

FY _____

SUBLEASE AGREEMENT

by and between

TULSA AIRPORTS IMPROVEMENT TRUST

AND

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AND

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Exhibit A A-1

SUBLEASE AGREEMENT

This Agreement is entered into between the Tulsa Airports Improvement Trust, a public trust organized under the laws of the State of Oklahoma ("TAIT") and _____ a _____ [corporation, LLC, partnership, etc.] ("Lessee").

R E C I T A L S

1. TAIT leases Richard Lloyd Jones, Jr. Airport pursuant to the terms of an Amended Lease between the City of Tulsa, Oklahoma, and TAIT, effective July 1, 1987, and amended by Amendment No. 1, effective July 1, 1989, by which the Tulsa Airport Authority, a charter agency of the City of Tulsa, is authorized to manage the Airport on a daily basis for TAIT, and by Amendment No. 2, effective June 15, 2000, as amended, corrected and restated on December 8, 2005; and Amendment No. 3, effective August 12, 2010.

2. TAIT desires to sublease certain lands as hereinafter defined, being situated on said leased property, and Lessee desires to sublease from TAIT for a term of years, the hereinafter defined premises.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained to be kept and performed by the parties hereto and upon the provisions and conditions hereinafter set forth, TAIT and Lessee hereby do agree as follows:

ARTICLE I **Definitions**

Section 1.1 **Definitions**. Throughout this Agreement, the following words shall have the following meanings, respectively, unless the context clearly shall indicate some other meaning:

- a. Agreement means this Sublease Agreement between TAIT and Lessee;
- b. Airport means Richard Lloyd Jones, Jr. Airport;
- c. Authority means the Tulsa Airport Authority, a charter agency of the City of Tulsa;
- d. City means the City of Tulsa, Oklahoma, a municipal corporation;
- e. EPA means the United States Environmental Protection Agency and any federal, state or local agency, or governmental entity, succeeding to, or being delegated with its jurisdiction, functions, or responsibilities.

- f. FAA means the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function;
- g. FAR means Federal Aviation Regulations and shall include, but not be limited to, all regulations, policies, statements and directives promulgated or issued by the FAA.
- h. Governmental Requirements mean all federal, state and local laws, ordinances, rules, regulations, policies and procedures, security plans, standards, and rulings; including, but not limited to, all additions and amendments now in effect, or hereinafter enacted, as may be imposed by the FAA, TSA or any other governmental entity succeeding to the jurisdiction, functions, or responsibilities of either; TAIT; the Tulsa Airport Authority; the City of Tulsa, the State of Oklahoma, or other governmental entities authorized to enact rules, regulations, standards, or policies applicable to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon.
- i. Leased Premises means the area described and illustrated on Exhibit "A"; and
- j. Term means the period of time that this Agreement shall be in effect, as set forth in Section 2.1 hereof.
- k. TSA means the Transportation Security Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

Section 1.2. **Rules of Construction.** Throughout this Agreement, unless the context clearly shall require otherwise:

- a. The singular includes the plural and vice versa;
- b. The words "and" and "or" shall be both conjunctive and disjunctive;
- c. The words "all" and "any" mean "any and all";
- d. The word "including" means "including without limitation";
- e. The word "he" or any other masculine pronoun includes any individual regardless of sex;
- f. Reference to any exhibits shall mean exhibits attached to this Agreement which shall be deemed incorporated by reference; and

- g. Reference to articles or sections respectively shall mean articles or sections of this Agreement.

ARTICLE II

Term

Section 2.1 **Term of Agreement.** The Term of this Agreement shall be for twenty (20) years which shall commence on _____, and shall expire on _____, unless otherwise terminated or canceled. Provided, as of the effective date of termination or cancellation of this Agreement, all obligations which have been incurred by Lessee, or with respect to which Lessee shall be in default, shall survive such termination or cancellation.

Section 2.2 **Option to Extend.** During the period commencing one year prior to the expiration date of this Agreement and ending one hundred twenty (120) days prior to the expiration date of this Agreement ("option period"), Lessee shall have the option to extend the Term of this Agreement for one extended period of five (5) years, upon the following terms and conditions:

- a. Lessee shall not be in default of this Agreement during the option period;
- b. Lessee shall deliver to TAIT during the option period written notice of its exercise of the option; and
- c. All terms and conditions including rental rates, fees and charges then applicable to this Agreement, shall remain in full force during the extended term(s).

Section 2.3 **Surrender of Possession; Holding Over.** Except as otherwise expressly provided in this Agreement, at the expiration or sooner termination of the Agreement, or any extension hereof, Lessee agrees to surrender possession of Leased Premises peacefully and promptly to TAIT in as good condition as existed at the effective date of this Agreement, normal wear and tear excepted.

If Lessee shall hold over after the termination of this Agreement, TAIT may allow Lessee to remain on the Leased Premises as a tenant at will. During such tenancy, Lessee shall pay to TAIT one and one half (1½) times the rentals, fees and charges set forth herein, and Lessee shall be bound by all of the additional provisions of this Agreement.

ARTICLE III
Lessor's Grants; Reservations

Section 3.1 **Sublease, License.**

- a. **Sublease.** TAIT hereby offers and subleases to Lessee, and Lessee hereby accepts and subleases from TAIT, the Leased Premises for the Term (or any extended Term) of this Agreement, subject to the terms, provisions and conditions herein set forth, for the purposes of _____. Lessee accepts the Leased Premises in the condition in which they exist at the commencement of this Agreement.
- b. **License.** TAIT hereby grants to Lessee and Lessee hereby accepts from TAIT for the Term, (or any extended term), of this Agreement, subject to the terms, provisions and conditions herein set forth, including, but not limited to the prompt and timely payment of rentals, fees and charges set forth in Article VI hereof, a nonexclusive license to operate a _____ on the Leased Premises.

Section 3.2 **Avigation Easement, Waiver and Release.** TAIT reserves the right to take such action as may be necessary to protect the aerial approaches of the Airport against obstruction in accordance with applicable standards or Governmental Requirements, together with the right to prevent Lessee or any other person from erecting or permitting to be erected any antenna, equipment, building, or other facility or structure on the Airport (other than buildings or facilities to be constructed in compliance with and pursuant to the plans and specifications approved pursuant to Section 5.3 hereof or except with the prior written approval of the Airports Director), which would conflict with such standards and Governmental Requirements. TAIT also reserves for itself, Authority and City, and their lessees and licensees, an avigation easement in, over and across the airspace above the Leased Premises and the unrestricted right to subject the Leased Premises to such Airport noise and vibration as may result from the flight of aircraft, warm up of engines, testing of engines or motors and other aviation related activities.

