

**SANTA MONICA AIRPORT
LEASE AGREEMENT**

By and between

**CITY OF SANTA MONICA
(Landlord)**

And

[TENANT NAME]

(Tenant)

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease" or "Agreement" or "Lease Agreement") is entered into this ____ day of _____, 20__ ("Execution Date") and is made by and between the CITY OF SANTA MONICA ("Landlord" or "City"), a California municipal corporation, and [TENANT NAME] ("Tenant"), a [STATE] corporation, [OR an individual person], with respect to the following:

RECITALS:

A. The City of Santa Monica is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to conduct its business that is now being conducted under California law and under the Charter of the City.

B. The City is the legal owner, operator, and lessor of real property and improvements commonly known and referred to as the Santa Monica Municipal Airport ("the Airport"), which is principally located in the City of Santa Monica, County of Los Angeles, California. In addition to all real property at the Airport, the City is the legal owner and lessor of all structures and improvements at [ADDRESS OF PREMISES].

C. Tenant is a [INDIVIDUAL OR ENTITY, IF ENTITY INCLUDE STATE OF INCORPORATION] whose [PRINCIPAL OFFICES OR RESIDENCE] are located at [REGISTERED PLACE OF BUSINESS OR RESIDENCE]. [IF TENANT IS AN INDIVIDUAL, OR IS NOT REGISTERED WITH CAL SS, DELETE FOLLOWING SENTENCE] Tenant is registered with the California Secretary of State and represents to City that it may lawfully transact business in the State of California.

D. The City and Tenant desire to enter into the Lease Agreement, the execution of which shall allow the Tenant to occupy space at the Airport and to do so only upon the terms and conditions set forth herein. This Agreement is consistent with the City's obligation to comply with the terms of the Stipulation and Order/Consent Decree ("Consent Decree") filed in the matter of *City of Santa Monica v. United States of America, et al.*, Case No. 13-CV-8046-JFW (VBKx) (C.D. Cal.), and which is attached as **Exhibit 4** and incorporated herein by this reference. The City and Tenant acknowledge that any interests, rights, or privileges created by this Agreement are subordinate to, and subject to, the City's obligation to comply with the terms of the Consent Decree or with any order issued by a court having jurisdiction of the Consent Decree.

E. Landlord City hereby rents to Tenant, and Tenant hereby hires from Landlord, those certain premises located at the Santa Monica Airport and more particularly defined in Article I, below, upon the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed by and between the undersigned parties as follows:

ARTICLE I PREMISES

1.1 Premises

Upon and subject to the terms, covenants and conditions hereinafter set forth, Landlord hereby rents to Tenant, and Tenant hereby hires from Landlord, that portion of space located within certain real property and improvements at the Airport and commonly known as [PROPERTY ADDRESS], Santa Monica, California, and more particularly described and depicted in the map attached hereto as **Exhibit 1** which is incorporated by reference, and collectively referred to hereafter as the "Premises." The Premises is described as approximately ___ square feet of hangar space, designated as Hangar ___, located at [PROPERTY ADDRESS], Santa Monica, Los Angeles County, California.

All references to the Premises in this Lease Agreement shall mean all areas identified above and collectively referred to as the Premises under this Agreement.

1.2 Condition and Suitability of the Premises

Tenant has inspected and accepts the Premises "AS IS" and subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any covenants or restrictions of record. Tenant acknowledges that neither the City nor the City's agents have made any representation or warranty as to the physical condition of the Premises or any present or future suitability of the Premises for the conduct of Tenant's business. The City, as Landlord and owner of the Premises, acknowledges that it is responsible for making all repairs necessary for maintaining the suitability and condition of the Premises. Subject to City's obligations under the Agreement, Tenant's continuing in possession of the Premises under this Agreement establishes that the Premises are in satisfactory condition for Tenant to occupy at the Premises.

1.3 Consent Decree

Tenant acknowledges that in accordance with the terms of the Consent Decree the operational length of the runway at the Airport will be 3,500 feet and that the Airport may cease to be operated as an airport forever after December 31, 2028.

ARTICLE II TERM

2.1 Term

The term of this Lease Agreement shall continue on a month-to-month basis commencing from the Execution Date, and shall terminate in the manner specified in Section 2.2.

2.2 Termination

This Agreement shall be terminable with or without cause, by either party, and upon thirty (30) calendar days written notice, or terminated by the City upon its material breach in accordance with Article XV. The notice provided under this Section shall be sent in the manner provided for in Section 17.1 and shall set forth a date of termination of the Lease Agreement ("Termination Date").

No later than 30 days prior to the Termination Date or expiration of the Lease Agreement, Tenant shall pay to City any Monthly Base Rent or Additional Rent or other fees due and owing to Landlord. On or prior to the Termination Date, Tenant shall at its own expense: (i) vacate the Premises and immediately remove all personal property, trade fixtures, machinery, aircraft, vehicles, equipment, or such other property abandoned by third parties, from the Premises; and (ii) not remove any leasehold improvements; and (iii) clean up and remove all debris, trash, and other materials from the Premises. Tenant agrees that it shall return possession of the Premises to Landlord at the end of the Lease Term in as good an order and condition as when Tenant first took possession of the Premises.

If Tenant fails to vacate the Premises or fails to remove all personal property from the Premises as required by this Section, Landlord may seek to reenter and recover possession of the Premises by any lawful means. Landlord may also, at its election, dispose of any remaining personal property in the manner provided for by law.

2.3 No Holding Over

If Tenant holds over and remains in possession of the Premises after the Termination Date, and does so without the express written consent of Landlord, Tenant's tenancy shall be at sufferance, on a month-to-month basis, and shall remain subject to the terms of this Lease Agreement. In addition, Tenant agrees that it shall pay a new holdover rental rate that shall be calculated at twice the Monthly Base Rent specified herein. Neither any provision hereof nor acceptance by Landlord of monthly rent from Tenant after the termination of the Lease Agreement shall be deemed Landlord's consent to a holdover tenancy or result in a renewal of this Agreement or an extension of the Term.

2.4 Remaining Personal Property Considered Abandoned

Any remaining personal property of Tenant not removed by Tenant within five (5) calendar days following the termination or expiration of this Agreement, shall be considered abandoned by Landlord and may be disposed of in accordance with Cal. Civil Code §§ 1980-1991 and Cal. Code of Civ. Proc. § 1174.

2.5 Landlord's Property

All fixtures, Alterations (as defined in Section 8.4), additions, repairs, improvements and/or appurtenances attached to or built into, on, or about the Premises prior to or during the Agreement term, shall be and remain part of the Premises and shall not be removed by Tenant at the end of the Agreement term, unless otherwise expressly provided for in this Agreement or unless such removal is required by Landlord. Notwithstanding any other term or condition hereof, Tenant shall remove its personal property, machinery, equipment, trade fixtures, and furnishings at the expiration and/or termination of the Agreement, as applicable.

2.6 Landlord's Reservation of Right to Cease Airport Operations

Tenant understands and agrees that Landlord reserves the right to alter in any way, or to cease operating in whole or in part, the Airport as a general aviation facility for aeronautical uses when legally permitted to do so and in a manner consistent with the Consent Decree and applicable law. The parties agree that Tenant's use and possession of the Premises shall not be limited by this Reservation of Rights.

2.7 Survival

The provisions of this Article shall survive the expiration or earlier termination of this Lease.

**ARTICLE III
USE**

3.1 Permitted Uses

Tenant may use the Premises solely for the following described uses, activities, and privileges:

- a) The storage of Permitted Aircraft and related equipment (Section 3.2).
- b) General office and administrative use with the express written approval of Landlord secured in advance.
- c) The storage of personal property other than Permitted Aircraft and related equipment with the express written approval of Landlord secured in advance.

Tenant shall use and occupy the Premises solely in accordance with the use(s) described in this Section and in accordance with all other requirements of this Agreement. If Tenant's current use of the Premises as of the Execution Date were to ever change during the course of this Agreement, including a change in the character, quantity, and type of personal property stored at the Premises, Tenant shall give Landlord no less than 30 days written notice of such change. Tenant shall neither use nor permit the Premises to be used or occupied for any other use or purpose whatsoever without the prior written consent of Landlord. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with or infringe upon the rights of other Airport tenants, or use or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purpose.

