee under this Agreement. No action or failure to act on the part of any officer, agent, or employee of City shall constitute a waiver by City of this provision of this Agreement.

Notwithstanding anything in this Section 901 to the contrary, Lessee shall have the right to assign this Agreement to an affiliate or subsidiary of Lessee with the written consent of City as provided for above and such consent shall not be unreasonably withheld.

Lessee may sublet the Premises with the prior written approval of Director. At least thirty (30) days prior to any contemplated sublease of all or any part of the Premises, Lessee must submit in writing a request to Director. This request must include a copy of the proposed sublease. Any sublease for space or granting of rights acquired hereunder shall be subject to the review and prior written approval of Director. Such a sublease must require at a minimum: (1) strict compliance with all provisions of this Agreement and (2) a provision that the Sublessee will use the facilities solely for the purposes identified in this Agreement.

The parties understand and agree that Lessee is responsible for the performance of its Sublessees and assigns under this Agreement. Lessee agrees to initiate and take all corrective action should a Sublessee or assignee fail to comply with its contract with Lessee or any provision of this Agreement.

Copies of all subleases existing at the Effective Date of this Agreement shall be submitted within thirty (30) days of the Effective Date of this Agreement.

ARTICLE X

TERMINATION OF AGREEMENT IN ENTIRETY BY REASON OF DEFAULT

Section 1001. City's Right to Terminate. City, acting by and through its Director, may declare this Agreement terminated in its entirety, in the manner provided in Section 1003 hereof, upon the happening of any one or more of the following events:

A. If the fees, charges, or other money payments which Lessee herein agrees to pay, or any part thereof, shall be unpaid after the date the same shall become due.

B. If, during the term of this Agreement, Lessee shall:

1. Apply for, or consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its assets;
2. File a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;

3. Make a general assignment for the benefit of creditors;
4. File a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
5. File an answer admitting the material allegations of a petition filed against any said assignee or sublessee in any bankruptcy, reorganization or insolvency proceedings; or if during the term of this Agreement an order, judgment or decree shall be entered by any court of competent jurisdiction, or the application of a creditor, adjudicating Lessee a bankrupt or insolvent, or approving a petition seeking a reorganization of Lessee, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

If Lessee shall have failed in the performance of any term, covenant or condition herein required to be performed by Lessee.

Fail to meet the MBE/WBE requirements as described in Article XI of this Agreement.

On the date set forth in the notice of termination, the term of this Agreement and all right, title and interest of Lessee shall expire, except as otherwise provided in Section 1003 hereof.

Failure of City to take any authorized action upon default by Lessee of any of the terms, covenants or conditions required to be performed, kept and observed by Lessee shall not be construed to be or act as a waiver of default or in any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessee. The acceptance of monies by City from Lessee for any period or periods after a default by Lessee of any of the terms, covenants and conditions herein required to be performed, kept and observed by Lessee shall not be deemed a waiver or estopping of any right on the part of City to terminate this Agreement for failure by Lessee to so perform, keep or observe any of said terms, covenants or conditions.

Section 1002. Lessee's Right to Terminate. Lessee, at its option, may declare this Agreement terminated in its entirety, in the manner provided in Section 1003 hereof for the following causes:

A. If a court of competent jurisdiction issues an injunction or restraining order against City preventing or restraining the use of the Airport for Airport purposes in its entirety or substantial entirety.

B. If City shall have abandoned the Airport for a period of at least ninety (90) days and shall have failed to operate and maintain the Airport in such manner as to permit landings and takeoffs of airplanes.

C. In the event of destruction of all or a material portion of the Airport or the Airport facilities, or in the event that any agency or instrumentality of the United States Government or any state or local government shall occupy the Airport or a substantial part thereof, or in the event of military mobilization or public emergency wherein there is a curtailment, either by executive decree or legislative action, of normal civilian traffic at the Airport or of the use of motor vehicles or airplanes by the general public, and any of said events shall result in material interference with Lessee's normal business operations or substantial diminution of Lessee's gross revenue from the operation at the Airport, continuing for a period in excess of ninety (90) days.

D. If City shall have failed in the performance of any term, covenant or condition within the control of City and herein required to be performed by City.