LESSEE SHALL WAIVE, REMISE AND RELEASE ANY RIGHT OR CAUSE OF ACTION WHICH LESSEE MAY NOW HAVE OR MAY HAVE IN THE FUTURE AGAINST TAIT, AUTHORITY OR CITY ON ACCOUNT OF OR ARISING OUT OF NOISE, VIBRATIONS, FUMES, DUST, FUEL, PARTICLES AND OTHER EFFECTS THAT MAY BE CAUSED OR MAY HAVE BEEN CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT OR TAKING OFF FROM OR OPERATING AT OR ON THE AIRPORT OR IN AND NEAR THE AIRSPACE ABOVE THE LEASED PREMISES.

Lessee shall (a) not allow any tree or other vegetation to remain on the Leased Premises which encroaches upon or extends into the prohibited airspace or rights-of-way of the Airport; (b) use, permit or suffer the use of the Leased Premises in such a manner as to

create electrical interferences with radio communication to or from any aircraft or between any airport installation and any aircraft, or as to make it difficult for aircraft pilots to distinguish between airport lights or as to impair visibility in the vicinity of the Airport, or to otherwise endanger the landing, taking off or maneuvering of aircraft; (c) not permit the construction of any facility or improvement which attracts or results in the concentration of birds which would interfere with the safe operation of aircraft in the airspace above the Leased Premises and at the Airport; and (d) not cause or permit any change in authorized land use hereunder that will reduce the compatibility of the noise compatibility program measures upon which Federal funds have been expended.

“Airspace” means for the purposes of this Section, any space above the ground level of the Leased Premises. “Aircraft” means for the purposes of this Section, any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air or space, regardless of the form of propulsion, which powers said aircraft in flight. It is understood and agreed that the covenants and agreements in this section shall run with the land.

Section 3.3 **Reservation of Mineral Rights**. TAIT reserves all right, title and interest in and to all minerals in, on or under the Leased Premises. Lessee shall not engage in any mining or drilling activities in, on or under the Leased Premises during the Term of this Agreement. "Minerals" as used herein shall mean all mineral substances and deposits whether solid, gaseous, or liquid.

Section 3.4 **Title to Existing Improvements**. Title to all improvements which have been made to the Leased Premises by Lessee as of the execution hereof shall be and remain in Lessee during the Term and any extended term of this Agreement.

Section 3.5 **Quiet Enjoyment**. Unless Lessee shall have defaulted in its obligations hereunder, it shall have quiet enjoyment of the Leased Premises. PROVIDED, HOWEVER, TAIT MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE LEASED PREMISES OR THAT THEY WILL BE SUITABLE FOR LESSEE'S PURPOSES AND NEEDS. **BE IT FURTHER PROVIDED**, that TAIT reserves the right to further develop, improve, rehabilitate, repair, reconstruct, alter and expand the Airport and all roadways, parking areas, terminal facilities, runways, taxiways and other aircraft operating areas as it may reasonably see fit, free from any and all liability to Lessee for loss of business or damages of any nature whatsoever to Lessee occasioned during the making of such improvements, repairs, alterations, reconstructions and additions to the Airport.

Section 3.6 **No Joint Venture or Partnership**. This Agreement shall not be deemed or construed (a) to create any relationship of joint venture or partnership between TAIT and Lessee, (b) to give TAIT any interest in the business of Lessee, or (c) to grant to Lessee any powers as an agent or representative of TAIT, the Authority, or the City for any purpose or to bind TAIT, the Authority, or the City.

Section 3.7 Right of Relocation.

a. Right of Relocation. TAIT shall have the right to relocate Lessee's Leased Premises including any improvements located thereon when necessary to accommodate the overall growth and development of the Airport. The need for such relocation shall be determined by TAIT.

In the event such a relocation becomes necessary, Lessee shall be assigned a replacement area, if available, which is equivalent in size and amenities. Should Lessee disagree with the replacement location, Lessee shall have the right, within fifteen (15) calendar days of receipt of the written notice by the Airports Director of impending relocation, to provide written notice to the Airports Director that Lessee disagrees with the replacement location. Upon such written notice by Lessee, the parties shall, for a period not to exceed thirty (30) days from the date of such notice, negotiate in good faith an attempt to resolve the matter to the satisfaction of both parties; however, if for any reason this issue is not resolved within thirty (30) days, TAIT shall have the right to unilaterally decide the matter, and Lessee agrees to and shall abide by TAIT's decision.

b. Requirements of Relocation. Should the Airports Director serve written notice on Lessee that Lessee is to be relocated, Lessee agrees it shall take or cause to be taken any and all actions as may be required to vacate its Leased Premises and surrender the same to TAIT and begin serving the public from replacement location or remainder space upon written notice by the Airports Director that said replacement premises are available for beneficial occupancy by Lessee. Lessee shall be responsible for moving its trade fixtures. If TAIT requires Lessee to relocate its Leased Premises during the Term of this Agreement, the cost of the replacement service center site and improvements located thereon shall be borne by TAIT.

Section 3.8 Termination of Agreement for Airport Purposes. Lessee agrees and understands that, by reason of the broad public interest in the efficient maintenance, operation and development of the Airport, TAIT hereby expressly reserves the right to terminate this Agreement upon a determination by TAIT or the Authority that the Leased Premises are needed for Airport construction or development.

In the event that Airport construction or development necessitates termination of this Agreement and the acquisition of Lessee's interest in the Leased Premises, Lessee shall surrender the Leased Premises to TAIT within ninety (90) days from receipt of TAIT's written notice of its intent to terminate the Agreement and acquire Lessee's interest in the Leased Premises. TAIT shall use its best efforts to provide Lessee with replacement premises at the Airport at the rates not to exceed those provided in this Agreement. Furthermore, relocation benefits shall be paid by TAIT to Lessee in the manner required by applicable Governmental Requirements.

In consideration of Lessee's surrender of the Leased Premises, Lessee shall receive, as complete compensation for Lessee's interest in the Leased Premises and Lessee's improvements thereto, a sum of money equivalent to the fair value of any improvements of Lessee acquired by TAIT. Determination of the fair value of the improvements shall be made by the appraisal method known as the "market comparison approach". The appraisal method known as the "income approach" shall not be used in the valuation of the improvements.

The parties further agree that the fair value rental of the Leased Premises shall be deemed to be equivalent to the contract rent specified in this Agreement, throughout the Term or any extended term.

ARTICLE IV **Use**

Section 4.1 **Use of Leased Premises**. Lessee shall be entitled to use the Leased Premises for all lawful purposes related to the commercial activities which Lessee is specifically authorized to conduct pursuant to this Agreement. Lessee, its representatives, agents and invitees, shall have the right, in common with others, of ingress and egress to and from the Leased Premises. TAIT and the Authority reserve the right to close any means of ingress and egress, so long as other reasonable means of ingress and egress to the Leased Premises are available to Lessee.

Section 4.2 **General Use of the Airport**. Subject to terms, conditions and covenants of this Agreement, Lessee shall be entitled to use, on a non-exclusive basis, public areas of the Airport and the runways, taxiways, aprons, lighting, navigation aids, and other facilities necessary for the operation of aircraft.