Furthermore, Tenant acknowledges and agrees that the permitted uses of the Premises as stated in this Section are consistent with the City's obligations under the Consent Decree. However, it is expressly understood and agreed to by Tenant that in the event Tenant's use of the Premises hereunder is or becomes inconsistent with the City's obligations under the Consent Decree, the rights and the obligations of the parties hereto will be governed by the City's obligations under the Consent Decree, but in no event will the City bear any responsibility or incur any liability to Tenant as a result of any such inconsistency.

3.2 Permitted Aircraft

All aircraft stored at the Premises ("Permitted Aircraft") shall be listed in **Exhibit 2** attached hereto. Tenant must have an ownership interest in any stored Permitted Aircraft. Tenant may also use the Premises for the storage of any equipment related to the operation or maintenance of the Permitted Aircraft, including the temporary storage of vehicles or other items generally related to aviation use. If Tenant wants to store an aircraft other or in addition to those listed as Permitted Aircraft, Tenant must submit a proposed aircraft identification form to the Airport Director, along with proof of insurance required by Article XIV of this Agreement. The Airport Director may request documents confirming Tenant's ownership interest in the proposed aircraft.

If Tenant stores, or permits the storage, of any aircraft that is not a Permitted Aircraft at the Premises, such aircraft shall be subject to an assessment of overnight transient aircraft fees and/or impoundment, at the discretion of the Airport Director. The assessment or collection of such fees shall not create any right for Tenant to continue to use the Premises for the storage of any aircraft that is not a Permitted Aircraft, nor shall it be deemed a waiver by Landlord of any rights hereunder.

Neither Landlord nor Landlord's agents, employees, or representatives shall be liable for any loss or damage to Tenant's aircraft or equipment that may result from a third party's towing, support, or service to Tenant's aircraft or equipment. Tenant shall be solely responsible for the locking and securing of its aircraft, vehicles, and equipment while positioned or located at the Airport. During all times that Tenant's aircraft or vehicles are outside of Tenant's hangar and parked or positioned on the Airport property, Tenant shall ensure that Tenant's aircraft or vehicles are secured in such a manner that Landlord, or Landlord's agent, is able to tow or reposition Tenant's aircraft or vehicles at any time. Tenant shall secure all aircraft or vehicles outside of Tenant's hangar by disengaging any parking brakes and, if applicable, by installing appropriate landing gear tow pins consistent with the aircraft manufacturer's guidelines and procedures.

3.3 Prohibited Uses and Restrictions

Tenant shall not use or permit any person or persons to use or occupy the Premises or any part thereof for any of the following prohibited uses, purposes, or in the following manner:

- a) Tenant shall not at any time use or occupy the Premises as a residence or for any lodging purpose.
- b) Tenant shall not at any time use or cause to be used any amplified sound system in excess of sixty five (65) decibels measured from the exterior of

the Premises. Speaker-paging systems and stereo music systems are prohibited on the exterior of the Premises.

- c) Tenant shall not at any time engage in retail sales of any nature on the Premises.
- d) Tenant shall not at any time stack, store, or display goods or materials on the exterior of the Premises, except for deliveries of materials and machinery that may be stored outside for no longer than 24 hours.
- e) Tenant shall not host or allow events or activities involving more than fifty (50) persons on the Premises without first obtaining an Airport Event Permit.
- f) Tenant may have pets on the Premises, but may only do so with Landlord's prior written approval.
- g) Tenant shall not permit firearms, explosives, or any "hazardous materials" (as defined in Section 7.2) to be stored or located at or near the Premises. Tenant shall not cause or permit any hazardous substance to be used, stored, generated, or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors, or invitees.
- h) Tenant shall not at any time use or occupy the Premises, or permit any act or omission in or about the Premises and the Airport, in violation of Airport rules or regulations, or any applicable federal, state, or local laws. Tenant shall discontinue immediately any use of the Premises which is declared by any governmental authority or court of competent jurisdiction to be a violation of applicable law.
- i) Tenant shall not at any time use or occupy the Premises in violation of any temporary or permanent certificates of occupancy issued for the Premises. In the event that any court or regulatory agency of competent jurisdiction makes a finding that the Premises are used or occupied in violation of any such certificate, Tenant shall immediately discontinue such use of the Premises and otherwise remedy such violation.
- j) Tenant shall not engage in, transact, conduct, or provide any aeronautical service at the Airport unless specifically permitted to do so in Section 3.1 of this Agreement.

- k) Tenant or Tenant's agents shall not perform or undertake any prolonged or extensive maintenance work on or about the Premises.
- m) Except for the temporary period allowed under Subsection d, Tenant shall not use the outside ramp areas or parking lot areas as storage space for Tenant's property.

**ARTICLE IV
RENTAL AND OTHER PAYMENTS**

4.1 Monthly Base Rent

Commencing on _____, _____ ("Commencement Date"), Tenant agrees to pay to Landlord every month a base rent ("Monthly Base Rent") in the amount of _____ (\$ _____), which shall be subject to increases as provided for in Section 4.5 and paid to Landlord in the manner set forth in Section 4.2.

4.2 Payment of Monthly Base Rent

The Monthly Base Rent shall be payable, without prior demand, in equal monthly installments in advance on the first day of each full calendar month during the Agreement term without deduction or offset or prior demand therefor. Monthly Base Rent shall be paid by check, or by electronic debit, or in a manner acceptable to the City's Finance Department. Monthly Base Rent shall be made payable to the City of Santa Monica and delivered to Landlord at:

Airport Director
Santa Monica Municipal Airport
3223 Donald Douglas Loop South
Santa Monica, California 90405-3279

Any payment by Tenant and acceptance by Landlord of an amount less than what is outstanding on Tenant's account shall be treated as a payment on the account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

4.3 Late Charges and Additional Rent

Tenant acknowledges that late payment by Tenant to Landlord of Monthly Base Rent or other sums due hereunder will cause Landlord to incur administrative costs not

contemplated by this Agreement, the exact amount of which is extremely difficult to ascertain. Accordingly, any Monthly Base Rent or other sums not paid to Landlord within ten (10) calendar days after such payments become due shall be considered late. Tenant shall pay a late charge equal to ten percent (10%) of the outstanding amounts in the manner required under this Agreement. Late charges shall not be compound or assessed against prior late charges.

Landlord's acceptance of late charges does not cure Tenant's default with respect to Tenant's failure to timely make payments to Landlord, nor does it prevent Landlord from exercising any its rights and remedies granted herein. Late charges shall be considered Additional Rent and the right to require late charges shall be in addition to Landlord's other rights and remedies herein or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. Additional Rent shall be payable to Landlord with the next installment of Monthly Base Rent and in the manner provided for in Section 4.2.

4.4 Operational & Administrative Costs

To the extent that Landlord incurs any administrative or operational costs that are directly attributable to Tenant or Tenant's use or occupancy of the Premises, Landlord shall send Tenant a notice or an invoice seeking reimbursement for all amounts paid by Landlord. Reimbursable amounts invoiced to Tenant shall be considered Additional Rent and shall be payable to Landlord with the next installment of Monthly Base Rent and in the manner provided for in Section 4.2.

4.5 Rent Adjustments

4.5.1 Definitions: For purposes of this section, the following definitions shall apply:

- a) The term "Rental Year" shall mean that fiscal year of 12 consecutive months commencing on the Execution Date and continuing through the next twelve (12) calendar months; provided, however, that in no event shall a Rental Year be shorter than 12 full calendar months.
- b) The term "Base Month" shall mean the month which the Execution Date occurred.

4.5.2 Adjustments: The Monthly Base Rent shall be subject to a three percent (3%) increase as of May 1, 2018 and every May 1st thereafter ("Adjustment Date") for the remainder of the Lease Term. Landlord may, but

shall not be obligated to give notice to Tenant prior to the beginning of each Rental Year of the adjustment and the new Monthly Base Rent amount payable for the new Rental Year. Until receipt of Landlord's notice, Tenant shall pay monthly installments of Monthly Base Rent at the rate applicable to the immediately preceding Rental Year. If at the time of Landlord's notice the total of the monthly installments of Monthly Base Rent actually paid by Tenant with respect to the elapsed portion of the current Rental Year is less than the amount of Monthly Base Rent required to be paid for such period as indicated in Landlord's notice, Tenant shall pay to Landlord the amount of the deficiency within ten (10) days of written request to Tenant by Landlord.

