

RELIEVER AIRPORTS
COMMERCIAL LEASE

Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis Minnesota 55450

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EXHIBIT A DESCRIPTION OF LEASED PROPERTY

EXHIBIT B DESCRIPTION OF SEWER AND WATER EASEMENT

EXHIBIT C SUBLEASE PROVISIONS

Airport: _____; Lot #: _____; Expiration Date: _____

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 _____, a _____, at _____ (“Tenant”).

WHEREAS, MAC owns and/or controls the real property at _____ (“Airport”) located in the County of _____, 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 foregoing, the parties agree as follows:

1. Leased Property

1.1 Leased Property

MAC leases to Tenant and Tenant leases from MAC the real property at the Airport described on the attached Exhibit A, consisting of _____ square feet and commonly referred to as Lot ____ (“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 Exhibit A that was attached at the execution of this Lease.

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, and for no other purpose. The location of the Sewer and Water Easement is shown on Exhibit B. Tenant shall at all times comply with all of the terms and conditions of this Lease and the Policies with respect to the Sewer and Water Easement, including those set forth in Section XVII [Sewer and Water] of the Policies. The Sewer and Water Easement shall terminate when this Lease terminates.

The Sewer and Water Easement shall not be taken into consideration in determining commercial ground rent in Section 4.1 [Commercial Ground Rent].

2. Term

2.1 Initial Term

The initial term of this Lease shall be fifteen (15) years (“Term”), commencing on _____ (“Commencement Date”) and expiring, unless earlier terminated, on _____.

2.2 Renewal Term

Tenant shall have a right to a new lease (“Renewal Lease”) after the initial Term of this Lease, under standard lease terms and conditions in effect at the time of issuance except that the term shall be for a period of ten (10) years (plus a right of first refusal as provided in Section 2.3 [Right of First Refusal] below), provided all of 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 shall not have been in default, beyond the expiration of all applicable notice and cure periods, more than two (2) times within the twenty-four (24) month period prior to MAC’s offer of the Renewal Lease, in payment of rents or in material performance of other requirements of this Lease;
- (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] to, among other things, determine compliance with the conditions set forth in this Section 2.2 [Renewal Term];
- (iii) Tenant must not be in default of the Lease, beyond the expiration of all applicable notice and cure periods; and must be in compliance with MAC’s rules, regulations, ordinances and policies, by the expiration of all applicable notice and cure periods; including, for example: (a) Tenant must not have abandoned the Leased Property; and (b) the Improvements must be in physical condition in accordance with this Lease, the Policies, and Ordinance 112;
- (iv) MAC has not determined that it requires the Leased Property, before the end of the term of the Renewal Lease, for a use that, in MAC’s judgment, is for the betterment of the Airport, the MAC airport system, or the aviation community, as provided in Section 16 [Airport Development or Redevelopment] of this Lease; and

MAC will not purchase the Improvements or provide any compensation in the event a Renewal Lease is not offered pursuant to this Section 2.2 [Renewal Term] 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

At the end of the ten (10) year Renewal Lease as described in Section 2.2 [Renewal Term] above, Tenant shall 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 be under standard lease 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 time period during which Tenant may exercise the right of first refusal shall commence on the 180th day prior to the expiration

date of the Renewal Lease, and shall expire 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 executed by Tenant within the time period described in the previous sentence, then (i) Tenant's right of first refusal shall expire, (ii) 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 (iii) 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, (ii) Tenant complies with all applicable requirements of Ordinance 78, 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 tanks) 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 shall be used solely for the following specific purposes, and for no other purpose without the prior written consent of MAC:

[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 not operate a flying club on the Leased Property without the prior written consent of MAC Staff. In the event that Tenant desires to operate a flying club from the Leased Property, Tenant must:

- (i) Obtain MAC's prior written consent to operate a flying club and comply with all conditions of such consent and with all applicable rules, regulations and ordinances of MAC including Ordinance 107; and
- (ii) Obtain the appropriate license(s) to operate a flying club from all applicable governing authorities, comply with all requirements of such governing authorities, and provide evidence of compliance to MAC upon MAC's request.

3.3 Appropriate Use

Excepting the uses described in this Section 3 [Use of Leased Property], Tenant shall not use or permit the Leased Property to be used in any manner that would void Tenant's or MAC's insurance or increase the insurance risk. Tenant shall 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, (ii) not prohibit or materially adversely affect Tenant's uses of the Leased Property as authorized by this Section 3 [Use of Leased Property], and (iii) be uniformly imposed and enforced against all similarly situated tenants of the Airport.

4. Rent

4.1 Commercial Ground Rent

Tenant shall pay MAC ground rent for the Leased Property, according to the terms set forth in Ordinance 107 (Ordinance 107 is defined in Section 25.1.8 of this Lease) ("Rent"). Rent shall be paid to MAC at the address specified by MAC. Rent shall be paid monthly in advance by the last day of the calendar month for the upcoming calendar month unless Tenant is otherwise notified in writing of different payment dates. Rent which is due for the first month of the Term of this Lease shall be paid by Tenant upon execution of this Lease.