Section 4.3 **Fueling Operations**. Except in conformity with Section 9.1 hereof, Lessee shall not permit any aircraft to be fueled on the Leased Premises except by a licensee approved by TAIT to fuel aircraft at the Airport.

Section 4.4 **Security Plan**. At its sole cost and expense, Lessee shall comply with the Airport security plan. Lessee shall require all persons entering the Leased Premises to comply with the Airport security plan and the Airport rules and regulations established by the Authority.

Section 4.5 **Limitations on Signage**. Any signage to be located on the Leased Premises shall be subject to the terms and provisions of the Tulsa International Airport and R.L. Jones, Jr., Airport Commercial Business Exterior Sign Policy approved by TAIT and the Authority on August 11, 2005, and by the Tulsa City Council on September 29, 2005, as the same may be amended from time to time. Without prior written approval of Authority, Lessee shall not erect, maintain or display any signs of advertising or graphics at or on the

exterior parts of the Leased Premises, or in or on the Leased Premises, so as to be visible outside the Leased Premises. If TAIT has not given approval for said signage within five days of receipt of written notice by TAIT, Lessee shall remove, obliterate, or paint out any and all advertising signs, posters, graphics and similar devices placed by Lessee on the Leased Premises. In event of a failure by Lessee to so remove, obliterate or paint out each and every sign, poster, graphic or piece of advertising and to restore the Leased Premises to its prior condition, TAIT may perform the necessary work and Lessee shall pay the cost thereof to TAIT on demand.

ARTICLE V

Improvements to the Premises

Section 5.1 **Title**. Lessee shall be entitled to construct new improvements to the Leased Premises. Title to all improvements constructed by Lessee shall be and remain in Lessee during the Term of this Agreement and any extended period. Upon termination of this Agreement, title to such improvements shall remain in Lessee. However, on or before termination of this Agreement, Lessee shall remove all improvements which it may make during the Term of this Agreement and any extensions hereof. After termination hereof, TAIT may require Lessee to remove the same, in which event, at Lessee's sole cost and expense, Lessee shall restore the Leased Premises to the condition in which they existed at the commencement of this Agreement. In event of Lessee's failure to do so, TAIT may, at its option, take title to all of the improvements, free and clear of all right, title and interest of Lessee, or TAIT may, at its option, cause the improvements to be removed and Leased Premises restored at the expense of Lessee.

Section 5.2 **Plans and Specifications**.

a. All plans and specifications for new improvements on the Leased Premises shall be prepared by Lessee in compliance with all Governmental Requirements. Lessee shall furnish to TAIT copies of permits and licenses needed for construction. A construction application, in a form prepared by Authority, and plans and specifications shall be submitted by Lessee to TAIT for approval. Thereafter, TAIT shall have thirty (30) days after receipt within which to approve the plans and specifications, or to notify Lessee of any objections thereto. Each objection and the grounds therefor shall be stated separately. Lessee shall have a reasonable time thereafter within which to make any revisions to the plans and specifications to remove TAIT's objections. Upon TAIT's receipt of the final plans and specifications, TAIT shall have thirty (30) days within which to approve or reject Lessee's revised proposal. After TAIT's approval of the final plans and specifications, Lessee may proceed with construction. Construction shall be substantially in accordance with the approved plans and specifications. Upon completion of construction, Lessee shall furnish to TAIT one (1) complete set of reproducible "as built" plans and specifications.

b. If improvements are to be constructed by Lessee on the Leased Premises, Lessee shall commence construction within ninety (90) days from the commencement date of this Agreement. Lessee shall complete construction within six (6) months from the commencement date of this Agreement or in the time set forth in the construction application approved by TAIT pursuant to Section 5.2(a) hereof. Lessee's failure to commence or complete construction within the times set forth in this section shall be an event of default. [NOTE: Pull subparagraph b. if no construction will be occurring.]

Section 5.3 **Effect of New Improvements.** Construction of new improvements on the Leased Premises shall not be permitted to adversely affect existing improvements, other Airport tenants, Airport property or other property contiguous to the Airport.

Section 5.4 **Removal and Ownership of Airport Structures on Leased Premises.** Lessee may not remove or otherwise alter any improvement to the Leased Premises owned by the TAIT or the City without prior written consent of TAIT. Lessee may request permission, in writing, to remove or alter such improvements. Within thirty (30) days of receipt of such written request, TAIT shall notify Lessee of either the rejection or approval of the request. Ownership and title to all improvements removed from or altered on the Leased Premises shall remain in TAIT and the City. Removal, storage, maintenance, transportation and disposal of the improvements shall be made at Lessee's sole cost.

Section 5.5 **Radar Screening.** Lessee agrees to install at its sole cost, in conformity with FAA and Authority requirements and regulations, all radar screening or other material necessary to prevent or eliminate any radar ghosting or interference caused by any new construction, modification, rehabilitation, or other development of, the Leased Premises.

Section 5.6 **Fences and Gates.** If any part of the Leased Premises, or the improvements thereon, are enclosed within the secure area ("the Security Line") of the Airport, Lessee shall provide all materials and labor, at its sole cost, necessary to comply with the Airport Security Plan and TSA Section 49 CFR Part 1542 (Airport Security). Lessee shall pay for the cost of all additional gates or doors required for access by Lessee and its employees, business invitees, or others from the landside of the Airport to the airside of the Airport through the Security Line. At all security gates or doors on the Leased Premises, Lessee shall install an entry card system approved by the Authority pursuant to the Airport Security Plan submitted to and approved by the FAA. Any alteration of the communication devices or entry card system, which may be necessitated by a change in Authority or FAA requirements shall be made at the expense of Lessee.

Section 5.7 **Inspection.** TAIT, the Authority, the City and their authorized representatives, shall have the right to inspect the Leased Premises during all reasonable hours, or in case of emergency, at any time.

Section 5.8 **Weight Limitations**. Lessee hereby specifically acknowledges that the roadways, taxilanes, taxiways, ramps and aprons located on the Airport wherein the Leased Premises are located are stressed for maximum gross weights. Lessee shall be responsible for all damage or destruction caused by utilization of Airport roadways, taxilanes, taxiways, ramps and aprons by aircraft or vehicles operated by Lessee or its tenants, licensees, or invitees in excess of the maximum gross weights.

Section 5.9 **No Liens or Encumbrances**. Operator shall well, truly and promptly pay or satisfy just and equitable claims of all persons who have performed labor or furnished material by it or on its behalf for construction of any improvements required under this Agreement and all bills, costs or claims of whatever kind, which may at law or equity become a lien upon said work, or a claim against the Leased Premises; provided, however, that Operator may contest the amount or validity of any claim without being in default of this Agreement upon furnishing security satisfactory to Counsel for TAIT, guaranteeing such claim will be properly discharged forthwith if such contest is finally determined against Operator.