4.6 Security Deposit

On or prior to the Execution Date, Tenant shall pay to Landlord an amount equal to one installment of Monthly Base Rent, or \$ _____, as a security deposit to be held as security for the full and faithful performance by Tenant of all obligations owed to Landlord under this Agreement ("Security Deposit"). If, at any time during the Agreement term, Tenant's Monthly Base Rent is increased above the amount initially paid hereunder, the Security Deposit shall be increased in the same manner such that the Security Deposit always equals one current monthly installment of Monthly Base Rent. Upon each increase of the Monthly Base Rent, Tenant shall deposit with Landlord an amount sufficient to increase the Security Deposit to the appropriate amount.

Landlord shall not be required to keep the Security Deposit separate from its general funds and Tenant shall not be entitled to interest thereon at the rate earned by Landlord, less any reasonable administrative handling fees. If Tenant is in Default (Section 15.1) with respect to any provision of this Agreement, including, without limitation, the provisions relating to the payment of Monthly Base Rent, Additional Rent, or the cleaning of the Premises upon the termination of this Agreement, Landlord may, but shall not be required to, use, apply or retain all or any part of the Security Deposit for the following: (i) payment of any Rent or any other sum in default; (ii) payment of any other expense which Landlord may incur by reason of Tenant's default hereunder; (iii) to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default hereunder; and (iv) all costs and reasonable attorneys' fees incurred by Landlord to recover possession of the Premises following a default by Tenant hereunder.

If any portion of the Security Deposit is so used or applied, Tenant shall, upon demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to the appropriate amount, as determined hereunder. The Security Deposit or any balance thereof shall be returned to Tenant (or to Tenant's assignee approved in writing by Landlord and Tenant) within 30 days following Tenant's returning

of possession of the Premises to Landlord; provided, however, that Landlord may retain the Security Deposit until such time as any amount due from Tenant in accordance with this Article IV has been determined and paid to Landlord in full. No right or remedy available to Landlord as provided in this Section shall preclude or extinguish any other right or remedy to which Landlord may be entitled.

ARTICLE V TAXES

5.1 Tenant's Obligation to Pay Taxes

The term "Tax Year" shall mean and refer to each twelve (12) month period established as the real estate tax year by the taxing authorities having lawful jurisdiction over the Premises and the Santa Monica Airport. Tenant shall pay in each Tax Year during the Agreement term directly to the appropriate taxing authorities, all real estate taxes, possessory interest taxes, ad valorem taxes, levies, charges, or assessments applicable to the Premises, or any other tax imposed upon or levied against real property, improvements, or personal property allocable to the Premises. Any taxes to be paid by Tenant under this Article V shall be paid directly to the proper taxing authorities on or before the date such taxes are due.

ARTICLE VI AIRPORT OPERATIONS

6.1 Airport Landing Area

Landlord reserves the right to further develop or improve the runways, taxi-ways, landing areas, aircraft movement areas, or any part of the Airport's airfield as Landlord deems necessary. Landlord further reserves all of its rights as set forth under the Consent Decree, including that the Airport shall have an operational runway length of 3,500 feet and Landlord's ability to close the Airport forever after December 31, 2028. Tenant acknowledges and agrees that the Airport's runway may need to close for a period of time due to required maintenance or other capital improvement projects including, but not limited to, Landlord's construction activities related to shortening the runway to 3,500 feet.

6.2 Airport Maintenance

Landlord reserves the right to maintain and keep in good repair the runways, taxi-ways, landing areas, aircraft movement areas, or any part of the Airport's airfield, or any publicly-owned facility of the Airport.

6.3 Building Modifications

Tenant shall not alter or modify any buildings or structures located on the Premises without first complying with Section 8.4 of this Agreement.

6.4 Height Limit

Neither Tenant, nor Tenant's successors and assigns, may erect or permit the erection of any structure or object, nor permit the growth of any tree on the land leased herein, above the mean sea level elevation of 208ft. To the extent that any of the aforesaid covenants and restrictions provided for in this Article are breached, Landlord reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and trim the offending tree, all of which shall be at the sole cost and expense of Tenant.

6.5 Interference with Airport Operations

Neither Tenant, nor Tenant's successors and assigns, may use the leased Premises in any manner that may interfere with the landing and taking off of aircraft from Santa Monica Airport or may otherwise constitute a hazard. To the extent that any of the aforesaid covenants and restrictions provided for in this Article are breached, Landlord reserves the right to enter upon the Premises and cause the abatement of such interference, the cost and expense of which shall be borne completely by Tenant.

6.6 No Exclusive Rights

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right.

6.7 Subordination of Agreement

This Lease Agreement shall be subordinate to the provisions and requirements of the Consent Decree.

6.8 Flight Easement

For as long as the Airport operates as an airport, an easement for the right of flight and the passage of aircraft in the airspace above the Premises is reserved to the City and to its successors and assigns for the benefit of the public and users of the Airport.

**ARTICLE VII
PREMISES OPERATIONS**

7.1 Operations by Tenant

Tenant agrees, at its sole cost and expense, to do the following: (a) maintain the Premises in a clean, orderly, and sanitary condition and free of insects, rodents, vermin and other pests; (b) keep any garbage, trash, rubbish or other refuse in vermin-proof containers within the interior of the Premises, or in Landlord designated trash containers until removed; (c) have such garbage, trash, rubbish and refuse removed on a daily basis; (d) maintain all mechanical apparatus reasonably free of vibration and noise which may be transmitted beyond the Premises; (e) comply with all applicable laws regarding the use and condition of the Premises; and (f) comply with and observe all Airport rules and regulations as established by Landlord or its agent.

Furthermore, Tenant will not cause, permit, or suffer any nuisance or waste to or of the Premises, or any disturbance of the quiet enjoyment of any other tenant, licensee, occupant, visitor or other user of the Airport and shall not: (a) place or maintain any merchandise (or permit any vendors to display wares in any manner in or about the Premises), trash, refuse or other articles in any vestibule or entry of the Premises, on the walkways or corridors adjacent thereto or elsewhere on the exterior of the Premises, nor obstruct any driveway, corridor, walkway, parking area, or any other Common Area; (b) use or permit the use of any objectionable advertising medium, including, without limitation, wired loudspeakers, wireless or Bluetooth speakers, public address systems, sound amplifiers, radio or television broadcasts which are in any manner audible or visible outside of the Premises; (c) permit undue accumulations of, burn, or dump, garbage, trash, rubbish or other refuse within, without or under the Premises; (d) cause or permit foul and offensive odors to emanate or to be dispelled from the Premises; (e) solicit business outside of the Premises except in the normal course of advertising and promoting of Tenant's business (which advertising and promoting shall not interfere with other tenants of the Airport); (f) distribute flyers, handbills, or other advertising matter to, in or upon any automobiles parked in the parking areas or in any other Common Area; (g) permit the parking of vehicles so as to interfere with the use of the Airport or any driveway, corridor, walkway, parking area, or any other Common Area outside of the Premises; (h) receive or ship articles of any kind outside the designated loading areas for the Premises; (i) use any portion outside the Premises for the sale or display of any merchandise or for any other business, occupation, or undertaking, except that upon written notice to and approval by Landlord; (j) conduct or permit to be conducted any auction, fire sale, going out of business, bankruptcy, or other similar type sale in or connected with the Premises; (k) use or permit the use of any portion of the Premises for any unlawful purpose or for any activity not authorized under this Agreement; (l) place a

load upon any floor which exceeds the floor load which the floor was designed to carry; (m) operate Tenant's heating or air-conditioning unit/s in such a manner as to deplete the heating or air-conditioning of the Premises and to the detriment of any other tenant or other occupant of the Airport; (n) permit animals of any kind, not approved by Landlord, to be brought into or kept in or about the Premises, except for support animals assisting the disabled; or (o) permit the Premises, or any part thereof, to be used for lodging or sleeping.

If Tenant breaches any of the obligations or restrictions set forth in this Section, such act or omission shall constitute a breach of this Agreement and a default as set forth in Section 15.1. In such case, Tenant shall indemnify, defend, and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Lease Term as a direct result of Tenant's breach of this Agreement. However in no case shall Tenant be liable for any damage to the Premises caused by unauthorized third parties not associated with Tenant. Tenant's guests, agents, employees, contractors, vendors, or invitees shall not be considered a third party unassociated with Tenant.

