

RELIEVER AIRPORTS

COMMERCIAL LEASE



**Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis Minnesota 55450**

METROPOLITAN AIRPORTS COMMISSION
RELIEVER AIRPORTS COMMERCIAL LEASE AGREEMENT

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EXHIBIT A **DESCRIPTION OF LEASED PROPERTY**

EXHIBIT B **DESCRIPTION OF SEWER AND WATER EASEMENT**

EXHIBIT C **SUBLEASE PROVISIONS**

EXHIBIT D **LEASE NOTICE ADDRESS**

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METROPOLITAN AIRPORTS COMMISSION RELIEVER AIRPORTS COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (“Lease”) is made between the Metropolitan Airports Commission, a public corporation of the State of Minnesota (“MAC”) and «CFName» «CLName» at «CStreet», «CCity», «CState» «CZip» (“Tenant”).

WHEREAS, MAC owns and/or controls the real property at «Airport» (“Airport”) located in the County of «County», State of Minnesota; and

WHEREAS, Tenant desires to lease property to conduct certain commercial aeronautical activities at the Airport; and

WHEREAS, MAC is willing to lease certain property to Tenant upon the terms and conditions of this Lease., which has been approved by _____ on _____.

NOW, THEREFORE, in consideration of the promises stated in this Lease, the parties agree as follows:

1. **Leased Property**

1.1. Leased Property

MAC leases to Tenant the real property at the Airport described on the attached Exhibit A, and commonly referred to as Lot «Lot No» (“Leased Property”). Exhibit A may be updated, by mutual consent of MAC Staff and Tenant, to make corrections. If so updated, the updated Exhibit A will replace the prior Exhibit A.

1.2. Sewer and Water Easement

MAC grants to Tenant, as an appurtenance to the leasehold estate, an easement (“Sewer and Water Easement”) for the sole purpose of installation, use, repair, and maintenance of the necessary piping and equipment from the Leased Property (“Connection”) to the watermain curb stop and corresponding sanitary sewer stub installed by MAC (collectively referred to as the “Curb Stop”), which Curb Stop is associated with the municipal sewer and water system located at the Airport. The location of the Sewer and Water Easement is shown on Exhibit B. The Sewer and Water Easement is coterminous with this Lease.

The Sewer and Water Easement shall not be taken into consideration in determining commercial ground rent in [Section 4.2 \[Commercial Ground Rent\]](#).

2. **Term**

2.1. Initial Term

The initial term of this Lease is fifteen (15) years ("Term"), commencing on «Executed» ("Commencement Date") and expiring, unless earlier terminated, on «Expire».

2.2. Renewal Term

Tenant will have a right to a new lease ("Renewal Lease") after the initial Term, provided the conditions listed below are met. Such Renewal Lease will have a term of ten (10) years and contain MAC's standard terms and conditions in effect at the time of its issuance. MAC may offer Tenant this Renewal Lease only if the following conditions are met at the time of expiration of the initial Term and during any time after expiration of the initial Term and before execution of the Renewal Lease:

- (i) Tenant has neither been in default in payment of rents nor in material performance of all requirements of this Lease more than two (2) times within the twenty-four (24) month period prior to MAC's offer of the Renewal Lease, nor is Tenant currently in default of the same;
- (ii) MAC has had reasonable opportunity to conduct an inspection of the Leased Property, and an environmental investigation, pursuant to [Sections 8 \[Right of Entry and Inspection\]](#) and [20.6 \[Right to Investigate\]](#);
- (iii) Tenant is and has been in compliance with MAC's rules, regulations, ordinances, and policies; and
- (iv) MAC has not determined that it requires the Leased Property, before the end of the term of the Renewal Lease, as provided in [Section 16 \[Airport Development or Redevelopment\]](#) of this Lease.

MAC will neither purchase the Improvements nor provide any compensation in the event a Renewal Lease is not offered pursuant to this [Section 2.2](#) for failure to meet the conditions; except, however, if a Renewal Lease is not issued solely for failure to satisfy the condition set forth in paragraph (iv) above, then MAC will pay compensation, as provided in [Section 16.6 \[Payment of Compensation for Improvements\]](#) of this Lease.

2.3. Right of First Refusal

Upon expiration of the Renewal Lease, if offered, Tenant will have a right of first refusal to any lease offered for aviation uses on the Leased Property, provided all of the conditions as required by the Renewal Lease are satisfied at the expiration of the Renewal Lease and during any time after expiration of the Renewal Lease and before execution of a lease offered pursuant to this [Section 2.3](#). A lease offered pursuant to this [Section 2.3](#) will contain MAC's standard terms and conditions (including term length and rental rates) in effect at the time of its issuance.

If a lease is offered pursuant to this [Section 2.3](#), MAC will issue the lease 180 days prior to the expiration date of the Renewal Lease. The period during which Tenant may exercise the right of first refusal commences on the 180th day prior to the expiration date of the Renewal Lease, and expires sixty (60) days prior to the expiration date of the Renewal Lease.

If the lease offered by MAC pursuant to this [Section 2.3](#) is not accepted by Tenant or is not executed by Tenant within the time period described in the previous sentence, then

Tenant must comply with all of the terms regarding the surrender of the Leased Property as set forth in the Renewal Lease and the [Policies](#), and MAC will not pay any compensation for Improvements.

If MAC does not offer a lease for aviation uses on the Leased Property pursuant to this [Section 2.3](#), then MAC will pay compensation, as provided in [Section 16.6 \[Payment of Compensation for Improvements\]](#) of this Lease, provided all of the conditions as required by the Renewal Lease are satisfied at the expiration of the Renewal Lease. Notwithstanding the terms of the previous paragraph, if MAC offers a lease for aviation uses on the Leased Property pursuant to this [Section 2.3](#), but such uses do not include all permitted uses allowed by the Renewal Lease, then MAC will pay compensation, as provided in [Section 16.6 \[Payment of Compensation for Improvements\]](#) of this Lease, provided (i) all of the conditions as required by the Renewal Lease are satisfied at the expiration of the Renewal Lease, and (ii) Tenant complies with all applicable requirements of [Ordinance 118](#), and (iii) Tenant does not accept the lease because not all permitted uses allowed by the Renewal Lease are included in the offered lease. MAC will not provide any compensation for Improvements, however, in the event a lease is not offered pursuant to this [Section 2.3](#) for failure to meet the conditions in the Renewal Lease; except, however, if a lease is not issued solely because MAC has determined that it requires the Leased Property, before the end of the term of the lease to be offered, for a use that, in MAC's judgment, is for the betterment of the Airport, the MAC airport system, or the aviation community, then MAC will pay compensation, as provided in [Section 16.6 \[Payment of Compensation for Improvements\]](#) of this Lease. MAC becomes the owner of the Improvements (other than wells, tanks, and septic systems) for which MAC has paid Tenant compensation, as of the date MAC pays Tenant Compensation. If MAC has paid Tenant compensation pursuant to this paragraph, Tenant must comply with all of the terms regarding the surrender of the Leased Property as set forth in the Renewal Lease and the [Policies](#), except that Tenant will not be required to remove the Improvements. If MAC is not required to pay Tenant compensation pursuant to this paragraph, Tenant must comply with all the terms regarding the surrender of the Leased Property as set forth in the Renewal Lease and the [Policies](#).

3. Use of Leased Property

3.1. Use

The Leased Property must be used by Tenant solely for the following purposes, and for no other purpose without the prior written consent of MAC Staff

[List specific allowed purposes; see "List of Potential Uses of Leased Property for Commercial Leases" document]

(i)

(ii)

(iii)

3.2. Flying Clubs

Tenant may only operate a flying club on the Leased Property with the prior written consent of MAC Staff, which consent may be granted subject to conditions. Such consent will be

contingent upon Tenant's provision to MAC of all appropriate license(s) necessary to operate a flying club issued by all applicable governing authorities.

3.3. Appropriate Use

Tenant will not use or permit the Leased Property to be used in any manner that would void Tenant's or MAC's insurance or that was not disclosed to Tenant's insurer. Tenant will at all times comply with all legal requirements imposed by the insurers for MAC and Tenant; provided, however, that any such requirements imposed by MAC's insurer must (i) be consistent with the terms of this Lease, and not prohibit or materially and adversely affect Tenant's uses of the Leased Property as authorized by this [Section 3 \[Use of Leased Property\]](#).

4. Rent

4.1. [Ordinance 119](#)

Tenant must pay all rent for the Leased Property, according to the terms set forth in [Ordinance 119](#) ([Ordinance 119](#) is defined in [Section 24.1.8](#) of this Lease). If required by [Ordinance 119](#), Tenant must accompany rent payments with reports and documentation in the form requested by MAC, certified as correct by Tenant or an authorized representative of Tenant. All reports should be delivered to MAC electronically at MAC-AR@MSPMAC.ORG.

4.2. Commercial Ground Rent

Tenant will pay MAC ground rent for the Leased Property ("Rent"). Tenant will pay Rent to MAC at the address specified by MAC, monthly in advance by the last day of the calendar month for the upcoming calendar month unless Tenant is notified in writing by MAC of different payment dates. Tenant will pay Rent that is due for the first month of the Term of this Lease upon execution of this Lease.

4.3. Fuel Flowage Fees

If Tenant is authorized to dispense fuel from the Leased Property, Tenant must pay MAC fuel flowage fees.

4.4. Percentage Rent

4.4.1 Percentage Rent

Tenant will pay to MAC the percentage of all Gross Sales (as defined below), ("Percentage Rent"). Tenant must accompany payment of Percentage Rent with a report in a form reasonably acceptable to MAC Staff and certified as correct by Tenant or an authorized representative of Tenant. Tenant must include in this report information detailing the amount of Gross Sales and all deductions and exclusions therefrom for the preceding calendar month. MAC reserves the right to prescribe and revise the format of this report at any time. If Tenant has other leases with MAC subject to [Ordinance 119](#), Tenant must calculate and pay fees due under those other leases separate from this Lease.

Within thirty (30) days of a written request from MAC, Tenant must submit an extract of its detailed general ledger transactions relating to Gross Sales listing each entry on the general ledger accounting system. Transaction listings should be specific to operations at the Airport and include all general ledger accounts and all available data fields in each transaction for the preceding calendar month in a format acceptable to MAC.

Also upon request from MAC, Tenant must provide MAC with a complete and current detailed chart of accounts for all general ledger accounts relating to Gross Sales.

4.4.2 Gross Sales

“Gross Sales” means the gross dollar total of the entire amount of:

(a) the price charged for all sales, services, orders, deliveries and credits of every kind and nature made, performed, dispatched, or taken by or from Tenant, any contractor, licensee, concessionaire, or Subtenant, or any other person or entity as a result of business conducted in, at, upon, from, or arising out of the Leased Property, whether wholesale or retail, whether made for cash, by check, on credit, exchange, charge accounts, mobile device application, or otherwise, without reserve or deduction for inability or failure to collect the same and without regard to where payment is made or received.

Each charge or sale upon installment or credit shall be treated as a sale for the full price in the month during which such charge or sale is made, whether Tenant or Tenant’s Subtenants receive full or partial payment; and

(b) all rents, fees, charges, and other amounts, due or paid to Tenant by any Subtenants, licensees, concessionaires or other persons or entities, whether cash or credit, and whether collected or uncollected;

(c) less the exclusions in (i) through (xi) below, if applicable.

Upon the request of MAC, Tenant must provide satisfactory documentation of transactions to justify any of the following exclusions from Gross Sales.

- (i) The amount of any proceeds received from the sale of aircraft. However, brokerage fees and commissions earned on sales of aircraft do constitute Gross Sales.
- (ii) The amount of any proceeds received from the sale of aircraft fuel. However, (1) in-to-plane fees earned on fuel sales do constitute Gross Sales, and (2) Tenant must pay flowage fees to MAC as specified in [Section 4.3 \[Fuel Flowage Fees\]](#).
- (iii) The amount of any fee charged to a customer for fuel used in aircraft rental, charter, or instruction to the extent that such service was based on the actual cost of this fuel. This exclusion only applies if: (1) this fuel is subject to MAC’s fuel flowage fees, and (2) Tenant is authorized by MAC to sell fuel.

- (iv) The amount of any proceeds received by Tenant in transactions with another tenant or tenants of MAC where such other tenant or tenants are responsible for the payment of Percentage Rent and such other tenant or tenants pays Percentage Rent to MAC as a result of such transaction.
- (v) The amount of any discounts or price reductions specifically set forth on individual sales agreements and credited to the customer, no portion of which is reimbursed to Tenant in any way.
- (vi) The amount of any returned sales or trade-ins by customers.
- (vii) Uncollected accounts receivable to the extent such accounts are written off as bad debts.
- (viii) The amount of any federal, state, or municipal sales or similar taxes levied on transactions and collected from customers and remitted directly to the taxing authority.
- (ix) The amount charged to customers for any landing fees or similar charges paid by Tenant to other airports, to the extent that the amount charged to customers is the amount paid by Tenant and so long as Tenant accounts for such fees separate from other revenues received from Tenant's customers.
- (x) The amount charged to customers for custom charges, duties, and similar fees paid by Tenant to governmental authorities other than MAC, to the extent that the amount charged to customers is the amount paid by Tenant and so long as Tenant accounts for such fees separate from other revenues received from Tenant's customers.
- (xi) Any amount billed for flights ordered, dispatched, or planned from the Leased Property, but which do not otherwise utilize an airport owned or operated by MAC. This exclusion may be applied to amounts billed for legs of a flight that do not utilize an airport owned or operated by MAC even if one or more of the other legs of the flight utilize an airport owned or operated by MAC, so long as these legs are itemized separately when billed and so long as the portion of the amount itemized to the legs that utilize an airport owned or operated by MAC is commercially reasonable, meaning that—when compared to other legs of the flight—the amount billed for these legs is proportionate to the commercial activity generated thereby.
- (xii) Any amount exceeding \$7,130.00 billed for flights the conducting of which require an air ambulance service license issued by the Emergency Medical Services Regulatory Board. The amount listed in this exclusion will increase or decrease on an annual basis upon the anniversary of the Commencement Date of this Lease by the percentage difference between the latest published price listed in the medical care services index group of the U.S. Bureau of Labor Statistics Consumer Price Index — All Urban Consumers, Midwest Region, and the price listed one year prior.

4.5. Tenant's Books and Records

4.5.1 Definitions

- (i) **Books and Records.** Accounting records, in accordance with Generally Accepted Accounting Principles, relevant to all commercial operations on, or associated with the use of, the Leased Property conducted by the Tenant or a Commercial Subtenant. In maintaining Books and Records, Tenant and each Commercial Subtenant shall use point of sale systems, invoicing machines, sales slips, and other accounting equipment at the Leased Property as are reasonably necessary to properly and completely record and report all Gross Sales and fueling activity.
- (ii) **Generally Accepted Accounting Principles.** Generally accepted accounting principles set forth in the opinions and pronouncements of an authoritative body designated by the American Institute of Certified Public Accountants (AICPA) Council (for example, the Financial Accounting Standards Board Statements, AICPA Accounting Principles Board Opinions, and AICPA Accounting Research Bulletins) or in such other statements by such other entity or entities as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

4.5.2 Maintenance of Books and Records

Tenant must maintain adequate Books and Records for its operations and must cause each Commercial Subtenant to maintain Books and Records for the Commercial Subtenant's operations that include a detailed analysis listing all operations at the Leased Property in the form of printed, written, or electronic media. Books and Records also include all original accounting source documents detailing transactions relevant to this Lease, including, without limitation, (a) original rental/sales contracts, (b) operating/financial statements, (c) a complete (cumulative) general ledger, (d) a chart of accounts; (e) monthly sales journals detailing each transaction for the month, (f) reconciliation between the financial records and any reports submitted to MAC, (g) bank statements applicable to the operations on the Leased Property, (h) corporate trial balances, (i) federal and state tax returns, (j) confirmation of fuel deliveries by suppliers, (k) corporate contracts with corporate customers, (l) annual financial statements and related reports on internal controls (including management representation letters), (m) electronic media documenting accounting records, (n) other documents related to sales and fueling activity, and (o) any documentation or records supporting claimed exclusions from Gross Sales and fuel flowage fees.