ARTICLE VI
Rentals, Fees and Charges

Section 6.1 **Rentals, Initial Period**. During the first five years of the Term, Lessee shall pay to TAIT an annual rental for the Leased Premises ("Land Rentals") of _____ (\$_____) Dollars. The Leased Premises contain _____ square feet at \$_____ per square foot per year. The annual rental shall be paid in twelve equal installments of _____ (\$_____) each. The first installment shall be paid by Lessee on or before the commencement date hereof, and all subsequent installments shall be paid in advance on or before the first day of each succeeding month. Lessee shall pay a pro rata amount for any partial month possession of the Leased Premises.

Section 6.2. **Rentals, Subsequent Periods**. Commencing on the _____ day of _____, _____, **[5 years after commencement]** and thereafter on _____ of each five (5) year period of the Term or any extended Term hereof, the annual rental rate shall be increased based upon the percentage increase in the Implicit Price Deflator Index for Gross Domestic Product ("Index") published by the United States Department of Commerce. The base rental rate shall be adjusted to the nearest \$0.01 as set forth:

- a. Effective _____, the annual rental rate for each year of the next five (5) year period shall be \$_____ per square foot plus a percentage increase determined by multiplying \$[lease rate] by the percentage increase in the Index comparing Index's annual average for the year **[year prior to commencement]** to the Index's annual average for the year **[4 years after commencement]**.

- b. Effective on _____ of each succeeding five (5) year period, the annual rental rate for each year of the five (5) year period or portions thereof of the Term or Extended Term shall be adjusted according to the method described in Section 6.2(a) using the preceding rental rate per square foot and adjusting it according to the percentage increase in the Index as set forth.

Notwithstanding any failure of TAIT to give Lessee notice of the adjusted rental rate or annual rentals due and owing for each year of the extended term of this Agreement, the Land Rentals as adjusted and determined by TAIT shall go into effect as of the commencement of the extended term hereof.

Section 6.3 **No Decrease in Land Rental Lease Rate**. The rentals for any succeeding rental period shall not be, in any event, less than the lease rate established for the preceding rental period. The rentals so determined shall be payable in the same manner as set forth in this Article.

Section 6.4 **Fees and Charges**. Lessee shall pay to TAIT, or the Authority, as the same are or may be applicable to Lessee, the following fees and charges, for the use of services, privileges and facilities at the Airport:

- a. Fuel Flow Fee. Lessee shall pay to TAIT an Aviation Fuel Flowage Fee in the manner and amount established by ordinance and/or regulations.
- b. Other. Lessee shall pay to TAIT such other fees and charges as reasonably may be assessed for all other services, privileges or facilities used by Lessee at the Airport as established by TAIT and published in the Schedule of Rates, Fees and Charges, including any amendments.

Section 6.5 **Sublease/License Contingent Upon Payment**. The grant of the rights, licenses, facilities, services and privileges to Lessee under this Agreement, in each case shall be subject to the full and timely payment of the rentals, fees and charges required to be paid by Lessee hereunder.

Section 6.6 **Landlord's Lien**. TAIT shall have the first lien, paramount to all others, on every right and interest of Lessee in this Agreement, on all improvements, equipment and fixtures to the Leased Premises. The lien is granted for the purpose of securing the payment of rentals, fees, charges, taxes, assessments, liens, penalties and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance, all and singular, of the covenants, conditions and obligations of this Agreement to be performed and observed by Lessee. This lien shall be in addition to all rights of a landlord given under the laws of the State of Oklahoma.

Section 6.7 **Place of Payments**. All sums payable by Lessee hereunder shall be delivered to:

Tulsa Airports Improvement Trust
Department 598
Tulsa, Oklahoma 74182

Section 6.8 **Delinquencies**. In addition to any remedy available to it hereunder, TAIT may impose as additional rental a delinquency charge on all overdue payments, at the rate of eighteen percent (18%) per annum or the then maximum rate allowed by law, whichever is greater and allowed by law.

Section 6.9 **Security Assurances**. Concurrently with execution of this Agreement, Lessee shall obtain and deliver to TAIT, unless specifically waived in writing by TAIT, a good and sufficient corporate surety company bond or a bank irrevocable letter of credit ("Security Assurance") renewable for the Term hereof. Said Security Assurance shall serve the purpose of securing payment of all sums payable by Lessee to TAIT hereunder and will be forfeited in whole or in part to satisfy a Lessee liability in the event of Lessee's failure to pay any rates, rentals, fees or charges of whatsoever nature due TAIT and conditioned to ensure the faithful and full performance by Lessee of all its covenants, terms, conditions and obligations of this Agreement. Upon request of TAIT, Lessee shall restore the Security Assurance to its original Amount. The Security Assurance shall be in the amount of fifty percent (50%) of the annual rates, fees and charges to be paid by Lessee pursuant to Section 6.1 hereof. The form, provisions and nature of the Security Assurance, and the identity of the surety, insurer or other obligor, shall be subject to the approval of TAIT. In the event that TAIT and Lessee hereafter agree to any amendment or modification of this Agreement, Lessee shall, if required by the terms of the Security Assurance, obtain the consent of the surety, insurer or other obligor hereunder, as the case may be, and shall adjust the amount of the Security Assurance to reflect any increase in the rentals, fees or charges payable by Lessee hereunder. The failure of Lessee to furnish (and keep in full force and effect) the Security Assurance, to renew the same, to adjust the amount thereof, or to obtain the consent of surety, insurer or obligor as heretofore set forth, shall constitute an event of default under this Agreement.

Section 6.10 **Accord and Satisfaction**. No payment by Lessee or receipt by TAIT of a lesser amount than the rentals, percentage fees and/or charges or payment(s) due to be made by Lessee hereunder shall be deemed to be other than a payment on "account" of the rent, percentage fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as rent fees and/or charges shall be deemed in accord and satisfaction, and TAIT may accept such check or payment without prejudice to TAIT's right to recover the balance of such rent percentage fees and/or charges or to pursue any other remedy provided in this Agreement.

Section 6.11 **Utility Service**. At its own expense, Lessee shall be responsible for the installation, relocation, modification and maintenance of all utility services on the Leased Premises. This shall include any janitorial services, power, gas, telephone,

electricity, heating, water, sewer and all other utility services not specifically enumerated. Lessee shall pay as the same becomes due, all utility and other charges incurred in the operation, maintenance, use, occupancy, repair and upkeep of the Leased Premises and the improvements located thereon.

