

RELIEVER AIRPORTS
AIRCRAFT STORAGE LEASE

Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis Minnesota 55450

AIRCRAFT STORAGE LEASE

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METROPOLITAN AIRPORTS COMMISSION
RELIEVER AIRPORTS AIRCRAFT STORAGE LEASE AGREEMENT

THIS AIRCRAFT STORAGE LEASE AGREEMENT (“Lease”) is made between the Metropolitan Airports Commission, a public corporation of the State of Minnesota, at 6040 28th Avenue South, Minneapolis, Minnesota 55450 (“Commission”) and «CFName» «CLName», a _____, at «CStreet», «CCity», «CState» «CZip» (“Tenant”).

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

WHEREAS, Tenant desires to lease property at the Airport for an aircraft storage hangar; and

WHEREAS, Commission is willing to lease certain property to Tenant upon the terms and conditions of this Lease, which has been approved by the Staff Reliever Lease Committee on _____, conditioned upon Tenant meeting the lease renewal requirements of the Reliever Lease Policies, Rules and Regulations at the time of execution.

WHEREAS the lease for Lot «Lot No» at «Airport» Airport dated _____ is hereby terminated, and this new Lease is being executed; and

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. **Definitions**

a. **Ordinance 58**

“Ordinance 58” means Metropolitan Airports Commission Ordinance 58, which regulates conduct on the Commission’s airports, as amended from time to time.

b. **Ordinance 78**

“Ordinance 78” means Metropolitan Airports Commission Ordinance 78, which establishes minimum standards for commercial operators, as amended from time to time.

c. **Ordinance 87**

“Ordinance 87” means Metropolitan Airports Commission Ordinance 87, which establishes rental rates, fees and other charges to be paid at the Reliever Airports, as amended from time to time.

d. Policies

“Policies” means the Reliever Lease Policies, Rules and Regulations, and all the attachments, adopted by Commission effective November 1, 2000, and as amended from time to time.

e. Sewer and Water Policy

“Sewer and Water Policy” means the Policy for Sanitary Sewer and Water Installation at the Reliever Airports, adopted by Commission on October 19, 1998, as amended on December 20, 1999 and October 16, 2000, and as further amended from time to time.

2. Description of Premises

a. Premises

Commission leases to Tenant and Tenant leases from Commission that portion of the Airport commonly referred to as Lot «Lot No», consisting of _____ square feet as shown on attached Exhibit A (“Premises”). The term Premises shall also include the Access Area described in Section 2.b. and the Sewer and Water Easement described in Section 2.c. The Access Area and the Sewer and Water Easement shall not be taken into consideration in determining storage tenant ground rent in Section 5.a. During the term of this Lease, title to any improvements or fixtures located on the Premises is vested in Tenant subject to the Commission’s rights in such improvements and fixtures pursuant to Sections 15. and 16. below.

b. Access Right

Tenant has the non-exclusive right to use the real property described as the area in front and in back of the Premises, having a width equal to the width of the Premises, and extending from the border of the Premises to the alleyway(s) directly in front of and in back of the Premises (“Access Area”). Tenant may only use the Access Area for ingress to and egress from the Premises, and for the incidental parking of vehicles in accordance with Section XIII.A. of the Policies. Other tenants of the Airport may use the Access Area for ingress to and egress from the Premises leased by such tenants.

Tenant must construct a connector, if one is not already present, in the Access Area between the alleyway and the hangar. The connector, and any other improvements that may be approved by the Commission, shall be constructed and maintained at Tenant’s cost in accordance with Section 10. of this Lease. Tenant must maintain such improvements in a condition of repair that allows Commission to perform snow removal and lawn maintenance in the Access Area.

The Commission may use the Access Area for any purpose, provided such use does not interfere with Tenant's right to use the Access Area for ingress and egress to the hangar, including but not limited to: (i) performing snow removal and lawn maintenance; (ii) installing, repairing, maintaining and constructing improvements to the Airport, including, but not limited to utilities; and (iii) determining Tenant's compliance with the terms and conditions of this Lease in accordance with Section XIII.B. of the Policies. Commission agrees to reasonably repair any damage caused by Commission to Tenant's improvements to the Access Area as a result of such activities.

c. Sewer and Water Easement

The Commission _____ **has/**_____ **has not** created an appurtenant Sewer and Water Easement benefiting the Premises, which shall terminate when this Lease terminates. The terms and conditions of the Sewer and Water Easement are in attached Exhibits B and C, if applicable.

3. Use of Premises

a. Use

The Premises shall be used by Tenant solely for the purpose of (i) constructing and maintaining a hangar and related improvements used for the storage of aircraft; (ii) for the storage of aircraft; and (iii) for maintenance performed by Tenant on Tenant's own aircraft. The Premises shall be used for no other purpose without the prior written consent of Commission. For example, Tenant or a subtenant may not conduct any commercial activities on the Premises, whether of an aeronautical or non-aeronautical nature.

b. Flying Clubs

Tenant may not operate a flying club on the Premises without the prior written consent of the Commission's staff. In the event that Tenant desires to operate a flying club from the Premises, Tenant must:

- (1) Obtain Commission's prior written consent to operate a flying club and comply with all conditions of such consent and with all applicable rules, regulations and ordinances of Commission, including Ordinance 87; and
- (2) Obtain the appropriate license(s) to operate a flying club from all applicable governing authorities, comply with all requirements of such governing authorities, and provide evidence of compliance to Commission upon the Commission's request.

4. **Term**

a. **Initial Term**

The term of this Lease shall be one (1) year ("Term"), commencing on _____ ("Commencement Date") and expiring, unless earlier terminated, on _____. The parties agreed that the Lease dated _____ between the Commission and Tenant is hereby terminated.

b. **Holding Over**

If Tenant remains in possession of the Premises after the expiration of the Term, such holding over will only create a month to month tenancy, which may be terminated by either party at the end of any calendar month, upon thirty (30) days advance written notice. In the event of such holding over, Tenant shall perform all of the terms and conditions of this Lease, except the Rent and other charges which are paid annually to Commission shall be prorated on a monthly basis and paid monthly in advance.

c. **New Lease**

(1) At the end of the initial Term or before the Commission terminates a month to month tenancy arising upon the expiration of the initial Term, the Commission will offer Tenant a new lease for the Premises as set forth below. The new lease will be for a term of one (1) year, under standard lease terms and conditions in effect at that time, if all of the following conditions are met at the time of expiration of the initial Term and during any subsequent month to month tenancy:

(a) Any improvements proposed by Tenant and any proposed change in use of the Premises must be compatible with the present and anticipated development of the Reliever Airports;

(b) Tenant must not be in default of this Lease or any other lease(s) with Commission and must be in compliance with Commission's rules, regulations and policies; including, for example:

(i) Tenant must not have abandoned the Premises; and

(ii) The improvements on the Premises must be in physical condition acceptable to Commission, of

sufficient structural integrity, able to safely function for their intended use, and in compliance with applicable codes; and

- (c) Commission does not require the Premises for the development or redevelopment of the Airport, including change of use (See Section 15. of this Lease).
- (2) The Commission may inspect the Premises, including an environmental inspection, to determine compliance with the conditions set forth above, in accordance with Section 9. of this Lease. If all of these conditions have been met at the time of renewal, Commission shall prepare, and Tenant may execute, an amendment to this Lease or a new lease for the Premises under standard lease terms and conditions in effect at that time, at the option of Commission. In the event Tenant fails to execute the document and return it to the Commission within thirty (30) days after it has been delivered to Tenant pursuant to the notice provision of this Lease, Commission's offer to renew this Lease shall expire.
- (3) If any of the conditions set forth above have not been met at the time of renewal, Commission will provide Tenant with written notice of non-renewal prior to the end of the existing Term or will provide Tenant with written notice of termination of Tenant's holdover status if the Term has expired. The written notice shall set forth the conditions that have not been met. For the condition in Section 4.c.(1)(a), Tenant will be given the opportunity to modify Tenant's proposal. For the condition in Section 4.c.(1)(b), Tenant will be given the opportunity to cure the default(s) to the extent provided for in Section 18. Commission may schedule a follow-up inspection to determine whether Tenant has cured the default(s) and/or made the necessary changes in order to comply with all of the conditions set forth above.