Section 1003. Procedures for Termination. No termination declared by either party shall be effective unless and until not less than forty-five (45) days have elapsed after notice by either party to the other specifying the date upon which such termination shall take effect, and the cause for which this Agreement is being terminated and no such termination shall be effective if such cause of default is cured within said forty-five (45) day period, or if by its nature cannot be cured within such forty-five (45) day period, and if the party at default commences to correct such default within said forty-five (45) days and corrects the same as promptly as is reasonably practicable.

In the event that suit shall be instituted by City upon the default of payment of charges and fees as provided herein, then Lessee agrees also to pay a reasonable attorney's fee, court cost and expenses.

Section 1004. Rights Cumulative. It is understood and agreed that the rights and remedies of City and Lessee specified in this Article 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.

ARTICLE XI
MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE
PARTICIPATION

Section 1101. Minority Business Enterprise ("MBE") And Women Business Enterprise ("WBE") Participation and Utilization. Lessee accepts the policy of City to ensure the maximum utilization of Minority Business Enterprises and Women Business Enterprises in contracting and the provisions of goods and services to City, its departments, agencies and authorized representatives and to all entities receiving City funds or City-administered government funds while at the same time maintaining the quality of goods and services provided to City and its subrecipients through the competitive bidding process. The provisions of this policy and the following stipulations apply to this Agreement and all contracts awarded by City, its departments and to all recipients of City funds and shall be liberally construed for the accomplishments of its policies and purposes:

Compliance: Lessee agrees as a condition hereunder to meet a minimum MBE/WBE participation and utilization goal, as set forth below, in the award of contracts for goods and services provided with business concerns owned and controlled by Minority Business Enterprises and Women Business Enterprises. This goal remains in effect throughout the term of this Agreement. Credit towards the MBE/WBE goal will only be given for the use of MBEs/WBEs certified by processes acceptable to the Director. Lessee will submit prior to the execution of this Agreement a MBE/WBE participation and utilization plan, which details the method(s) and percentage of MBE/WBE participation and utilization it offers in the performance of this Agreement. The acceptable method(s) of MBE/WBE participation and utilization include sub-agreements, joint ventures, partnerships or any other legal arrangement that results in bonafide support by a MBE/WBE. This MBE/WBE participation and utilization plan must be approved in writing by the Director before it may be implemented. Lessee is obligated to meet the greater of the minimum goal, as set forth below or the amount of participation and utilization detailed in its MBE/WBE participation and utilization plan as approved by the Director.

Goal: A goal of twenty-five percent (25%) MBE and five percent (5%) WBE participation and utilization has been established in connection with this Agreement. If, at any time during this Agreement, the MBE/WBE participation and utilization is less than the goal, Lessee shall continue good faith efforts to increase MBE/WBE participation and utilization and to meet the goal.

Obligation: Lessee agrees to take all reasonable steps necessary to ensure that MBEs/WBEs have maximum opportunity to participate in contracts and

subcontracts under this Agreement. Lessee shall not discriminate on the basis of race, color, national origin, or sex in the award of contracts and subcontracts under this Agreement.

Eligibility: Lessee should contact the City of St. Louis Airport Authority DBE Program Office to obtain a list of eligible MBEs/WBEs and to determine the eligibility of the MBE/WBE firms it intends to utilize in this Agreement.

Counting MBE/WBE Participation and Utilization Toward Goals: MBE/WBE participation and utilization towards the attainment of the goal will be credited on the basis of the total contract prices agreed to between Lessee and its contractors for the goods and services being purchased, as reflected on the MBE/WBE Utilization Plan.

Post Agreement Execution Compliance: If this Agreement is executed with less than full MBE/WBE goal participation and utilization, such execution will not relieve Lessee of the responsibility to continue good faith efforts to maximize participation and utilization of MBEs/WBEs during the term of this Agreement.

Substitution of MBE/WBE Firms After Agreement Execution: Lessee shall conform to the scheduled amount of MBE/WBE participation and utilization. When a listed MBE/WBE is unwilling or unable to perform the items of work or supply the goods or services in the MBE/WBE Utilization Plan, Lessee shall immediately notify the City of St. Louis Airport Authority DBE Program Office prior to replacement of the firm.

Good Faith Efforts: When the MBE/WBE goal is not met, Lessee shall document and submit justification utilizing the form titled "Good Faith Efforts Report" and provide a statement as to why the goal could not be met.

Record Keeping Requirement: Lessee shall keep such records (copies of contracts, paid invoices, documentation of correspondence) as are necessary for City to determine compliance with the MBE/WBE contract obligations. City reserves the right to investigate, monitor and/or review records for compliance.