4.2 Fuel Flowage Fees *[Include this section only if Tenant is allowed a fueling use]*

In the event that Tenant is authorized to dispense fuel from the Leased Property, Tenant shall pay MAC fuel flowage fees, according to the terms set forth in Ordinance 107. Payment of fuel flowage fees shall be accompanied by a report and documentation, according to the terms set forth in Ordinance 107, and certified as correct by Tenant or an authorized representative of Tenant.

4.3 Percentage Rent

4.3.1 Percentage Rent

Tenant shall pay to MAC the percentage of all Gross Sales (as defined below), according to the terms set forth in Ordinance 107 ("Percentage Rent"). Payment of Percentage Rent shall be accompanied by a report, according to the terms set forth in Ordinance 107 or otherwise, in a form reasonably acceptable to MAC Staff and certified as correct by Tenant or an authorized representative of Tenant.

If Tenant has other leases with MAC subject to Ordinance 107, Tenant shall calculate and pay fees due under those other leases separate from this Lease.

4.3.2 Gross Sales

“Gross Sales” means the gross amount of: (a) all sales, services, deliveries and credits of every kind and nature rendered in and from the Leased Property plus the amount of all orders taken, received or filled at the Leased Property (whether such orders are filled at the Leased Property, or elsewhere), by Tenant, any licensee, concessionaire or Subtenant, or any other person or entity, whether for cash or credit, whether collected or uncollected, and whether payment is made at the Leased Property or elsewhere; 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 (x) below, if applicable. Upon the request of MAC, Tenant shall 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 shall 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 shall constitute Gross Sales, and (2) flowage fees shall be paid to MAC as specified in Section 4.2 [Fuel Flowage Fees].
- (iii) The actual cost to the Tenant of fuel used in aircraft rental, charter or instruction, where the fee charged to the customer for 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 actually 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 actually 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 of Tenant.
- (vii) Uncollected accounts receivable to the extent such accounts are actually written off as bad debts.
- (viii) The amount of any federal, state or municipal sales or similar taxes levied on such transactions and collected from customers and remitted directly to the taxing authority.
- (ix) The amount of any landing fees or similar charges paid by Tenant to other airports so long as Tenant accounts for such fees separate from other revenues received from Tenant’s customers.

- (x) The amount of custom charges, duty and similar fees paid by Tenant to governmental authorities other than MAC so long as Tenant accounts for such fees separate from other revenues received from Tenant's customers.

4.4 Tenant's Books and Records

4.4.1 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 cash registers, 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 the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board 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.

4.4.2 Maintenance of Books and Records

Tenant shall maintain adequate Books and Records for its operations and 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 shall also include, but are not limited to, all original accounting source documents detailing transactions relevant to this Lease, including, but not limited to, (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 prepared in accordance with MAC's Revenue Policy 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.

4.4.3 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, email with attached files, or alternative computer data exchange formats, reasonably satisfactory to MAC Staff.

4.4.4 Cooperation by Tenant

Tenant shall provide 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 manager or equivalent person and employees who are or were involved in the financial and operational activities of Tenant.

4.4.5 Length of Books and Records Retention

Tenant shall 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.

4.4.6 Obligations Applicable to Subtenants

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

4.5 Right to Audit

4.5.1 Audit Findings

MAC shall have 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 shall pay MAC any amounts due to MAC as a result of such under reported Gross Sales or fuel flowage fees, together with Late Fees (as defined in Section 4.8). 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 shall reimburse MAC for the costs and expenses incurred in such Audit, along with MAC's attorneys fees and costs.

4.5.2 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. The Books and Records shall be provided to MAC in the Minneapolis/St. Paul metropolitan area for inspection during business hours, or Tenant shall reimburse MAC for the cost of travelling to and from a location outside of the Minneapolis/St. Paul metropolitan area to 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.

4.5.3 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) shall survive the expiration or earlier termination of this Lease.

4.5.4 Obligations Applicable to Subtenants

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

4.6 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 shall pay a non-aviation/complementary business license fee, as set forth in Ordinance 107.

4.7 Revision of Rents

Under Minn. Stat. § 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 rents, charges, fees, and assessments set forth in this Lease in a manner consistent with the requirements of Minn. Stat. § 473.651.

4.8 Late Fee

If Tenant fails to pay any fees when due to MAC, Tenant shall pay a late fee ("Late Fee") which is 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.

5. Taxes and Other Charges

5.1 Utilities

Tenant shall 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 shall pay to MAC any applicable landing fees, as set forth in Ordinance 107.

5.3 Assessments Imposed by MAC

Tenant shall pay MAC for assessments imposed in accordance with the Policies and Ordinance 107.

5.4 Taxes and Fees Imposed by Other Authorities

Tenant shall pay all applicable taxes (including, but not limited to, property 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 shall pay these amounts without deduction or set-off against Rent to be paid under this Lease. Examples of fees to be paid by Tenant include storm water permit fees, hazardous waste generator fees and aircraft registration fees.

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

6. Compliance with Laws

6.1 Compliance with Laws

Tenant shall comply with all applicable local, municipal, county, state and Federal laws, regulations, rules and ordinances, now or hereafter in force, including those of MAC, and including all applicable security requirements. Tenant may obtain a copy of MAC's ordinances, rules and regulations by contacting MAC. 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 6.1.