5. **Rent**

a. **Storage Tenant Ground Rent**

Tenant shall pay Commission ground rent for the Premises in the amount of the storage tenant ground rent specified in Ordinance 87 ("Rent"). Rent shall be paid to Commission at the address specified by Commission. Rent shall be paid annually in advance on or before the Commencement Date and each anniversary of the Commencement Date, unless Tenant is notified in writing by Commission of different payment dates.

b. Fuel Flowage Fees

If Tenant is authorized by Commission to dispense fuel from the Premises, Tenant shall pay to Commission the fuel flowage fees specified in Ordinance 87. Fuel flowage fees shall be paid to Commission by the last day of each calendar month for the previous calendar month, unless Tenant is otherwise notified in writing by Commission of different payment dates. Payment of fuel flowage fees shall be accompanied by a report and documentation as specified in Ordinance 87, in a form reasonably acceptable to Commission's staff, and certified as correct by Tenant or an authorized representative of Tenant.

c. Revision of Rents

Under Minn. Stat. § 473.651, Commission has the authority to determine the charges for the use of property under its management and control, and accordingly Commission reserves the right, from time to time, to amend rents, charges and assessments hereunder, either upwards or downwards.

d. Late Fee

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

6. Taxes and Other Charges

a. Utilities

Tenant shall pay for all water, sanitary sewer, gas, electricity, telephone, refuse collection, storm sewer charges or other similar charges used on or attributable to the Premises, together with any taxes, penalties, interest or surcharge associated with such utilities and charges.

b. Assessments Imposed by Commission

Tenant shall pay Commission for assessments imposed in accordance with Section X.D. of the Policies and Ordinance 87. Tenant shall pay an annual assessment of \$_____ per year beginning of the effective day of the Lease, with the final payment due on _____.

c. Taxes and Fees Imposed by Other Authorities

- (1) Tenant shall pay all real estate taxes, personal taxes, assessments, license fees, regulatory fees and other charges imposed by any other governmental authority during the Term of this Lease upon the Premises, buildings, improvements or property located thereon, or upon Tenant's use or occupancy, for whatever term deemed applicable to Tenant by that governmental authority. Tenant shall pay these amounts without deduction or set-off against Rent to be paid under this Lease. Examples of fees to be paid by Tenant include storm water permit fees, hazardous waste generator fees and aircraft registration fees.
- (2) In the event that any governmental authority imposes an assessment upon the Airport for improvements the Tenant requested from the governmental authority, then Commission shall have the option to charge Tenant for the cost of such assessment. Tenant shall pay that cost in installments as specified by Commission.

7. Compliance with Laws

a. Compliance with Laws

Tenant shall comply with all applicable local, municipal, county, state and federal laws, regulations, rules and ordinances, now or hereafter in force, including those of Commission, including, without limitation, Ordinance 58, Ordinance 78 and Ordinance 87. Tenant may obtain a copy of Commission's ordinances, rules and regulations by contacting Commission. In the event of a conflict between this Lease and a Commission ordinance, the ordinance governs.

b. Reliever Lease Policies, Rules and Regulations

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

c. Aircraft Registration

Tenant agrees that any aircraft which is based from, stored at or using the Premises shall be in compliance with all applicable aircraft registration requirements, including, but not limited to, those set forth in Minnesota Statutes Chapter 360.

d. Sewer and Water Policy

Tenant shall comply with the Commission's Policy for Sanitary Sewer and Water Installation at the Reliever Airports. Tenant may obtain a copy of the current Sewer and Water Policy by contacting Commission. Tenant acknowledges that Tenant has received a copy of the Sewer and Water Policy previously or upon execution of this Lease.

8. Quiet Enjoyment

Upon Tenant's payment of Rent and performance of all the terms of this Lease, Tenant shall have quiet possession of the Premises for the entire Term subject to all of the Provisions of this Lease, including Section 9., and subject to Commission's right of eminent domain. However, Commission and its designated representatives have the right to enter the Premises for the purpose of making repairs or improvements to any adjoining premises or the Airport and to install, repair, maintain and construct through the Premises such pipes, wires and other similar items as Commission deems necessary or desirable for the operation of the Airport. In doing so, Commission shall use reasonable diligence to minimize disruption to Tenant's use and enjoyment of the Premises, and shall reasonably repair any damage caused by such entry. The Commission shall defend Tenant against any third party claims and indemnify Tenant from and against any losses, damages and expenses, including reasonable attorney and consultant fees, arising from third party claims that result directly from the Commission's or its designated representatives' entry onto the Premises except to the extent the claims are based on Tenant's negligence or intentional misconduct or arise as a result of Tenant's breach of one or more of Tenant's obligations under this Lease. The Commission's obligation to indemnify Tenant under this Section 8. does not release Tenant from the indemnification obligations under Section 12.

9. Inspection

Commission has the right to inspect the Premises and any improvements and property located on the Premises in accordance with Section XIII.B. of the Policies.

10. Construction and Improvements

a. Commitment to Construct

If a hangar does not already exist on the Premises, Tenant shall construct a hangar as provided herein, at no cost to Commission. Construction shall begin within ninety (90) days, weather permitting, after the Commencement Date. Construction of the hangar shall be substantially completed within one (1) year after the Commencement Date or by such later date approved by Commission's staff in writing.

b. Approval

None of the following work (collectively "Work") may begin without the prior written consent of Commission's staff: (i) any interior hangar work in the amount of \$1,000.00 or more, including additions, remodeling or structural alterations; and (ii) any exterior hangar work or work on improvements outside the hangar of any amount. However, prior written consent is not required for preventative maintenance. "Work" shall include hangar construction, rebuilding, repair, fencing, outdoor signs, use of a crane, utility installation, and other work set forth in Section XX.C. of the Policies.

Plans from a responsible contractor for the Work must be submitted to Commission's staff for approval prior to the commencement of the Work. Commission has no duty to determine whether Tenant's plans or construction comply with applicable laws, ordinances, rules and regulations.

Prior to the Commencement of the Work, Tenant shall also submit, if requested by Commission's staff: (i) a bond or other security in an amount, form and with a surety satisfactory to Commission's staff, conditioned for the commencement, completion and payment for such Work and against loss or damage by reason of mechanic's liens; (ii) an insurance policy in the amount and form required by Section 12., written by an insurance company approved by Commission protecting Commission from all liability to persons or property for damages arising out of the Work; (iii) cost estimates for the Work; and (iv) a sworn construction statement listing all individuals or entities providing labor, services, materials or equipment for the Work and containing such other information as Commission's staff may request.