Reporting Requirement: Lessee will submit by the 15th day of the second and each succeeding month of the term hereof, monthly reports on MBE/WBE involvement for the preceding month. Reports shall be sent to the City of St. Louis Airport Authority DBE Program Office with a copy to the Airport Properties Department.

ARTICLE XII MISCELLANEOUS PROVISIONS

Section 1201. Notice. Except as herein otherwise expressly provided, all notices required to be given to City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, to the Director of Airports, St. Louis Airport Authority, 10701 Lambert International Blvd., St. Louis, Missouri, 63145, with a copy to the Airport Properties Manager at the same address. All notices, demands, and requests by City to Lessee shall be sent by certified mail, return receipt requested addressed to Midcoast Aviation, Pierre Laclede Center, 7733 Forsyth Blvd., Suite 1500, St. Louis, Missouri, 63105.

The parties or either of them may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to Lessee or said Director.

Section 1202. Environmental Notice. Lessee shall immediately notify the Director or his/her designee and shall provide a written summary report within thirty (30) days for any of the following: (a) any correspondence or communication from any governmental entity regarding the application of environmental laws to the Premises or Lessee's operation on or affecting the Premises, (b) any change in Lessee's operation on or affecting the Premises that will change or has the potential to change Lessee's or City's obligations or liabilities under the environmental laws, (c) any disposal, Release, or spill of a Hazardous Substance, Extremely Hazardous Substance, Hazardous Waste, Solid Waste, Oil, petroleum product or derivative, Infectious Waste, Pollutant, Toxic Pollutant, toxic substance, or chemical substance or material subject to federal, state, or local regulation; and (d) any breaches, of any nature, of any environmental laws.

Lessee's failure to comply with any provision of this section shall be considered a material breach of this Agreement for which City, at its sole option, and at any time, may terminate this Agreement and seek appropriate remedies at law or in equity, subject to the terms of Article X above.

Section 1203. Condemnation.

A. Total Take - If the whole of the Demised Premises or Lessee's improvements should be taken by the exercise of the power of eminent domain by any public entity including City, then in such case this 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 Demised Premises should be taken in a condemnation proceeding, then this Agreement shall terminate only as to that portion of the Demised Premises so taken as of the date of the vesting in the condemning authority of title to such portion, but this Agreement shall remain in full force and effect with respect to that portion of the Demised Premises not so taken, provided that the Director and the Lessee, after good faith discussions, determine that the remainder of the Demised Premises may be feasibly used for the purposes contemplated by this Agreement.

C. Possession by Lessee - Notwithstanding any termination of this Agreement in whole or in part under Paragraphs A and B of this Section, Lessee may remain in possession of each portion of the Demised Premises as shall be so taken at the 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.

Section 1204. Conditions of Default. This Agreement shall be considered in default when Lessee fails to fulfill any of the terms, conditions or covenants of this Agreement, subject to Article X above.

Section 1205. Non Discrimination and Affirmative Action Program.

A. Lessee hereto understands and agrees that City in operation and use of Lambert St. Louis International Airport will not on the grounds of race, creed, color, religion, sex, national origin or ancestry, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 21 of the Federal Aviation Regulations of the Office of the Secretary of Transportation. Lessee hereby agrees that its Premises shall be posted to such effect as required by such regulation.

B. Lessee agrees that in performing under this Agreement, neither he nor anyone under his control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, national origin or ancestry. Lessee will take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, 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 will in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of Lessee state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin or ancestry. All advertisements or solicitations for applicants for employment must 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 City that he will be unable to conform to his approved positive employment program submitted to determine eligibility under the fair employment practices provisions of the City Code, he will notify the Fair Employment Practices Division of the Civil Rights Enforcement Agency (CREA) within ten (10) days of such determination, as to the steps to be taken by Lessee to achieve the provisions of his program.

E. Lessee will permit reasonable access by City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.

F. Lessee further agrees that these clauses (B through E) covering discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Lessee in all contracts or agreements he enters into with 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 Agreement.

G. Whenever Lessee is sued by a subcontractor, vendor, individual, group or association as a result of compliance with the clauses (A through F) of these provisions relating to fair employment practices, Lessee shall notify the City Counselor in writing of such suit or threatened suit within ten (10) business days.