6.2 Policies

The terms and conditions of the Policies and all attachments thereto are incorporated into this Lease. Tenant agrees to comply with the Policies. If there is a conflict between the express terms of this Lease and of the Policies, this Lease shall control. Tenant may obtain a copy of the current Policies by contacting MAC. Tenant acknowledges that Tenant has received a copy of the Policies previously or upon execution of this Lease.

6.3 Sewer and Water Policy

Tenant shall comply with MAC's Sewer and Water Policy. Tenant may obtain a copy of the current Sewer and Water Policy by contacting MAC. Tenant acknowledges that Tenant has received a copy of the Sewer and Water Policy previously or upon execution of this Lease.

7. Quiet Enjoyment

Upon Tenant's payment of rent and performance of all terms of this Lease, Tenant shall, except for reasons beyond the control of MAC, have quiet possession of the Leased Property for the entire Term subject to all of the provisions of this Lease, including MAC's right to inspect as set forth in Section 8 [Right of Entry and Inspection], and subject to MAC's right of eminent domain. However, MAC and its designated representatives have the right to enter the Leased Property for the purpose of making repairs or improvements to any adjoining premises or the Airport and to install, repair, maintain and construct through the Leased Property such pipes, wires and other similar items, including sanitary sewer and watermain, as MAC deems necessary or desirable for the operation of the Airport. In doing so, MAC shall use reasonable diligence to minimize disruption to Tenant's use and enjoyment of the Leased Property; for example: MAC shall not store any materials or equipment on the Leased Property which interfere with Tenant's operations without Tenant's consent; shall, as reasonably possible, promptly complete any such work once commenced; and shall work with Tenant on reasonable timing and location of installations, if possible. MAC shall reasonably repair any damage caused by such entry. MAC shall defend and indemnify Tenant against any third party claims and indemnify Tenant from and against any losses, damages and expenses, including reasonable attorney and consultant fees, arising from third party claims that result directly from MAC's or its designated representatives' entry onto the Leased Property, 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 obligation to indemnify Tenant under this Section 7 [Quiet Enjoyment] does not release Tenant from the indemnification obligations under Section 13 [Insurance and Indemnification].

8. Right of Entry and Inspection

MAC and its designated representatives 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 shall prepare plans and specifications for construction on the Leased Property, including grading, site preparation, pavement construction, hangar layout and proposed heights, fuel farm and tank locations if allowed, utility corridors, connection to sanitary sewer and watermain trunk lines, connection to storm sewer facilities, security fencing and gates, all the extent applicable and at no cost to MAC.

The Improvements and construction must meet the requirements of this Lease, Ordinance 78, and the Policies. Construction of the hangar and other Improvements under this Section 9.1 shall be substantially completed, such that Tenant has obtained a certificate of occupancy from the applicable building official, within one (1) year after the execution date of this Lease, or by such later date approved by MAC Staff in writing.

Tenant shall complete grading, site preparation and pavement, at Tenant's cost, when needed to connect an Improvement or hangar area within the Leased Property to an alleyway already built by MAC. For example, Tenant must construct a connector, if one

is not already present, between the alleyway and the hangar. Connector pavements shall be subject to MAC Staff review, approval and/or rejection for design and construction quality.

Tenant agrees to bear all costs of development, construction engineering fees, construction, utilities and all other costs associated with the development 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 shall 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, no construction work may begin until MAC Staff issues written notice of approval to proceed and applicable permits and approvals are received from the city or other appropriate entities (see Section 9.3 below).

Prior to commencement of the construction, Tenant shall also submit, if requested by MAC Staff: (i) a bond or other security in an amount, form and with a surety 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 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 stronger) 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.

In addition, 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 or building is planned for the Leased Property, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Property. [FAA requires that the provision in this paragraph be included in this Lease.]

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 shall 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. Except as otherwise set forth herein, no work for which approvals from other entities are required may begin until all such approvals have been received and the other requirements in this Section 9 [Construction] have been met.

9.4 Completion and Performance

Tenant shall complete and perform any and all construction work (including all construction work subject to MAC approval in this Section 9 [Construction]), whether such construction work takes place on or outside of the Leased Property, at Tenant's cost. In completing any type of construction and work of any amount, Tenant shall:

- (i) Do or cause all construction and work 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 taxilanes 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) Comply with all terms in this Lease;
- (iv) 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;
- (v) Keep the Leased Property, this Lease and every Improvement free and clear from all liens for labor performed and materials furnished; and
- (vi) Defend, at Tenant's cost, each and 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.