4.5.3 Computer Records

In those situations where the Books and Records have been generated from computerized data (whether mainframe, minicomputer or PC-based computer systems), Tenant agrees to provide MAC Staff with extracts of data files in a computer readable format on data disks, by email with attached files, or using alternative computer data exchange formats, reasonably satisfactory to MAC Staff.

4.5.4 Cooperation by Tenant

Upon request, Tenant must provide to MAC the name and telephone number of Tenant's accounting manager, or equivalent person, who has a thorough knowledge of the accounting system as it pertains to commercial operations under this Lease and who will assist MAC with any audit conducted by MAC. Tenant will also allow interviews of past and present accounting managers or equivalent persons and employees who are or were involved in the financial and operational activities of Tenant.

4.5.5 Length of Books and Records Retention

Tenant must keep all Books and Records required by this Lease for at least six (6) years after the end of the applicable year, or in the event of a claim by MAC under this Lease, until such later time as such claim of MAC has been fully ascertained, fixed, and paid.

4.5.6 Obligations Applicable to Subtenants

Tenant's obligations with respect to Books and Records extend to Tenant's subsidiaries, partners, joint ventures, Subtenants and the like. Tenant must incorporate the foregoing obligations into any Commercial Sublease. MAC is a third-party beneficiary of such obligations. Tenant is responsible for informing such parties of these obligations and assuring performance of these obligations by such parties.

4.6. Right to Audit

4.6.1 Audit Findings

MAC has the right at all reasonable times during the Term of this Lease to inspect the Books and Records for a period of at least six (6) years prior to the end of the current year and continuing through to the completion of the audit ("Audit"). In the event that an Audit discloses that Tenant has under-reported Gross Sales or fuel flowage fees, Tenant must pay to MAC any amounts due as a result of under-reported Gross Sales or fuel flowage fees, together with Late Fees (as defined in [Section 4.9](#)). In addition, if an Audit reveals that Tenant has under-reported or under-paid Gross Sales and/or fuel flowage fees by five percent (5%) or more for any twelve (12) month period, then in addition to any of MAC's other rights and remedies under this Lease, Tenant will reimburse MAC for the costs and expenses incurred in such Audit, along with MAC's attorney's fees and costs. If Tenant has overpaid rent, MAC will credit the amount of the overpayment against future rent payments (or refund the amount if applicable to the last year of the Term).

4.6.2 Provision of Audit Workspace

Tenant agrees to provide reasonable workspace to allow the conduct of any Audit and free access to and use of copiers, fax machines, and other reasonable office equipment. Tenant will make the requested Books and Records available to MAC within thirty (30) days from the date of request by MAC and will lend its own assistance in conducting the Audit at no cost to MAC. Tenant must provide the

Books and Records to MAC in the Minneapolis-St. Paul metropolitan area for inspection during business hours. In the event that the requested documentation is not provided within thirty (30) days from the date of request by MAC, Tenant must reimburse MAC for the cost of travelling to and from the location where the Books and Records are maintained to conduct the Audit. Such expenses will include transportation, lodging, food, and other out-of-pocket expenses for the full duration of the time needed to complete the Audit.

4.6.3 Survival of Tenant's Duties and MAC's Rights

Tenant's duty to maintain Books and Records and MAC's rights under this Lease to conduct any Audit(s) survive the expiration or early termination of this Lease.

4.6.4 Obligations Applicable to Subtenants

Tenant must incorporate the foregoing obligations into any Commercial Sublease so that MAC will have the same audit rights with respect to each Commercial Subtenant.

4.7. Non-Aviation/Complementary Business License Fee

In the event Tenant enters into an agreement with MAC to conduct a non-aviation/complementary business operated by Tenant or a Subtenant of Tenant, Tenant must pay a non-aviation/complementary business license fee, as set forth in [Ordinance 119](#).

4.8. Revision of Rents

Under [Minnesota Statutes, section 473.651](#), MAC has the authority to determine the charges for the use of property under its management and control, and accordingly, MAC reserves the right, from time to time, to amend the rents, charges, fees, and assessments set forth in this Lease in a manner consistent with the requirements of [Minnesota Statutes, section 473.651](#).

4.9. Late Fee

If Tenant fails to pay any fees when due to MAC, Tenant must pay a late fee ("Late Fee") the lesser of (1) twelve percent (12%) per annum, or (2) the highest rate allowed by Minnesota law on any past due balance, calculated from the date the amount is due until the close of the business day when the payment is received.

4.10. Method of Payment

Tenant must collect all rent and other payments from all of its Subtenants and transmit such payments to MAC.

Tenant must make all payments under this Lease by electronic funds transfer ("EFT"), except as provided in [Section 4.10\(b\)](#) below. As used in this Lease, the term "EFT" refers to funds transfer and may also include the payment information transfer.

In the event Tenant is unable to release one or more payments by EFT, MAC agrees to one of the following:

- a. Accept payment by check or some other mutually agreeable method of payment;
or
- b. Request Tenant to pay as mutually agreed in subsection a. above until such time as Tenant can make payment by EFT.

5. Taxes and Other Charges

5.1. Utilities

Tenant will pay for all water, sanitary sewer, gas, electricity, telephone, refuse collection, and storm sewer charges, environmental charges and fees, or other similar charges attributable to Tenant's use of the Leased Property, together with any taxes, penalties, interest, or surcharges associated with such utilities and charges.

5.2. Landing Fees

Tenant must pay to MAC any applicable landing fees, as set forth in [Ordinance 119](#).

5.3. Assessments Imposed by MAC

Tenant must pay MAC for assessments imposed in accordance with the [Policies](#) and [Ordinance 119](#). Tenant will pay assessments as set forth in the document, resolution, or action establishing the assessment.

5.4. Taxes and Fees Imposed by Other Authorities

Tenant will pay all applicable taxes, assessments, license fees, regulatory fees, and other charges imposed by any other governmental authority during the Term of this Lease upon: the Leased Property, buildings, Improvements, or other property located thereon, or upon or arising from Tenant's use or occupancy, for whatever term deemed applicable to Tenant by that governmental authority. Tenant will pay these amounts without deduction or set-off against Rent to be paid under this Lease.

If any governmental authority imposes an assessment upon the Airport for Improvements the Tenant requested from the governmental authority, then MAC has the option to charge Tenant for the cost of such assessment. Tenant will pay that cost in installments as specified by MAC.

6. Compliance with Law

Tenant must comply with all applicable local, municipal, county, state, and Federal laws, regulations, Compliance with Laws rules, and ordinances, now or hereafter in force, including those of MAC, and including all [Policies](#), and all applicable security requirements. Tenant may obtain a copy of MAC's ordinances, rules, and regulations by contacting MAC or by accessing copies available upon [MAC's website](#). Nothing in this Lease requires Tenant to waive Tenant's right to challenge the validity of any such laws, regulations, rules, and ordinances described in this [Section 6](#). With respect to the [Policies](#), if there is a conflict between the express terms of this Lease and of the [Policies](#), this Lease controls.

7. Quiet Enjoyment

Upon Tenant's performance of all terms of this Lease and except for reasons beyond the control of MAC, Tenant is entitled to quiet possession of the Leased Property for the entire Term.

8. Right of Entry and Inspection

MAC and its agents have the right to enter the Leased Property for the purpose of making any repair or constructing any improvement MAC deems necessary or desirable for the operation of the Airport. In doing so, MAC will use reasonable diligence to minimize disruption to Tenant's use and enjoyment of the Leased Property.

If MAC or its agent's entry onto the Leased Property causes any damage to Tenant's Improvements, MAC will reasonably repair such damage caused by such entry to the extent a court of competent jurisdiction decides, or MAC Staff and Tenant mutually in writing agree, that such damage resulted from MAC or its agent's sole negligence or intentional acts. MAC will indemnify and defend Tenant from and against any third party claims to the extent a court of competent jurisdiction decides, or MAC Staff and Tenant mutually in writing agree, that the damages sought from such claims result directly from MAC's or its agent's sole negligence or intentional acts and except to the extent the claims are based on Tenant's negligence or intentional misconduct or arise as a result of Tenant's breach of one or more of Tenant's obligations under this Lease. MAC's obligations under this [Section 8](#) do not release Tenant from the indemnification and defense obligations under [Section 13 \[Insurance and Indemnification\]](#). MAC's obligation to indemnify Tenant under this [Section 8](#) is limited to actual damages, and Tenant agrees that MAC will not be liable for any other damages pursuant to this [Section 8](#).

MAC and its agents have the right to enter and/or inspect the Leased Property and any Improvements and property located on the Leased Property (regardless of whether the Leased Property or Improvements or a portion thereof are subleased by Tenant) for any lawful purpose, for any purpose allowed by this Lease, and for the purpose of determining Tenant's compliance with this Lease or any applicable MAC ordinance. Inspections will be conducted in accordance with the guidelines set forth in the [Policies](#).

9. Construction

9.1. Commitment to Construct

If a developable site and/or hangar does not already exist on the Leased Property, Tenant must prepare plans and specifications for construction on the Leased Property, including grading, site preparation, erosion control methods, pavement construction, hangar layout and proposed heights, utility corridors, connection to sanitary sewer and watermain trunk lines, connection to storm sewer facilities, security fencing and gates, all to the extent applicable.

The Improvements and construction must meet the requirements of this Lease, [Ordinance 118](#), and the [Policies](#). Substantial completion of the construction of the hangar and other Improvements under this [Section 9.1](#), such that Tenant has obtained a certificate of occupancy from the applicable building official, must occur within one (1) year after the execution date of this Lease, or by such later date approved by MAC Staff in writing.

Tenant will complete grading, site preparation, and pavement when needed to connect an Improvement or hangar area within the Leased Property to an alleyway already built

by MAC. Connector pavements are subject to MAC Staff review, approval and/or rejection for design and construction quality.

Tenant agrees to bear all costs associated with any activities undertaken by Tenant pursuant to this [Section 9.1](#) whether such development occurs on or off of the Leased Property.

9.2. Plan Review and Approval by MAC

Construction work that requires written approval of MAC Staff is: (i) any exterior work, whether on Improvements or on or outside of the Leased Property, and (ii) any interior work for which a permit or other approval by any governmental authority is required. Examples of construction work requiring written approval are set forth in Section XVI.C. [Examples of Construction Work Subject to Review] of the [Policies](#).

For construction work that requires written approval of MAC Staff, Tenant must provide MAC with detailed plans and specifications from a responsible contractor for all of its intended construction work prior to commencing such construction work. MAC has no duty to determine whether Tenant's plans or construction work comply with applicable laws, ordinances, rules, and regulations. Except as otherwise set forth herein, Tenant must not commence any construction work until MAC Staff issues written notice of approval to proceed and applicable permits and approvals are received as described in [Section 9.3 \[Approvals from Other Entities\]](#) below.

Prior to commencement of the construction, Tenant must also submit, if requested by MAC Staff: (i) a bond or other security in an amount, form, and surety each satisfactory to MAC Staff, conditioned for the commencement, completion and payment for the construction and against loss or damage by reason of mechanic's liens; (ii) insurance policies in the amounts and forms required by [Section 13 \[Insurance and Indemnification\]](#) of this Lease and Section XVI.H. [Insurance Requirements for Construction] of the [Policies](#), written by an insurance company approved by MAC Staff, protecting MAC from all liability to persons or property for damages arising out of the construction; (iii) cost estimates for the construction; and (iv) a sworn construction statement listing all individuals or entities providing labor, services, materials or equipment for the construction and containing such other information as MAC Staff may request.

Floor drains may be installed in hangars, if the hangar is connected to city sewer and water, if the floor drain is piped to a flammable waste trap (which must be plumbed to sanitary sewer), and if the installation of the floor drain meets the requirements of the city or State plumbing code (whichever is more prescriptive) and MAC.

9.3. Approvals from Other Entities

Tenant understands that certain approvals from other entities are necessary for construction and use of the Leased Property and Airport. Tenant agrees to obtain all necessary approvals. Examples of necessary approvals are set forth in Section XVI.B. [Approvals from Other Entities] of the [Policies](#).

Necessary approvals are deemed received when the appropriate entity has granted such approval for the project in writing and any resulting litigation or administrative proceeding related to such approval has been decided by the court or entity having the highest level of jurisdiction or the time for an appeal to a higher entity has expired unless

the court otherwise allows. Tenant must provide MAC with a copy of the certificate of occupancy and a copy of any other approvals upon request by MAC. To the extent MAC Staff's approval for any matter hereunder is required, such approval will be conditioned upon obtaining the approval from any of such other entities.

9.4. Completion and Performance

In completing any type of construction and work of any amount, Tenant must:

- (i) Do all construction and other work, or cause the same to be done, in a good and workmanlike manner, within a reasonable time, and in compliance with the [Policies](#) and applicable insurance requirements, building codes, zoning ordinances, laws, and regulations;
- (ii) Allow access to Airport infrastructure such as taxiways and alleyways at all times; adequately fence/barricade, sign, and light construction areas as necessary to prevent aircraft or vehicles from entering the construction site; keep all materials and equipment used for construction within the Leased Property, except when otherwise approved by MAC Staff; and coordinate notifications regarding construction start/schedule and any required closures with MAC Staff prior to construction start;
- (iii) Notify MAC Staff prior to continuing any construction or work if any foreseen or unforeseen environmental conditions exist or manifest, and comply with any applicable regulatory requirements;
- (iv) Keep the Leased Property, this Lease and every Improvement free and clear from all liens for labor performed and materials furnished; and
- (v) Defend, at Tenant's cost, every lien asserted or filed against the land, or any part thereof, or against this Lease or any Improvement and pay each and every judgment resulting from such lien in the manner provided in [Section 13.3 \[Indemnification\]](#).

9.5. Insurance Requirements for Construction

Tenant must include and enforce the provisions set forth in Section XVI.H. [Insurance Requirements for Construction] of the [Policies](#) in any construction contracts for work done on the Leased Property or Airport.

10. Ownership of Improvements

Tenant owns the Improvements located on the Leased Property during the Term of this Lease, subject to MAC's rights in such Improvements pursuant to [Sections 15 \[Condemnation\]](#), [16 \[Airport Development or Redevelopment\]](#), and [17 \[Surrender of Leased Property\]](#) below. Tenant may transfer ownership of Improvements only with the consent of MAC, and subject to the provisions of [Section 18 \[Transfers\]](#).