H. In event of Lessee's noncompliance with nondiscrimination clauses of this Agreement, or to furnish information or permit his books, records and account to be inspected within twenty (20) days from date requested, this Agreement may be canceled, terminated or suspended, in whole or in part subject to Article

X above, and Lessee may be declared ineligible for further City contracts for a period of one year by option of City, provided, further, if this Agreement is canceled, 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 City.

I. Lessee will establish and maintain for the term of this Agreement an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment and City reserves the right to take such action as the City of St. Louis and the United States Government may direct to enforce the above covenants.

J. Lessee assures that it will undertake an affirmative action program as required by 14 CFR, 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 CFR 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 suborganizations provide assurances to the Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

Section 1206. No Personal Liability. No Alderman, Commissioner, Director, officer, employee or other agent of either party shall be personally liable under or in connection with this Agreement.

Section 1207. Force Majeure. Neither City nor Lessee shall be deemed in violation of this Agreement, if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, act of superior governmental authority, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible and which is not within its control. A ♦Year 2000 problem♦, as defined in Section 1225 of this Agreement, is not intended by the parties hereto to be covered by this clause.

Section 1208. Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

Section 1209. Quiet Enjoyment. Subject to the terms, covenants and conditions of this Agreement, City covenants that Lessee on paying the rents and otherwise performing its covenants and other obligations hereunder, shall have quiet and peaceable possession of the Premises.

Section 1210. Operation and Maintenance of Airport. City shall at all times operate the Airport properly and in a sound and economical manner; and City shall use reasonable effort to maintain, preserve and keep the same or cause the same to be maintained, preserved and kept, with the appurtenances in good repair, working order and condition, and shall from time to time use reasonable effort to make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Airport may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating airports of like size and character. Section 1211. Title to Site. The Premises from the date hereof until the expiration or early termination of this Agreement shall be owned in fee simple title by City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by City as herein provided for the full term provided in this Agreement.

Section 1212. Agreements with the United States. This Agreement is subject and subordinate to the provisions of any agreements heretofore made between City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to City for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act as it has been amended from time to time.

Section 1213. Modifications to Maintain Federal Compliance. In the event that the FAA determines this Agreement to be inconsistent with City's grant assurances, current or future, Lessee agrees to either (i) consent to such amendments, modifications, revisions, supplements, and/or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required for City to maintain and/or obtain said FAA funds or as required by the FAA, or (ii) consent to a cancellation of this Agreement with one (1) year prior written notice.

Section 1214. Governing Law. This 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.

Section 1215. Headings. The headings of the Articles and Sections of this 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 Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 1216. Amendments. This Agreement may be amended from time to time by written agreement, duly authorized and executed by all the signatories to this Agreement.

Section 1217. Previous Agreements. It is expressly understood by the parties that the terms and provisions of this Agreement shall supersede the terms, covenants, and conditions of the Airport Property Lease as of the Effective Date.

Section 1218. Withholding Required Approvals. Whenever the approval of City, or Director, or of Lessee is required herein, no such approval shall be unreasonably requested or withheld. Section 1219. 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.

Section 1220. Invalid Provisions. In the event any term, covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained, provided the invalidity of any such term, covenant, condition or provision does not materially prejudice either City or Lessee in its respective rights and obligations contained in the valid terms, covenants, conditions and provisions of this Agreement.

Section 1221. Prevailing Wage. Lessee shall, as a condition of this Agreement, include in all service contracts pertaining to this Agreement, language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor. This section is in accordance with City of St. Louis Ordinance No. 62124.

Section 1222. Americans with Disabilities Act ("ADA"). Lessee shall be responsible for compliance with the Federal ADA, plus any State laws and City

Ordinances pertaining to the disabled individual having access to Lessee's services on the Premises.

Section 1223. Advertising. Lessee shall have no right to use the trademarks, symbols, trade names or name of the Airport, either directly or indirectly, in connection with any production, promotion service or publication without the prior written consent of Director.

Section 1224. Conflicts Between Tenants. In the event of a conflict between Lessee and any other tenant, licensee or concessionaire, as to the respective rights of the others, Director shall review the applicable agreements and by reasonable interpretation thereof determine the rights of each party, and Lessee agrees to be bound by such decision. All determinations by Director are final.

Section 1225. Year 2000 Compliance-Performance Covenant.