9.5 Insurance Requirements for Construction

Tenant shall 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 shall own 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 shall, at its own cost and expense, take good care of the Leased Property, and all Improvements or property located on the Leased Property and shall keep, maintain, and repair the Leased Property and Improvements in accordance with the Policies and Ordinance 112. In addition, Tenant shall, at its own cost and expense, 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 shall not suffer or permit any waste or nuisance on the Leased Property that shall interfere 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, including, but not limited to, a leasehold mortgagee or judgment creditor, may, without regard to MAC's rights in the Improvements pursuant to Sections 16 [Airport Development or Redevelopment] and 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 shall be deemed to mean 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 (which term includes fuel 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 17.1 [Surrender of Leased Property]), or terminate this Lease and comply with Section 17 [Surrender of Leased Property]. The obligations in the preceding sentence shall 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, shall obtain and maintain in full force the following insurance coverage:

- (i) All risk property insurance covering the full replacement cost of all Improvements, trade fixtures and personal property located on the Leased Property; and, if the Leased Property are located in a flood zone, all risk flood insurance (during the flood season) covering the full replacement cost of all Improvements, trade fixtures and personal property located on the Leased Property. The policy or policies shall contain a waiver of subrogation against MAC by endorsement or by terms and conditions of the policy(s).

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. If Tenant elects to carry this alternative type of insurance, Tenant's liability and further responsibility under this Lease shall not be diminished.

- (ii) Commercial general liability insurance, with a minimum limit of \$1,000,000.00 per occurrence 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 shall name MAC as an additional insured and shall 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 \$1,000,000.00 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 shall name MAC as an additional insured and shall 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 if Tenant has employees located at the Leased Property. The policy or policies shall contain a waiver of subrogation against MAC by endorsement or by terms and conditions of the policy(s).
- (v) Aviation liability insurance with a minimum \$5,000,000.00 per occurrence and aggregate for refueling, and \$1,000,000.00 products-completed operations per occurrence and aggregate. The policy or policies shall 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 Tenant and all other similarly situated tenants.

13.2 Form of Insurance/MAC's Rights

All required insurance policies shall insure on an occurrence and not a claims-made basis, shall be issued by insurance companies which are licensed or admitted in Minnesota and have an A.M. Best rating of at least A-. Tenant shall be responsible to ensure all policies are not cancelable, reduced or materially changed unless thirty (30) days prior written notice shall have been given to MAC. Any policy issued to MAC providing duplicate or similar coverage shall be 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 liabilities, losses, damages, suits, actions, claims, charges, judgments, settlements, fines or demands against MAC. Tenant shall be responsible for all deductibles.

Original certificates using the most current standard ACCORD form, or at MAC's option, copies of the policies evidencing coverage shall 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 shall not be obligated to, obtain such insurance, or a bond or other method of risk transfer, and Tenant shall 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, defend, save and hold completely harmless Indemnitees from and against any and all liabilities, losses, damages, suits, actions, claims, charges, judgments, settlements, fines or demands of any person arising by reason of injury or death of any person or damage to any property, or any allegation or claim of such injury, death, or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees), of any nature whatsoever arising out of or incident to (i) the use of the Leased Property and Airport by Tenant, the occupancy of the Leased Property by Tenant, or the operations of Tenant at the Leased Property and Airport; or (ii) the acts or omissions of Tenant's officers, agents, employees, contractors, subcontractors, licensees, Subtenants or invitees, regardless of where the injury, death or damage may occur. Notwithstanding the foregoing, Tenant is not obligated to indemnify an Indemnitee against any damages, judgment or other liability (i) to the extent a court of competent jurisdiction decides such damages, judgment or other liability result from the Indemnitee's negligence or intentional acts, or (ii) to the extent MAC and Tenant mutually agree such damages, judgment or other liability result from Indemnitee's negligence or intentional acts.

MAC shall give Tenant reasonable notice of any such claim or action. In indemnifying or defending an Indemnitee, Tenant shall use legal counsel reasonably acceptable to MAC. MAC, at its option, shall have the right to select its own counsel or to approve joint counsel as appropriate (considering potential conflicts of interest) and any experts for the defense of claims. Tenant, at its expense, shall provide to MAC all information, records, statements, photographs, video, or other documents reasonably necessary to defend the parties on any claims.

The provisions of this Section 13.3 shall survive expiration or earlier termination of this Lease. The furnishing of the required insurance shall not be deemed to limit Tenant's obligations under this Section 13.3.

As a distinct and separate indemnification obligation, Tenant shall defend, indemnify and hold completely harmless Indemnitees from any claims or liabilities 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 shall have a right to 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.

Termination by Tenant shall be by notifying 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. Termination by MAC shall be by notifying 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 shall cease as of the date of the damage or destruction. Notwithstanding Section 14.3 [Rent Abatement] below, if this Lease is not terminated pursuant to this Section 14.1, this Lease shall remain in effect and Tenant must continue to fulfill all obligations in this Lease, including the obligation to pay rent.

14.2 Damage to Improvements

If a significant portion of the Improvements are materially damaged (such that it becomes impractical to operate Tenant's business) by fire, meteorological event, or other disaster, Tenant shall have 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, 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, including, but not limited to the provisions of Section 17 [Surrender of Leased Property]. 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, shall not terminate unless and until Tenant fulfills such obligations.

- (ii) If Tenant elects to restore the Improvements under this Section, 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.