11. Maintenance

Subject to the requirements of [Section 9 \[Construction\]](#), Tenant, at its own cost and expense, must take good care of the Leased Property, and all Improvements or personal property located on the Leased Property and must keep, maintain, and repair the Leased Property and Improvements in accordance with the [Policies](#) and [Ordinance 112](#). In addition, Tenant, at its own cost and expense, must maintain and repair any connector pavements, as such connector pavements are described in [Section 9.1 \[Commitment to Construct\]](#) of this Lease, in accordance with the [Policies](#) and [Ordinance 112](#).

Tenant must not suffer or permit any waste or nuisance on the Leased Property that interferes with the rights of other tenants or MAC in connection with the use of Airport property not leased to Tenant.

12. **Removal of Improvements**

Tenant or any other individual or entity that acquires title to Improvements located on the Leased Property from Tenant may, without regard to MAC's rights in the Improvements pursuant to [Section 16 \[Airport Development or Redevelopment\]](#) and [Section 17 \[Surrender of Leased Property\]](#) but subject to the requirements set forth in [Section 9 \[Construction\]](#) (including the prior written approval requirement in [Section 9.2 \[Plan Review and Approval by MAC\]](#)), [Section 11 \[Maintenance\]](#) and this [Section](#)), remove Improvements from the Leased Property.

If only part of the Improvements are removed, the individual or entity removing the Improvements must repair any damage to the remaining Improvements and remove and properly dispose of any debris resulting from the removal of the Improvements. If all Improvements are removed, the individual or entity removing the Improvements must: (i) remove from the Leased Property and Airport and properly dispose of any debris resulting from the removal of the Improvements; (ii) return the Leased Property to a buildable condition (which term for the purposes of this Lease means raw land suitable for construction, as reasonably determined by MAC, including the removal and proper disposal of all slabs, foundations, and footings); (iii) remove, seal, or properly abandon in place, as reasonably required by MAC Staff, any above ground or underground storage tanks, septic systems, or wells located on the Leased Property; and (iv) rebuild to meet the requirements of [Section 9.1 \[Commitment to Construct\]](#) within one year of the removal (unless the removal is pursuant to [Section 17 \[Surrender of Leased Property\]](#)), or terminate this Lease and comply with [Section 17 \[Surrender of Leased Property\]](#). The obligations in the preceding sentence survive termination of this Lease.

13. **Insurance and Indemnification**

13.1. Required Insurance

Effective as of the earlier of the date Tenant enters or occupies the Leased Property or the Commencement Date, and continuing during the Lease Term, Tenant, at its expense, must obtain and maintain in full force the following insurance coverage:

- (i) Extended peril property insurance covering the full replacement cost of all Improvements, as well as trade fixtures and other personal property located on the Leased Property; and, if the Leased Property is located in a flood zone, flood insurance covering the full replacement cost of all Improvements and trade fixtures located on the Leased Property. The policy or policies must name MAC as a loss payee and provide that such proceeds shall be paid over to MAC as MAC's interests may appear.

In the alternative, Tenant may elect to carry a level of property insurance, and flood insurance, if applicable, acceptable to MAC's Insurance Risk Department in its reasonable judgment that is sufficient upon the happening of any peril to remove any debris caused by the peril, to properly eliminate any contamination caused by the peril, and to otherwise return the Leased Property to buildable condition, with acceptable decontamination of environmental media to be verified by an independent contractor's sample test of leased property and impacted areas. If Tenant elects to carry this alternative type of insurance, Tenant's liability and further responsibility under this Lease will not be diminished.

- (ii) Commercial general liability insurance, with a minimum limit of \$2,000,000 per occurrence and \$2,000,000 aggregate for contractual liability, property damage, bodily injuries, or deaths of persons occurring at or incidental to the Leased Property, or at or incidental to the Airport if caused by the act or omission of Tenant or those for whom Tenant is responsible. The policy or policies must name MAC as an additional insured and must be primary and non-contributory by endorsement or by terms and conditions of the policy(s).
- (iii) Aircraft liability insurance, including passenger liability, with a minimum combined single limit of \$2,000,000 per passenger seat for each occurrence for property damage, bodily injuries, or deaths of persons occurring at or incidental to the airports if caused by the act or omission of Tenant or those for whom Tenant is responsible. The policy or policies must name MAC as an additional insured and be primary and non-contributory by endorsement or by terms and conditions of the policy(s).
- (iv) Worker's compensation insurance with no less than the minimum limits required by law and employer's liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease – each employee, \$1,000,000 disease – policy limit, if Tenant has employees located at the Leased Property. The policy or policies must contain a waiver of subrogation in favor of MAC by endorsement or by terms and conditions of the policy(s).
- (v) Aviation liability insurance with a minimum \$10,000,000 per occurrence and aggregate for refueling, and \$5,000,000 products-completed operations per occurrence and aggregate. The policy or policies must name MAC as an additional insured and be primary and non-contributory by endorsement or by terms and conditions of the policy(s).

If Tenant subleases all or any portion of the Leased Property, then Tenant agrees that Tenant's insurance policy or policies will act as contingent liability insurance, in the event that Subtenant's insurance coverage is exhausted, or Subtenant is otherwise insolvent or judgment proof.

MAC may from time to time require reasonable modification to the limits and coverages set forth in this [Section 13.1 \[Required Insurance\]](#), which modification will apply to Tenant and all other similarly situated tenants.

13.2. Form of Insurance/MAC's Rights

All required liability insurance policies must insure on an occurrence and not on a claims-made basis. All insurance policies must be issued by insurance companies that are licensed or admitted in Minnesota and have an A.M. Best rating of at least A-VII. Tenant is responsible for ensuring that all policies are not canceled, reduced, or materially changed unless thirty (30) days prior written notice has been given to MAC. Any policy issued to MAC providing duplicate or similar coverage is deemed excess over Tenant's policies by endorsement or by terms and conditions of the policy(s).

Tenant agrees to provide the insurance required above for the benefit of MAC, including all Losses (as defined below) of MAC. Tenant is responsible for all deductibles.

Original certificates using the most current standard ACORD form, or at MAC's option, copies of the policies evidencing coverage, must be delivered to MAC or to its designated agent at least ten (10) days prior to the Commencement Date and at least fifteen (15) days prior to each renewal of such insurance. If Tenant fails to comply with these insurance requirements, or to deliver to MAC copies of such policies and certificates evidencing the required coverage, MAC, in addition to any remedy available pursuant to this Lease or otherwise, and without providing any notices required under [Section 19 \[Default\]](#), may, but is not be obligated to, obtain such insurance, or a bond or other method of risk transfer, and Tenant must pay to MAC on demand the premium costs thereof, plus an administrative charge of twelve percent (12%).

Notwithstanding anything contained in this Lease to the contrary, Tenant waives all claims it may now have or may hereafter acquire against Indemnitee(s) with regard to or arising out of any loss or damage to the Leased Property and any of the Improvements, Tenant's trade fixtures or personal property, to the extent that Tenant is entitled to assert a claim and Tenant receives insurance proceeds under any of the insurance policies Tenant is required to maintain under [Section 13.1 \[Required Insurance\]](#) or under any other insurance policies Tenant may have in force and effect at the time of the loss or damage.

13.3. Indemnification

To the fullest extent permitted by law, Tenant agrees to indemnify, save harmless, and defend Indemnitees against all losses and liabilities, or claims thereof, arising out of or incident to past or present: (i) use of the Leased Property and Airport by Tenant; (ii) occupancy of the Leased Property by Tenant; (iii) operations of Tenant at the Leased Property and Airport; or (iv) acts or omissions of Tenant's or Tenant's agents, licensees, Subtenants, or invitees, regardless of where the loss may occur (hereinafter, "Loss"). Tenant agrees to bear all reasonable costs of the investigation of and defense against any Loss. Tenant also agrees to bear all reasonable costs of MAC's actions taken in response to the Loss or in remedying the same. The costs mentioned in the previous two sentences include without limitation, the fees of laborers, attorneys, consultants, experts, and investigators, as well as the costs of supplies, materials, and equipment. Notwithstanding the foregoing four sentences, Tenant is not obligated to indemnify, save harmless, or defend an Indemnitee against any Loss to the extent a court of competent jurisdiction decides that such Loss resulted from an Indemnitee's sole negligence or intentional acts, or to the extent MAC Staff and Tenant mutually in writing agree that Tenant is not obligated.

MAC Staff will give Tenant reasonable notice of any Loss. In indemnifying or defending an Indemnitee, Tenant must use counsel reasonably acceptable to MAC Staff. MAC Staff, at its option, has the right to select its own counsel, or to approve joint counsel, as appropriate, and any experts for the defense. Tenant, at its expense, must provide MAC with all

electronic or physical data and give access to any persons reasonably necessary to investigate and defend.

The provisions of this [Section 13.3](#) survive expiration or earlier termination of this Lease. The furnishing of the required insurance does not limit Tenant's obligations under this [Section 13.3](#).

As a distinct and separate indemnification obligation, Tenant agrees to indemnify, save harmless, and defend Indemnitees from any Loss arising out of Tenant's failure or alleged failure to procure and to keep in force the insurance required in [Section 13.1 \[Required Insurance\]](#).

This indemnification is intended for the indemnified parties and their legal representatives. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations.

14. **Damage, Destruction, or Discontinued Use of Airport**

14.1. Damage to Airport

If the Airport is damaged by fire, meteorological event, or other disaster to an extent that MAC reasonably determines to discontinue operation of the Airport for twenty-four (24) months or more, Tenant may terminate this Lease. If the Airport is damaged by fire, meteorological event, or other disaster to an extent that MAC reasonably determines to discontinue operation of the Airport permanently, MAC and Tenant both have a right to terminate this Lease.

If Tenant desires to terminate, Tenant must notify MAC by the later of ninety (90) days of the damage or destruction or sixty (60) days after MAC notifies Tenant that the operation of the Airport will be discontinued for twenty-four (24) months or more. If MAC desires to terminate, MAC must notify Tenant by the later of ninety (90) days of the damage or destruction or sixty (60) days after the decision is made to discontinue operation of the Airport permanently.

If this Lease is terminated pursuant to this [Section 14.1](#), all rent and other charges due to MAC cease as of the date of the damage or destruction.

14.2. Damage to Improvements

If a significant portion of the Improvements are materially damaged (such that all or a significant portion of the Improvements and Leased Property cannot be used for their intended uses) by fire, meteorological event, or other disaster, Tenant has the right either to terminate this Lease or to restore, replace and rebuild the Improvements to the same or better condition. Tenant's election must be provided to MAC in writing within sixty (60) days of the date of the damage.

- (i) If Tenant elects to terminate this Lease under this [Section 14.2](#), Tenant must: (1) remove any damaged Improvements and debris; (2) return the Leased Property to buildable condition (as such term is defined in [Section 12 \[Removal of Improvements\]](#)); and (3) surrender the Leased Property in accordance with the terms and conditions of this Lease. Tenant agrees to use the proceeds of the insurance required by this Lease to the extent necessary to satisfy these

obligations. This Lease, and all rent and other charges due to MAC, does not terminate unless and until Tenant fulfills such obligations.

- (ii) If Tenant elects to restore the Improvements under this [Section 14.2 \[Damage to Improvements\]](#), Tenant must: (1) remove any debris and eliminate any environmental contamination caused by the damaged Improvements; (2) return the Leased Property to buildable condition (as such term is defined in [Section 12 \[Removal of Improvements\]](#)); and (3) rebuild the Improvements, to the same or better condition in compliance with the requirements of this Lease.

All of the above must be fulfilled within twelve (12) months of the date of such damage, plus any additional period reasonably granted by MAC Staff due to delays beyond Tenant's reasonable control.

15. **Condemnation**

15.1. MAC's Right to Taking

MAC reserves all of its rights, as provided by law, to condemn, whether in whole or in part, Tenant's (and any Subtenants') interest under this Lease and Tenant's (and any Subtenants') interest in any Improvements even though it is a party to this Lease. This provision is not a waiver by Tenant of its right to contest any such condemnation. If MAC exercises its rights described in this paragraph, Tenant may, prior to the effective date of such condemnation, terminate this Lease and surrender the Leased Property in accordance with the terms and conditions of this Lease.

In the event of any such condemnation by MAC pursuant to this [Section 15.1](#), MAC will request that the award of damages, determined by the commissioners identified in [Minnesota Statutes, section 117.085](#) (or as amended), show the amount of the award of damages, if any, which is for the value of the land taken, and the amount of the award of damages, if any, which is for damages to the remainder involved (which remainder would include any damages for Improvements). Tenant will receive the amount of the award of damages, if any, which is for damages to the remainder involved, but will not receive the amount of the award of damages which is for the value of the land taken. This provision does not prohibit either MAC or Tenant from appealing the condemnation commissioners' award of damages, in accordance with applicable laws. Tenant will not lose Tenant's compensable interest as described in this [Section 15.1](#) due to termination of this Lease resulting from condemnation as described in this [Section 15.1](#).

Notwithstanding the terms in the previous paragraph, Tenant will not receive an award of damages for any Improvements made in violation of this Lease.

15.2. Taking by Other Governmental Agency

If the whole or any part of the Leased Property is taken, or purchased in lieu thereof, by an entity other than MAC, then Tenant may terminate this Lease any time prior to the effective date of such taking or purchase. If the whole of the Leased Property is taken, or purchased in lieu thereof, by an entity other than MAC, or if there is a taking, or purchase in lieu thereof, of a material portion of the Leased Property by an entity other than MAC, such that Tenant is no longer able to use the Leased Property for any of its permitted uses, then MAC will have the right to terminate this Lease as of the effective date of such taking or purchase. All rents and other charges due under this Lease for the part of the Leased Property that is

taken will cease as of the earlier of the termination of this Lease or the effective date of such taking or purchase.

If the whole or any part of the Airport, which may or may not include the Leased Property, is taken, or purchased in lieu thereof, by an entity other than MAC, and the taking prevents the continued operation of the Airport, then MAC and Tenant will each have the option of terminating this Lease. Tenant may terminate this lease any time prior to the effective date of such taking or purchase; MAC may terminate this Lease as of the effective date of such taking or purchase. All rents and other charges due hereunder will cease as of the earlier of the termination of this Lease or the effective date of such taking or purchase. In the event of such termination, the party terminating this Lease must notify the other party of the effective date of such termination within thirty (30) days following notice of such taking or purchase.

This provision is not a waiver by Tenant of any right to contest any such condemnation.

In the event of any such taking, pursuant to this [Section 15.2](#), whether of the whole or any part of the Leased Property or the whole or any part of the Airport, MAC will request that the award of damages, determined by the commissioners identified in [Minnesota Statutes, section 117.085](#) (or as amended), show the amount of the award of damages which is for the value of the land taken, if any, and the amount of the award of damages, if any, which is for damages to the remainder involved (which remainder would include any damages for Improvements). MAC will receive the amount of the award of damages which is for the value of the land taken. Tenant will receive the amount of the award of damages, if any, which is for damages to the remainder involved. To the extent Tenant is not compensated pursuant to the preceding sentence, Tenant may make a claim for all other damages sustained as a result of such taking, so long as the same does not diminish MAC's award hereunder, including such compensation as may be separately awarded or recoverable by Tenant for Improvements owned by Tenant, personal property owned by Tenant and located at the Leased Property and Tenant's relocation expenses. This provision prohibits neither MAC nor Tenant from appealing the condemnation commissioners' award of damages, in accordance with applicable laws. MAC or Tenant may postpone the effective date of any termination of this Lease under this [Section 15.2](#) until such time that MAC and Tenant have both received their respective amounts of the award of damages; provided, however, that Tenant's obligations under this Lease (other than those obligations that expressly survive the termination of this Lease) will cease as of the date Tenant is required to surrender possession of the Leased Property and does so. Tenant will not lose Tenant's compensable interest as described in this [Section 15.2](#) due to termination of this Lease resulting from condemnation as described in this [Section 15.2](#).