Tenant shall only proceed with the Work after approval from Commission's staff and after obtaining all necessary government building permits and approvals and providing copies to Commission, if requested.

c. Completion

Tenant shall complete any and all work, including Work subject to Commission approval in Section 10.b., at Tenant's cost. In completing any type of work of any amount Tenant shall:

- (1) Do or cause all work to be done in a good and workmanlike manner, within a reasonable time and in compliance with the Policies and applicable insurance requirements, building codes, zoning ordinances, laws and regulations;

- (2) Keep the Premises, this Lease and every building, structure and improvement on the Premises free and clear from all liens for labor performed and materials furnished; and
- (3) Defend, at Tenant's cost, each and every lien asserted or filed against the land, or any part thereof, or against this Lease or any building, structure or improvement on the Premises and pay each and every judgment resulting from such lien.

11. **Maintenance**

Tenant shall, at its own cost and expense, take good care of the Premises, and all improvements, buildings, structures or property located on the Premises and shall keep and maintain them in good order and repair and in a clean and neat condition. Tenant or any other individual or entity that acquires title to improvements or fixtures located on the Premises from Tenant, including, but not limited to, a leasehold mortgagee, judgment creditor or subtenant, may, without regard to the Commission's rights in the improvements and fixtures pursuant to Sections 15. and 16. but subject to the requirements set forth in this Section 11., remove improvements or fixtures from the Premises. An individual or entity intending to remove improvements or fixtures must give prior written notice to the Commission. If only fixtures are removed, the individual or entity removing the fixtures must repair any damage to the remaining improvements or fixtures and remove and properly dispose of any debris resulting from the removal of the fixtures. If improvements are removed, the individual or entity removing the improvements must: (i) remove and properly dispose of any debris resulting from the removal of the improvements; (ii) return the Premises to a buildable condition; (iii) remediate, to the reasonable satisfaction of the Commission, any environmental contamination existing on the Premises arising out of Tenant's past or present operations on the Premises or the Airport; and (iv) remove, seal or abandon in place, as reasonably required by Commission staff, any above ground or underground storage tanks, septic systems or wells located on the Premises. The obligations in the proceeding sentence shall survive termination of this Lease. For purposes of this Section 11., any hangar located on the Premises is an "improvement" and not a "fixture". The individual or entity removing the improvements or fixtures must provide the Commission with an escrow deposit at the time of notification of removal, in an amount the Commission staff reasonably determines, or other assurances acceptable to the Commission staff, in its discretion, to ensure the individual or entity's full performance of their obligations under this Section 11. Failure to comply with this Section shall be a Lease default under Section 18.a.(9).

Tenant shall not suffer or permit any waste or nuisance on the Premises that shall interfere with the rights or other tenants or Commission in connection with the use of Airport property not leased to Tenant.

12. **Insurance and Indemnification**

a. **Required Insurance**

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

- (1) All risk property insurance covering the full replacement cost of all property and improvements located on the Premises; and, if the Premises are located in a flood zone, all risk flood insurance (during the flood season) covering the full replacement cost of all property and improvements located on the Premises.

In the alternative, Tenant may elect to carry a level of property insurance, and flood insurance, if applicable, acceptable to Commission's insurance staff in its reasonable judgement that is sufficient upon the happening of any peril to remove any debris caused by the peril, to properly eliminate any environmental contamination caused by the peril and to otherwise return the Premises to buildable condition. If Tenant elects to carry this alternative type of insurance, Tenant's liability and further environmental responsibility under this Lease shall not be diminished.

- (2) Commercial general liability insurance, with a minimum limit of \$500,000.00 per occurrence for property damage, bodily injuries, or deaths of persons occurring in or about the Premises, or in or about the Airport if caused by the act or omission of Tenant or those for whom Tenant is responsible.
- (3) Worker's compensation insurance with no less than the minimum limits required by law if Tenant has employees located at the Premises.

Commission may from time to time require reasonable modification to the limits set forth in this Section, which modification will apply to Tenant and all other similarly situated tenants.

b. **Form of Insurance/Commission's Rights**

The liability policies required above shall name Commission as an additional insured and shall provide insurance with respect to Tenant's full indemnification and defense responsibilities contained in this Section. All required insurance policies shall insure on an occurrence and not a claims-made basis, shall be issued by insurance companies which are reasonably acceptable to Commission's insurance staff, and shall not be

cancelable, reduced or materially changed unless thirty (30) days prior written notice shall have been given to Commission. Any policy issued to Commission providing duplicate or similar coverage shall be deemed excess over Tenant's policies.

Tenant agrees to provide the insurance required above for the benefit of the Commission, including all liabilities, losses, damages, suits, actions, claims, judgements, settlements, fines or demands against the Commission. The insurance shall include coverage for the Commission's legal fees and costs for investigation and defenses of any claim and any legal fees and costs incurred by Commission. Tenant shall be responsible for all deductibles. Tenant waives any subrogation rights against Commission on all claims and insurance policies.

Original certificates, or at Commission's option, copies of the policies evidencing coverage shall be delivered to Commission or to its designated agent at least ten (10) days prior to the Commencement Date and at least fifteen (15) days prior to each renewal of such insurance. If Tenant fails to comply with these insurance requirements or to deliver to Commission copies of such policies and certificates evidencing the required coverage, Commission, in addition to any remedy available pursuant to this Lease or otherwise, and without providing any notices required under Section 18., may, but shall not be obligated to, obtain such insurance, or a bond or other method of risk transfer, and Tenant shall pay to Commission on demand the premium costs thereof, plus an administrative charge of twelve percent (12%).

c. Indemnity

To the fullest extent permitted by law, Tenant agrees to indemnify, defend, save and hold completely harmless Commission and its Commissioners, officers, agents and employees (collectively "Indemnities") from and against any and all liabilities, losses, damages, suits, actions, claims, judgments, settlements, fines or demands of any person arising by reason of injury or death of any person, or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees), of any nature whatsoever arising out of or incident to (i) the use or occupancy of, or operations of Tenant at or about the Premises and the Airport, or (ii) the acts or omissions of Tenant's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur. Notwithstanding the foregoing, Tenant is not obligated to indemnify an Indemnitee against any damages, judgment or other liability a court of competent jurisdiction imposes upon the Indemnitee as a result of the Indemnitee's negligence or intentional acts.

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

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

As a distinct and separate indemnification obligation, Tenant shall defend, indemnify and hold Commission harmless from any claims or liabilities as a result of Tenant's failure to procure and to keep in force the insurance required in this Section.

d. Appropriate Use

Tenant shall not use or permit the Premises to be used in any manner that would void Tenant's or Commission's insurance or increase the insurance risk. Tenant shall comply with all requirements imposed by the insurers for Commission and Tenant.

13. Damage or Destruction

a. Commission's Termination Right

If the Airport is damaged by fire or other casualty to an extent that Commission reasonably determined to discontinue operation of the Airport for twenty-four (24) months or more, Commission has the right to terminate this Lease by notifying Tenant within sixty (60) days of the damage or destruction. If Commission terminates this Lease, all rent and other charges due to Commission shall cease as of the date of the damage or destruction.

b. Rent Abatement

If Tenant, through no fault of its own, suffers loss: (i) by being prevented beyond a reasonable length of time, from using the public portion and public facilities of the Airport due to flooding or for reasons other than those occasioned by meteorological conditions; or (ii) because any governmental agency through its sovereign power, beyond a reasonable length of time, stops, suspends or seriously limits the Tenant's use of the public portion and public facilities of the Airport; then Tenant during such periods shall not be liable for any Rent provided the Premises are not

used by Tenant or subtenants of Tenant. In these situations, Tenant shall not be entitled to any compensation for loss or damage from Commission other than this rent abatement.

c. Tenant's Termination Right

If the improvements on the Premises are damaged by fire or other casualty, Tenant shall either terminate this Lease or restore, replace and rebuild the improvements to the same or better condition. Tenant's election must be provided to Commission in writing within sixty (60) days of the damage.