7.2 Hazardous Materials

7.2.1 Definitions: As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is now or hereafter regulated by any local government, the State of California, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste," "extremely hazardous waste," or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCB's"), and petroleum.

7.2.2 Prohibition of Use: Tenant shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors, or invitees without first obtaining Landlord's written consent. If Hazardous Substances are used, stored, generated, or disposed of on or in the Premises by Tenant or its agents, employees or contractors except as permitted above, or if the Premises become contaminated in any manner for which Tenant is legally liable, Tenant shall indemnify, defend and hold harmless the Landlord from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses arising during or after the Agreement term and arising as a result of that contamination by Tenant. This indemnification includes, without limitation, any and all costs incurred from any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency.

Furthermore, if Tenant's use, storage, or disposal of any Hazardous Substance on the Premises results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the use, storage, or disposal of any such Hazardous Substances on the Premises. Tenant shall first obtain Landlord's approval for any such remedial action. The provisions of this Section shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or equity and shall survive the transactions contemplated herein and shall survive the termination of this Agreement.

7.3 Signage and Advertising

Tenant shall not place or suffer to be placed or maintained on the exterior of the Premises, or any part of the interior visible from the exterior thereof, any sign, advertising matter, or any other material or object of such kind without first obtaining Landlord's written approval. Landlord agrees that Tenant may continue to use the signage existing at the Premises as of the Commencement Date. Furthermore, Tenant shall not place or maintain any decoration, lettering, or advertising matter on the glass of any window or door of the Premises without first obtaining Landlord's prior written approval and any required governmental permits or licenses. All signage shall be consistent with applicable law and must be approved by any governmental entity having jurisdiction with respect thereto.

7.4 Painting of the Premises and Displays by Tenant

Tenant shall not paint or decorate any part of the exterior of the Premises, or any part of the interior primarily visible from the exterior thereof, without first obtaining Landlord's written approval. Landlord reserves the right to require Tenant to correct any non-conformity.

7.5 Trash Removal Service

Landlord shall provide a trash removal service for the Premises. Tenant shall make sure that all trash and garbage is managed in a manner consistent with Section 7.1 above. Should Tenant's trash and waste unreasonably accumulate and require Landlord to incur additional costs for its removal, Tenant shall reimburse Landlord, as Additional Rent, Tenant's pro-rata share of all costs associated with Landlord's providing of trash removal service to the Premises.

7.6 Locks

Tenant shall not install, cause to be installed, or use any additional locks or bolts of any kind on any of the doors or windows located on the Premises without Landlord's prior approval. If Tenant makes any changes to any existing locks or locking mechanisms at the Premises, Tenant shall immediately provide Landlord with a copy of the corresponding keys necessary to gain access to the Premises, except for keys to vaults or safes maintained by Tenant in the ordinary course of business, access to which shall be provided by Tenant to Landlord upon reasonable prior notice and in the company of a representative of Tenant. Tenant must, upon the expiration or termination of this Lease Agreement, give to Landlord all keys pertaining to the Premises, either furnished to, or otherwise procured by Tenant.

7.7 Cardkey Access System

Landlord has implemented a Cardkey Access System to prevent unauthorized access to the Airport. Tenant agrees to fully comply with all Airport rules related to the use of the Cardkey Access System and with the other security measures implemented by Landlord. Tenant's guests and visitors, and their vehicles, may only access the Airport property at the same time as Tenant. Their access through the Cardkey Access System must occur simultaneous to Tenant's access. Tenant assumes all responsibility for all acts and/or omissions of Tenant's guests or visitors while at the Airport.

7.8 Compliance with Law

Tenant, at its sole cost and expense, shall comply with and shall cause the Premises to comply with: (a) any and all applicable local, state, and federal laws affecting the Premises or any part thereof, or the use thereof; (b) all rules, orders and regulations of the National Board of Fire Underwriters, the Santa Monica Municipal Code, Landlord's fire insurance rating organization, or any other entities exercising similar functions in connection with the prevention of fire or correction of hazardous conditions which apply to the Premises; (c) all rules, orders, and directions of the Santa Monica Airport Director, including those stated in the current Santa Monica Airport Minimum Standards for Aviation Tenants and the current Santa Monica Airport Operations Handbook, as may be amended from time to time; and (d) any and all rules and regulations promulgated by any regulatory or governmental agency having appropriate jurisdiction. Tenant's failure to comply with all applicable laws, as stated in this Section, shall be considered a material breach of this Agreement.

ARTICLE VIII REPAIRS AND ALTERATIONS

8.1 Landlord Maintenance and Repair

Landlord's responsibilities and obligation to maintain and repair the exterior Premises shall be limited to the repair and maintenance of the roofs, foundations, exterior walls, exterior structure, exterior lighting (except for lighting serving Tenant's signage), exterior plumbing, electrical, and mechanical systems (excluding all Tenant furniture, fixtures and equipment and mechanical, electrical and plumbing systems that exclusively serve the Premises), public parking areas (except parking areas solely used by Tenant and its employees, invitees, and customers), fire hydrants, Common Areas including walkways, parkways, driveways, fences, exterior plumbing lines, and the exterior surfaces of the buildings and structures located on the Premises.

Notwithstanding Landlord's maintenance and repair obligations stated herein, any damage, degradation, or destruction to the Premises, or to any structure or improvements located on the Premises, caused by the negligence or willful acts or omissions of Tenant, or its agents, employees, licensees, guests, invitees or contractors, Landlord may make, or cause to be made, necessary repairs to remedy such damage, degradation, or destruction to the Premises. In such instance, Tenant agrees to pay to Landlord, as Additional Rent and within ten (10) days following a demand therefor, Landlord's costs for repairs made to the Premises. Landlord agrees to take reasonable measures to mitigate its costs.

In the event Landlord elects not to make such repairs caused by Tenant's negligence or willful act, Landlord may require Tenant to make such repairs at Tenant's sole cost and expense, and Tenant agrees to make such repairs at Tenant's sole cost and expense and within the time periods set forth by Landlord. Failure by Tenant to complete the repairs during said time period shall constitute a Default under Section 15.1.

8.2 Tenant Maintenance and Repair

Tenant shall keep the interior of the Premises and every part thereof, including interior ceilings, interior walls, doors, plate glass, utility systems, meters, pipes, conduits, fixtures, electrical, plumbing, and other mechanical systems that serve the Premises and are located inside the Premises, any or all of which are used by Tenant, in good working order and condition, including making repairs and replacements as necessary. Tenant agrees to be responsible for all of the janitorial costs in connection with maintenance of the interior Premises. Furthermore, Tenant also agrees to keep in good working order and condition and free of graffiti, all of Tenant's signage, locks, closing devices, window sashes, window frames, door and door frames, located therein or outside of the Premises. Tenant may not overload the electrical wiring serving the Premises or within the Premises. Tenant shall be responsible for any damage or injury to person or property caused by the condition or failure of mechanical, electrical, plumbing, any equipment or installation systems located in the interior of the Premises.

Tenant also agrees and consents to a periodic inspection by Landlord for the purpose of determining Tenant's compliance with this Section. Except in the event of an emergency, such inspection shall only be conducted during daytime business hours, shall not be disruptive of Tenant's business operations, and shall occur only after Landlord provides Tenant with no less than twenty-four (24) hours written notice.

If Tenant fails to correct any unsafe, unclean, or noncompliant condition within 48 hours after being notified in writing to do so by Landlord, then Landlord may enter the Premises and remedy the condition or conditions, and charge the cost to Tenant, as Additional Rent, without any liability for any resulting business loss or damage, except that if a matter reasonably requires more than 48 hours to correct, Landlord's right to enter and effect repairs provided in this Section shall arise where Tenant fails to begin to correct the condition within such 48-hour period or fails to diligently pursue such correction thereafter. In the event of an emergency, Landlord may immediately enter the Premises to remedy any unsafe, unclean, or noncompliant condition and charge the cost to Tenant. Landlord shall notify Tenant of such emergency as soon as reasonably possible.

8.3 Damage to Premises

In addition to Sections 8.1 and 8.2 of this Agreement, Tenant agrees that it shall repair promptly at its expense any damage to the Premises caused by or arising from the installation or removal of Tenant's property in or from the Premises or by any other activity in the Premises caused by Tenant or its agents, except where such damage is caused by the sole negligence of Landlord or its agents.