14.3 Rent Abatement

Except as specifically set forth in Section 14.1 [Damage to Airport] above, if Tenant, through no fault of its own, suffers loss: (i) by being prevented beyond a reasonable length of time, from using the public portion and public facilities of the Airport due to flooding or for reasons other than those occasioned by meteorological conditions; or (ii) because any governmental agency through its sovereign power, beyond a reasonable length of time, stops, suspends or seriously limits the Tenant's use of the public portion and public facilities of the Airport; then Tenant during such periods shall not be liable for any Rent. In these situations, Tenant shall not be entitled to any compensation for loss or damage from MAC other than this rent abatement.

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 shall not be construed as 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, including, but not limited to the applicable provisions of Section 17 [Surrender of Leased Property].

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 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 shall be entitled to receive the amount of the award of damages, if any, which is for damages to the remainder involved, but shall not be entitled to receive the amount of the award of damages which is for the value of the land taken. This provision shall not be construed to prohibit either MAC or Tenant from appealing the condemnation commissioners' award of damages, in accordance with applicable laws. Tenant shall 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 shall be 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 shall be 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 shall also 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 shall 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, shall be 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 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 shall 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 shall notify the other party of the effective date of such termination within thirty (30) days following notice of such taking or purchase.

This provision shall not be construed as 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 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 shall be entitled to receive the amount of the award of damages which is for the value of the land taken. Tenant shall be entitled to 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 shall have the right to 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 shall not be construed to prohibit either MAC or Tenant from appealing the condemnation commissioners' award of damages, in accordance with applicable laws. MAC and Tenant shall both have the right to postpone the effective date of any termination of this Lease under this Section 15.2 until 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) shall cease as of the date Tenant is required to surrender possession of the Lease Property and does so. Tenant shall 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 [Airport Development or Redevelopment]. 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 lease amendment MAC and Tenant will execute to 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 lease amendment must, in addition to modifying the legal description of the Leased Property, amend Section 1.1 [Leased Property] of this Lease to state 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 amendment 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 shall be entitled to a judgment terminating this Lease if, and only 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 amendment materially prevents a use as permitted under Section 3 [Use of Leased Property]. In any such action, the burden of proof shall be on Tenant. If Tenant does not commence such an action within the 45 day period, Tenant may not, thereafter, contest the unilateral amendment of this Lease. If Tenant does commence such an action within the 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 shall be 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 [Airport Development or Redevelopment], 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 shall 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 and 16.6.2.

Compensation shall 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 shall 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 Minn. Stat. 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 shall 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 and 16.6.2 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 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 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 shall be deemed to be the amount of Compensation which 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 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 shall 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 shall 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 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 shall 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 [Airport Development or Redevelopment], 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 tanks) 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 shall 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, shall 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 (unless a Renewal Lease or new lease is issued and executed pursuant to Section 2.2 [Renewal Term] or Section 2.3 [Right of First Refusal], respectively, of this Lease).

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

- (i) Comply with Section 17.2 [Tanks];
- (ii) Comply with Section 17.3 [Personal Property];
- (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;
- (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 by the termination or expiration of this Lease, MAC becomes the owner of the Improvements (other than tanks, including fuel tanks). This shall 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 Tanks

Tanks (which term includes fuel tanks), wells and septic systems are and remain the property of the Tenant or any Subtenant and must be, at the sole cost and expense of Tenant, upon expiration or earlier termination of this Lease: (a) removed or properly abandoned by Tenant in compliance with all applicable laws; or (b) repaired, modified, or upgraded by Tenant (if necessary) and transferred to a new tenant having a lease on the Leased Property. Tenant's obligations under this Section 17.2 survive the termination of this Lease.

17.3 Personal Property

Tenant covenants that upon the expiration or earlier termination of this Lease Tenant shall 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) from the Leased Property. Any personal property and trade fixtures subject to this Section 17.3 that are not removed by Tenant by the expiration or earlier termination of this Lease become the property of MAC.

17.4 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 a tenant at sufferance, and during any such tenancy at sufferance, Tenant is liable to MAC for the performance of all of the terms and conditions of this Lease, except that any charges that, under the terms of this Lease, are to be paid annually to MAC shall be prorated on a monthly basis and Tenant shall 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 [Transfers], 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, which shall not be unreasonably withheld, 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 107.

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 shall be responsible for all activities of any Subtenant(s), and shall assure that any and all sublease(s) are made subject and subordinate to this Lease. No sublease shall 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 a manner consistent with 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 Section 13 [Insurance and Indemnification] of this Lease, as applicable; (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 of the language set forth in the attached Exhibit C, which includes provisions on Environmental Responsibilities, Non-Discrimination, and DBE [FAA requires that this provision in (v) be included in this Lease]; provided, however, that to the extent there are conflicts between any of the provisions of Exhibit C and this Lease, then the provision so included in the sublease shall conform to this Lease. Tenant shall 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 purposes for a period of less than six (6) months without the consent of MAC and 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 obtain the prior written consent of MAC, and shall provide MAC in writing with the following information upon commencement of the sublease and on January 1 and July 1 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 78; 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 beyond the expiration of applicable notice and cure periods under this Lease or under any other agreement between the Tenant and MAC; and (ii) the proposed Commercial Subtenant is not in default beyond the expiration of applicable notice and cure period under any lease or agreement between the proposed Commercial Subtenant and MAC.