16. **Airport Development or Redevelopment**

16.1. Right to Terminate or Unilaterally Amend

If MAC determines, by a decision of MAC's Board of Commissioners at a regularly scheduled or special meeting of MAC, that MAC requires all or a portion of the Leased Property for a use that, in MAC's judgment, is for the betterment of the Airport, the MAC airport system, or the aviation community, MAC may, at any time before the end of the Term, terminate this Lease or unilaterally amend this Lease to exclude a portion of the Leased Property, in accordance with this [Section 16](#). MAC agrees to give Tenant not less

than fourteen (14) days' notice of any MAC meeting at which such a resolution will be acted upon.

16.2. Notice of Termination or Amendment

If MAC exercises its right to terminate this Lease or to unilaterally amend this Lease to exclude a portion of the Leased Property pursuant to [Section 16.1 \[Right to Terminate or Unilaterally Amend\]](#), MAC must give Tenant a written notice (a "Termination Notice") stating the effective date of the termination or amendment (the "Termination Date"). MAC must deliver the Termination Notice to Tenant not less than 365 days before the Termination Date. If MAC is exercising its right to unilaterally amend this Lease to exclude a portion of the Leased Property, the Termination Notice must include a description of the portion of the Leased Property to be excluded from this Lease and the form of a new Exhibit A, which will effect the exclusion of the described portion of the Leased Property from this Lease. If MAC so indicates in the Termination Notice, the description of the Leased Property to be excluded from this Lease may be subject to later clarification based upon a survey, and, in that case, MAC must engage a surveyor to prepare a final description of the portion of the Leased Property to be excluded from this Lease and must promptly provide the final description to the Tenant. If MAC is exercising its right to unilaterally amend this Lease to exclude a portion of the Leased Property, the new Exhibit A must, in addition to modifying the legal description of the Leased Property, amend the square foot area of the Leased Property from and after the effective date of the amendment.

16.3. Tenant's Right to Terminate

If MAC notifies Tenant that MAC is exercising its right to unilaterally amend this Lease to exclude a portion of the Leased Property pursuant to [Section 16.1 \[Right to Terminate or Unilaterally Amend\]](#), Tenant may, within fourteen (14) days of receipt of the Notice of Termination, notify MAC that (i) the remaining Leased Property is not sufficient to allow Tenant to continue to use the Leased Property in all material respects as Tenant used it immediately prior to MAC's delivery of the Notice of Termination (which use must be permitted under [Section 3 \[Use of Leased Property\]](#) of this Lease) or (ii) the effect of the change to Exhibit A materially prevents a use as permitted under [Section 3 \[Use of Leased Property\]](#), and ask that MAC terminate the Lease. If MAC does not, within sixty (60) days of MAC's receipt of such notice, agree to terminate this Lease rather than unilaterally amend this Lease, Tenant may, within forty-five (45) days after the expiration of the sixty (60) day period, commence a district court action seeking to terminate this Lease and Tenant may receive a judgment terminating this Lease if the Court determines that (i) the remaining Leased Property is not sufficient to allow Tenant to continue to use the Leased Property in all material respects as Tenant used it immediately prior to MAC's delivery of the Notice of Termination (which use must be permitted under [Section 3 \[Use of Leased Property\]](#) of this Lease) or (ii) the effect of the change to Exhibit A materially prevents a use as permitted under [Section 3 \[Use of Leased Property\]](#). In any such action, the burden of proof lies with Tenant. If Tenant does not commence such an action within the forty-five (45) day period, Tenant may not, thereafter, contest the unilateral amendment of this Lease. If Tenant does commence such an action within the forty-five (45) day period, the process for the determination of the compensation, as set forth in [Section 16.6 \[Payment of Compensation for Improvements\]](#) below, that MAC must pay Tenant will be stayed until the Court determines if the Lease is terminated in whole or in part. A termination pursuant to this [Section 16.3](#) is a termination that entitles Tenant to compensation under [Section 16.6 \[Payment of Compensation for Improvements\]](#) below.

16.4. MAC's Right to Rescind a Notice of Termination

MAC may, without liability to Tenant, rescind a Notice of Termination by giving Tenant written notice of such rescission, if such written notice is provided within ninety (90) days of the Termination Notice. MAC may rescind a Notice of Termination by giving Tenant written notice of such rescission, if such written notice is provided after the ninety (90) day period referenced in the preceding sentence, in which case MAC is liable to Tenant for any loss, cost, damage or expense Tenant incurs as a result of Tenant's taking action in reliance on the Termination Notice.

16.5. Tenant's Rights and Obligations between Receipt of a Notice of Termination and the Termination Date

This Lease remains in full force and effect between the date Tenant receives a Termination Notice and the Termination Date and Tenant must perform all of Tenant's obligations under this Lease during such period. Notwithstanding any other provisions in this Lease, however, Tenant may not, without MAC Staff's advance written consent, construct any new Improvements after MAC's delivery of a Notice of Termination. MAC Staff may grant or withhold its consent to any such new Improvements in its sole and absolute discretion.

16.6. Payment of Compensation for Improvements

If MAC terminates this Lease or unilaterally amends this Lease to exclude a portion of the Leased Property pursuant to this [Section 16](#), MAC will pay Tenant Compensation (as further defined below) for Improvements affected and not removed from the Leased Property by Tenant. MAC will not pay any compensation for (i) Improvements made in violation of this Lease; or (ii) any underground tanks, above ground tanks or septic tanks; (iii) any wells, all of which shall also be treated as the personal property of Tenant; (iv) trade fixtures (which shall not mean a hangar); or (v) personal property (which shall not mean a hangar or any other Improvements).

"Compensation" shall mean the cash, market value of the Improvements, as of the Termination Date, to persons in the market for aircraft hangars or aviation facilities assuming that, on the Termination Date, the person purchasing the Improvements and MAC entered into a new lease for the Leased Property and that the new lease was on the same terms as the form of commercial lease in use by MAC for new leases at the Airport entered into as of the Termination Date. Market value shall be determined using only the comparable sales approach. The cost and income approaches to determining market value shall not be used in determining Compensation. Only transactions involving the transfer of improvements located on land leased by MAC will be used as comparable sales. Compensation shall be as negotiated between MAC and Tenant or as determined by this [Section 16.6](#) and the appraisal procedures set forth in [Sections 16.6.1 \[Process\]](#) and [16.6.2 \[Appraisal Reconciliation\]](#).

Compensation does not include: any component of market value attributable to the location of the Leased Property within the Airport (but may reflect market value derived from the fact that the Airport is located in the metropolitan area); the market value of the Leased Property; the difference between the rent paid pursuant to this Lease and that paid for any other lease entered into by Tenant; loss of going concern; loss of rental income or loss of business opportunity arising out of the termination of this Lease; or value of any interest in any property or property rights other than the Improvements. Compensation

does not include any cost or profit of a developer. Compensation may be reduced by any unpaid amounts owed by Tenant to MAC under this Lease. Except as expressly described in this [Section 16.6](#), MAC will not pay for any claims other than Compensation with respect to the Improvements.

MAC will pay to Tenant actual, reasonable relocation expenses incurred by Tenant for relocation of aircraft, other aeronautical personal property, and other personal property and trade fixtures used in connection with permitted aviation uses as allowed by this Lease, up to a maximum of ten percent (10%) of the amount of Compensation paid for the Improvements, to the extent Tenant does not receive relocation assistance under Federal law and policy to cover these expenses. Tenant must provide documentation to MAC of such relocation expenses and evidence of Tenant's payment of each expense, prior to MAC payment as described in this paragraph.

If all or any part of the Improvements located on the Leased Property are damaged or destroyed between the date of the Notice of Termination and the date Tenant surrenders possession of the Leased Property to MAC and the cost of repairing the damage is less than or equal to 10% of the market value of the Improvements as set forth on the most recently issued statement for taxes in lieu of real estate taxes under [Minnesota Statutes, section 272.01, subd. 2](#), Tenant must repair the damage prior to the Termination Date, unless MAC agrees otherwise in writing. (MAC will not require repair if the Improvements will be razed.) If the cost or repair is greater than 10% of the market value or if the cost or repair is less than 10% of the market value but Tenant does not repair the Improvements prior to the Termination Date and MAC does not agree that the Improvements need not be repaired, the Compensation that MAC must pay to Tenant will be reduced by an amount equal to the sum of (i) the greater of the insurance proceeds Tenant is entitled to receive on account of the damage under any insurance policies insuring such Improvements, or the insurance proceeds Tenant would have been entitled to receive had Tenant maintained the insurance this Lease requires; and (ii) the amount of the deductible under Tenant's property insurance policy or policies.

MAC will pay Compensation to Tenant by the Termination Date; or by the later of (i) the date Tenant actually surrenders possession of the Leased Property to MAC, if Tenant fails to surrender possession to MAC on or before the Termination Date, or (ii) the completion of the appraisal process as set forth in [Sections 16.6.1 \[Process\]](#) and [16.6.2 \[Appraisal Reconciliation\]](#) below. MAC will provide Compensation for the Improvements as set forth herein in order to encourage investment in the Reliever Airport system, even though MAC is under no legal obligation to make such a commitment.

16.6.1 Process

If MAC terminates this Lease according to this [Section](#), the following process and the provisions in [Section 16.6 \[Payment of Compensation for Improvements\]](#) will be followed to determine the amount of Compensation to be paid to Tenant. All appraisals must be done in person by a Qualified Appraiser, as defined in [Section 16.6.4 \[Qualified Appraiser\]](#) below. In making the appraisal, the Qualified Appraiser must confer with Tenant, if reasonably possible. First, MAC and Tenant will have a forty-five (45) day period, from the date of the Termination Notice, to make a good faith attempt to agree upon the Compensation to be paid for the Improvements taking into account the factors set forth above. If the parties are unable to agree, MAC will, within thirty (30) days thereafter, initiate an appraisal and have the Improvements appraised by a Qualified Appraiser within sixty (60) days after hiring

the Qualified Appraiser. If requested, MAC will share a copy of the appraisal with Tenant. If Tenant disagrees with MAC's appraisal, Tenant may, at its sole cost and expense, have the Improvements appraised by a Qualified Appraiser, which appraisal must be provided to MAC within sixty (60) days after Tenant's receipt of MAC's appraisal. In the event that MAC does not receive Tenant's appraisal within such sixty (60) day period, then MAC's appraisal will be the amount of Compensation that MAC must pay for the Improvements. In the event Tenant provides MAC with Tenant's appraisal within such sixty (60) day period, then MAC may either accept the value set forth in Tenant's appraisal, negotiate with Tenant in attempt to resolve the discrepancy between Tenant's appraisal and MAC's appraisal, or commence the appraisal reconciliation procedure set forth in [Section 16.6.2 \[Appraisal Reconciliation\]](#) below. If MAC's appraisal and Tenant's appraisal are less than or equal to ten percent (10%) apart, the average of the two appraisals will be concluded as the amount of Compensation to be paid by MAC with respect to the Improvements. Notwithstanding anything to the contrary contained herein, in the event that either MAC or Tenant require an extension of the time periods set forth above to obtain their respective appraisal, the party requiring the extension shall receive one (1) extension of thirty (30) days by notifying the other party in writing at least ten (10) days prior to the end of the party's respective time period.

16.6.2 Appraisal Reconciliation

In the event that MAC's appraisal and Tenant's appraisal are more than ten percent (10%) apart and MAC and Tenant cannot mutually agree to a reconciliation of the two appraisals, MAC shall commence this appraisal reconciliation procedure. MAC's Qualified Appraiser and Tenant's Qualified Appraiser must mutually agree and appoint a third (3rd) Qualified Appraiser, within twenty-one (21) days of the commencement of this appraisal reconciliation procedure. If MAC's Qualified Appraiser and Tenant's Qualified Appraiser cannot mutually agree on a third (3rd) Qualified Appraiser within the twenty-one (21) day period, then MAC and Tenant will ask the chief district judge of Hennepin County to decide and appoint the third (3rd) Qualified Appraiser. The third (3rd) appraisal should be provided to MAC within sixty (60) days of the appointment. The average of the two closest appraisals will be deemed the amount of Compensation to be paid with respect to the Improvements (the "Final Appraisal") and the remaining appraisal will be disregarded.

The Final Appraisal will be the amount of Compensation that MAC must pay with respect to the Improvements. If either MAC or Tenant believes that the other party or the Qualified Appraisers failed to properly apply the provisions of this [Section 16](#), either MAC or Tenant may seek judicial review. The scope of judicial review will be limited to the question of whether the parties and the Qualified Appraisers complied with the provisions of this [Section 16](#), and MAC and Tenant waive any further right to judicial or administrative review.

16.6.3 Cost of Appraisals

MAC will pay the fees, costs and expenses of its Qualified Appraiser, Tenant will pay the fees, costs and expenses of its Qualified Appraiser, and the parties will share equally the fees, costs and expenses of the third Qualified Appraiser, if any.

16.6.4 Qualified Appraiser

“Qualified Appraiser” means an appraiser who is: a) not an employee of either the MAC or Tenant, b) a member of the Appraisal Institute (MAI) or Certified by the American Society of Real Estate Counselors, (c) licensed by the State of Minnesota, and d) has at least ten (10) years of experience conducting commercial appraisals. The Qualified Appraisers will, in determining the Compensation to be paid by MAC with respect to the Improvements, take into account all of the factors set forth in this [Section 16.6](#). At a minimum, the Qualified Appraiser must provide a written, summary report.

16.7. Surrender of the Leased Property & Ownership of Improvements

If MAC terminates or amends this Lease according to this [Section 16](#), Tenant must surrender the affected Leased Property to MAC in accordance with the terms of this Lease (including [Section 17 \[Surrender of Leased Property\]](#)) and as set forth in the [Policies](#) (including Section IX.D. [Airport Development or Redevelopment: Surrender of the Leased Property] of the [Policies](#)). MAC becomes the owner of the Improvements (other than wells, tanks, or septic systems) affected and not removed from the Leased Property as of the date MAC pays Tenant Compensation.

16.8. Right of First Refusal

If MAC determines that the Leased Property required per this [Section 16](#) for a use that, in MAC’s judgment, is for the betterment of the Airport, the MAC airport system, or the aviation community, has not been put to such use within five (5) years of the Termination Date, and is no longer needed for such use, then Tenant will have a right of first refusal on any lease by which the Leased Property are demised, if the Tenant can be located and exercises the right of first refusal within 180 days after notification. If the Improvements for which Tenant was compensated still exist on the Leased Property, Tenant may purchase the Improvements for the amount that Tenant was compensated or the current fair market value of the Improvements, whichever is lower. If the Tenant cannot be located after a due and diligent search or declines the offer, this right of first refusal will terminate.