ARTICLE VII
Maintenance and Care of Leased Premises

Section 7.1 **Maintenance and Care of Leased Premises**. (a) Lessee shall perform all maintenance, including but not limited to, all repairs relative to heating, electrical, plumbing and air conditioning systems; roofs; walls; structure; structural improvements; paving; and the ramp on the Leased Premises. Lessee also shall perform mowing of, and snow removal from, the Leased Premises. Lessee, at all times, shall keep in a clean and orderly condition and appearance all the Leased Premises and all of Lessee's fixtures, equipment and personal property which are located thereon. Unless otherwise specifically provided for in this Agreement, or with the express written permission of the Airports Director, Lessee shall not store aircraft service vehicles, tugs, fuel trucks, fork lifts, mobile equipment, cargo, or other personal property on the Leased Premises unless the same are in common use in Lessee's customary business operations. The Leased Premises shall not be used for the storage of motor vehicles, recreational vehicles, or boats. Lessee shall not commit or suffer to be committed any nuisance on the Leased Premises. Lessee shall conduct its operations in an orderly and proper manner so as not to annoy, disturb, or be offensive to others at the Airport. Lessee shall take all reasonable measures to keep the sound level of its operations as low as reasonably possible. Lessee shall not permit the accumulation of any rubbish, trash or other waste material. Except in tanks and in the manner approved by appropriate governmental authorities, Lessee shall not store any gasoline or other material likely to give off fumes or gases or any material likely to constitute a fire, safety or security hazard on the Leased Premises. Lessee shall not cause or permit any hazardous or flammable substance to be used, stored, generated or disposed of on the Airport or Leased Premises, except as otherwise provided herein.

(b) Except as may be specifically permitted by this Agreement or with the prior written permission of the Airports Director, aircraft in an unairworthy condition or disabled, disassembled, or partially assembled aircraft, parts, or other aircraft components thereof, shall not be parked, stored or left standing for a period in excess of thirty (30) days on the exterior areas or portions of the Leased Premises. Approval of the Airport Director is required if the thirty (30) day period allowed above will be exceeded.

ARTICLE VIII
Indemnity and Insurance

Section 8.1 **Indemnity - General**. Lessee shall indemnify, protect, defend and hold completely harmless, TAIT, the Authority, and the City, and their trustees, officers, councilors, agents and employees from and against all liability, losses, suits, claims, judgments, fines or demands arising from injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement, Lessee's use or occupancy of the Leased Premises, the Airport, or the rights, licenses, or privileges granted Lessee herein, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death or damage may occur, unless such injury, death or damages is caused by the sole negligence of TAIT. TAIT shall give notice to Lessee of any such liability, loss, suit, claim or demand, and Lessee shall defend the same using counsel reasonably acceptable to TAIT. The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 8.2 **Insurance**. Lessee shall maintain in force during the Term and any extended period commercial general liability, bodily injury and property damage insurance in comprehensive form including but not limited to airport liability, aircraft liability, broad form property damage with any excess liability in umbrella form, with such coverage and limits as reasonably may be required by TAIT from time to time, but in no event for less than the sum of One Million Dollars (\$1,000,000) combined single limit. The insurance shall be issued by an insurer licensed to do business in the State of Oklahoma.

Lessee agrees to maintain contractual liability insurance to insure Lessee's obligation to indemnify and hold TAIT, Authority, and City, their councilors, trustees, agents, officers, servants, and employees harmless and in accordance with the indemnification provisions of this agreement.

Concurrent with the execution of this Agreement, Lessee shall provide proof of insurance coverage by providing a certificate of Lessee's insurance coverage, a copy of the declarations page of the insurance policy, and a copy of all endorsement(s) applicable to the insurance required herein. The certificate(s) of insurance, or endorsement(s) attached thereto, shall provide that (a) the insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to TAIT, (b) TAIT, the Authority, and the City, and their trustees, councilors, agents, officers, servants, and employees are named as additional insureds, (c) the policy shall be considered primary as regards any other insurance coverage TAIT or the Authority may possess, including any self-insured retention or deductible TAIT or the Authority may have, and any other insurance coverage TAIT or the Authority may possess shall be considered excess insurance only, (d) the limits of liability required therein are on an occurrence basis, and (e) the policy shall be endorsed with a severability of interest or cross-liability

endorsement, providing that the coverage shall act for each insured and each additional insured, against whom a claim is or may be made in a manner as though a separate policy had been written for each insured or additional insured; however, nothing contained herein shall act to increase the limits of liability of the insurance company.

Any deductibles must be declared in writing to and approved by TAIT. At the option of TAIT, either (a) the Lessee shall reduce or eliminate such deductibles as respects TAIT, the Authority, the City, and their trustees, councilors, agents, officers, and employees or (b) Lessee shall procure a bond equal to the amount of such deductibles or self-insured retentions guaranteeing payment of losses and related investigations, claims administration and defense expenses (including attorneys' fees, court costs and expert fees).

If the insurance coverage required herein is canceled, changed in coverage or reduced in limits, Lessee shall, within fifteen (15) days, but in no event later than the effective date of cancellation, change or reduction, provide to TAIT a certificate showing that insurance coverage has been reinstated or provided through another insurance company. Upon failure to provide such certificate, without further notice and at its option, TAIT either may, in addition to all its other remedies (a) exercise TAIT's rights as provided in the default provisions of this Agreement, or (b) procure insurance coverage at Lessee's expense whereupon Lessee promptly shall reimburse TAIT for such expense.

Section 8.3 **Regulated Substance Compliance and Indemnity**. Lessee shall not cause or permit any "Regulated Substance" as hereinafter defined, to be brought upon, generated, stored, or used in or about the Leased Premises by Lessee, its agents, employees, contractors, or invitees, except for such Regulated Substance of the type and quantity as is necessary to Lessee's business and with prior written notice to TAIT. Any Regulated Substance permitted on the Leased Premises as provided herein, and all containers therefor, shall be used, kept, stored, and disposed of in a manner that complies with all federal, state and local laws or regulations applicable to this Regulated Substance.

Lessee shall not cause or permit, release, discharge, leak, or emit, nor permit to be discharged, leaked, released, or emitted, any Regulated Substance into the atmosphere, ground, storm or sewer system, or any body of water, ditch, stream, if that Regulated Substance (as is reasonably determined by TAIT, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Leased Premises or elsewhere, or (b) the condition, use or enjoyment of the building, facilities or any other real or personal property. Lessee shall fully and timely comply with all applicable federal, state and local statutes, ordinances and regulations relating to protection of the environment, including, without limitation, 42 U.S.C. §6991-6991i.