(1) If Tenant elects to Terminate this Lease, Tenant must: (i) remove any debris and eliminate any environmental contamination caused by the damage; (ii) return the Premises to buildable condition; and (iii) surrender the Premises in accordance with the terms and conditions of this Lease. Tenant agrees to use the proceeds of the insurance required by this Lease to the extent necessary to satisfy these obligations. This Lease, and all rent and other charges due to Commission, shall not terminate unless and until Tenant fulfills such obligations.

(2) If Tenant elects to restore the improvements, Tenant must: (i) remove any debris and eliminate any environmental contamination caused by the damage; (ii) return the Premises to buildable condition; and (iii) rebuild the improvements, to the same or better condition in compliance with the requirements of Section 10. If Tenant elects to restore the improvements but this Lease is terminated before restoration is complete, then Tenant must comply with the removal requirements set forth in Section 11.

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

14. Condemnation

a. Commission's Right to Taking

Commission reserves all of its rights to condemn Tenant's interest under this Lease and Tenant's interest in any improvements located on the Premises even though it is a party to this Lease. This provision shall not be construed as a waiver by Tenant of its right to contest the validity of any such condemnation.

b. Taking by Other Governmental Agency

If the whole or any part of the Premises shall be taken, or purchased in lieu thereof, by an entity other than Commission, and the taking of a part of the Premises renders the whole Premises unusable for the uses authorized by Section 3., then either Commission or Tenant may terminate this Lease as of the effective date of such taking. If a taking of part of the Premises does not render the whole Premises unusable, but Tenant's continued use of a substantial part of the Premises is not acceptable to Tenant, Tenant may terminate this Lease as of the effective date of such taking. All rents and other charges due under this Lease shall cease as of the effective date of such taking. The determination of whether the Premises are rendered unusable shall be made by Commission in its reasonable discretion. If a part of the Premises shall be taken, or purchased in lieu thereof, and the remaining Premises can still be used as authorized by Section 3., and the remaining Premises meet the requirements of Ordinance 78 (if applicable), then this Lease remains in effect.

If the whole or any part of the Airport, which may or may not include the Premises, shall be taken, or purchased in lieu thereof, by an entity other than Commission, and the taking prevents the continued operation of the Airport, then Commission and Tenant each have the option of terminating this Lease as of the effective date of such taking. All rents and other charges due hereunder shall cease as of the date thereof. In the event of such termination, the party terminating this Lease shall notify the other party of the effective date of such termination within thirty (30) days following notice of such taking.

c. Award

In the event of any such taking, except for a taking by Commission pursuant to Section 14.a., whether of the whole or any part of the Premises or the whole or any part of the Airport, Commission shall be entitled to receive the entire price or award from any such taking for the value of the Premises, diminished by the value of Tenant's interest in Improvements as described in Section 15.b.(2), if any. Tenant shall have the right to make a claim for all other damages sustained as a result of such taking, so long as the same does not diminish Commission's award hereunder, including such compensation as may be separately awarded or recoverable by Tenant for Improvements (under Section 15.b.(1)) to the Premises owned by Tenant, personal property or fixtures owned by Tenant and located at the Premises and Tenant's relocation expenses.

15. **Airport Development or Redevelopment**

a. **Termination or Non-Removal**

Commission reserves the right to terminate this Lease prior to the end of the Term or to not renew this Lease if Commission requires the Premises for airport development or redevelopment. If Commission elects to exercise this right, Tenant will be given written notice at least 180 days prior to the specified termination date or date of non-renewal. In such event, this Lease will terminate at the end of such 180-day period. Unless the Commission's staff and Tenant reach an agreement which provides for Tenant's removal of the improvements and fixtures during the 180-day period (in which case Tenant will be subject to the requirements of Section 11. and will not be entitled to compensation for the improvements and fixtures), Commission will then have the right to possession of the Improvements (as defined below) notwithstanding the parties' participation in the appraisal procedures set forth in Sections 15.c. and 15.d. If this Lease is terminated or not renewed because Commission requires the Premises for airport development or redevelopment, Commission will attempt to give consideration of building space, as available, to Tenant if such space, as designed, is consistent with Tenant's intended use.

b. **Payment of Compensation for Improvements**

If this Lease is terminated or not renewed because of Commission's requirement that the Premises be used for airport development or redevelopment, including change of use, then Commission will pay Tenant, and any leasehold mortgagee known to the Commission, Compensation (as defined below) for the Improvements (as defined below) owned by Tenant and not removed from the Premises. Commission will not purchase the Improvements if this Lease is not renewed or is terminated for any other reason.

(1) **Improvements**

"Improvements" for the purposes of this Section 15. shall mean all existing buildings and associated ramps located on the Premises, and all immovable fixtures attached to the Premises, but not any trade fixtures, equipment, inventory or other personal property owned by Tenant. Furthermore, Improvements shall include those items of improvement to the Premises, which are not practical to remove by Tenant upon termination of this Lease, such as landscaping, lighting, paving, utility service improvements and similar permanent improvements to the Premises. Improvements shall not include any of the above-referenced items which are removed by Tenant from the Premises or which were constructed or placed on the Premises without the Commission's

or Commission's staff's written approval. In addition, Improvements shall not include fuel tanks, wells and septic systems, which will remain the property of Tenant and must be at the sole cost and expense of Tenant removed, or properly abandoned by Tenant in compliance with all applicable laws.

(2) Compensation

"Compensation" shall mean the market value of the Improvements in terms of money to persons in the market for aircraft hangars. Compensation shall take into consideration all elements of depreciation (i.e. physical depreciation, economic obsolescence and functional obsolescence), as well as all other factors pertaining to the market value of the Improvements, including the existing use of the Improvements, all as negotiated between the Commission and Tenant or as determined by the appraisal procedures set forth in Sections 15.c. and 15.d. Comparison to improvements of a lesser quality than that of the Improvements at issue shall not be allowed to determine Compensation for the Improvements. Commission will also pay to Tenant actual, reasonable relocation expenses incurred by Tenant, up to a maximum of ten percent (10%) of the amount of Compensation paid for the Improvements.

Commission will not pay for any claims other than Compensation with respect to the Improvements. In no event will Compensation be greater than replacement cost of the Improvements as if they were new, less physical depreciation. Under no circumstances will Commission be responsible for any other claims, such as value attributable to the location of the Improvements, the difference between the rent paid pursuant to this Lease and that paid for any other lease entered into by Tenant, loss of going concern, loss of rental income or loss of business opportunity arising out of the termination of this Lease or an interest in any property, leasehold or otherwise, other than the Improvements.