8.4 Alterations and Improvements to Premises by Tenant

Following the Execution Date, Tenant shall not make any alterations, renovations, improvements, repairs, cut or drill into, or otherwise demolish or remove, any part of the Premises, including any material alterations to the exterior structure, the interior structure, or the store front or signs (collectively referred to hereafter as "Alterations"), unless and until Tenant has completed the following: (a) Tenant shall obtain the written consent of Landlord prior to proceeding with the proposed Alterations; (b) Tenant shall obtain all required plans, permits, and approvals from City's Building and Safety, Planning, and Public Works departments for the proposed Alterations and provide copies of same to Landlord; (c) Prior to submission to City's Building and Safety Division, Tenant shall provide City's Airport Director, for review and approval, copies of all plans, specifications, cost estimates, change orders, design drawings, proposed signage, and specifications for all proposed work; and (d) Tenant must satisfy all requirements

concerning the proposed work as may arise during the course of such work and as may be reasonably imposed by Landlord.

Landlord may condition its consent to any proposed work under this Section on Tenant's selection of an architect, or structural engineer, or general contractor, all of whom must be reasonably satisfactory to Landlord. If Landlord consents to Tenant's proposed Alterations, Landlord may supervise the work and ensure that such work is being performed in accordance with the plans and specifications approved in advanced by Landlord. Tenant shall bear ultimate responsibility for ensuring that the work described in any approved plans or specifications is performed, promptly, efficiently, competently and in a good and workmanlike manner by duly qualified or licensed persons or entities, using comparable quality materials as those currently found on the Premises, and without interference with, or disruption to, the operations of tenants or other users of the Airport. All completed work shall comply with applicable law. Upon the completion of the Alterations, Tenant shall cause a Notice of Completion to be recorded in the Office of the Los Angeles County Recorder in accordance with Section 3093 of the California Civil Code.

Upon termination of the Lease Agreement, all Alterations made by Tenant to the Premises shall automatically become the property of Landlord. All personal property, furniture, trade fixtures, equipment and signs installed by Tenant or subtenants shall remain the personal property of the rightful owner and shall be removable at any time during the term of this Agreement so long as Tenant shall not be in default under the terms hereof. The removal of any such fixtures, equipment, and signs shall be completed within 10 days of the expiration or earlier termination of this Agreement, at Tenant's expense, and Tenant shall repair any damage to the Premises occasioned by the removal thereof and shall reimburse Landlord for any damage caused thereby.

8.5 Landlord's Access to the Premises

Tenant shall allow Landlord, its agents, employees and contractors to enter all parts of the Premises during Tenant's daytime business hours to inspect the same and to enforce or carry out any provision of this Agreement, including, without limitation, any access necessary for the making of any repairs which are Landlord's obligation or right hereunder so long as Landlord provides Tenant with no less than twenty-four (24) hours prior written notice.

In the case of an emergency, Landlord may enter upon the Premises without notice to Tenant. In the event Landlord desires to make any repairs to the Premises, Landlord agrees to minimize to a reasonable extent any interruption to Tenant's normal business

operations therein, and Landlord shall attempt, where reasonably possible, to arrange any such repairs during Tenant's "off-peak" business hours.

In addition, Landlord shall have the right to enter the Premises to conduct safety inspections, to examine the Premises, to perform environmental testing or any other reasonably necessary environmental work on the Premises, to show the Premises to prospective purchasers, lenders or tenants of the Premises, and to make such repairs, alterations, improvements or additions as may be required in connection with the development or maintenance of the Premises, without the same constituting an eviction of Tenant, in whole or in part, or a trespass.

ARTICLE IX COMMON AREAS

9.1 Common Areas Defined

“Common Areas” shall include those portions of the Santa Monica Airport located within the physical boundary thereof which are made available for the general use, convenience or benefit of all lessees, licensees, and visitors of the Santa Monica Airport, including without limitation, transient aircraft tie-down space, taxiways, runways, public vehicle parking areas, all utility lines and systems, access roads, driveways, sidewalks, pedestrian walkways, and other similar areas, in addition, to maintenance and equipment areas.

9.2 Use of Common Areas

- a) Landlord may at any time establish or change the nature, use, size, or composition of the Common Areas. Such actions may include, but not be limited, to the following: (i) the creation and relocation of driveways, gate, pedestrian and ramp entrances, exits, and parking spaces; (ii) the installation of landscaping; (iii) the designation of restricted areas; and (iv) the establishment of disabled parking and loading zones.
- b) Landlord shall operate, manage, and maintain the Common Areas. The manner in which such Common Areas shall be operated, managed, maintained, improved, or repaired shall be at the sole discretion of Landlord.
- c) Tenant and its employees and invitees are, except as otherwise specifically prohibited by this Agreement, authorized to use the

Common Areas in common with other persons during the term of this Agreement.

- d) Tenant shall not at any time park or permit the parking of its trucks or vehicles or the trucks or vehicles of its employees, suppliers, customers, or invitees in any area within the Santa Monica Airport not designated by Landlord for such use by Tenant and its employees, suppliers, customers, or invitees. If Tenant parks, or permits the parking of, any vehicle contrary to the foregoing provisions, Landlord may cause the same to be towed to a public garage or other parking area and the expenses related to such towing will be paid by Tenant.
- e) Landlord shall at all times have the sole and exclusive control of all Common Areas. Tenant's rights hereunder in and to the Common Areas shall at all times be subject to the rights of Landlord, and equal to other tenants of the Santa Monica Airport to use and benefit from such areas. By way of this Agreement, Tenant agrees that it has a duty: (i) to the extent reasonably within its control, keep all Common Areas adjacent to the Premises free and clear of any obstructions or nuisances whether created or permitted by Tenant or its operations; (ii) to use the Common Areas only for normal ingress and egress by employees, suppliers, customers, and invitees to and from the Premises and the other lessees of the building in which the Premises located, and such other use approved in advance and in writing from Landlord; and (iii) not to cause, permit or suffer to the extent within Tenant's control, any Common Areas to be used as to unreasonably interfere with the rights of Landlord or other tenants of the Santa Monica Airport or their employees, suppliers, customers, invitees or businesses.
- f) Landlord shall have the right to perform any and all construction to, in or about the Common Areas which it determines necessary for the maintenance, replacement, refurbishment, renovation or improvement of the Common Areas, or other premises of the Santa Monica Airport in general. Landlord shall give Tenant reasonable notice of any such construction in or about the adjacent Common Areas. In connection therewith, Landlord shall not be liable to Tenant by reason of any injury to or interference with Tenant's business or property or for any other inconvenience or damages caused thereby. Landlord will complete any such construction

within a reasonable period of time and shall make take all reasonable measures to do so in a manner that does not interfere with Tenant's use and enjoyment of the Premises.

9.3 Tenant Parking

Subject to City parking enforcement laws and Airport parking rules, Tenant and its employees may park in any of the parking areas at the Airport designated by Landlord. If Landlord designates specific parking areas to serve the Premises, or provides parking passes or any other related parking convenience for Tenant and/or Tenant's employees, visitors, or clients, Tenant and its employees, visitors, or clients shall park their vehicles only in such areas designated by Landlord. The Parties acknowledge that if Landlord does establish designated parking areas for the Premises, Landlord may at any time, and at Landlord's sole discretion, reduce the size of any such parking area, or restrict or revoke any parking privilege given by Landlord to Tenant under this Agreement.

ARTICLE X UTILITIES

10.1 Water, Electricity, Gas and Sanitary Sewer

Landlord represents that the facilities necessary for Tenant to have access to water, electricity, gas, and sanitary sewer services exist at the Premises and are currently in good and working condition. Landlord does not represent or warrant that said services are adequate for Tenant's intended use and all said services should be confirmed by Tenant.

Tenant shall not intentionally overburden or exceed the capacity of the mains, feeders, ducts, conduits, or other facilities by which such utilities are supplied to, distributed in, or serve the Premises. If Tenant desires to install any equipment which shall require additional utility facilities, or utility facilities of a greater capacity than the facilities existing at the Premises, or metering equipment for utilities servicing the Premises, such installations shall be subject to Landlord's prior written approval of Tenant's plans and specifications therefor.