A. Lessee represents, covenants, agrees and warrants that it will not permit a Year 2000 problem in its computer systems, software or equipment owned, leased, or licensed by it (for its own use), its affiliates or subsidiaries to interfere with its performance under this Agreement. Lessee agrees to request, from those of its suppliers whose performance may materially affect its performance hereunder, that each such supplier undertake the same obligation with respect to such material performance. Lessee will use reasonable commercial efforts to cooperate and share information to further comply with this section, and to minimize the impact of any Year 2000 problem on performance of this Agreement. Lessee will inform the other party of any circumstance indicating a possible obstacle to such compliance, and the steps being taken to avoid or overcome the obstacle.

B. A "Year 2000 problem" used in paragraph A means a date-handling problem relating to the Year 2000 date change that would cause a computer system, software or equipment to fail to correctly perform, process and handle date-related data for the dates within and between the twentieth and twenty-first centuries and all other centuries.

Section 1226. Time is of the Essence. Time is of the essence in this Agreement. The parties agree that time shall be of the essence in the performance of each and every obligation and understanding of this Agreement.

Section 1227. Acknowledgment of Terms and Conditions. The parties affirm each has full knowledge of the terms, covenants, conditions and requirements

contained in this Agreement. As such, the terms of this 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 Agreement or any amendments, modifications or exhibits thereto.

Section 1228. Entire Agreement. This Agreement, together with all exhibits attached hereto, constitutes the entire Agreement between the parties hereto and all other representations or statements heretofore made, verbal or written are merged herein and this Agreement may be amended by written agreement duly authorized and executed by all the signatories to this Agreement.

Section 1229. Required Approvals. When the consent, approval, waiver, or certification ("Approval") of other party is required under the terms of this Agreement, such approval must be in writing and signed by the party Approving. Whenever the Approval of City or the Director is required, the Approval must be from the Director or his/her authorized designee. City and Lessee agree that extensions of time for performance may be made by the written mutual consent of the Director and Lessee or its designee.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Pursuant to City of St. Louis Ordinance approved on , .

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on , .

Commission Chairman Date
and Director of Airports

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on , .

Secretary, Date
Board of Estimate & Apportionment

APPROVED AS TO FORM:

City Counselor Date Comptroller, Date
City of St. Louis City of St. Louis

Register, Date
City of St. Louis

MIDCOAST AVIATION, INC. ATTEST

Secretary Date

Title:
Date:

Exhibit "A"
Legal Description

A tract of land being part of U.S. Survey 2524, Township 46 North - Range 6 East, St. Louis County Missouri; said tract being owned by the City of St. Louis and now commonly known as Lambert-St. Louis International Airport and more particularly described as follows:

Beginning at the point of rounding in the East line of Brown Road, 80 feet wide, at the intersection of the said East line of Brown Road, 80 feet wide, with the South line of Harmon Lane, 40 feet wide; thence Westwardly across Brown Road, 80 feet wide, North 85 degrees 56 minutes 51 seconds West 80 feet to a point in the West line of said Brown Road, 80 feet wide; thence Northwardly along said West line of Brown Road, 80 feet wide, along a curve to the left whose radius point bears North 85 degrees 56 minutes 51 seconds West 11,960 feet from the last mentioned point, a distance of 449.60 feet to the actual point of beginning; thence continuing Northwardly along said Brown Road, 80 feet wide, a distance of 191.26 feet to a point; thence on a line bearing North 58 degrees 56 minutes 11 seconds West a distance of 1,386.98 feet to a point; thence on a line bearing South 31 degrees 03 minutes 49 seconds West a distance of 625 feet to a point; thence on a line bearing South 58 degrees 56 minutes 11 seconds East a distance of 1,480.65 feet to a point on the perimeter of the tract leased to Ninety Fourth of St. Louis, Inc. by documents dated May 17, 1977; thence following along the boundary of said tract the following courses: North 19 degrees 09 minutes 56 seconds West 180.19 feet; North 70 degrees 50 minutes 04 seconds East 90.82 feet; North 2 degrees 51 minutes 37 seconds East 199.39 feet; and South 88 degrees 06 minutes 05 seconds East 200.99 feet to the point of beginning, containing 20 acres.

Legislative History

1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
12/10/99	12/10/99	T&C		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
02/04/00			02/11/00	02/11/00
ORDINANCE	VETOED		VETO OVR	
64875				