In the case of Commercial Subtenants, Tenant shall be responsible for reporting the activities of Subtenant(s) to MAC, including providing a semiannual rent roll to MAC, in a form approved by MAC Staff. Tenant shall also be 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, which shall not be unreasonably withheld, 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.

- (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, beyond the expiration of applicable notice and cure periods.

- (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 and record a memorandum of this Lease in the appropriate county land records, and Tenant must record 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 shall 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 shall 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 107.
- (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 in violation of this Lease.
- (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 a MAC Ordinance providing standards for structural integrity, aesthetics, and maintenance, and Tenant fails to complete abatement by the end of the time period set forth pursuant to 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 shall provide written notice of the default to Tenant, and shall 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 shall be 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 shall be 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 shall be 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 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 shall 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 shall be cumulative.

19.3 Cumulative Default

Notwithstanding the written notice and cure periods set forth above, MAC shall only be 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 107; (iii) Tenant's failure to comply with Section 3 [Use of Leased Property] of this Lease; 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 shall only be 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 will not be 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 shall constitute a default of this Lease. Notice of a default in another agreement shall be deemed 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

In addition to the general indemnification required by this Lease, Tenant hereby indemnifies and agrees to defend, protect, and hold harmless Indemnitees from and against any and all losses, liabilities, fines, charges, damages, injuries, penalties, response costs, or claims of any and every kind whatsoever paid, incurred or asserted against, or threatened to be asserted against, any Indemnitee, in any way relating to or regarding, directly or indirectly, Environmentally Regulated Substances or Environmental Laws, including all related claims or causes of action at common law or in equity, which arise from or relate to Tenant's past or present operations or actions on the Leased Property or Airport (hereinafter "Environmental Claims"); such matters will include without limitation: (i) all consequential damages; (ii) the costs of any investigation, study, removal, response or remedial action, as well as the preparation and implementation of any monitoring, closure or other required plan or response action; and (iii) all reasonable costs and expenses incurred by any Indemnitee in connection with such matters,

including, but not limited to, attorney's fees and reasonable fees for professional services or fire fighting or pollution control equipment related to spills. Tenant further agrees to defend, protect, indemnify and hold harmless any Indemnitee for any such matters arising out of or relating to Sections 20.3 [Compliance with Environmental Laws] through 20.8 [Environmental Claims Relating to Environmentally Regulated Substances] below. Notwithstanding the foregoing, Tenant is not obligated to indemnify an Indemnitee against any Environmental Claims (i) to the extent a court of competent jurisdiction decides such Environmental Claims result from the Indemnitee's negligence or intentional acts, or (ii) to the extent MAC and Tenant mutually agree such Environmental Claims result from Indemnitee's negligence or intentional acts.

MAC shall give Tenant reasonable notice of any such Environmental Claim or action. In indemnifying or defending an Indemnitee, Tenant shall use legal counsel reasonably acceptable to MAC. MAC, at its option, shall have the right to select its own counsel or to approve joint counsel as appropriate (considering potential conflicts of interest) and any experts for the defense of claims. Tenant, at its expense, shall provide to MAC all information, records, statements, photographs, video, or other documents reasonably necessary to defend the parties on any Environmental Claims.

This indemnification and Tenant's obligations hereunder, shall survive cancellation, termination, or expiration of the Term of this Lease. The furnishing of the insurance required by this Lease shall not be deemed to limit Tenant's obligations under this Section 20.3. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations. This indemnification is intended for the indemnified parties and their legal representatives.

20.3 Compliance with Environmental Laws

Tenant shall keep and maintain and shall conduct its operations at the Leased Property and Airport in full compliance with all Environmental Laws. Tenant shall 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 shall be 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 shall have full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon request of MAC, Tenant shall 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 Sewer and Water Policy, there shall be no wells or septic systems on the Leased Property. Installation of any monitoring wells or tanks (which term includes fuel tanks) on the Leased Property is subject to the prior written approval of MAC, provided that only aboveground storage tanks will be allowed on the Leased Property, unless MAC determines that aboveground tanks are not feasible. Notwithstanding the above, 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 used by the Tenant in its operations (provided the Tenant has conducted a Phase I environmental assessment on the Leased Property which indicates that no other tanks, septic systems or wells are present on the Leased Property at the time of execution of this Lease other than those used by Tenant), 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 shall 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, but not limited to, 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 shall immediately notify MAC in writing of any matter known to Tenant that might give rise to an Environmental Claim 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 hazardous substance spills caused by or resulting from operations of Tenant or persons under Tenant's control on the Leased Property and Airport. Tenant shall 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 shall have 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 shall 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 shall have 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 which 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 shall 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 shall have 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, shall be subject to Section 20.2 [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-remediation 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" shall mean 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.

21. Non-Discrimination [FAA requires that these provisions be included in this Lease.]

21.1 General

Tenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that (i) no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Property; (ii) that in the construction of any Improvements on, over, or under the Leased Property, and the furnishing of services thereon, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) Tenant shall use the Leased Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, "Non-Discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964," as amended from time to time.