10.2 Tenant's Use of Utilities

Tenant agrees that it shall pay all service charges directly to the service provider for all separately metered utilities serving the Premises, including any services used by Tenant and supplied to it by either Landlord, a public utility or authority, or any other entity providing such services.

Where utility services are not separately metered, Landlord shall have the option to either bear the costs of Tenant's reasonable use of the utility services or pass through all of those costs to Tenant. If passed through to Tenant, Tenant's responsibility for Landlord's costs in providing non-separately metered utility services shall be based on an apportionment of the interior square footage of space occupied by Tenant in relation to the entire building structure, including any applicable loft spaces, and a proportional share of common areas (subject to actual usage and allocation of Tenant's proportionate share). Tenant shall only be responsible for its pro-rata share of Landlord's costs. If Tenant opts not to utilize all or a portion of a service, or chooses to obtain an alternative vendor, it will receive a commensurate reduction in utility pass-through costs. Tenant is responsible for payment of pro-rata shares of all non-separately metered utilities customarily or historically associated with the Premises. Pass-through costs shall be updated and adjusted at least annually and at Landlord's discretion.

10.3 Discontinuances and Interruptions of Utility Services

Landlord shall not be liable for any discontinuances or interruptions of utility services used by Tenant, including: (a) if any utility service shall become unavailable from any public utility company, public authority, or any other entity providing such services; or (b) for any interruption in any utility service caused by the failure to pay such utility services, the making of any necessary repairs or improvements, or by any cause beyond Landlord's reasonable control. A discontinuance or interruption of utility service to Tenant shall not constitute a termination of this Agreement or an eviction of Tenant.

10.4 Landlord's Right to Alter Utilities

Landlord reserves the right to alter the utility services to the Premises, including, but not limited to, electrical, plumbing, heating, ventilating and air-conditioning systems and other equipment serving the Airport. In no way shall Landlord's alteration of these services result in a prolonged disruption of said services. Tenant agrees to execute and deliver to Landlord without delay any such documentation as may be required to effect such alteration.

ARTICLE XI INDEMNIFICATION AND INSURANCE

11.1 Indemnity by Tenant

Except for Landlord's gross negligence or willful misconduct, Tenant shall indemnify, protect, hold harmless and defend the Landlord, the City of Santa Monica, the City Council, its officers, agents, employees, board members, commissioners, volunteers, from and against any and all demands, claims, actions, suits, liens, judgments, damages, liabilities, costs and expense, arising out of, involving, or in connection with the use, occupancy, or enjoyment of the Premises or Airport by Tenant or any of its officers, agents, employees, customers, guests, or invitees. If any action or proceeding is brought against Landlord by reason of any of the foregoing matters, Tenant shall upon notice defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be defended or indemnified. The obligations pertaining to indemnification and hold harmless set forth herein shall survive the expiration or termination of this Agreement.

11.2 Landlord Not Liable for Acts of Others

Neither Landlord nor its employees, officers, agents, board members, commissioners, or volunteers (collectively "Landlord"), shall be liable to Tenant for any personal injury, death, loss or damage to personal property which may occur by or through the acts or omissions of persons visiting the Premises, the Airport, or the surrounding area, or to persons occupying space adjoining, adjacent to, or connecting with the Premises or any part of the Airport. Furthermore, Landlord shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Tenant's, Tenant's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places on the Airport. Tenant agrees to use and occupy the Premises and other portions of the Airport at Tenant's own risk.

11.3 Tenant's Insurance

As of the Commencement Date, and at all times during Tenant's occupancy of the Premises, or prior to the start of construction of Alterations or improvements on the Premises, Tenant shall procure and maintain at Tenant's own cost and expense for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with Tenant's possession, occupancy, operation or use of the Premises, or that of Tenant's agents, representatives, employees, contractors, subcontractors, guests, customers, and invitees.

A. Minimum Scope of Insurance

Tenant's insurance coverage shall meet the following minimums:

1. **Aircraft or General Liability Insurance:** Aircraft or general liability insurance against liability for financial loss resulting from bodily injury, including death or personal injury, and damage to property caused by the ownership, operation, storage, and use of aircraft arising from or related to this Lease Agreement. The policy shall provide limits of no less than \$1,000,000 per occurrence and include coverage for fire damage legal liability at the full \$1,000,000 policy limit.
2. **Property:** Insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost. Policy shall be endorsed to provide Business Interruption coverage in an amount no less than 12 months of Monthly Base Rent at the time of the loss. However this coverage shall not be required if the term of the Agreement is less than 12 months.

If Tenant maintains higher limits than the minimums shown above, Tenant shall maintain coverage for the higher limits. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Landlord.

B. Required Policy Provisions

Insurance policies under this Section are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status:** The City of Santa Monica, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the use, occupancy, operations or maintenance of the Premises, including work or operations performed on behalf of Tenant.
2. **Primary Coverage:** For any claims arising from Tenant's use, occupancy, operations, or maintenance of the Premises, Tenant's insurance shall be primary with respect to the City of Santa Monica,

its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of Tenant's insurance and shall not contribute with it.

3. **Notice of Cancellation:** Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.
4. **Waiver of Subrogation:** Tenant hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of Tenant may acquire against the City of Santa Monica by virtue of payment of any loss. Tenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, however this provision shall apply regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Santa Monica for all activities in connection with the use of the premises by Tenant, its employees, agents, and subcontractors.

5. **Loss Payee (Property policy):** The property insurance shall name the City of Santa Monica as Loss Payee as its interests may appear.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by Landlord. Landlord may require Tenant to purchase coverage with a lower deductible or retention or provide satisfactory proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to Landlord.

E. Verification of Coverage

Tenant shall furnish Landlord with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance

coverage required herein. All certificates and endorsements are to be received and approved by the City of Santa Monica before the Execution Date. However, failure to obtain required documents prior to the work beginning shall not waive the Tenant's obligation to provide them. Landlord reserves the right to require complete, certified copies of all required insurance policies, including the endorsements required herein, at any time.

F. Failure to Maintain Insurance Coverage

If Tenant, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a default by Tenant. Tenant shall have thirty (30) days to cure its default, after which and upon failing to do so, Landlord may purchase such coverage (but has no special obligation to do so) on behalf of Tenant and demand payment from Tenant for any premium costs advanced by Landlord.

G. Subcontractors

Tenant shall require and verify that any contractors or subcontractors hired by Tenant maintain CGL with limits of no less than \$1,000,000 per occurrence and Workers' Compensation insurance as stated herein for maintenance and repair work performed at the Premises. For work involving capital improvements, Tenant's contractors and subcontractors must maintain CGL limits of no less than \$3,000,000 per occurrence. Any exception to this subsection must be approved in writing by the City's Risk Manager.

ARTICLE XII CASUALTY

12.1 Termination of Agreement Due to Casualty

For the purposes of this Agreement a "Casualty" is defined as any fire, explosion, earthquake, flood, tidal wave, accident, or act of God causing damage to the Premises or to any improvements thereon. In the event of damage to the Premises by Casualty, and if Tenant is not responsible in part or in whole for such damage, Landlord shall notify Tenant in writing within thirty (30) days if it intends to restore or rebuild the Premises. If Landlord elects to restore or rebuild the Premises, where the time to completion of such work is determined to exceed 180 days for the date of Casualty, then either Landlord or Tenant may terminate this Agreement upon thirty (30) days written notice. Landlord, its City Council, its respective boards, commissions, officers, agents, servants and employees shall not be liable for any interruption to Tenant's business or for damage to Tenant's personal property or to any improvements installed in the Premises as a result of a Casualty under this Section.

12.2 Advance Payments

Upon termination of this Agreement pursuant to Section 12.1 above, an equitable adjustment shall be made concerning any advance Monthly Base Rent or Additional Rent or any other advance payments made by Tenant to Landlord. In addition, Landlord shall return to Tenant so much of the Security Deposit as has not theretofore been applied by Landlord.

ARTICLE XIII CONDEMNATION

13.1 Effect of Taking

If the Premises or any portion thereof is taken under the power of eminent domain, this Agreement shall terminate as to the part so taken on the date Tenant is required to yield possession thereof to the condemning authority. In the event that only a portion of the Premises is subject to condemnation, Landlord shall make such repairs and alterations as may be necessary in order to restore the part not taken to useful condition and all Rental (other than any Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be reduced in the same proportion as the number of square feet contained in the Premises which were so taken bears to the number of square feet in the Premises immediately before such condemnation. If the remainder of the Premises becomes unsuitable for the Permitted Use described in Section 3.1 as a result of the taking, then either party may terminate this Agreement as of the date when Tenant is required to yield possession by giving notice to that effect within thirty (30) days after such date.