17. **Surrender of Leased Property**

17.1. Surrender of Leased Property

The rights and interests of Tenant in all or any portion of the Leased Property pursuant to this Lease, and the rights and interests of any Subtenant or any other party claiming any right or interest in all or any portion of the Leased Property by or through Tenant, terminate upon the expiration or earlier termination (including rejection in bankruptcy) of this Lease, and at such time, Tenant and all Subtenants must peaceably surrender all or any portion of the Leased Property then in their possession to MAC.

Prior to surrendering possession of all or any portion of the Leased Property to MAC, Tenant and any Subtenants must, at their expense:

- (i) Either: (a) remove or properly abandon any tanks, wells and septic systems in compliance with all applicable laws; or (b) repair, modify, or upgrade the same (if necessary) and transfer them to a new tenant having a lease on the Leased

Property. Tanks, wells, and septic systems are and remain the property of the Tenant or any Subtenant. Tenant's obligations under this [Section 17.1\(i\)](#) survive the termination of this Lease; and

- (ii) Remove all personal property, trade fixtures, refuse, and debris located on the Leased Property (other than personal property and trade fixtures owned by MAC, if any). Any personal property and trade fixtures subject to this [Section 17.1\(ii\)](#) that are not removed by Tenant by the expiration or earlier termination of this Lease become the property of MAC; and
- (iii) Terminate utility services to the Leased Property unless MAC notifies Tenant, not less than twenty-one (21) days prior to the termination date, that MAC would like to have one or more of the utilities transferred into MAC's name or the name of an entity that will subsequently lease the Leased Property from MAC; and
- (iv) Unless this Lease is terminated pursuant to the terms of [Section 14 \[Damage, Destruction, or Discontinued Use of Airport\]](#), [Section 15 \[Condemnation\]](#), [Section 16 \[Airport Development or Redevelopment\]](#), or [Section 18.2 \[Assignment Rights\]](#) remove all Improvements on the Leased Property and comply with all requirements of [Section 12 \[Removal of Improvements\]](#). If Tenant does not accomplish this removal by the termination or expiration of this Lease, MAC becomes the owner of the Improvements (other than tanks, including fuel tanks, and any wells or septic systems). This transfer does not in any way limit Tenant's liability to MAC for amounts owing to MAC pursuant to the terms and conditions of this Lease.

17.2. Holding Over

If Tenant does not surrender the Leased Property to MAC when and as [Section 17.1 \[Surrender of Leased Property\]](#) above requires, MAC may at any time and, notwithstanding any other provisions of this Lease, without any prior notice to Tenant except as required by law, commence an action to evict Tenant from the Leased Property. From the date this Lease expires or is terminated until Tenant surrenders possession of the Leased Property to MAC as required by [Section 17.1 \[Surrender of Leased Property\]](#) or MAC recovers possession of the Leased Property from Tenant through legal action, Tenant is holding over. Holding over by Tenant does not operate as a renewal or extension of this Lease but only creates a month-to-month, at-will, tenancy. Either party may terminate upon thirty (30) days written notice. During the term of any such holding over, Tenant remains bound by all terms of this Lease, except that Tenant must prorate on a monthly basis the Rent and other charges that, under the terms of this Lease, are to be paid annually to MAC and Tenant must pay the prorated amount to MAC, in advance, on or before the first day of each month.

18. Transfers

18.1. General Prohibition

Except as set forth in this [Section 18](#), Tenant may not sublease and may not assign, either absolutely or as collateral for Tenant's payment of a debt or performance of an obligation, all or any part of Tenant's interest in the Improvements or rights or obligations under this Lease including, but not limited to, Tenant's right to possession of the Leased Property.

18.2. Assignment Rights

For purposes of this [Section 18.2](#), the term “assignment” includes all transfers, conveyances or assignments of Tenant’s rights, whether voluntary or involuntary, other than a sublease or a leasehold mortgage. Subject to MAC’s consent, Tenant may assign Tenant’s rights and obligations under the Lease to a third party if, and only if, Tenant and the third party satisfy each of the conditions set forth in Section V.C. [Lease Assignments] of the [Policies](#) and Tenant pays to MAC, contemporaneously with the assignment, a facility acquisition fee, according to [Ordinance 119](#).

If all of the conditions are met, MAC may, at its discretion, either consent to the assignment or terminate this Lease and enter into a new lease with the proposed assignee.

18.3. Sublease

Except as otherwise provided herein, Tenant may not sublease the Leased Property or a portion thereof, without the written consent of MAC.

Tenant is responsible for all activities of any Subtenant(s) and must assure that any and all sublease(s) are made subject and subordinate to this Lease. No sublease is permitted to extend beyond the Term of this Lease. Every Subtenant is subject to all of the terms and conditions of this Lease, including the provisions of this Lease which permit MAC to terminate this Lease (which would result in a termination of the sublease) if Tenant defaults in its performance of one or more of Tenant’s obligations under this Lease (whether or not the Subtenant is in default under the terms of the sublease). Tenant must include in any sublease (i) a provision whereby the Subtenant agrees, for the benefit of MAC, to indemnify MAC in the same words as contained in the indemnification provisions set forth in [Section 13.3 \[Indemnification\]](#) of this Lease; (ii) a provision whereby the Subtenant agrees to maintain, in the Subtenant’s own name, insurance as described in the attached Exhibit C; (iii) a provision making the sublease subject and subordinate to this Lease; (iv) any provisions necessary to ensure that Tenant can comply fully with this Lease; and (v) all provisions in the sections of this Lease on Environmental Responsibilities and FAA Required Contract Provisions. This required language is set forth in the attached Exhibit C. Tenant must provide a copy of any sublease to MAC, upon request by MAC.

18.3.1 Storage Subleases

Tenant may sublease the Leased Property for storage of aircraft and for a period of less than six (6) months without notifying MAC of the identity of the Subtenant(s). In the case of a sublease for storage purposes of six (6) months or more, Tenant must provide MAC with the following information upon commencement of the sublease and on January 1st and July 1st of each year: the name, mailing address, airport address and telephone number of the Subtenant; and the aircraft make, model, and registration number of each aircraft stored on the Leased Property pursuant to the sublease.

Any Subtenant occupying the Leased Property under such a storage sublease may only use the Leased Property for storage of aircraft and for maintenance performed by the Subtenant on the Subtenant’s own aircraft.

18.3.2 Commercial Subleases

Tenant may sublease all or any portion of the Leased Property to a Commercial Subtenant if:

- (i) The proposed Commercial Subtenant is proposing to conduct a service authorized under this Lease or a commercial non-aviation/complementary business described in the Policies;
- (ii) All of the authorized uses under the sublease meet the minimum standards requirements in [Ordinance 118](#); and
- (iii) The Tenant obtains MAC's consent prior to entering into the sublease.

The request for consent must come from Tenant, and comply with the provisions of Section V.D.2 [Commercial Sublease] of the Policies.

The request for consent to sublease all or a portion of the Leased Property to a Commercial Subtenant will only be considered if: (i) the Tenant is not in default of this Lease or under any other agreement between the Tenant and MAC; and (ii) the proposed Commercial Subtenant is not in default of any lease or agreement between the proposed Commercial Subtenant and MAC.

In the case of Commercial Subtenants, Tenant is responsible for reporting the activities of Subtenant(s) to MAC. Tenant is also responsible for paying the percentage rent, ground rent and fuel flowage fees of any Subtenant(s) and submitting the corresponding reports to MAC.

18.4. Collateral Assignments

Subject to MAC's consent, Tenant may not assign, transfer, mortgage or otherwise pledge all or any portion of its rights, title or interest in the Leased Property pursuant to this Lease or any of its other rights under this Lease as collateral to secure Tenant's payment of a debt or performance of any other obligation of Tenant, except as provided in this [Section 18.4](#).

- (i) An agreement pursuant to which Tenant pledges, assigns, or grants an interest in its rights under this Lease as collateral for the payment of a debt or performance of some other obligation of Tenant must take the form of a leasehold mortgage.
- (ii) Tenant must not be in default of this Lease or any other agreement between Tenant and MAC.
- (iii) In the leasehold mortgage, the mortgagee must expressly acknowledge, for the benefit of MAC, that the mortgagee is acquiring no right, title, or interest in MAC's fee title to the Leased Property and that the mortgagee's rights in and to any Improvements are, at all times, subject to the terms and conditions of this Lease.
- (iv) If Tenant has not already done so, Tenant must obtain a legally sufficient legal description of the Leased Property, and Tenant must execute a memorandum of this Lease and record it, and the leasehold mortgage, in the appropriate county land records.
- (v) MAC hereby agrees that if the leasehold mortgagee notifies MAC of an address to which MAC may send notices, MAC will send a copy of any notice MAC is required to deliver to Tenant under the terms of this Lease to the leasehold mortgagee at the address the leasehold mortgagee had provided.

- (vi) MAC agrees that if Tenant defaults in the performance of one or more of Tenant's obligations under this Lease and MAC gives a notice of default as contemplated by [Section 19 \[Default\]](#), the leasehold mortgagee has the right, as far as MAC is concerned, to cure the default but nothing herein constitutes MAC's assurance that Tenant will grant the mortgagee access to the Leased Property to cure any non-monetary default and the mortgagee should address this issue through the inclusion of appropriate provisions in the mortgage.
- (vii) Tenant must also grant the leasehold mortgagee a mortgage on Tenant's right, title, and interests, if any, in and to any Improvements.
- (viii) In the leasehold mortgage, the mortgagee must expressly acknowledge and agree that, notwithstanding any other provisions of the mortgage or any related loan documents, the mortgagee will permit the Tenant to retain sufficient insurance proceeds available as a result of any damage to or destruction of the Improvements to permit Tenant to fully perform its obligations under [Section 14.2 \[Damage to Improvements\]](#).
- (ix) Tenant must provide a copy of the leasehold mortgage and related loan documents to MAC, upon request by MAC.

If Tenant grants a leasehold mortgage satisfying the requirements of this [Section 18.4](#), MAC agrees to execute a subordination agreement with the leasehold mortgagee pursuant to which MAC subordinates any statutory or common law lien MAC may have on the personal property of Tenant or on Improvements Tenant owns. MAC will not subordinate MAC's fee interest in the Leased Property, MAC's interest under this Lease, or any rights which MAC may have to the Improvements upon the expiration or termination of the Lease.

18.5. Change in Control of Entity or Business Name

If Tenant is a corporation, limited liability company, partnership or other business entity, the requirements of [Section 18.2 \[Assignment Rights\]](#) apply to any change in the ownership of Tenant if, as a result of such transfer, there is a change in the identity of individual or individuals who held a majority of the voting interest in Tenant or otherwise controlled the actions of Tenant as of the Commencement Date.

If Tenant is an entity, a change in the name of Tenant, which does not result in a change in ownership, is not subject to the requirements of [Section 18.2 \[Assignment Rights\]](#). However, Tenant must provide MAC Staff with documentation, satisfactory to MAC, evidencing the name change within thirty (30) days following the effective date of the name change.

19. **Default**

19.1. Events of Default

Any of the following constitute a default under this Lease:

- (i) Tenant fails to pay money owed to MAC under this Lease when due.
- (ii) Tenant fails to submit a report to MAC as required by [Ordinance 119](#).

- (iii) Tenant uses the Leased Property for any purpose not expressly authorized by this Lease.
- (iv) Tenant fails to allow an inspection in accordance with the terms and conditions of this Lease.
- (v) Tenant assigns, subleases or transfers this Lease except as otherwise permitted.
- (vi) Tenant fails to carry the insurance required under this Lease; any insurance required under this Lease is cancelled, terminated, expires or is reduced or materially changed so as to not comply with this Lease; or MAC receives notice of any such conditions pursuant to [Section 13 \[Insurance and Indemnification\]](#).
- (vii) Tenant vacates or abandons the Leased Property.
- (viii) Tenant fails to discharge, by payment or bond, any lien or encumbrance placed upon the Leased Property or Improvements.
- (ix) Tenant (a) makes a general assignment for the benefit of creditors; (b) commences any case, proceeding or other action seeking to have an order for relief entered or to adjudicate Tenant bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or (c) involuntarily becomes the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry.
- (x) Tenant fails to comply with any other term or condition of this Lease.
- (xi) MAC has issued a notice of violation and necessary abatement pursuant to [Ordinance 112](#), and Tenant fails to complete abatement by the end of the time period set forth in the Ordinance.
- (xii) Tenant makes a representation or warranty of material fact to MAC in connection with this Lease that proves untrue in any material respect.

19.2. MAC Remedies

If a default occurs, MAC will provide written notice of the default to Tenant, and will notify Tenant of any applicable cure period. For the defaults in paragraphs (i) through (vii) of [Section 19.1 \[Events of Default\]](#), the cure period is ten (10) calendar days from the date of notice. For the default in paragraph (viii) of [Section 19.1 \[Events of Default\]](#), the cure period is thirty (30) calendar days from the date of notice. For a default in paragraphs (x) and (xi) of [Section 19.1 \[Events of Default\]](#), the cure period is thirty (30) calendar days from the date of notice, or for a longer period of time as may be reasonably necessary, as determined by MAC, to cure the default, but only if: (i) Tenant is reasonably capable of curing the default, and (ii) is working diligently as determined by MAC to cure the default.

If a default is not cured, MAC, at its option and in its sole discretion, may, at any time after written notice to Tenant of the default and any applicable cure period, do one or more of the following to the extent permitted by applicable law:

- (i) MAC may, without releasing Tenant from its obligations under the Lease, attempt to cure the default. MAC may enter the Leased Property for such purpose and take such action as it deems desirable or appropriate to cure the default. This entry is not an eviction of Tenant or a termination of this Lease;
- (ii) With legal process, but without further notice to Tenant, re-enter the Leased Property or any part thereof and take possession of it fully and absolutely, without such re-entry working a forfeiture of the money to be paid and the terms and conditions to be performed by Tenant for the full Term of this Lease. MAC's re-entry of the Leased Property is not a termination of this Lease. In the event of such re-entry, MAC may proceed for the collection of money to be paid under this Lease or for properly measured damages;
- (iii) MAC may allow Tenant to assign the Lease, provided all the requirements described in [Section 18.2 \[Assignment Rights\]](#) of the Lease are otherwise met and the assignee agrees to cure the default;
- (iv) Terminate this Lease upon written notice to Tenant and re-enter the Leased Property as of its former estate, and implement the provisions of [Section 17 \[Surrender of Leased Property\]](#); Tenant covenants in the case of such termination to indemnify MAC against all loss of rents and expenses during the remainder of the Term, unless and until MAC recovers the same through a lease for the Leased Property with a new tenant; and
- (v) Exercise all other rights and remedies including injunctive relief, ejectment, or summary proceedings such as an eviction action and any other lawful remedies, actions, or proceedings.

In the event of any default and for any type of remedy chosen by MAC, Tenant must reimburse MAC for all reasonable fees and costs incurred by MAC, including reasonable attorneys' fees, relating to such default and/or the enforcement of MAC's rights hereunder, and costs incurred attempting to cure a default. Any and all legal remedies, actions and proceedings are cumulative.