Commission will provide Compensation for the Improvements as set forth herein in order to encourage investment in the Reliever Airport system, even though Commission is under no legal obligation to make such a commitment.

c. Appraisal Method

If Commission terminates this Lease according to Section 15.a., the following appraisal method will be followed to determine the amount of Compensation to be paid to Tenant. First, Commission and Tenant will have a fifteen (15) day period to attempt to agree upon the Compensation to be paid for the Improvements taking into account the

factors set forth above. If the parties are unable to agree, Commission will, within sixty (60) days thereafter, have the Improvements appraised by a Qualified Appraiser, as defined in Section 15.f. If Tenant disagrees with Commission's appraisal, Tenant may, at its sole cost and expense, have the Improvements appraised by a Qualified Appraiser, which appraisal must be provided to Commission within sixty (60) days after Tenant's receipt of Commission's appraisal. In the event that Commission does not receive Tenant's appraisal within such sixty (60) day period, then Commission's appraisal shall be deemed to be the amount of Compensation which Commission must pay for the Improvements. In the event Tenant provides Commission with Tenant's appraisal within such sixty (60) day period, then Commission may either accept the value set forth in Tenant's appraisal, negotiate with Tenant in attempt to resolve the discrepancy between Tenant's appraisal and Commission's appraisal, or commence the appraisal reconciliation procedure set forth in Section 15.d. below. If Commission's appraisal and Tenant's appraisal are less than or equal to ten percent (10%) apart, the average of the two appraisals will be concluded as the amount of Compensation to be paid by Commission with respect to the Improvements. Notwithstanding anything to the contrary contained herein, in the event that either Commission or Tenant require an extension of the sixty (60) day period to obtain their respective appraisal, the party requiring the extension shall receive one (1) extension of thirty (30) days by notifying the other party in writing at least ten (10) days prior to the end of the party's sixty (60) day period.

d. Appraisal Reconciliation

In the event that Commission's appraisal and Tenant's appraisal are more than ten percent (10%) apart, Commission may elect to commence this appraisal reconciliation procedure. Commission must notify Tenant within fifteen (15) days following receipt of Tenant's appraisal if it elects to commence the appraisal reconciliation procedure. Commission's Qualified Appraiser and Tenant's Qualified Appraiser shall mutually agree and appoint a third (3rd) Qualified Appraiser, within ten (10) days of receipt of Commission's election. The third (3rd) appraisal should be provided to Commission within sixty (60) days of the appointment. If the third appraisal happens to fall in between the first two appraisals, the average of all three appraisals will be concluded as the amount of Compensation to be paid with respect to the Improvements (the "Final Appraisal"). Otherwise the average of the two closest appraisals will be deemed the Final Appraisal.

The Final Appraisal will be the amount of Compensation that Commission must pay with respect to the Improvements. If either Commission or Tenant believes that the other party or the Qualified Appraisers failed to properly apply the provisions of this Section 15. and the Policies, either Commission or Tenant may seek judicial review. The

scope of judicial review will be limited to the question of whether the parties and the Qualified Appraisers complied with the provisions of this Section 15. and the Policies, and Commission and Tenant waive any further right to judicial or administrative review.

e. Cost of Appraisals

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

f. Qualified Appraiser

“Qualified Appraiser” means an appraiser who is: a) not an employee of either the Commission or Tenant, b) a member of the Appraisal Institute (MAI) and licensed by the State of Minnesota or Certified by the American Society of Real Estate Counselors, and c) has at least ten (10) years of experience conducting commercial appraisals. The Qualified Appraisers will, in determining the Compensation to be paid by Commission with respect to the Improvements, take into account all of the factors set forth in this Section 15, and Section VIII of the Policies. At a minimum, the Qualified Appraiser shall provide a written, summary report.

16. Surrender of Premises by Tenant

Upon the expiration or termination of this Lease, except as set forth in Sections 13., 14. and 15., Tenant must either remove all improvements and fixtures, (in which case Tenant must comply with all requirements of Section 11.) or transfer ownership of the improvements to a prospective tenant, which must be approved by Commission. Commission’s approval of such a transfer will not be unreasonably withheld. If Tenant does not accomplish this within ninety (90) days of the termination or expiration of this Lease, or within a reasonable extension of time if more than ninety (90) days is needed, Commission becomes the owner of the improvements, except as stated below. Commission will then use commercially reasonable efforts to sell the improvements; however, Commission shall not be required to make any upgrades or repairs for purposes of selling the improvements. Commission is entitled to determine the terms of the sale in its sole and absolute discretion. In the event Commission is unable to sell the improvements within 180 days of acquiring ownership, Commission shall have the option to discontinue marketing the improvements and may thereafter demolish the improvements. Commission may, after demolition of the improvements, lease the Premises to another tenant. The foregoing notwithstanding, if below average market conditions have attributed to the inability of Commission to sell the improvements, and the improvements are not hazardous to public health or safety, the 180 day period shall be extended

an additional 180 days or such longer period as is reasonably determined by Commission prior to demolition thereof.

If Commission sells the improvements, the proceeds from the sale will be used first to: (a) satisfy any debts due to Commission from Tenant including, but not limited to, rent, late fees, interest, penalties, attorney fees and all costs of collections, and (b) to reimburse Commission for all reasonable costs of acquisition, administration and sale of the buildings, including, but not limited to attorneys' fees, appraisal and marketing costs, brokerage fees or commissions, repair and remodeling of the improvements, any environmental studies conducted by Commission, and any costs incurred by Commission to bring the buildings and other improvements into compliance with all applicable laws, including environmental laws. Any proceeds remaining after payment of all costs of Commission shall be paid to Tenant. Any amount received by Commission as a result of the sale of improvements shall not in any way limit Tenant's liability to Commission for amounts owing to Commission pursuant to the terms and conditions of this Lease.

Fuel and other tanks, wells and septic systems remain the property of the Tenant and must be, at the sole option of Commission, and at the sole cost and expense of Tenant: (a) removed, properly abandoned by Tenant in compliance with all applicable laws; (b) repaired, modified, or upgraded by Tenant; or (c) transferred to a new tenant having a lease on the Premises.

17. **Transfers**

a. **General Prohibition**

Except as set forth in this Section, Tenant may not assign, either absolutely or as collateral for Tenant's payment of a debt or performance of an obligation, all or any part of Tenant's rights or obligations under this Lease including, but not limited to, Tenant's right to possession of the Premises. Except as set forth below, Tenant may not sublease all or any portion of the Premises.

b. **Assignment Rights**

For purposes of this Section, this term "assignment" includes all transfers, conveyances or assignments of Tenant's rights, whether voluntary or involuntary, other than a sublease or a leasehold mortgage. Subject to Commission's consent, which shall not be unreasonably withheld, Tenant may assign Tenant's rights and obligations under the Lease to a third party if, and only if, Tenant and the third party satisfy each of the following conditions:

- (1) Tenant must submit a written request for the proposed assignment to Commission's staff and additional information as

staff may require at least thirty (30) days prior to the date Tenant desires to consummate the assignment.

- (2) The proposed tenant has sufficient aircraft to justify the need for hangar space.
- (3) The proposed tenant has complied with all of the terms and conditions of any lease(s) with the Commission, including environmental requirements and is otherwise acceptable to the Commission.
- (4) **Arrangements have been made to pay the Facility Acquisition Fee under MAC Ordinance No. 107, or as amended.**
- (5) The assignment is an assignment of all Tenant's rights and obligations under this Lease.
- (6) Contemporaneously with the assignment of Tenant's interests under this Lease, Tenant must also convey Tenant's right, title and interest, if any, in and to any improvements located on the Premises to the assignee of Tenant's rights under this Lease.
- (7) The assignment of Tenant's rights and obligations under this Lease must be evidenced by a written Assumption Agreement (however designated) signed by Commission, Tenant and Tenant's assignee in which the assignee specifically assumes, for the benefit of Commission, each of Tenant's obligations under this Lease. The assignee's written assumption of Tenant's obligations under this Lease with Commission's consent will release Tenant from those obligations from and after the date of the assignment, except for those obligations that continue past the termination or expiration of this Lease, including those set forth in Sections 11., 12., 13.c., 16. and 19. to the extent those obligations relate to events or circumstances that occurred prior to the date of assignment.
- (8) If Commission has identified environmental issues affecting the Premises, Tenant must resolve the environmental issues to Commission's reasonable satisfaction.
- (9) Tenant may not assign Tenant's rights or obligations under this Lease if, as of the effective date of the assignment, Tenant is in default under the terms of this Lease or under the terms of any other agreement between Commission and Tenant, or facts or circumstances exist which would constitute a default with the giving of notice and passage of time as contemplated by this Lease.