21.2 Improvements

Tenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that in the event Improvements are constructed, maintained or otherwise operated on the Leased Property for a purpose for which a program or activity of the Department of Transportation is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such Improvements and services in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, "Non-Discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964," as amended from time to time.

21.3 Economic

Tenant, and those operating under agreement with Tenant, shall furnish services authorized by this Lease on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Tenant and those operating under agreement with Tenant shall be allowed to make reasonable and non-discriminatory discounts, rebates and other similar types of price reductions to volume purchasers.

21.4 Civil Rights

Tenant assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Tenant or its transferee for the period during which Federal assistance is extended to the Airport for any program or use thereof, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (i) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits, or (ii) the period during which the Airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.

22. MAC's Operation of the Airport

MAC shall 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. Use Not Exclusive [FAA requires that these provisions be included in this Lease.]

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.

24. Notices

Any notice required under this Lease shall be in writing and delivered in person or by courier or mailed by certified mail, return receipt requested by United States Mail, postage prepaid addressed as follows:

Commission: Metropolitan Airports Commission
Attn: Manager of Administration, Reliever Airports
6040 28th Avenue South
Minneapolis, Minnesota 55450-2799

Tenant: The address in the first paragraph of this Lease

Notice is deemed given (i) two business days after being deposited in the mail, whether or not the notice is accepted by the named recipient, or (ii) if delivered by any other means, the date such notice is actually received or rejected by the named recipient. Either party may change the party's address for notice by providing written notice to the other party.

25. General Provisions

25.1 Definitions

25.1.1 Commercial Hangar. A hangar to be used to conduct aeronautical commercial operations, as authorized by Ordinance 78 and this Lease, and ancillary services in connection therewith. A Commercial Hangar may include a terminal building, office space and hangar space, and includes the sanitary sewer and water connections to that hangar and any other utility connections.

25.1.2 Commercial Sublease. A sublease held by a Commercial Subtenant. A Commercial Sublease shall not be deemed to include a collateral assignment made pursuant to Section 18.4 [Collateral Assignments].

25.1.3 Commercial Subtenant. Any Subtenant that leases all or a portion of a Commercial Hangar, or that conducts any commercial operation on any part of the Leased Property.

25.1.4 FAA. The Federal Aviation Administration.

25.1.5 Improvement(s). Any improvements, fixtures or other betterments or additions to the Leased Property; including a hangar.

25.1.6 Indemnatee(s). MAC, its Commissioners, officers, employees, agents, and any successors, as well as any successors to MAC's interest.

- 25.1.7 Ordinance 78. “Ordinance 78” means MAC Ordinance 78, which establishes minimum standards for commercial operators, as amended, replaced or restated from time to time.
- 25.1.8 Ordinance 107. “Ordinance 107” means MAC Ordinance 107, which establishes rental rates, fees and other charges to be paid at the Reliever Airports, as amended, replaced or restated from time to time.
- 25.1.9 Ordinance 112. “Ordinance 112” means 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.
- 25.1.10 Policies. “Policies” means the Reliever Airports Lease Policies, Rules and Regulations, and all the attachments, adopted by MAC, and as amended from time to time.
- 25.1.11 Sewer and Water Policy. “Sewer and Water Policy” means the Policy for Sanitary Sewer and Water Installation at the Reliever Airports, adopted by MAC on October 19, 1998, as amended on December 20, 1999 and October 16, 2000, and as further amended from time to time.
- 25.1.12 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.

25.2 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 shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed.

25.3 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.

25.4 Airport Access [FAA requires that these provisions be included in this Lease.]

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.

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.

25.5 Waiver

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

25.6 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.

25.7 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.

25.8 Severability

If any part of this Lease shall be held invalid, it shall 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.

25.9 Governing Law

This Lease is governed by Minnesota law.

25.10 Public Data

MAC shall use reasonable care to treat matters pertaining to Tenant's business in a confidential manner to the extent permitted by law. This Lease, and the information related to it, are subject to the Minnesota Government Data Practices Act, which presumes that data collected by MAC is public data unless classified otherwise by law.

25.11 Commitments to Federal and State Agencies [FAA requires that this provision be included in this Lease.]

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.

25.12 Subordination to Agreements with the United States [FAA requires that these provisions be included in this Lease.]

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.

This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and 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.

25.13 Successors

This Lease shall extend to and bind the legal representatives, successors and assigns of the parties to this Lease.

25.14 Relationship of Parties

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

25.15 Multiple Parties

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

25.16 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.

25.17 DBE [FAA requires that this provision be included in this Lease.]

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.

25.18 Performance of Services on Aircraft [FAA requires that this provision be included in this Lease.]

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 MAC policies.

Airport: _____; Lot #: _____; Expiration Date: _____

IN WITNESS WHEREOF, MAC and Tenant have signed on the date(s) indicated below, intending to be bound thereby.

METROPOLITAN AIRPORTS COMMISSION

TENANT:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of Minnesota

County of _____

This instrument was acknowledged before me on the _____ day of _____, 2010 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 _____, 2010 by _____.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____

Airport: _____; Lot #: _____; Expiration Date: _____

EXHIBIT "A"

Description of Leased Property

Airport: _____; Lot #: _____; Expiration Date: _____

EXHIBIT "B"

Description of Sewer and Water Easement

EXHIBIT C**Sublease Provisions****I. Environmental Responsibilities****A. 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.