19.3. Cumulative Default

Notwithstanding the written notice and cure periods set forth above, MAC is only required to provide Tenant with notice and opportunity to cure two (2) Cumulative Defaults in any calendar year. Only for purposes of this paragraph, Cumulative Default means: (i) Tenant's failure to timely pay money due under this Lease; (ii) Tenant's failure to submit a report to MAC as required by [Ordinance 119](#); (iii) Tenant's failure to comply with [Section 3 \[Use of Leased Property\]](#); and (iv) any violation of the terms and conditions of this Lease which has the likelihood in MAC's reasonable discretion to cause harm to life or property. In addition, MAC is only required to provide Tenant with notice and opportunity to cure two (2) defaults of failing to allow an inspection of the Leased Property in any calendar year. Beginning with the third (3rd) Cumulative Default or third (3rd) failure to allow an inspection in any calendar year, MAC is not required to provide notice and opportunity to cure for such Cumulative Default or failure and may immediately take such action as MAC deems appropriate under this Lease.

19.4. Default of Other Agreements

A default by Tenant of any other agreement between Tenant and MAC constitutes a default of this Lease. Notice of a default in another agreement is notice of default under this Lease.

20. Environmental Responsibilities

20.1. Definitions

- (i) Environmental Law. Any common law or duty, case law or ruling, statute, rule, regulation, law, ordinance, or code, whether local, state or federal, that regulates, creates standards for or imposes liability or standards of conduct concerning any Environmentally Regulated Substances.
- (ii) Environmentally Regulated Substances. Any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, regulated pursuant to any Environmental Law, including but not limited to products that might otherwise be considered of commercial value, such as asbestos, polychlorinated biphenyls, petroleum products and byproducts, glycol and other materials used in de-icing operations.

20.2. Indemnification

For the avoidance of doubt, all obligations stated in [Section 13.3 \[Indemnification\]](#) apply to any Loss relating to or regarding Environmentally Regulated Substances or Environmental Laws, or any matters arising out of or relating to [Sections 20.3 \[Compliance with Environmental Laws\]](#) through [20.9 \[Miscellaneous Environmental Operating Conditions\]](#) below.

20.3. Compliance with Environmental Laws

Tenant must keep and maintain and must conduct its operations at the Leased Property and Airport in full compliance with all Environmental Laws. Tenant must further ensure that its employees, agents, contractors, subcontractors, and any other persons conducting any activities on the Leased Property and Airport related to the Tenant will do so in full compliance with all Environmental Laws. By virtue of its operational control of the Leased Property, Tenant is fully responsible for maintaining all control of the Leased Property and for obtaining all necessary permits or other approvals required by Environmental Laws in its name, and has full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon request of MAC, Tenant must provide copies to MAC of any such applications, forms, documents, notifications, or certifications.

Except as provided below for monitoring wells and except as provided in the [Policies](#), there must be no wells or septic systems on the Leased Property. Installation of any monitoring wells or tanks on the Leased Property is subject to the prior written approval of MAC Staff, provided that only aboveground storage tanks will be allowed on the Leased Property, unless MAC Staff determines that aboveground tanks are not feasible. Fuel tanks may not be installed on the Leased Property. Notwithstanding the prior two sentences, Tenant accepts title and ownership to (i) all tanks, septic systems, or wells existing on the Leased Property at the time of execution of this Lease, and (ii) any tanks, septic systems, or wells installed at any time during the Term of this Lease or during any holding over.

20.4. Testing and Reports

Tenant must provide to MAC, within ten (10) days of receipt, a copy of any notice regarding a violation of the Environmental Laws arising out of Tenant's past or present operations on the Leased Property and Airport, a copy of any report, whether in final or draft form, regarding compliance with Environmental Laws or with the presence, use, emission or release of any Environmentally Regulated Substances arising out of Tenant's past or present operations on the Leased Property and Airport, or a copy of any notice of the emission or release of Environmentally Regulated Substances in violation of the Environmental Laws arising out of Tenant's past or present operations on the Leased Property and Airport. If MAC has a reasonable basis to believe that Tenant is not meeting the obligations of [Section 20.3 \[Compliance with Environmental Laws\]](#) hereof, MAC may require Tenant to perform reasonable environmental studies or assessments (for example, Phase I or Phase II reports as such terms are generally known on the date of execution of this Lease) on the Leased Property with the written results being delivered to MAC within ten (10) days of their receipt, whether in draft or final form.

20.5. Notification

Tenant must immediately notify MAC in writing of any matter known to Tenant that might give rise to a Loss relating to or regarding Environmentally Regulated Substances or Environmental Laws, or if Tenant obtains knowledge of any release, discharge, disposal or emission, or any threatened release, discharge, disposal or emission of any Environmentally Regulated Substance in, on, under, or around the Leased Property and Airport, arising from or relating to Tenant's past or present operations or actions and which is not or may not be in full and complete compliance with all Environmental Laws.

Tenant is responsible for any Fuel or Environmentally Regulated Substance spills caused by or resulting from operations of Tenant or persons under Tenant's control on the Leased Property and Airport. Tenant must promptly notify MAC verbally of any such spills or other spills, regardless of the amount, caused by or resulting from operations of Tenant or persons under Tenant's control on the Leased Property and Airport.

20.6. Right to Investigate

In addition to MAC's right to inspect the Leased Property and any Improvements as set forth in [Section 8 \[Right of Entry and Inspection\]](#), MAC has the right, but not the obligation or duty, anytime from and after the date of this Lease, to investigate, study and test the Leased Property (at MAC's own expense, unless otherwise provided herein), and without unreasonably interfering with Tenant's operation or use of the Leased Property, during normal business hours, except under emergency circumstances, to determine whether Environmentally Regulated Substances are located in, on or under the Leased Property and Airport, or were emitted or released therefrom, which are not in compliance with Environmental Laws. Inspections will be conducted in accordance with the guidelines set forth in the [Policies](#).

Upon the reasonable request of MAC, Tenant must provide a list of any and all Environmentally Regulated Substances used in, on or under the Leased Property and Airport by Tenant, certified as true and correct, and specifying how such Environmentally Regulated Substances are used, stored, treated, or disposed.

20.7. Right to Take Action

MAC has the right, but not the duty or obligation, to take whatever reasonable action it deems appropriate to protect the Leased Property and Airport from any material impairment to its value resulting from any escape, seepage, leakage, spillage, discharge, deposit, disposal, emission, or release of Environmentally Regulated Substances from the Leased Property and Airport that is not in full compliance with any Environmental Law and arises out of Tenant's past or present operations. Except in the event of an emergency, MAC will notify Tenant of its intention to take such action in writing thirty (30) days before proceeding under this [Section 20.7](#). Within that thirty (30) day period, Tenant has the opportunity to take whatever reasonable action is deemed appropriate by MAC to cure the matter of concern or provide MAC a binding commitment to do so within a reasonable time. If Tenant does not take such action or provide a binding commitment within the thirty (30) day period, MAC may proceed under the terms of this [Section 20 \[Environmental Responsibilities\]](#). All reasonable costs associated with any action by MAC in connection with this provision, including but not limited to reasonable attorney's fees, is subject to [Section 13.3 \[Indemnification\]](#) hereof.

20.8. Environmental Claims Relating to Environmentally Regulated Substances

Tenant represents and warrants that, since the time Tenant commenced operations on the Leased Property or took or assumed an interest in the Leased Property, to the best of Tenant's knowledge (except for matters that have been corrected in accordance with law) (i) no enforcement, investigation, cleanup, removal, re-mediation, or response or other governmental or regulatory actions have, or could have at any time, been asserted or threatened with respect to Tenant's past or present operations conducted on the Leased Property or Airport, or the Leased Property itself, or against Tenant with respect to or in any way regarding the Leased Property, pursuant to any Environmental Laws, or relating to Environmentally Regulated Substances; (ii) no violation or noncompliance with Environmental Laws has occurred with respect to the Leased Property or Tenant's past or present operations thereon; (iii) no claims with respect to the Leased Property or Tenant's past or present operations thereon, or against the Tenant with respect to the Leased Property or Airport or Tenant's past or present operations thereon relating to Environmental Laws or Environmentally Regulated Substances, have been made or been threatened by any third party, including any governmental entity, agency or representative. For purposes hereof, "the best of Tenant's knowledge" means the actual knowledge (without any duty to inquire) of the person within the Tenant's operations that has the primary responsibility for ensuring compliance with Environmental Laws.

20.9. Miscellaneous Environmental Operating Conditions

If applicable, Tenant agrees to apply for and comply with either the Multi-Sector General Permit for Industrial Activity or an individual stormwater permit issued to Tenant. Tenant must not conduct any vehicle or aircraft maintenance outside, which includes aircraft and vehicle rehabilitation, mechanical repairs, painting, lubrication and equipment cleaning, and must not store waste materials outside. Tenant must ensure its dumpsters are covered at all times except when being filled with waste and must prevent its equipment from having releases to stormwater.

For indoor and outdoor truck and trailer washing: Indoor washing is authorized where wash water drains to the sanitary system properly. Outdoor washing requires the use of

a wash water runoff containment system allowing the run-off to be collected and disposed of properly.

Tenant is prohibited from having any discharges of wash waters with detergents or Environmentally Regulated Substances to stormwater. For products containing Environmentally Regulated Substances (e.g., pavement deicers, rubber removal chemicals, detergents, etc.) that may be exposed to stormwater as part of Tenant's operation on the Leased Premises, Tenant's use must be limited to those products which are approved by the Minnesota Pollution Control Agency (MPCA).

21. **FAA Required Contract Provisions**

21.1. Further Development

MAC reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Tenant, and without interference or hindrance.

21.2. Maintenance

MAC reserves the right, but shall not be obligated to Tenant, 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 Tenant in this regard.

21.3. Subordination

This Lease shall be subordinate to the provisions of and requirements of any existing or future agreement between MAC and the United States, relative to the development, operation, or maintenance of the Airport, and relative to taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

Nothing in this Lease shall be construed to prevent MAC from making such commitments as it desires to the Federal Government or the State of Minnesota in order to qualify for the expenditure of Federal or State funds on the Airport.

21.4. Part 77

Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure is planned for the Leased Property, or in the event of any planned modification or alteration of any present or future structure situated on the Leased Property.

21.5. Use Not Exclusive

Tenant shall have the right to conduct all operations authorized pursuant to the terms of this Lease; provided, however, that this Lease shall not be deemed to grant to Tenant, any Subtenant, or any claiming a right through or by Tenant or any Subtenant, the exclusive right to use any part or portion of the Airport other than the Leased Property.

It is hereby specifically understood and agreed that nothing in this Lease shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958,

as amended, and MAC reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.

21.6. Hazards

Tenant by accepting this Lease agrees for itself, its successors, and assigns that it will not make use of the Leased Property in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, MAC reserves the right to enter upon the Leased Property and cause the abatement of such interference at the expense of the Tenant.

21.7. Performance of Services on Aircraft

It is clearly understood by Tenant that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform, in accordance with the [Policies](#).

21.8. General Civil Rights Provision

Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant.

This provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

21.9. Title VI Clause for Use of Real Property

Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

21.10. Title VI Clause for Construction/Use/Access to Real Property

Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any

improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

21.11. Civil Rights – Title VI Assurance

During the performance of this contract, the Tenant, for itself, its assignees and successors in interest (hereinafter referred to as the "Tenant") agrees as follows:

1. Compliance with Regulations. The Tenant will comply with Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The Tenant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-contractor, including procurement or materials and leases of equipment. The Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Subcontracts, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by the Tenant for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential sub-contractor or supplier will be notified by the Tenant of the Tenant's obligations under this contract and the Nondiscrimination Acts and Authorities.
4. Information and Reports. The Tenant will provide all information and reports required by the Nondiscrimination Acts and Authorities and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by MAC or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Tenant is in the exclusive possession of another who fails or refuses to furnish this information, the Tenant will so certify to MAC or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance. In the event of the Tenant's noncompliance with non-discrimination provisions of this contract, MAC shall impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to;
 - (a) Withholding payments to the Tenant under the contract until the Tenant complies; and/or
 - (b) Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions. The Tenant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities. The Tenant will take action with respect to any subcontract or procurement as MAC or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Tenant becomes involved in, or is threatened with litigation by a sub-contractor, or supplier because of such direction, the Tenant may request the MAC to enter into any litigation to protect the interests of the MAC. In addition, the Tenant may request the United States to enter into such litigation to protect the interests of the United States.

21.12. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Tenant, for itself, its assignees, and successors in interest (hereinafter referred to as the “Tenant”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex); Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Operators, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

21.13 Disadvantaged Business Enterprises

Tenant acknowledges and agrees that it may be required to practice nondiscrimination in its activities and provide disadvantaged business enterprises participation in any subleases, as required by MAC in order to meet MAC’s goals, or required by the FAA in order to obtain an exemption from the prohibition against long-term exclusive leases.

22. **MAC’s Operation of the Airport**

MAC will properly maintain, operate, and manage the Airport at all times in a safe manner, according to generally accepted good practices in the State of Minnesota for airports of similar size and character. If for any reason beyond the control of MAC (including, but not limited to, war, strike, riots, and civil commotion), MAC fails to properly maintain, operate, or manage the Airport, such failure is not a breach of this Lease and MAC is not liable in damages. This paragraph does not require MAC to operate an airport traffic control tower at the Airport unless, in the judgment of MAC, such operation is deemed necessary, nor does this paragraph bind MAC to maintain the Leased Property.

23. **Notices**

Except as otherwise specifically provided in this Lease, all notices, demands, elections, requests, and other communications required or permitted herein (any of which is referred to in this paragraph as a "Notice") must be in writing. Any Notice given by a party's attorney is Notice given by such party, provided that, in the case of outside counsel, such party has reasonably communicated the existence of the attorney's representation of the party to the recipient of the Notice. All such Notices (and copies thereof) are delivered: (a) if sent by messenger, upon personal delivery to the party to whom the Notice is directed; (b) if sent by United States mail (prepaid certified or registered, return receipt requested, correctly addressed), three (3) business days after being so mailed; (c) if sent by electronic mail on (i) the business day sent so long as such electronic mail Notice is sent within business hours (i.e., 8:00 a.m. Central time – 5:00 p.m. Central time) on that business day (unless a different time period is provided herein) or (ii) the next business day if sent after business hours (i.e., 8:00 a.m. Central time – 5:00 p.m. Central time) on the business day sent or sent on a day other than a business day, and in either case upon confirmation of transmission generated by the sender's computer or acknowledgement of receipt by the party to whom such electronic mail Notice is sent; or (d) if sent by overnight courier, with request for next business day delivery, on the next business day after sending; addressed as follows (or to such other address as the parties may specify by fifteen (15) days' advance Notice given pursuant to this [Section](#)):

MAC: Metropolitan Airports Commission
Attn: Assistant Director, Reliever Airports
6040 28th Avenue South
Minneapolis, Minnesota 55450-2799
Email:

Tenant: Reference address in Exhibit D: Lease Notice Address.
E-mail: Reference address in Exhibit D: Lease Notice Address

24. General Provisions

24.1. Definitions

- 24.1.1 Commercial Sublease. A sublease held by a Commercial Subtenant. "Commercial Sublease" does not include a collateral assignment made pursuant to [Section 18.4 \[Collateral Assignments\]](#).
- 24.1.2 Commercial Subtenant. Any Subtenant that conducts any commercial operation on any part of the Leased Property.
- 24.1.3 FAA. The Federal Aviation Administration.
- 24.1.4 Improvement(s). Any improvements, fixtures, or other betterments or additions to the Leased Property; including a hangar.
- 24.1.5 Indemnitee(s). MAC, its Commissioners, officers, employees, agents, and any successors, as well as any successors to MAC's interest.
- 24.1.6 [Ordinance 112](#). [MAC Ordinance 112](#), which provides standards for the structural integrity, aesthetics, and maintenance of Leased Property and Improvements, as amended, replaced or restated from time to time.
- 24.1.7 [Ordinance 118](#). [MAC Ordinance 118](#), which establishes minimum standards for commercial operators, as amended, replaced or restated from time to time.
- 24.1.8 [Ordinance 119](#). [MAC Ordinance 119](#), which establishes rental rates, fees and other charges to be paid at the Reliever Airports, as amended, replaced or restated from time to time.
- 24.1.9 Policies. [Reliever Airports Lease Policies, Rules and Regulations](#), and all the attachments, adopted by MAC, and as amended from time to time.
- 24.1.10 Subtenant. Any person or entity holding a right to possession of all or any portion of the Leased Property that is derived from Tenant's rights under this Lease. The term Subtenant includes, but is not limited to (i) a sublessee of Tenant; and (ii) an assignee or sublessee of a sublessee of the Tenant.