- a. **Disclosure**. At the commencement of each year of the term hereof, Lessee shall disclose to TAIT the names and approximate amounts of all Regulated Substance that Lessee intends to store, use, or dispose of on the Leased Premises

in the first year of the Term hereof. In addition, at the commencement of each additional year of the Term hereof, beginning with the second year, Lessee shall disclose to TAIT the names and amounts of all Regulated Substances that were actually used, stored, or disposed of on the Leased Premises if those materials were not previously identified to TAIT at the commencement of the previous lease year.

b. Compliance Action. Lessee shall, at Lessee's sole expense, clean-up, remove, and remediate (1) any Regulated Substances in, on, or under the Leased Premises in excess of allowable levels established by all applicable federal, state and local laws and regulations, and (2) all contaminants and pollutants, in, on, or under the Leased Premises that create or threaten to create a substantial threat to human health or the environment and that are required to be moved, cleaned up, or remediated by any applicable federal, state, or local law, regulation, standard or order. This obligation does not apply to a release of Regulated Substances, pollutants, contaminants, or petroleum products that existed on the Leased Premises prior to the execution of the agreement caused solely by the act or omission of the Authority or a third party for whom the operator is not responsible (e.g. not a customer, invitee, employee, agent, or person having any contractual or business relationship with Lessee).

c. Definition of Regulated Substances. Regulated Substances: As used herein, the term "Regulated Substances" means and includes any and all substances, chemicals, waste, sewage or other materials, which are now or hereafter regulated, controlled or prohibited by any local, state, or federal law or regulation requiring removal, warning or restrictions on the use, generation, disposal or transportation thereof, including, without limitation (a) any substance defined as a "hazardous substance", "hazardous material", "hazardous waste", "toxic substance", or "air pollutant" in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601 et seq., The Hazardous Materials Transportation Act (HMTA), 49 U.S.C. §1801 et seq., The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., Federal Water Pollution Control Act (FWPC), 33 U.S. §1251 et seq., or the Clean Air Act (CAA), 42 U.S.C. §7401 et seq., all as amended and amended hereafter; (b) any substance defined as a "hazardous substance", "hazardous waste", "toxic substance", "extremely hazardous waste", "RCRA hazardous waste", "waste", "hazardous material" or "controlled industrial waste", as defined in the Oklahoma Industrial Waste Disposal Act, 63 O.S. §1-2000 et seq.; (c) any Regulated Substance, hazardous substance, hazardous waste, toxic substance, toxic waste, hazardous material, waste, chemical, or compound described in any other federal, state, or local statute, ordinance, code, rule, regulation, order, decree, or other law now or at any time hereafter in effect, regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous substance, chemical, material, compound or waste. As used herein, the term Regulated Substance or "hazardous substances" also means and includes, without limitation, asbestos, flammable,

explosive or radioactive materials; gasoline; oil; motor oil; waste oil; petroleum (including without limitation, crude oil, or any fraction thereof); petroleum based products; paints and solvents; leads; cyanide; DDT; printing inks; acids; pesticides; ammonium compounds; polychlorobiphenyls; and other regulated chemical products.

d. Indemnity Noncompliance/Notice of Violation. Lessee hereby fully agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Regulated Substances kept on the Leased Premises by Lessee, and the Lessee shall give immediate notice to TAIT of any violation or potential violation of the provisions hereof. Without limiting any provisions of this Agreement, Lessee shall defend, indemnify, and hold harmless TAIT, the Authority, the City, and their trustees, councilors, officers, agents, and employees from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consultants' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to (a) any liabilities, damages, suits, penalties, judgments and environmental cleanup, removal, response, assessment, or remediation costs, arising from actual, threatened or alleged contamination of the Leased Premises; (b) the presence, disposal, release, or threatened release of any such Regulated Substance that is on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (c) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to that Regulated Substance; (d) any lawsuit brought or threatened, settlement reached, or government order relating to that Regulated Substance; or (e) any violation of any laws applicable thereto. The provisions hereof shall be in addition to any other obligations and liabilities Lessee may have to TAIT at law or equity and shall survive the transactions contemplated herein and shall survive the termination or expiration of this Agreement.

Section 8.4 Survival of Provisions. The terms, conditions, provisions and requirements of this Article VIII shall survive the expiration or earlier termination of this Agreement.

ARTICLE IX

Governmental Requirements

Section 9.1 Governmental Requirements - General. Lessee shall substantially comply with all Governmental Requirements applicable to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon. Lessee shall also require its guests, invitees, and those doing business with it to comply with all applicable Governmental Requirements.

Section 9.2 **No Liability for Exercise of Powers**. Neither TAIT, the Authority, nor the City shall be liable to Lessee for any diminution or deprivation of its rights which may result from the proper exercise of any power reserved to TAIT, the Authority or the City in this Agreement. Lessee shall not be entitled to terminate this Agreement by reason thereof, unless the exercise of such power shall interfere with Lessee's rights hereunder so as to constitute a termination of this Agreement by operation of law.

Section 9.3 **Nondiscrimination**. Lessee, and its successors in interest, and assigns, as a part of the consideration hereof, does covenant and agree hereby, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, Lessee shall remain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49 CFR Part 21, (Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), Part 23, (Participation by Minority Business Enterprises and DOT Programs) and Part 27 (Nondiscrimination on Basis of Handicap and Programs and Activities Receiving or Benefiting from Federal Assistance) and the regulations promulgated thereunder or may hereafter be amended.

Lessee, and its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities on the grounds of race, color, creed, national origin, or handicap, (2) in the construction of any improvements on, over or under such land, and the furnishings of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, on the grounds of race, color, creed, national origin, or handicap, (3) Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49 CFR Part 21, (Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), Part 23, (Participation by Minority Business Enterprises and DOT Programs) and Part 27 (Nondiscrimination on Basis of Handicap and Programs and Activities Receiving or Benefiting from Federal Assistance) and the regulations promulgated thereunder or may hereafter be amended.

To the extent applicable, Lessee assures that it will undertake an Affirmative Action Program as required by 14 CFR Part 152, Subpart E, to ensure that, on the grounds of race, color, creed, national origin or sex, no person shall be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee agrees that it will require that its covered suborganizations provide assurances to TAIT that they similarly will undertake Affirmative Action Programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E to this same effect.

Section 9.4 **Taxes and Other Governmental Charges**. Lessee shall pay, as the same become due, all taxes and governmental charges of any kind whatsoever that at any time lawfully may be assessed or levied against or with respect to Lessee's improvements, machinery, equipment or other property installed or used upon the Airport, including any ad valorem or personal property tax that may be assessed against any leasehold interest or estate created by this Agreement. In good faith, with due diligence, as permitted by law, Lessee may contest any such taxes or governmental charges.

Section 9.5 **Domestication**. If Lessee is a foreign corporation, it shall domesticate (be qualified to do business within Oklahoma) its corporate status within the State of Oklahoma. Lessee shall obtain a certificate of good standing from the Secretary of the State of Oklahoma and provide to TAIT such evidence of good standing as TAIT from time to time reasonably may require.

Section 9.6 **ADA Compliance**. Lessee shall take the necessary actions to ensure its facilities and employment practices are in compliance with the requirements of the Americans with Disabilities Act. Any costs of such compliance shall be the sole responsibility of Lessee.

Section 9.7 **Open Records Act**. Lessee understands and acknowledges TAIT's and Authority's legal requirements to comply with the Oklahoma Open Records Act (51 O.S. 2001 §24A.1. et seq.). Lessee understands and acknowledges that persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that the information will be kept from public access.