- (10) If the assignment is in lieu of the foreclosure of a leasehold mortgage, each of the conditions set forth in this Section 17.b applies except for the conditions set forth in Section 17.b.(2), b.(3) and b.(7).

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

c. Sublease

Tenant must enter into a Sublease License Agreement with the Commission in order to sublease space within the Premises. Tenant may sublease a portion of the Premises for part or all of the remainder of the Term. Any subtenant is subject to all of the terms and conditions of this Lease, including the provisions of this Lease which permit Commission to terminate this Lease (which would result in a termination of the sublease) if Tenant defaults in its performance of one or more of Tenant's obligations under this Lease (whether or not the subtenant is in default under the terms of the sublease). Tenant must include in any sublease, a provision whereby the subtenant agrees, for the benefit of Commission, to indemnify Commission in a manner consistent with the indemnification provisions set forth in Section 12. of this Lease and agrees to maintain, in the subtenant's own name, liability insurance as described in Section 12. of this Lease.

Any subtenant occupying the Premises may only use the Premises for storage of aircraft and for maintenance performed by subtenant on subtenant's own aircraft. If Tenant has a subtenant, Tenant shall be required to provide Commission with the following information on January 1 and July 1 of each year:

- (1) The name, address and telephone number of each subtenant; and
- (2) The aircraft make, model and registration number of each aircraft stored at the Premises.

Tenant is responsible for all activities of any subtenant and for assuring that any sublease is made subject and subordinate to this Lease.

d. Collateral Assignments

Subject to Commission's consent, which shall not be unreasonably withheld, Tenant may not assign, transfer, mortgage or otherwise pledge all or a portion of its rights, title or interest in the Premises pursuant to this Lease or any of its other rights under this Lease as collateral to

secure Tenant's payment of a debt or performance of any other obligation of Tenant except as provided in this Section.

- (1) An agreement pursuant to which Tenant pledges, assigns or grants an interest in its rights under this Lease as collateral for the payment of a debt or performance of some other obligation of Tenant must take form of a leasehold mortgage.
- (2) Tenant may only grant a leasehold mortgage to secure the repayment of a loan, 100% of the proceeds of which Tenant uses to finance the construction of or substantial improvements to a hangar or the acquisition of existing improvements located on the Premises.
- (3) In the leasehold mortgage, the mortgagee must expressly acknowledge, for the benefit of Commission, that the mortgagee is acquiring no right, title or interest in Commission's fee title to the Premises and that the mortgagee's rights in and to any improvements and fixtures are, at all times, subject to the terms and conditions of this Lease.
- (4) If Tenant has not already done so, Tenant must obtain a legally sufficient legal description of the Premises, and Tenant must execute and record a memorandum of this Lease in the appropriate county land records, and Tenant must record the leasehold mortgage in the appropriate county land records.
- (5) Commission hereby agrees that if the leasehold mortgagee notifies Commission of an address to which Commission may send notices, Commission will send a copy of any notice Commission is required to deliver to Tenant under the terms of this Lease to the leasehold mortgagee at the address the leasehold mortgagee had provided.
- (6) Commission agrees that if Tenant defaults in the performance of one or more of Tenant's obligations under this Lease and Commission gives a notice of default as contemplated by Section 18., the leasehold mortgagee has the right, as far as Commission is concerned, to cure the default but nothing herein constitutes Commission's assurance that Tenant will grant the mortgagee access to the Premises to cure any non-monetary default and the mortgagee should address this issue through the inclusion of appropriate provisions in the mortgage.
- (7) Tenant must also grant the leasehold mortgagee a mortgage on Tenant's right, title, and interests, if any, in and to any improvements located on the Premises.

- (8) In the leasehold mortgage, the mortgagee must expressly acknowledge and agree that, notwithstanding any other provisions of the mortgage or any related loan documents, the mortgagee will permit the Tenant to retain sufficient insurance proceeds available as a result of any damage to or destruction of the improvements and fixtures located on the Premises to permit Tenant to fully perform its obligations under either Section 13.(c)(1) or Section 13.(c)(2).

If Tenant grants a leasehold mortgage satisfying the requirements of this Section 17.d., the Commission agrees to execute a subordination agreement with the leasehold mortgagee pursuant to which the Commission subordinates any statutory or common law lien the Commission may have on the personal property of Tenant or on improvements Tenant constructs on the Premises. The Commission will not subordinate the Commission's fee interest in the Premises, the Commission's interest under this Lease, or any rights which the Commission may have to the improvements constructed on the Premises upon the expiration or termination of the Lease.

e. Change in Control of Entity

If Tenant is a corporation, limited liability company, partnership or other business entity, the requirements of Section 17.b. apply to any change in the ownership of Tenant if, as a result of such transfer, there is a change in the identity of individual or individuals who held a majority of the voting interest in Tenant or otherwise controlled the actions of Tenant as of the Commencement Date.

If Tenant is an entity, a change in the name of Tenant, which does not result in a change in ownership, is not subject to Section 17.b. However, Tenant must provide Commission's staff with documentation, satisfactory to Commission evidencing the name change within thirty (30) days following the effective date of the name change.

f. Transfer of Improvements

Tenant shall not permit, voluntarily or by operation of law, any improvements to the Premises to be owned by any person or entity other than Tenant without the consent of Commission's staff.

18. **Default**

a. Events of Default

Any of the following shall constitute a default under this Lease:

- (1) Tenant fails to pay money owed to Commission under this Lease when due, and such failure continues for ten (10) days after written notice from Commission to Tenant.
- (2) Tenant uses the Premises for any purpose not expressly authorized by this Lease and such default continues for ten (10) days following written notice from Commission to Tenant.
- (3) Tenant fails to allow an inspection in accordance with the terms and conditions of this Lease and such default continues for ten (10) days following written notice from Commission to Tenant.
- (4) Tenant assigns, subleases or transfers this Lease except as otherwise permitted, and such default continues for ten (10) days following written notice from Commission to Tenant.
- (5) Tenant fails to carry the insurance required under this Lease; any insurance required under this Lease is cancelled, terminated, expires or is reduced or materially changed so as to not comply with this Lease; or Commission receives notice of any such conditions pursuant to Section 12., and such failure continues for a period of ten (10) days following written notice from Commission to Tenant.
- (6) Tenant vacates or abandons the Premises, and such default continues for ten (10) days following written notice from Commission to Tenant.
- (7) Tenant fails to discharge, by payment or bond, any lien or encumbrance placed upon the Premises or improvements in violation of this Lease within thirty (30) days following written notice from Commission to Tenant that any such lien or encumbrance is filed against the Premises and/or improvements.
- (8) Tenant (a) makes a general assignment for the benefit of creditors; (b) commences any case, proceeding or other action seeking to have an order for relief entered or to adjudicate Tenant bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or (c) involuntarily becomes the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry.
- (9) Tenant fails to comply with any other term or condition of this Lease and such default continues for more than thirty (30) days after written notice from Commission to Tenant, or for a longer

period of time as may be reasonably necessary to cure the default, but only if: (i) Tenant is reasonably capable of curing the default, and (ii) is working diligently as determined by Commission to cure the default.

b. Commission Remedies

If a default occurs, Commission, at its option and in its sole discretion, may at any time thereafter do one or more of the following to the extent permitted by applicable law:

- (1) Commission may, without releasing Tenant from its obligations under the Lease, attempt to cure the default. Commission may enter the Premises for such purpose and take such action as it deems desirable or appropriate to cure the default. This entry is not an eviction of Tenant or a termination of this Lease;
- (2) With legal process, but without further notice to Tenant, re-enter the Premises or any part thereof and take possession of it fully and absolutely, without such re-entry working a forfeiture of the money to be paid and the terms and conditions to be performed by Tenant for the full Term of this Lease. Commission's re-entry of the Premises is not a termination of this Lease. In the event of such re-entry, Commission may proceed for the collection of money to be paid under this Lease or for properly measured damages;
- (3) Terminate this Lease upon written notice to Tenant and re-enter the Premises as of its former estate, implement the provisions of Section 16., and Tenant covenants in the case of such termination to indemnify Commission against all loss of rents and expenses during the remainder of the Term; and
- (4) Exercise all other rights and remedies including injunctive relief, ejectment or summary proceedings such as an eviction action and any other lawful remedies, actions or proceedings.