24.2. Consent of MAC

Where this Lease refers to the consent or approval of "MAC Staff," it means the consent or approval of MAC's Executive Director or designated representative.

Where this Lease refers to the consent or approval of "MAC," it means the formal consent or approval of MAC's Board of Commissioners or full Commission.

At any time that the consent of MAC Staff or MAC is required under this Lease, the consent of MAC Staff and the consent of MAC will not be unreasonably withheld, unreasonably conditioned or unreasonably delayed.

24.3. Public Portions of Airport

Tenant has the privilege of using the public portions of the Airport, such as runways and other public facilities, under such terms, ordinances, rules, and regulations as now exist or may be enacted by MAC, and subject to charges for such use as may be established by MAC policy, by ordinance, or by agreement with Tenant.

24.4. Waiver

The waiver by MAC or Tenant of any breach of any term of this Lease is not a waiver of any prior or subsequent breach of the same term or any other term of this Lease.

24.5. Headings

The Section headings in this Lease are for convenience in reference and are not intended to define or limit the scope of any provision of this Lease.

24.6. Entire Agreement

This Lease represents the entire agreement between the parties and supersedes any prior agreements regarding the Leased Property. This Lease may only be modified if done in writing and executed by both parties.

24.7. Severability

If any part of this Lease is held invalid, it will not affect the validity of the remaining parts of this Lease, provided that such invalidity does not materially prejudice either party under the remaining parts of this Lease.

24.8. Governing Law

This Lease is to be construed and governed in accordance with the laws of the State of Minnesota.

24.9. Public Data

Tenant is notified that this Lease and all data shared with MAC are subject to the requirements of the Minnesota Government Data Practices Act, [Minnesota Statutes, chapter 13](#), which presumes that government data is accessible to the public, unless public access is specifically prohibited by law. In no circumstances will this Lease impair MAC's ability to comply with the Act.

In addition, Tenant agrees that certain data are not trade secret. Such data, in all instances, include this Lease, and any report required to be provided by Tenant to MAC by [Section 4. \[Rent\]](#), except for those reports requested by MAC as part of an Audit. In addition, such data include any information, regardless of media, delivered to MAC without conspicuous confidentiality legends identifying the data as containing trade secrets. Tenant waives all confidentiality interests in each of these categories of data and agrees that this information can be treated by MAC as data accessible to the public.

24.10. Successors

This Lease extends to and binds the legal representatives, successors, and assigns of the parties to this Lease.

24.11. Relationship of Parties

Nothing contained in this Lease creates a partnership, association, or joint venture between MAC and Tenant, or creates any other relationship between the parties other than that of landlord and tenant.

24.12. Multiple Parties

If more than one person or entity is named as the Tenant, the obligations of the Tenant are the joint and several responsibilities of all persons or entities named as Tenant.

24.13. Commitment of Future Space

MAC has no obligation to provide the Leased Property to Tenant beyond the Term and the renewal term as described in [Section 2.2 \[Renewal Term\]](#) of this Lease, or beyond earlier termination of this Lease, except as specifically set forth in this Lease. MAC has no obligation to provide any other MAC or Airport property to Tenant beyond the Term and the renewal term as described in [Section 2.2 \[Renewal Term\]](#) of this Lease, or beyond the earlier termination of this Lease, except as specifically set forth in another agreement between MAC and Tenant, such as a lease between MAC and Tenant for other leased property.

24.14. Execution

This Lease may be executed in any number of counterparts, each of which is considered an original. Valid execution occurs when the signature page is executed by the Tenant and countersigned by MAC.

The parties agree that the electronic signatures, whether digital or encrypted, by their respective signatories are intended to authenticate such signatures and to give rise to a valid Lease.

Tenant's signatory must execute this Agreement. By executing, Tenant's signatory attests that he or she has authority to bind Tenant with respect to each obligation undertaken by Tenant pursuant to this Lease.

METROPOLITAN AIRPORTS COMMISSION

TENANT:

By: _____

By: _____

Name: Chad Leqve

Name: _____

Title: Vice President, Management and Operations

Title: _____

Date: _____

Date: _____

State of Minnesota

County of _____

This instrument was acknowledged before me on the _____ day of _____, 20_____

by _____ as the authorized representative of the Metropolitan Airports Commission.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____

State of Minnesota

County of _____

This instrument was acknowledged before me on the _____ day of _____, 20_____

by _____.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____

EXHIBIT "A"

Description of Leased Property and Square Footage Calculation

DRAFT

EXHIBIT "B"

Description of Sewer and Water Easement

DRAFT

EXHIBIT "C"

Sublease Provisions

1. Subordination

_____ ("Tenant") and _____ ("Subtenant") have entered into this agreement ("Sublease") pursuant to Tenant's rights under Tenant's lease agreement with the Metropolitan Airports Commission, a public corporation of the State of Minnesota ("MAC") for the real property commonly referred to as Lot ____ at the _____ Airport ("Leased Property") ("Lease"). Subtenant acknowledges and agrees that this Sublease is subordinate and subject to all the terms and conditions the Lease. Neither Tenant nor Subtenant will do or permit anything to be done in connection with the Sublease or Subtenant's occupancy of the Leased Property that would violate the Lease. This Sublease will not extend beyond the Term of the Lease. If a defined term is not otherwise defined in this Sublease, the definition given that term by the Lease controls.

2. Subtenant Books and Records [To be included in all Commercial Subleases]

2.1 Definitions

- (i) **Books and Records.** Accounting records, in accordance with Generally Accepted Accounting Principles, relevant to all commercial operations on, or associated with the use of, the Leased Property conducted by a Commercial Subtenant. In maintaining Books and Records, each Commercial Subtenant shall use point of sale systems, invoicing machines, sales slips, and other accounting equipment at the Leased Property as are reasonably necessary to properly and completely record and report all Tenant Gross Sales and fueling activity.
- (ii) **Generally Accepted Accounting Principles.** Generally accepted accounting principles set forth in the opinions and pronouncements of an authoritative body designated by the American Institute of Certified Public Accountants (AICPA) Council (for example, the Financial Accounting Standards Board Statements, AICPA Accounting Principles Board Opinions, and AICPA Accounting Research Bulletins) or in such other statements by such other entity or entities as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

2.1 Maintenance of Books and Records

Subtenant must maintain adequate Books and Records for its operations and must cause each of its third-tier Commercial Subtenants to maintain Books and Records for the third-tier Commercial Subtenant's operations that include a detailed analysis listing all operations at the Leased Property in the form of printed, written, or electronic media. Books and Records also include all original accounting source documents detailing transactions relevant to this Sublease, including, without limitation, (a) original rental/sales contracts, (b) operating/financial statements, (c) a complete (cumulative) general ledger, (d) a chart of accounts; (e) monthly sales journals detailing each transaction for the month, (f) reconciliation between the financial records and any reports submitted by Tenant to MAC, (g) bank statements applicable to the operations on the Leased Property, (h) corporate trial balances, (i) federal and state tax returns, (j)

confirmation of fuel deliveries by suppliers, (k) corporate contracts with corporate customers, (l) annual financial statements and related reports on internal controls (including management representation letters), (m) electronic media documenting accounting records, (n) other documents related to sales and fueling activity, and (o) any documentation or records supporting claimed exclusions from Tenant Gross Sales and fuel flowage fees.

2.3 Computer Records

In those situations where the Books and Records have been generated from computerized data (whether mainframe, minicomputer or PC-based computer systems), Subtenant agrees to provide Tenant or MAC Staff with extracts of data files in a computer readable format on data disks, email with attached files, or alternative computer data exchange formats, reasonably satisfactory to MAC Staff.

2.4 Cooperation by Subtenant

Upon request, Subtenant must provide to Tenant or to MAC the name and telephone number of Subtenant's accounting manager, or equivalent person, who has a thorough knowledge of the accounting system as it pertains to commercial operations under this Lease and who will assist MAC with any audit conducted by MAC. Subtenant will also allow interviews of past and present accounting managers or equivalent persons and employees who are or were involved in the financial and operational activities of Subtenant.

2.5 Length of Books and Records Retention

Subtenant must keep all Books and Records required by this Sublease for at least six (6) years after the end of the applicable year, or in the event of a claim by MAC under the Lease, until such later time as such claim of MAC has been fully ascertained, fixed, and paid.

2.6 Obligations Applicable to Third-Tier Subtenants

Subtenant's obligations with respect to Books and Records extend to Subtenant's subsidiaries, partners, joint ventures, third-tier Subtenants and the like. Subtenant must incorporate the foregoing obligations into any third-tier Commercial Sublease. MAC is a third-party beneficiary of such obligations. Subtenant is responsible for informing such parties of these obligations and assuring performance of these obligations by such parties.

2.7 Right to Audit

MAC has the right under this Sublease, of which right it is a third-party beneficiary, at all reasonable times during the Term of the Lease to inspect the Books and Records for a period of at least six (6) years prior to the end of the current year and continuing through to the completion of the audit ("Audit").

2.8 Provision of Audit Workspace

Subtenant agrees to provide reasonable workspace to allow the conduct of any Audit and free access to and use of copiers, fax machines, and other reasonable office equipment. Subtenant will make the requested Books and Records available to MAC or to Tenant within thirty (30) days from the date of request by MAC or Tenant, and will lend its own assistance in conducting the Audit at no cost to MAC. Subtenant must provide the Books and Records to MAC or Tenant in the Minneapolis-St. Paul metropolitan area for inspection during business hours. In the event that the requested documentation is not provided within thirty (30) days from the date of request by MAC or Tenant, Subtenant must reimburse MAC or Tenant for the cost of travelling to and from the location where the Books and Records are maintained to conduct the Audit. Such expenses will include transportation, lodging, food, and other out-of-pocket expenses for the full duration of the time needed to complete the Audit.

2.9 Survival of Subtenant's Duties and MAC's Rights

Subtenant's duty to maintain Books and Records and MAC's rights, of which rights MAC is a third-party beneficiary, under this Sublease to conduct any Audit(s) survive the expiration or early termination of this Sublease.

2.10 Obligations Applicable to Third-Tier Subtenants

Subtenant must incorporate the foregoing obligations into any Third-Tier Commercial Sublease so that MAC will have the same audit rights with respect to each Third-Tier Commercial Subtenant.

3. Insurance and Indemnification

3.1 Required Insurance

Effective as of the earlier of the date Subtenant enters or occupies the Leased Property or the commencement date of the Sublease, and continuing during the term of the Sublease, Subtenant, at its expense, must obtain and maintain in full force the following insurance coverage:

- (i) Extended peril property insurance covering the full replacement cost of all Improvements in which Subtenant possesses an insurable interest, as well as trade fixtures and other personal property owned by Subtenant and located on the Leased Property (if not otherwise insured); and, if the Leased Property is located in a flood zone, flood insurance covering the full replacement cost of all Improvements in which Subtenant possesses an insurable interest and trade fixtures owned by Subtenant and located on the Leased Property. The policy or policies must name MAC as a loss payee and provide that such proceeds be paid over to MAC as MAC's interests may appear.

In the alternative, Subtenant may elect to carry a level of property insurance, and flood insurance, if applicable, acceptable to MAC's Insurance Risk Department in its reasonable judgment that is sufficient upon the happening of any peril to remove any debris caused by the peril, to properly eliminate any contamination caused by the peril and to otherwise return the Leased Property to buildable condition, with acceptable decontamination of environmental media to be verified by an independent contractor's sample test of leased property and impacted areas. If

Subtenant elects to carry this alternative type of insurance, Subtenant's liability and further responsibility under the Lease will not be diminished.

- (ii) Commercial general liability insurance, with a minimum limit of \$1,000,000 per occurrence (\$2,000,000 if a Commercial Subtenant) and \$2,000,000 aggregate for contractual liability, property damage, bodily injuries, or deaths of persons occurring at or incidental to the Leased Property, or at or incidental to the Airport if caused by the act or omission of Subtenant or those for whom Subtenant is responsible. The policy or policies must name MAC as an additional insured and must be primary and non-contributory by endorsement or by terms and conditions of the policy(s).
- (iii) If a Commercial Subtenant, Subtenant shall obtain and maintain aircraft liability insurance, including passenger liability, with a minimum combined single limit of \$2,000,000 per passenger seat for each occurrence for property damage, bodily injuries, or deaths of persons occurring at or incidental to the airports if caused by the act or omission of Tenant or those for whom Tenant is responsible. The policy or policies must name MAC as an additional insured and be primary and non-contributory by endorsement or by terms and conditions of the policy(s).
- (iv) Worker's compensation insurance with no less than the minimum limits required by law and employer's liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease – each employee, \$1,000,000 disease – policy limit, if Subtenant has employees located at the Leased Property. The policy or policies must contain a waiver of subrogation in favor of MAC by endorsement or by terms and conditions of the policy(s).
- (v) If a Commercial Subtenant, Subtenant shall obtain and maintain aviation liability insurance with a minimum \$10,000,000 per occurrence and aggregate for refueling, and \$5,000,000 products-completed operations per occurrence and aggregate. The policy or policies must name MAC as an additional insured and be primary and non-contributory by endorsement or by terms and conditions of the policy(s).

MAC may from time to time require reasonable modification to the limits and coverages set forth in this [Section](#), which modification will apply to Subtenant and all other similarly situated tenants.

3.2 Form of Insurance/MAC's Rights

All required liability insurance policies must insure on an occurrence and not on a claims-made basis. All insurance policies must be issued by insurance companies that are licensed or admitted in Minnesota and have an A.M. Best rating of at least A-VII. Subtenant is responsible for ensuring that all policies are not canceled, reduced, or materially changed unless thirty (30) days prior written notice has been given to MAC. Any policy issued to MAC providing duplicate or similar coverage is deemed excess over Subtenant's policies by endorsement or by terms and conditions of the policy(s).

Subtenant agrees to provide the insurance required above for the benefit of MAC, including all Losses (as defined below) of MAC. Subtenant is responsible for all deductibles.