13.2 Condemnation Awards

All compensation awarded for any taking of the Premises or any interest in either shall belong to Landlord, and Tenant hereby assigns to Landlord all of its rights with respect thereto; provided, however, nothing contained herein shall prevent Tenant from applying for reimbursement from the condemning authority for moving expenses, the expense of removal of Tenant's trade fixtures, loss of Tenant's business goodwill, loss of the improvements paid for by Tenant, or any other loss incurred by Tenant, but only if such action does not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by Landlord for improvements paid for by Landlord

ARTICLE XIV

TRANSFERS OF INTEREST

14.1 Transfer By Tenant Requires Landlord's Consent

Except as provided herein, Tenant shall not assign, sublet, hypothecate or otherwise transfer this Agreement or any interest herein, by operation of law or otherwise, to any person or entity ("Transferee") without Landlord's prior written consent. Any attempt to assign, sublet, or transfer this Agreement without complying with the requirements imposed by this Article shall be null and void, and any assignee, sublessee, lienholder, or Transferee shall acquire no right or interest by reason of such attempted transfer and shall be liable to Landlord for damages pursuant to California Civil Code §§ 1995.330, 1995.320. Any attempt by Tenant to assign, sublet, or transfer its interests under this Agreement without Landlord's consent shall be considered a material breach of this Agreement and a Default under Section 15.1.

14.2 Restriction on Subleasing

Unless expressly agreed to by the Parties in writing, any and all forms of subleasing any portion of the leased Premises to any individual or entity that is not a party to this Lease Agreement is prohibited. Tenant agrees that it is bound by this express restriction on any and all forms of subleasing of the leased Premises as required by this Lease Agreement. This express restriction on subleasing contained herein is consistent with California Civil Code section 1995.230.

14.3 Landlord's Assignment

Landlord reserves the right to assign some or all of its interests under this Lease Agreement to a third party of its choosing. Landlord shall provide Tenant with thirty (30) days written notice of such assignment.

ARTICLE XV DEFAULT

15.1 Default

Any one or more of the following events shall constitute a material breach of this Lease Agreement and Tenant shall be considered in default of its obligations herein:

- a) Any failure by Tenant to pay the Monthly Base Rent, any Additional Rent, or any other charge required to be paid to Landlord under this Agreement,

within three (3) days of receiving a written notice from Landlord under Cal. Code of Civil Proc. §§1161, 1161.1 indicating such amount is due.

- b) The sale of Tenant's interest in the Premises by way of an attachment, execution, or similar legal process; or the filing or execution of an attachment, encumbrance, lien, or stop notice either against the Premises, Landlord, or Tenant that is related to the use or possession of the Premises.
- c) Tenant is a party to a bankruptcy proceeding in the United States District Court and is a "debtor" as defined in 11 U.S.C. § 101. However, in the case of a petition filed against Tenant, Tenant shall not be in default if the petition is dismissed within sixty (60) days of filing.
- d) The appointment of a receiver or trustee for the business or property of Tenant, or that of any guarantor of Tenant's obligations herein, unless such appointment shall be vacated within ten (10) days of its entry.
- e) Tenant improperly transfers any of its interest in the Lease Agreement without Landlord's prior written consent.
- f) Tenant has entered into a sublease for a portion of the Premises.
- g) Tenant abandons the Premises within the meaning of Cal. Civil Code §§ 1951.2 - 1951.4.
- h) The discovery by Landlord that any material information related to this Lease Agreement provided to Landlord by Tenant or its agents is materially false.
- i) Tenant's failure to comply with any and all applicable statutory laws affecting the Premises or any part thereof, or the use thereof, as set forth in Section 7.7 of this Lease Agreement.
- j) Any act or omission by Tenant that is expressly prohibited by Section 3.3 of this Agreement.
- k) Tenant's failure to comply with any condition, provision, or obligation required by this Agreement, and where such failure continues uncured for a period of thirty (30) calendar days after receiving written notice from Landlord to abate such condition or cure such noncompliance. However, if the nature of Tenant's noncompliance is such that more than 30 days are

required to cure, Tenant shall not be in default provided that Tenant has commenced to cure such noncompliance within the noticed 30 day period and thereafter continues to diligently pursue such cure to completion.

- l) Tenant initiates or participates in a proceeding of any kind to invalidate in whole or in part the Consent Decree.

15.2 Remedies

If Tenant is in Default of this Agreement, Landlord, without notice to Tenant except where expressly provided for by the Agreement, may do any one or more of the following:

- a) Landlord may terminate this Agreement and any and all rights of Tenant hereunder, by any lawful means. In the event of such termination, Tenant shall immediately return possession of the Premises to Landlord in the manner stated in Section 2.2. Landlord shall also have the right to recover from Tenant all damages incurred by Landlord by reason of Tenant's Default, including, but not limited to, any amount of unpaid Monthly Base Rent or Additional Rent, Landlord's costs in recovering possession of the Premises, Landlord's costs of re-letting the Premises including any necessary renovations and alterations, and Landlord's reasonable litigation costs and attorneys' fees. Landlord agrees that it will use its best efforts to mitigate its damages from Tenant's Default.
- b) Landlord may elect to maintain Tenant's right to possession of the Premises, in which case this Agreement shall continue in full force and effect. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Agreement, including, without limitation, the right to recover all of the Monthly Base Rent and Additional Rent as it becomes due.
- c) Landlord may pursue all of its rights and remedies under this Agreement, which shall in any event be cumulative and not exclusive, and shall be in addition to any rights provided by law or in equity. Unpaid installments of Monthly Base Rent or Additional Rent, or other unpaid monetary obligations of Tenant under the terms of this Agreement, shall bear interest from the date due at the maximum rate then allowable by law.

ARTICLE XVI SUBORDINATION AND ATTORNMENT

16.1 Peaceful and Quiet Use and Possession

For as long as Tenant is not in Default, Tenant shall have peaceful and quiet use and possession of the Premises without hindrance on the part of Landlord, and Landlord shall warrant and defend Tenant in such peaceful and quiet use and possession against the claims of all persons claiming by, through, or under Landlord.

16.2 Subordination

Tenant agrees to subordinate all of its right, title and interest in and to this Lease Agreement to the lien of any deed of trust now or hereafter encumbering the Premises or any portion thereof, and to all advances made or hereafter to be made upon the security thereof.

16.3 Attornment

Tenant agrees that upon delivery to Landlord of the written election of the beneficiary of any encumbrance affecting the Premises which is superior to this Agreement, that such encumbrance shall be deemed subordinate to this Agreement, and, upon such event, (a) this Agreement shall, without the necessity of any further consideration or action whatsoever, be deemed superior to such encumbrance, whether this Agreement was executed before or after the execution of such encumbrance, and (b) the beneficiary of such encumbrance shall have the same rights with respect to this Agreement as if it had been executed and delivered prior to execution and delivery of such encumbrance and had thereafter been assigned to such beneficiary; and (ii) if, by reason of Landlord's default under any encumbrance now or hereinafter affecting the Premises in any way, any or all of Landlord's interest in and to the Premises is terminated, Tenant (a) shall attorn to the beneficiary after written confirmation that such beneficiary is in fact the new owner of the Premises, whether by foreclosure, judicial or trustees' sale, deed in lieu of foreclosure or otherwise, of any or all of Landlord's interest in or to the Premises; (b) shall recognize such beneficiary as the Landlord under this Agreement; and (c) shall execute and deliver to Landlord and to such beneficiary, within ten (10) days after Landlord or such beneficiary provides Tenant with written notice to do so, such documents and take such further action as Landlord or such beneficiary may deem necessary or advisable to effect or maintain such attornment.