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

c. Cumulative Default

Notwithstanding the notice and cure periods set forth above, and subject to the inspection procedures set forth in the Policies, Commission shall

only be required to provide Tenant with notice and opportunity to cure two (2) Cumulative Defaults in any calendar year. Only for purposes of this paragraph, Cumulative Default means: (i) Tenant's failure to pay money due under this Lease; (ii) Tenant's failure to comply with the use of Premises section of this Lease; and (iii) any violation of the terms and conditions of this Lease which has the likelihood in Commission's reasonable discretion to cause harm to life or property. In addition, Commission shall only be required to provide Tenant with notice and opportunity to cure two (2) defaults of failing to allow an inspection of the Premises in any calendar year. Beginning with the third (3rd) Cumulative Default or third (3rd) failure to allow an inspection in any calendar year, Commission will not be required to provide notice and opportunity to cure and may immediately take such action as Commission deems appropriate under this Lease.

d. Default of Other Agreements

A default by Tenant of any other agreement between Tenant and Commission shall constitute of default of this Lease. Notice of a default in another agreement shall be deemed notice of default under this Lease.

19. Environmental Responsibilities

a. Definitions

(1) "Environmentally Regulated Substances" means any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, regulated pursuant to any Environmental Law, including but not limited to products that might otherwise be considered of commercial value, such as asbestos, polychlorinated biphenyls, petroleum products and byproducts, glycol and other materials used in de-icing operations.

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

b. Indemnification

In addition to the general indemnification contained in this Lease, Tenant hereby indemnifies and agrees to defend, protect, and hold harmless, Commission, its Commissioners, officers, employees, agents, and their respective successors, as well as successors in title to any interest in the Premises (hereafter "Indemnities"), from and against any and all losses, liabilities, fines, damages, injuries, penalties, response costs, or claims of any and every kind whatsoever paid, incurred or asserted against, or threatened to be asserted against, any Indemnitee (hereafter "Claims"), including, without limitation: (i) all consequential damages; (ii) the reasonable costs of any investigation, study, removal, response or remedial action, as well as the preparation and implementation of any monitoring, closure or other required plan or response action; and (iii) all reasonable costs and expenses incurred by any Indemnitee in connection therewith, including but not limited to, reasonable fees for attorney and consultant services; which Claims arise out of or relate to (A) the presence on, in or under, or the escape, seepage, leakage, spillage, discharge, deposit, disposal, emission or release of Environmentally Regulated Substances on, in or from the Premises and Airport or in violation of any Environmental Law arising out of Tenant's past or present operations on the Premises and Airport, or (B) any material inaccuracy, incompleteness, breach or misrepresentation under Section 19.c. through Section 19.h.

If any Indemnified Claim or action shall be brought against any Indemnitee, then after such Indemnitee notifies Tenant thereof, Tenant shall be entitled to participate therein as a party, and shall assume the defense thereof at the expense of Tenant with counsel reasonably satisfactory to such Indemnitee. Tenant shall be entitled to settle and compromise any such Claim or action, provided, however, that such Indemnitee may elect to be represented by separate counsel, at such Indemnitee's sole expense, and if such Indemnitee so elects, such settlement or compromise shall be effected only with the consent of such Indemnitee. Such Indemnitee's consent shall not be unreasonably withheld and shall be granted if such settlement or compromise provides for a complete release of such Indemnitees. This indemnification and Tenant's obligations hereunder, shall survive after the cancellation, termination or expiration of the Term of this Lease, with respect to matters arising prior thereto.

c. Compliance with Environmental Laws

Tenant shall keep and maintain and shall conduct its operations on the Premises and Airport in full compliance with all applicable Environmental Laws. Tenant shall further ensure that its employees, agents, contractors and subcontractors occupying or present on the Premises and Airport and any other persons conducting any activities on the Premises and Airport comply with all applicable Environmental Laws. By virtue of its operational control of the Premises, Tenant shall be fully

responsible for obtaining all control of the Premises, Tenant shall be fully responsible for obtaining all necessary permits or other approvals under the Environmental Laws and shall have full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon the request of Commission, Tenant shall provide copies to Commission of any such applications, forms, documentation, notifications or certifications.

Tenant agrees that any installation of tanks, wells or septic systems shall only occur if such installations are in compliance with the Sewer and Water Policy, and only after prior written approval of Commission. Notwithstanding the above, Tenant accepts title and ownership to (i) any tanks, septic systems or wells existing on the Premises at the time of execution of this Lease and used by the Tenant in its operations, and (ii) any tanks, septic systems or wells installed at any time during the Term of this Lease.

d. Testing and Reports

Tenant shall provide to Commission, within ten (10) days of receipt, a copy of any notice regarding a violation of the Environmental Laws arising out of Tenant's past or present operations on the Premises and Airport, a copy of any report, whether in final or draft form, regarding compliance with Environmental Laws or with the presence, use, emission or release of any Environmentally Regulated Substances arising out of Tenant's past or present operations on the Premises and Airport, or a copy of any notice of the emission or release of Environmentally Regulated Substances in violation of the Environmental Laws arising out of Tenant's past or present operations on the Premises and Airport. If Commission has a reasonable basis to believe that Tenant is not meeting the obligations of Section 19.c. hereof, Commission may require Tenant to perform reasonable environmental studies or assessments (for example, but not limited to, Phase I or Phase II reports as such terms are generally known on the date of execution of this Lease) on the Premises with the written results being delivered to the Commission within ten (10) days of their receipt, whether in draft or final form.

e. Notification

Tenant shall immediately notify Commission in writing of any matter Tenant obtains knowledge of that may give rise to an indemnified claim under Section 19.b. hereof or that constitutes any emission, spill or release or any threatened emission, spill or release of any Environmentally Regulated Substance in, on, under or about the Premises and Airport arising out of Tenant's past or present operations which is or may be in violation of the Environmental Laws. Tenant shall promptly notify Commission verbally of any fuel spill or any other spill

caused or resulting from Tenant's operations on the Premises and Airport.

f. Right to Investigate

Commission shall have the right, but not the obligation or duty, anytime from and after the date of this Lease, to investigate, study and test the Premises, at Commission's own expense, and without unreasonably interfering with Tenant's operations on and use of the Premises, to determine whether Environmentally Regulated Substances are located in, on or under the Premises, or were emitted or released therefrom, which are not in compliance with Environmental Laws. Commission's investigation of the Premises under this provision shall be in accordance with and subject to the Inspection Procedures established in the Policies. Commission shall pay Tenant the cost to repair any damage to the Premises caused by Commission's investigation, study or testing and shall indemnify, defend and save harmless Tenant and its officers, employees, agents and successors from and against any and all claims, suits, losses, damages and expenses, including reasonable attorney and consultant fees, directly resulting from Commission's investigation, study or testing. Commission's obligation to indemnify Tenant under this section does not release Tenant from the indemnification obligations under Section 19.b. hereof.