B. Indemnification

In addition to the general indemnification required by this Lease, Tenant hereby indemnifies and agrees to defend, protect, and hold harmless Indemnitees from and against any and all losses, liabilities, fines, charges, damages, injuries, penalties, response costs, or claims of any and every kind whatsoever paid, incurred or asserted against, or threatened to be asserted against, any Indemnitee, in any way relating to or regarding, directly or indirectly, Environmentally Regulated Substances or Environmental Laws, including all related claims or causes of action at common law or in equity, which arise from or relate to Tenant's past or present operations or actions on the Leased Property or Airport (hereinafter "Environmental Claims"); such matters will include without limitation: (i) all consequential damages; (ii) the costs of any investigation, study, removal, response or remedial action, as well as the preparation and implementation of any monitoring, closure or other required plan or response action; and (iii) all reasonable costs and expenses incurred by any Indemnitee in connection with such matters, including, but not limited to, attorney's fees and reasonable fees for professional services or fire fighting or pollution control equipment related to spills. Tenant further agrees to defend, protect, indemnify and hold harmless any Indemnitee for any such matters arising out of or relating to Sections 20.3 [Compliance with Environmental Laws] through 20.8 [Environmental Claims Relating to Environmentally Regulated Substances] below. Notwithstanding the foregoing, Tenant is not obligated to indemnify an Indemnitee against any Environmental Claims (i) to the extent a court of competent jurisdiction decides such Environmental Claims result from the Indemnitee's negligence or intentional acts, or (ii) to the extent MAC and Tenant mutually agree such Environmental Claims result from Indemnitee's negligence or intentional acts.

MAC shall give Tenant reasonable notice of any such Environmental Claim or action. In indemnifying or defending an Indemnitee, Tenant shall use legal counsel reasonably acceptable to MAC. MAC, at its option, shall have the right to select its own counsel or to approve joint counsel as appropriate (considering potential conflicts of interest) and any experts for the defense of claims. Tenant, at its expense, shall provide to MAC all information, records, statements, photographs, video, or other documents reasonably necessary to defend the parties on any Environmental Claims.

This indemnification and Tenant's obligations hereunder, shall survive cancellation, termination, or expiration of the Term of this Lease. The furnishing of the insurance required by this Lease shall not be deemed to limit Tenant's obligations under this Section 20.3. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations. This indemnification is intended for the indemnified parties and their legal representatives.

C. Compliance with Environmental Laws

Tenant shall keep and maintain and shall conduct its operations at the Leased Property and Airport in full compliance with all Environmental Laws. Tenant shall 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 shall be 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 shall have full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon request of MAC, Tenant shall 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 Sewer and Water Policy, there shall be no wells or septic systems on the Leased Property. Installation of any monitoring wells or tanks (which term includes fuel tanks) on the Leased Property is subject to the prior written approval of MAC, provided that only aboveground storage tanks will be allowed on the Leased Property, unless MAC determines that aboveground tanks are not feasible. Notwithstanding the above, 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 used by the Tenant in its operations (provided the Tenant has conducted a Phase I environmental assessment on the Leased Property which indicates that no other tanks, septic systems or wells are present on the Leased Property at the time of execution of this Lease other than those used by Tenant), and (ii) any tanks, septic systems or wells installed at any time during the Term of this Lease or during any holding over.

D. Testing and Reports

Tenant shall 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, but not limited to, 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.

E. Notification

Tenant shall immediately notify MAC in writing of any matter known to Tenant that might give rise to an Environmental Claim 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 hazardous substance spills caused by or resulting from operations of Tenant or persons under Tenant's control on the Leased Property and Airport. Tenant shall 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.

F. 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 shall have 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 shall 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.

G. Right to Take Action

MAC shall have 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 which 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 shall 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 shall have 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, shall be subject to Section 20.2 [Indemnification] hereof.

H. 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-remediation 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" shall mean 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.

II. Non-Discrimination

A. General

Subtenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that (i) no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Subleased Property; (ii) that in the construction of any Improvements on, over, or under the Subleased Property, and the furnishing of services thereon, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) Subtenant shall use the Subleased Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, "Non-Discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964," as amended from time to time.

B. Improvements

Subtenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that in the event Improvements are constructed, maintained or otherwise operated on the Subleased Property for a purpose for which a program or activity of the Department of Transportation is extended or for another purpose involving the provision of similar services or benefits, Subtenant shall maintain and operate such Improvements and services in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, "Non-Discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964," as amended from time to time.

C. Economic

Subtenant, and those operating under agreement with Subtenant, shall furnish services authorized by this Lease on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Subtenant and those operating under agreement with Subtenant shall be allowed to make reasonable and non-discriminatory discounts, rebates and other similar types of price reductions to volume purchasers.

D. Civil Rights

Subtenant assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Subtenant or its transferee for the period during which Federal assistance is extended to the Airport for any program or use thereof, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (i) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits, or (ii) the period during which the Airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.

III. DBE

Subtenant 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.