ARTICLE XVII NOTICES

17.1 Notices

Any notice, request, demand, approval or consent given or required to be given under this Agreement (“Notices”) shall be in writing and shall be served as follows: (i) by personal delivery; or (ii) by deposit thereof in any mail facility maintained by the United States, postage prepaid, certified or registered mail, return receipt required; or (iii) by overnight delivery service, postage prepaid. All Notices shall be addressed as follows:

To Landlord at: Santa Monica Airport
City of Santa Monica
3223 Donald Douglas Loop South
Santa Monica, CA 90405

with a copy to: City Attorney
City of Santa Monica
1685 Main Street, Third Floor
Santa Monica, CA 90401

To the Tenant at: TENANT'S CONTACT INFO

All Notices shall be deemed effectively served upon hand delivery or three (3) business days after deposit in the United States mail or overnight delivery service as provided above. Either party may, at any time, change its address for receipt of Notice by sending a notice to the other party in accordance with this Article stating the change and setting forth the new address. Tenant certifies that the contact information that it has provided to Landlord, attached hereto as **Exhibit 3**, is correct and current as of the Execution Date. Tenant shall be responsible for ensuring that its contact information for the purposes of this Section is current, up to date, and has been provided to Landlord.

ARTICLE XVIII MISCELLANEOUS

18.1 Remedies Cumulative

No reference to any specific right or remedy shall preclude Landlord from exercising any other right or from having any other remedy or from maintaining any action to which it may otherwise be entitled at law or in equity. No failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rental payment during the continuance of any such breach, shall constitute a waiver of any such breach, agreement, term, covenant or condition. No waiver by Landlord of any Default by Tenant under this Lease Agreement or of any

Default by any other tenant under any other agreement of any portion of the Airport shall affect or alter this Lease Agreement in any way whatsoever.

18.2 Successors and Assigns

This Agreement and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns and shall inure to the benefit of Tenant and only such assigns of Tenant to whom the assignment of this Agreement by Tenant has been consented to by Landlord as provided in Article XIV. Upon any sale or other transfer by Landlord of its interest in the Premises, Landlord shall be relieved of any obligations under this Agreement occurring thereafter.

18.3 Joint and Several Liability

If two or more individuals, corporations, partnerships or other business associations shall sign this Agreement as Tenant, the liability of each such individual, corporation, partnership or other business association to pay Monthly Base Rent, or Additional Rent, or any other charge required to be paid to Landlord under this Agreement, and to perform all other obligations hereunder, shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other business associations shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant is a partnership or other business association, the members of which are, by virtue of statute or federal law, subject to personal liability, then the liability of each such member shall be joint and several.

18.4 Labor Peace

Notwithstanding any other term or provision of this Lease Agreement, and in order to protect the City's proprietary interest in revenues under this Agreement from the adverse economic effects of labor disputes, Tenant agrees that within ninety (90) days of being presented with written notice that a labor organization is representing Tenant's employees at the Premises, Tenant shall submit to Landlord a copy of a valid Labor Peace Agreement executed by both Tenant and said labor organization. The Labor Peace Agreement shall have been negotiated in good faith and should prohibit such labor organizations and their members from engaging in picketing, work stoppages, boycotts or other economic interference with Tenant's operations at the Premises for the duration of the agreement.

18.5 No Discrimination

It is Landlord's intent for the Airport to be operated in a manner that all prospective tenants thereof, and all customers, employees, licensees and invitees of all tenants shall have the opportunity to obtain all the goods, services, accommodations, advantages, facilities and privileges of the Airport without discrimination because of race, creed, color, sex, age, disability, national origin, sexual orientation, Acquired Immune Deficiency Syndrome, or ancestry. To that end, Tenant shall not discriminate in the conduct and operation of its business in the Premises against any person or group of persons because of the race, creed, color, sex, age, disability, national origin, sexual orientation, Acquired Immune Deficiency Syndrome, or ancestry of such person or group of persons.

18.6 Entire Agreement

This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof; all prior negotiations, considerations and representations between the parties are hereby superseded by this Agreement. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Agreement. No representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein. This Agreement can be modified only by a writing signed by both parties.

18.7 Severability

If any term or provision, or any portion thereof, of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

18.8 Authority

If Tenant is organized as a corporate entity, the persons executing this Agreement on behalf of Tenant hereby covenant and warrant that: Tenant is a duly constituted corporation qualified to do business in the State of California and is in good standing; all future forms, reports, fees and other documents necessary for Tenant to comply with

applicable law will be filed by Tenant when due; and such persons are duly authorized by the board of directors of such corporation to execute and deliver this Agreement on behalf of the corporation. In the event Tenant is a partnership, the persons executing this Agreement on behalf of Tenant hereby covenant and warrant that such persons are duly authorized by the partnership to execute and deliver this Agreement on behalf of the partnership. Landlord shall have the right to request and receive from Tenant information and documentation supporting such covenants and warranties to Landlord's satisfaction.

18.9 Applicable Law

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of California.

18.10 Control of Access

Landlord, at its option and in its sole discretion, may at any time control and limit access to, in or about, the Airport and surrounding area for the public health, safety, welfare, or any public purpose. Landlord shall not be liable or responsible for any damages arising therefrom to the Premises, buildings, structures, installations or improvements thereon, or any business or operation of Tenant. Tenant further agrees any such action by Landlord does not entitle Tenant to a proration of any Monthly Base Rent or other sums due.

18.11 Landlord's Right to Create Tenancies

Landlord reserves the right to create any other tenancies in other buildings under its control at the Airport and on the Premises. Landlord, in the exercise of its sole business judgment, shall determine how best to promote the interests of the Airport. Tenant does not rely upon, nor does Landlord represent, that any specific tenant or number of tenants shall occupy any given space on the Airport.

18.12 Force Majeure

In the event that either party is delayed or hindered from the performance of any act required hereunder by reason of Force Majeure, then performance of such acts shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay (though in no event shall the excusal or extension granted hereunder exceed in the aggregate the period of six months). The provisions of this Section 18.12 shall not, however, operate to excuse Tenant from prompt payment of Monthly Base Rent or Additional Rent or any other payment of money required under the terms of this Agreement. Force Majeure shall mean

and be strictly limited to the unforeseeable refusal to grant or the denial, revocation or moratorium of or by applicable governmental authorities of approvals and permits or by strike, unusually inclement weather (but not rain or wind), fire, riot, insurrection or war.

18.13 Attorneys' Fees

If any legal action is necessary to enforce any provision hereof or to recover damages by reason of an alleged breach of any provisions of this Agreement, the prevailing party shall be entitled to receive from the losing party all costs and expenses and such amount as the court may adjudge to be reasonable attorneys' fees for the costs incurred or the value of legal services received by the prevailing party in such action or proceeding.

18.14 Counterparts

This Agreement may be executed in several counterparts, each of which is an original, and all of which together constitute but one and the same document.

18.15 Airport Security

Tenant shall comply with all applicable security requirements adopted for the Airport by Landlord, the FAA, or the Transportation Security Administration, and shall comply with the directives of any law enforcement officer or other airport personnel implementing these requirements. Landlord reserves the right in its sole discretion at any time to impose additional security requirements. Tenant assumes all responsibility for the protection of Tenant, its employees and agents, invitees, customers, other tenants and licensees and property from acts of third parties within the Premises.

Tenant, at its sole cost and expense, shall provide for any and all security, including but not limited to security personnel and security systems, needed for the Premises. Such security measures shall be subject to the review and approval of Landlord. Landlord may reasonably require that Tenant alter its security measures and/or add additional security personnel and security systems in order to provide for adequate crowd control and protection of the general public at all times within the Premises. Landlord may further require Tenant to coordinate its security measures with those of Landlord, any agencies of the City (including the City's police department and related divisions), or any other governmental entities and their respective law enforcement agencies, or any other tenant.

18.16 Easements

Landlord reserves to itself the right to grant such easements, rights and dedications that Landlord deems necessary or desirable, and to cause the recordation of parcel maps and restrictions so long as such easements, rights, dedications, parcel maps and restrictions do not unreasonably interfere with Tenant's use of the Premises. Tenant shall sign any of the aforementioned documents upon request of Landlord and failure to do so shall constitute a material breach of this Agreement.

18.17 City Municipal Powers

Notwithstanding any language in this Agreement to the contrary, Landlord City of Santa Monica shall not be restrained in any way from acting in its capacity as a municipal corporation, complete with all powers and rights attendant thereto.

18.18 Merger of Negotiations

This Lease Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto and all preliminary negotiations and agreements of whatever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof.

For Review Only
Not a Valid Agreement