ARTICLE X **Events of Default**

Section 10.1 **Events of Default Defined/Cure**. The following shall be "events of default" under this Agreement, and the terms "events of default" or "default" shall mean, whenever they are used herein, any one or more of the following:

- a. Lessee shall fail to pay when due and owing any rentals, fees or charges payable hereunder and such nonpayment shall continue for thirty (30) days after written notice thereof by TAIT;
- b. Lessee shall (1) mortgage, pledge or encumber, any portion of its interest in this Agreement; (2) subject the Leased Premises to any lien of whatsoever nature, or (3) transfer, sublease or assign, either voluntarily or by operation of law, any portion of its interest in this Agreement, except in accordance with the provisions hereof;
- c. Lessee shall terminate its corporate structure, except as permitted herein;

- d. Lessee shall file a petition requesting relief or institute a proceeding under any act, state or federal, relating to the subject of bankruptcy or insolvency; or an involuntary petition in bankruptcy or any other similar proceeding shall be instituted against Lessee and continued for ninety (90) days; or a receiver of all or substantially all of the property of Lessee shall be appointed and the receiver shall not be dismissed for thirty (30) days; or the Lessee shall make any assignment for the benefit of the Lessee's creditors;
- e. Lessee shall abandon, desert, or vacate the Leased Premises voluntarily;
- f. Lessee shall breach any term, provision, condition, obligation or covenant under this or any other agreement to which Lessee and TAIT, Lessee and the Authority, or Lessee and City are parties; or
- g. Lessee shall fail to comply with insurance requirements imposed in Section 8.2 hereof.

If Lessee commits an event of default as set forth in Subsections 10.1(b) through (g) hereof, and such failure shall continue unremedied for thirty (30) days after TAIT shall have given to the Lessee written notice specifying such default; then TAIT may proceed without further notice in accordance with Section 10.2 of this Agreement. Provided, TAIT may grant Lessee (in writing) such additional time as reasonably is required to correct any such default if Lessee has instituted corrective action and is diligently pursuing the same.

Section 10.2 **Remedies Upon Lessee's Default and Failure to Cure**. Whenever an event of default of Lessee shall occur, and upon Lessee's failure to cure, TAIT may pursue any available right or remedy at law or equity, including:

- a. **Termination**. TAIT may terminate this Agreement without delivery of notice to Lessee. In the alternative, and at its exclusive option, TAIT may deliver to Lessee written notice of termination, specifying the date upon which the Agreement will terminate. In the event of termination, Lessee's rights to possession of the Leased Premises shall cease immediately. TAIT may then reenter and take possession of the Leased Premises and Lessee forthwith shall surrender possession of the Leased Premises. Upon termination of this Agreement, Lessee shall be liable for payment of:
 - (1). All sums accrued through the date of termination;
 - (2). The balance of all rentals required to be paid by Lessee for the entire Term of the Agreement;

- (3) The reasonable costs incurred by TAIT to relet the Leased Premises, or any portion thereof; and
- (4) The reasonable cost incurred by TAIT to restore the Leased Premises or any portion thereof to the condition in which they originally were leased, ordinary wear and tear excepted.

All rentals received by TAIT from reletting the Leased Premises after the termination of this Agreement shall be credited against the Outstanding Rental Balance. The acceptance by TAIT of any rentals from Lessee after the termination of this Agreement shall not reinstate this Agreement.

- b. Non-termination. As an alternative remedy upon Lessee's default, TAIT may elect not to terminate this Agreement in which event the Lessee shall continue to perform all conditions and obligations to be performed by Lessee hereunder, notwithstanding any entry or reentry by TAIT, or commencement of any suit in unlawful detainer or other action brought by TAIT for the purpose of effecting such entry or reentry or obtaining possession of the Leased Premises. After giving Lessee ten (10) days written notice, TAIT may reenter the Leased Premises to take possession thereof. TAIT shall use reasonable diligence to relet the Leased Premises upon such terms and conditions as TAIT may deem advisable. Lessee agrees that this Agreement constitutes full and sufficient notice of the right of TAIT to relet the Leased Premises in the event of such reentry, without effecting the surrender or termination of this Agreement. Rentals or other proceeds received by TAIT from subletting the Leased Premises shall be credited against the Outstanding Rental Balance after deducting from such proceeds all of TAIT's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys fees, expenses of employees, removal costs, alteration costs and expenses of preparation for reletting.
- c. Release of Liability; Waiver. If TAIT takes possession of the Leased Premises upon Lessee's default, TAIT may expel Lessee and those claiming through or under Lessee and remove their property. TAIT may remove all Lessee's property in or upon the leased premises and place such property in storage for the account of and at the expense of Lessee.
- d. Acceleration of Rentals. TAIT may, at its option, declare installments of rentals payable under this Agreement for the remainder of the Term to be due and payable immediately.
- e. Remedies Cumulative. Each remedy available to TAIT under this Section shall be cumulative and shall be in addition to every other remedy of TAIT under this Agreement or existing at law or in equity.

Section 10.3 **Nonwaiver**. Neither the waiver by TAIT of any breach by Lessee of any provision hereof nor any forbearance by TAIT to seek a remedy for any such breach shall operate as a waiver of any other breach by Lessee.

Section 10.4 **Event of Default by TAIT, Lessee's Remedies**. TAIT shall not be in default in the performance of any of its obligations hereunder until TAIT shall have failed to perform such obligations for thirty (30) days or such additional time as is reasonably required to correct any such non-performance, after notice by Lessee to TAIT specifying wherein TAIT has failed to perform any such obligations; neither the occurrence nor existence of any default by TAIT shall relieve Lessee of its obligation hereunder to pay rentals, fees and charges. However, Lessee may institute such action against TAIT as Lessee may deem necessary to compel performance or recover its damages for non-performance.

Section 10.5 **Condemnation**. If, at any time during the Term and any extended term, the Leased Premises or the improvements located thereon or any portion thereof shall be taken by exercise of the power of eminent domain by a governmental entity other than TAIT, the Authority, or the City, the proceeds and awards in the condemnation proceedings shall be divided, and rentals required hereunder shall be adjusted in such manner as shall be just and equitable. If TAIT and Lessee are unable to agree upon a just and equitable division of proceeds and adjustment of rentals within thirty days after rendition of any condemnation award, the matters then in dispute shall be submitted for determination by a court of competent jurisdiction. If the Leased Premises are taken wholly by condemnation, this Agreement shall terminate. Provided, valuation of Lessee's interest in the Leased Premises and any improvements thereon shall be determined in the manner set forth in Section 3.8 entitled Termination of Agreement for Airport Purposes.

ARTICLE XI **Transfer of Interests**

Section 11.1 **Assignments by TAIT and the City**. TAIT and the City may transfer or assign this Agreement to any successor in interest to whom the Airport may be sold or assigned; however, the successor in interest shall execute and deliver to TAIT, with a copy to Lessee, an instrument assuming the obligations of TAIT and the City under this Agreement.