Original certificates using the most current standard ACCORD form, or at MAC's option, copies of the policies evidencing coverage, must be delivered to MAC or to its designated agent at least ten (10) days prior to the commencement date of this Sublease and at least fifteen (15) days prior to each renewal of such insurance. If Subtenant fails to comply with these insurance requirements, or to deliver to MAC copies of such policies and certificates evidencing the required coverage, MAC, in addition to any remedy available pursuant to the Lease or otherwise, and without providing any notices required under [Section 19 \[Default\]](#) of the Lease, may, but is not be obligated to, obtain such insurance, or a bond or other method of risk transfer, and Subtenant must pay to MAC on demand the premium costs thereof, plus an administrative charge of twelve percent (12%).

Notwithstanding anything contained in this Sublease to the contrary, Subtenant waives all claims it may now have or may hereafter acquire against Indemnitee(s) with regard to or arising out of any loss or damage to the Leased Property and any of the Improvements, Subtenant's trade fixtures or personal property, to the extent that Subtenant is entitled to assert a claim and Subtenant receives insurance proceeds under any of the insurance policies Subtenant is required to maintain under [Section 3.1 \[Required Insurance\]](#) or under any other insurance policies Subtenant may have in force and effect at the time of the loss or damage.

3.3 Indemnification

To the fullest extent permitted by law, Subtenant agrees to indemnify, save harmless, and defend Indemnitees against all losses and liabilities, or claims thereof, arising out of or incident to past or present: (i) use of the Leased Property and Airport by Subtenant; (ii) occupancy of the Leased Property by Subtenant; (iii) operations of Subtenant at the Leased Property and Airport; or (iv) acts or omissions of Subtenant's or Subtenant's agents, licensees, Subtenants, or invitees, regardless of where the loss may occur (hereinafter, "Loss"). Subtenant agrees to bear all reasonable costs of the investigation of and defense against any Loss. Subtenant also agrees to bear all reasonable costs of MAC's actions taken in response to the Loss or in remedying the same. The costs mentioned in the previous two sentences include without limitation, the fees of laborers, attorneys, consultants, experts, and investigators, as well as the costs of supplies, materials, and equipment. Notwithstanding the foregoing four sentences, Subtenant is not obligated to indemnify, save harmless, or defend an Indemnitee against any Loss to the extent a court of competent jurisdiction decides that such Loss resulted from an Indemnitee's sole negligence or intentional acts, or to the extent MAC Staff and Subtenant mutually in writing agree that Subtenant is not obligated.

MAC Staff will give Subtenant reasonable notice of any Loss. In indemnifying or defending an Indemnitee, Subtenant must use counsel reasonably acceptable to MAC Staff. MAC Staff, at its option, has the right to select its own counsel, or to approve joint counsel, as appropriate, and any experts for the defense. Subtenant, at its expense, must provide MAC with all electronic or physical data and give access to any persons reasonably necessary to investigate and defend.

The provisions of this [Section 3.3](#) survive expiration or earlier termination of this Sublease. The furnishing of the required insurance does not limit Subtenant's obligations under this [Section 3.3](#).

As a distinct and separate indemnification obligation, Subtenant agrees to indemnify, save harmless, and defend Indemnitees from any Loss arising out of Subtenant's failure or

alleged failure to procure and to keep in force the insurance required in [Section 3.1 \[Required Insurance\]](#).

This indemnification is intended for the indemnified parties and their legal representatives. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations.

4. Environmental Responsibilities

4.1 Definitions

- (i) Environmental Law. Any common law or duty, case law or ruling, statute, rule, regulation, law, ordinance, or code, whether local, state or federal, that regulates, creates standards for or imposes liability or standards of conduct concerning any Environmentally Regulated Substances.
- (ii) Environmentally Regulated Substances. Any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, regulated pursuant to any Environmental Law, including but not limited to products that might otherwise be considered of commercial value, such as asbestos, polychlorinated biphenyls, petroleum products and byproducts, glycol and other materials used in de-icing operations.

4.2 Indemnification

For the avoidance of doubt, all obligations stated in [Section 3.3 \[Indemnification\]](#) apply to any Loss relating to or regarding Environmentally Regulated Substances or Environmental Laws, or any matters arising out of or relating to Sections [4.3 \[Compliance with Environmental Laws\]](#) through [4.9 \[Miscellaneous Environmental Operating Conditions\]](#) below.

4.3 Compliance with Environmental Laws

Subtenant must keep and maintain and must conduct its operations at the Leased Property and Airport in full compliance with all Environmental Laws. Subtenant must further ensure that its employees, agents, contractors, subcontractors, and any other persons conducting any activities on the Leased Property and Airport related to the Subtenant will do so in full compliance with all Environmental Laws. By virtue of its operational control of the Leased Property, Subtenant is fully responsible for maintaining all control of the Leased Property and for obtaining all necessary permits or other approvals required by Environmental Laws in its name, and has full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon request of MAC, Subtenant must provide copies to MAC of any such applications, forms, documents, notifications, or certifications.

Except as provided below for monitoring wells and except as provided in the [Policies](#), there must be no wells or septic systems on the Leased Property. Installation of any monitoring wells or tanks on the Leased Property is subject to the prior written approval of MAC Staff, provided that only aboveground storage tanks will be allowed on the Leased Property, unless MAC Staff determines that aboveground tanks are not feasible. Fuel tanks may not be installed on the Leased Property. Notwithstanding the prior two sentences, Tenant has accepted and accepts title and ownership to (i) all tanks, septic systems or wells existing on

the Leased Property at the time of execution of this Lease, and (ii) any tanks, septic systems or wells installed at any time during the Term of this Lease or during any holding over.

4.4 Testing and Reports

Subtenant must provide to MAC, within ten (10) days of receipt, a copy of any notice regarding a violation of the Environmental Laws arising out of Subtenant's past or present operations on the Leased Property and Airport, a copy of any report, whether in final or draft form, regarding compliance with Environmental Laws or with the presence, use, emission or release of any Environmentally Regulated Substances arising out of Subtenant's past or present operations on the Leased Property and Airport, or a copy of any notice of the emission or release of Environmentally Regulated Substances in violation of the Environmental Laws arising out of Subtenant's past or present operations on the Leased Property and Airport. If MAC has a reasonable basis to believe that Subtenant is not meeting the obligations of [Section 4.3 \[Compliance with Environmental Laws\]](#) hereof, MAC may require Subtenant to perform reasonable environmental studies or assessments (for example, Phase I or Phase II reports as such terms are generally known on the date of execution of this Lease) on the Leased Property with the written results being delivered to MAC within ten (10) days of their receipt, whether in draft or final form.

4.5 Notification

Subtenant must immediately notify MAC in writing of any matter known to Subtenant that might give rise to a Loss relating to or regarding Environmentally Regulated Substances or Environmental Laws, or if Subtenant obtains knowledge of any release, discharge, disposal or emission, or any threatened release, discharge, disposal or emission of any Environmentally Regulated Substance in, on, under, or around the Leased Property and Airport, arising from or relating to Subtenant's past or present operations or actions and which is not or may not be in full and complete compliance with all Environmental Laws.

Subtenant is responsible for any Fuel or Environmentally Regulated Substance spills caused by or resulting from operations of Subtenant or persons under Subtenant's control on the Leased Property and Airport. Subtenant must promptly notify MAC verbally of any such spills or other spills, regardless of the amount, caused by or resulting from operations of Subtenant or persons under Subtenant's control on the Leased Property and Airport.

4.6 Right to Investigate

In addition to MAC's right to inspect the Leased Property and any Improvements as set forth in [Section 8 \[Right of Entry and Inspection\]](#) of the Lease, MAC has the right, but not the obligation or duty, anytime from and after the date of this Sublease, to investigate, study and test the Leased Property (at MAC's own expense, unless otherwise provided herein), and without unreasonably interfering with Subtenant's operation or use of the Leased Property, during normal business hours, except under emergency circumstances, to determine whether Environmentally Regulated Substances are located in, on or under the Leased Property and Airport, or were emitted or released therefrom, which are not in compliance with Environmental Laws. Inspections will be conducted in accordance with the guidelines set forth in the [Policies](#).

Upon the reasonable request of MAC, Subtenant must provide a list of any and all Environmentally Regulated Substances used in, on or under the Leased Property and Airport

by Subtenant, certified as true and correct, and specifying how such Environmentally Regulated Substances are used, stored, treated, or disposed.

4.7 Right to Take Action

MAC has the right, but not the duty or obligation, to take whatever reasonable action it deems appropriate to protect the Leased Property and Airport from any material impairment to its value resulting from any escape, seepage, leakage, spillage, discharge, deposit, disposal, emission, or release of Environmentally Regulated Substances from the Leased Property and Airport that is not in full compliance with any Environmental Law and arises out of Subtenant's past or present operations. Except in the event of an emergency, MAC will notify Subtenant of its intention to take such action in writing thirty (30) days before proceeding under this [Section 4.7](#). Within that thirty (30) day period, Subtenant has the opportunity to take whatever reasonable action is deemed appropriate by MAC to cure the matter of concern or provide MAC a binding commitment to do so within a reasonable time. If Subtenant does not take such action or provide a binding commitment within the thirty (30) day period, MAC may proceed under the terms of this [Section 4 \[Environmental Responsibilities\]](#). All reasonable costs associated with any action by MAC in connection with this provision, including but not limited to reasonable attorney's fees, is subject to [Section 3.3 \[Indemnification\]](#) hereof.

4.8 Environmental Claims Relating to Environmentally Regulated Substances

Subtenant represents and warrants that, since the time Subtenant commenced operations on the Leased Property or took or assumed an interest in the Leased Property, to the best of Subtenant's knowledge (except for matters that have been corrected in accordance with law) (i) no enforcement, investigation, cleanup, removal, re-mediation, or response or other governmental or regulatory actions have, or could have at any time, been asserted or threatened with respect to Subtenant's past or present operations conducted on the Leased Property or Airport, or the Leased Property itself, or against Subtenant with respect to or in any way regarding the Leased Property, pursuant to any Environmental Laws, or relating to Environmentally Regulated Substances; (ii) no violation or noncompliance with Environmental Laws has occurred with respect to the Leased Property or Subtenant's past or present operations thereon; (iii) no claims with respect to the Leased Property or Subtenant's past or present operations thereon, or against the Subtenant with respect to the Leased Property or Airport or Subtenant's past or present operations thereon relating to Environmental Laws or Environmentally Regulated Substances, have been made or been threatened by any third party, including any governmental entity, agency or representative. For purposes hereof, "the best of Subtenant's knowledge" means the actual knowledge (without any duty to inquire) of the person within the Subtenant's operations that has the primary responsibility for ensuring compliance with Environmental Laws.

4.9 Miscellaneous Environmental Operating Conditions

If applicable, Subtenant agrees to apply for and comply with either the Multi-Sector General Permit for Industrial Activity or an individual stormwater permit issued to Subtenant. Subtenant must not conduct any vehicle or aircraft maintenance outside, which includes aircraft and vehicle rehabilitation, mechanical repairs, painting, lubrication and equipment cleaning, and must not store waste materials outside. Subtenant must ensure its dumpsters are covered at all times except when being filled with waste and must prevent its equipment from having releases to stormwater.

For indoor and outdoor truck and trailer washing: Indoor washing is authorized where wash water drains to the sanitary system properly. Outdoor washing requires the use of a wash water runoff containment system allowing the run-off to be collected and disposed of properly.

Subtenant is prohibited from having any discharges of wash waters with detergents or Environmentally Regulated Substances to stormwater. For products containing Environmentally Regulated Substances (e.g., pavement deicers, rubber removal chemicals, detergents, etc.) that may be exposed to stormwater as part of Subtenant's operation on the Leased Premises, Subtenant use must be limited to those products which are approved by the Minnesota Pollution Control Agency (MPCA).

5. **FAA Required Contract Provisions**

5.1 Further Development

MAC reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Subtenant, and without interference or hindrance.

5.2 Maintenance

MAC reserves the right, but shall not be obligated to Subtenant, 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 Subtenant in this regard.

5.3 Subordination

This Sublease shall be subordinate to the provisions of and requirements of any existing or future agreement between MAC and the United States, relative to the development, operation, or maintenance of the Airport, and relative to taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

Nothing in this Sublease shall be construed to prevent MAC from making such commitments as it desires to the Federal Government or the State of Minnesota in order to qualify for the expenditure of Federal or State funds on the Airport.

5.4 Part 77

Subtenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure is planned for the Leased Property, or in the event of any planned modification or alteration of any present or future structure situated on the Leased Property.

5.5 Use Not Exclusive

Subtenant shall have the right to conduct all operations authorized pursuant to the terms of the Lease; provided, however, that the Lease shall not be deemed to grant to Subtenant, any Subtenant of Subtenant's, or any claiming a right through or by Tenant or any Subtenant, the exclusive right to use any part or portion of the Airport other than the Leased Property.

It is hereby specifically understood and agreed that nothing in this Sublease shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and MAC reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.

5.6 Hazards

The Subtenant by accepting this Sublease agrees for itself, its successors, and assigns that it will not make use of the Leased Property in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, MAC reserves the right to enter upon the Leased Property and cause the abatement of such interference at the expense of the Subtenant.

5.7 Performance of Services on Aircraft

It is clearly understood by Subtenant that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform, in accordance with the [Policies](#).

5.8 General Civil Rights Provision

The Subtenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Subtenant transfers its obligation to another, the transferee is obligated in the same manner as the Subtenant. This provision obligates the Subtenant for the period during which the property is owned, used or possessed by the Subtenant and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

5.9 Title VI Clause for Use of Real Property

The Subtenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Subtenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

5.10 Title VI Clause for Construction/Use/Access to Real Property

The Subtenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Subtenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

5.11 Civil Rights – Title VI Assurance

During the performance of this contract, the Subtenant, for itself, its assignees and successors in interest (hereinafter referred to as the "Subtenant") agrees as follows:

1. Compliance with Regulations. The Subtenant will comply with Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The Subtenant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-contractor, including procurement or materials and leases of equipment. The Subtenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Subcontracts, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by the Subtenant for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential sub-contractor or supplier will be notified by the Subtenant of the Subtenant's obligations under this contract and the Nondiscrimination Acts and Authorities.
4. Information and Reports. The Subtenant will provide all information and reports required by the Nondiscrimination Acts and Authorities and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by MAC or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Subtenant is in the exclusive possession of another who fails or refuses to furnish this information, the Subtenant will so certify to MAC or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance. In the event of the Subtenant's noncompliance with non-discrimination provisions of this contract, MAC shall impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to;

- (a) Withholding payments to the Subtenant under the contract until the Subtenant complies; and/or
- (b) Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions. The Subtenant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities. The Subtenant will take action with respect to any subcontract or procurement as MAC or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Subtenant becomes involved in, or is threatened with litigation by a sub-contractor, or supplier because of such direction, the Subtenant may request the MAC to enter into any litigation to protect the interests of the MAC. In addition, the Subtenant may request the United States to enter into such litigation to protect the interests of the United States.

5.12 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Subtenant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Subtenant") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Operators, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

EXHIBIT "D"

Lease Notice Address

Contact	
Street Address	
Emails	
Phone	
Fax	

DRAFT