If any such claim shall be brought against Tenant, (or its officers, employees, agents and successors, collectively "Tenant" in this paragraph) then after such Tenant notifies Commission thereof, Commission shall be entitled to participate therein as a party, and shall assume the defense thereof at the expense of Commission with counsel reasonably satisfactory to such Tenant. Commission shall be entitled to settle and compromise any such claim or action, provided, however, that such Tenant may elect to be represented by separate counsel, at such Tenant's sole expense, and if such Tenant so elects, such settlement or compromise shall be effected only with the consent of such Tenant. Such Tenant's consent shall not be unreasonably withheld and shall be granted if such settlement or compromise provides for a complete release of such Tenant. This indemnification and Commission's obligations hereunder, shall survive after the cancellation, termination or expiration of the Term of this Lease, with respect to matters arising prior thereto.

g. Right to Take Action

Commission shall have the right, but not the duty or obligation, to take whatever reasonable action it deems appropriate to protect the Premises and Airport from any material impairment to its value resulting from any escape, seepage, leakage, spillage, discharge, deposit, disposal, emission or release of Environmentally Regulated Substances from the

Premises and Airport which violates any Environmental Law and arises out of Tenant's past or present operations on the Premises and Airport. Commission shall notify Tenant of its intention to take such action in writing thirty (30) days before proceeding under this section. Within such thirty (30) day period, Tenant shall have the opportunity to take whatever reasonable action is deemed appropriate by Commission to cure the matter of concern or provide Commission a binding commitment to do so within a reasonable time. If Tenant does not take such action or provide a binding commitment within the thirty (30) day period, Commission may proceed under the terms of this Section 19. All reasonable costs associated with any action by the Commission in connection with this provision, including but not limited to reasonable attorney's fees, shall be subject to Section 19.b. hereof.

h. Claims Relating to Environmentally Regulated Substances

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

20. Non-Discrimination

a. General

Tenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that (1) no person, on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the

use of the Premises; (2) that in the construction of any improvements on, over, or under the Premises, and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, as amended from time to time.

b. Improvements

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

c. Economic

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

21. Civil Rights

Tenant agrees that it will comply with applicable laws, statutes, Executive Orders and rules that are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates Tenant or its transferee for the period during which federal assistance is extended to the Airport, except where federal assistance is to provide, or is in form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following

periods: (1) the period during which the property is used by the sponsor or any transferee for a purpose for which federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (2) the period during which the Airport sponsor or any transferee retains ownership or possession of the property.

22. **Commission's Operation of the Airport**

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

23. **Use Not Exclusive**

Tenant shall have the right to conduct all operations authorized pursuant to the terms of this Lease, provided, however, that this Lease shall not be deemed to grant to Tenant, or those claiming under Tenant the exclusive right to use any part or portion of the Airport other than the Premises.

24. **General Provisions**

a. **Airport Access**

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

b. **Waiver**

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

c. **Headings**

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

d. Entire Agreement

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

e. Severability

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

f. Governing Law

This Lease shall be governed by Minnesota Law.

g. Public Data

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

h. Commitments to Federal and State Agencies

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

i. Successors

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

j. Relationship of Parties

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

k. Multiple Parties

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

l. Consent and Approvals

Whenever in this Lease the consent or approval of Commission is required, such phrase means the formal approval or consent of Commission through a meeting of the Metropolitan Airports Commission. When the consent or approval of Commission's staff is required, such phrase means the consent or approval from the appropriate employee or agent of Commission.

m. Notice

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

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

Tenant: The address in the first paragraph of this Lease

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

IN WITNESS WHEREOF, Commission and Tenant have executed this Lease as of the dates indicated below.

COMMISSION:

METROPOLITAN AIRPORTS COMMISSION

By: _____

Name: _____

Title: _____

Date: _____

TENANT(ENTITY):

_____, a

By: _____

Name: _____

Title: _____

Date: _____

OR

TENANT(INDIVIDUAL):

Date: _____

Date: _____

EXHIBIT "A"

Description of Premises

EXHIBIT "B"

Sewer and Water Easement

1. **Easement**

Commission grants to Tenant, as an appurtenance to the leasehold estate, an easement ("Sewer and Water Easement") for the sole purpose of installation, use, repair and maintenance of the necessary piping and equipment from the Premises ("Connection") to the watermain curb stop and corresponding sanitary sewer stub installed by Commission (collectively referred to as the "Curb Stop") which Curb Stop is associated with the municipal sewer and water system located at the Airport, and for no other purpose. The location of the Sewer and Water Easement is as shown on Exhibit C. All or a portion of the Sewer and Water Easement is located in the Access Easement described in Section 2.b. of this Lease. Tenant shall at all times comply with all of the terms and conditions of this Lease with respect to the Sewer and Water Easement.

2. **Construction**

Prior to installation, Tenant must (a) obtain approval from Commission's staff as to the plans and specifications for construction and installation; and (b) obtain, at Tenant's sole cost and expense, all applicable governmental licenses and approvals and a permit from the applicable municipality. Tenant shall arrange for construction of the Connection to the sewer and water systems from the Premises to the Curb Stop at Tenant's sole cost and expense. Tenant shall only be allowed to install the Connection in the area of the Sewer and Water Easement as shown on Exhibit C and as specifically directed by Commission's staff. The Connection shall be installed on or before the date which is the later of (a) a six (6) months following the Commencement Date of this Lease, as defined in Section 4., or (b) the date that water and sewer services become available to the Premises. After installation of the Connection, Tenant shall restore the area of the Sewer and Water Easement to the original grade and condition existing prior to installation. Tenant shall own the Connection. Commission shall own the Curb Stop.

3. **Improper Transfer**

The Sewer and Water Easement, or use and/or ownership of the Connection or any rights relating to the Connection, shall not be transferred by Tenant to any other person or entity without the prior written consent of Commission. Tenant shall be responsible for all expenses relating to an improper transfer by Tenant of the Sewer and Water Easement or Connection or any such rights related thereto.

4. Fees

Tenant shall pay to Commission the Airport Utility Charge as established by the Sewer and Water Policy, and shall be responsible for paying all other fees to the appropriate entity as described in the Sewer and Water Policy, or as otherwise required by such entity.

5. Meter Readings

Agents of Commission and any applicable governmental authority shall have access to Premises and the Sewer and Water Easement as necessary to read water meters, or to otherwise comply with the governmental authority's process for meter readings.

6. Use, Repair and Maintenance

Tenant shall use the Connection for the sole purpose of accessing the municipal sewer and water system for proper purposes. Tenant shall repair and maintain the Connection as required by this Lease, shall maintain the Connection in proper operating condition and shall incur all costs related to such repair and maintenance. Prior to repairing the Connection, Tenant shall obtain approval from Commission's staff. After repairs are made to the Connection, Tenant shall restore the Sewer and Water Easement to the original grade and condition existing prior to installation. In the event Tenant fails to make such repairs or to properly maintain the Connection, Commission may make such repairs or maintenance and Tenant shall reimburse Commission for the costs incurred, plus a twelve percent (12%) administrative charge.

EXHIBIT "C"

Description of Sewer and Water Easement

relievers/forms/storage lease