Section 11.2 **Assigning, Subletting and Encumbering**.

a. Lessee shall not assign, sublet or encumber the Leased Premises or any part thereof, including improvements thereon, without TAIT's prior written consent. If Lessee shall be other than an individual, for purposes of this section, the transfer of the majority of the shares of the Lessee (including any combination of shares that are equivalent to a majority interest) or any other evidence of majority ownership interest or control in the Lessee's enterprise, shall be deemed an "assignment". The

granting of consent under this section may be made or withheld in TAIT's sole, unqualified discretion.

b. Lessee shall pay the then current administrative fee required by TAIT for TAIT's approval of each (1) sale of leasehold improvements, (2) assignment, (3) collateral assignment, (4) release of lease, (5) amendment or supplement to this Agreement, or (6) any other modification to this Agreement requested by Lessee requiring approval by TAIT. The administrative fee shall be paid to TAIT by Lessee simultaneously with submission of Lessee's written request for TAIT approval.

ARTICLE XII
Miscellaneous

Section 12.1 **Lessee to Maintain its Legal Entity Existence.** Lessee, from the execution date hereof, shall maintain its corporate existence (as a corporation, limited liability company, or limited partnership, as the case may be) and Lessee shall not dissolve or change or modify its legal structure (existence) or shall not dispose of all or substantially all of its assets and shall not consolidate with or merge into another legal entity or permit one or more other legal entities to consolidate with or merge into it; provided, however, without violating the prohibition contained in this section, consolidate with or merge into another legal entity, or permit one or more other legal entity to consolidate with or merge into it, or sell or otherwise transfer to another legal entity all or substantially all of its assets as an entity and thereafter dissolve, if the surviving or transferee legal entity (a) assumes in writing all of the obligations of Lessee herein, (b) has net assets and capital (both paid in and surplus) at least equal to the net assets and capital of Lessee immediately prior to such consolidation, merger, sale or transfer, and (c) is qualified to do business in the State of Oklahoma.

Section 12.2 **Notices.** All notices, certificates, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments, designations or other communication which may be or are required to be given by either party thereto to the other shall be deemed to have been sufficiently given on the third day following the day on which the same are mailed by registered or certified mail, postage prepaid as follows, if to TAIT or the Authority:

Tulsa Airports Improvement Trust
or Tulsa Airport Authority
Attention: Airports Director
P. O. Box 581838
Tulsa, Oklahoma 74158-1838

and if to Lessee:

TAIT, the Authority, or the Lessee may designate, by notice given hereunder, any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.3 **Severability**. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless such holding shall materially affect the rights of either party as set forth herein.

Section 12.4 **Entire Agreement; Modification**. This Agreement expresses the entire understanding of TAIT and Lessee concerning the Leased Premises and all agreements of TAIT and Lessee with each other concerning the subject matter hereof and supersedes all prior agreements of the parties as to the Leased Premises. Neither TAIT nor Lessee has made or shall be bound by any agreement or any representation to the other concerning the Leased Premises or the subject matter hereof which is not set forth expressly in this Agreement. This Agreement may be modified only by a written agreement of subsequent date hereto signed by TAIT and Lessee.

Section 12.5 **Execution of Counterparts**. This Agreement simultaneously may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.6 **Effect of Saturdays, Sundays and Legal Holidays**. Whenever this Agreement requires any action to be taken on a Saturday, Sunday or a legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Agreement, the time within which any action is required to be taken, or within which any right will lapse or expire, shall terminate on Saturday, Sunday or a legal holiday, such time shall continue to run until 11:59 p.m. on the next succeeding business day.

Section 12.7 **Descriptive Headings; Table of Contents**. The descriptive headings of the Sections of this Agreement and any Table of Contents annexed hereto are inserted or annexed for convenience of reference only and do not constitute a part of this Agreement, and shall not affect the meaning, construction, interpretation or effect of this Agreement.

Section 12.8 **Choice of Law; Enforcement**. This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma. Whenever in this Agreement it is provided that either party shall make any payment or perform, or refrain from performing, any act or obligation, each such provision, even though not so expressed,

shall be construed as an express covenant to make such payment or to perform or not to perform, as the case may be, such act or obligation.

Section 12.9 **Force Majeure**. Neither TAIT nor Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of embargoes, shortages or material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellions, sabotage, or any other circumstances for which it is not responsible or which are not within its control, and the time for performance automatically shall be extended by the period the party is prevented from performing its obligations hereunder; however, these provisions shall not apply to the failure of Lessee to pay the rentals and other charges required hereunder.

Section 12.10 **Construction of Agreement**. This Agreement and each provision and covenant hereof shall constitute both a contract and a sublease by and between the parties hereto.

Section 12.11 **Consent Not Unreasonably Withheld**. Whenever it is provided herein that the consent of TAIT, the Authority, the City or Lessee is required, such consent shall not be unreasonably withheld, conditioned or delayed.

Section 12.12 **Waiver of Depreciation and Tax Credit**. Neither Lessee nor any successor in interest hereunder may claim depreciation or an investment tax credit with respect to property leased by TAIT to Lessee under this Agreement.

Section 12.13 **Recovery of Attorney's Fees and Costs**. If TAIT shall bring any legal or equitable action against Lessee, and TAIT shall be adjudged the prevailing party, Lessee shall pay the reasonable attorney's fee and costs incurred by TAIT in such action and any appeal therefrom. For purposes of this section, "costs" shall include expert witness fees, court reporter fees, and court costs.

Section 12.14 **Nonwaiver of Rights**. No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.

Section 12.15 **Time of the Essence**. Time is expressed and acknowledged to be of the essence of the Agreement.

Section 12.16 **Right of Inspection - Access**. TAIT, Authority and City and their authorized employees, agents and representatives shall have full right of inspection of the Leased Premises upon notice during normal business hours (or in the case of emergency at any time without notice) during the Term or any extended period of this Agreement.

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Section 12.17 **Nonliability of Individuals/Public Officials.** Neither the Trustees of TAIT, Authority and City, nor any agent, representative, officer, or employee thereof, shall be charged personally by the Lessee with any liability, or be held liable to the Lessee under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, attempted or alleged, thereof, it being understood that in such matters they act only as agents or representative of TAIT, Authority or City.

Section 12.18 **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon TAIT, Lessee and their respective successors and assigns, if such assignment shall have been made in conformity with the provisions of this Agreement.

IN WITNESS WHEREOF, TAIT and Lessee have entered into this Agreement at Tulsa, Oklahoma on the ____ day of _____, ____ to commence _____, ____.

TULSA AIRPORTS IMPROVEMENT TRUST

By: _____
Chair

APPROVED:

APPROVED AS TO FORM:

Airports Director

Airports Attorney

ATTEST:

Corporate Secretary

By: _____
Title: _____