

**TERMINAL LEASEHOLD  
At KANSAS CITY INTERNATIONAL AIRPORT  
Contract No. 6223050081**

THIS LEASE is made and entered into on \_\_\_\_\_, between KANSAS CITY, MISSOURI, a municipal corporation of the State of Missouri, ("**City**"), and SUREWX, INC. ("**Lessee**") a Delaware corporation registered to do business in the State of Missouri.

WHEREAS, City operates and maintains an international airport known as the Kansas City International Airport, located in Platte County in the State of Missouri ("**Airport**"); and

WHEREAS, Lessee is engaged in the business of providing weather station for airlines and other tenants at the Airport; and

WHEREAS, Lessee desires to lease certain property and facilities at the Airport.

The parties agree as follows:

This Lease consists of three parts: Part I, Part II Aviation Department Standard Lease Conditions and Part III Supplemental Terms and Conditions to All Airport Agreements. These parts and any attachments or exhibits are attached hereto and incorporated herein.

**PART I**

**ARTICLE I  
PREMISES & TERM**

**Sec 1.1. Leased Premises.** The City hereby leases to Lessee, and Lessee leases from the City, the real property, including all buildings, improvements and fixtures appurtenant thereto, more fully described in **Exhibit "A" – Leased Premises**, attached hereto and incorporated herein (hereinafter "Premises"). Lessee has inspected the Premises and accepts them in "as is" condition.

**Sec. 1.2. Term of Lease.** This Lease will begin on or about October 1, 2023 ("**Commencement Date**"), ending in five years on September 30, 2028. Lessee may thereafter continue this Lease upon the same terms and conditions on a month to month Lease term (subject, however, to annual adjustments to Building Rent payments as provided for in Part 1, Section 2.1.A. of this Lease).

- A. This Lease may be renewed at the City's discretion by the Director of Aviation for additional one-year periods.
- B. Either the Lessee or City may terminate this Lease at any time with a 90-day written notice.

**Sec. 1.3. Personal Property.** The Furniture, Fixtures and Equipment ("**FF&E**"), supplies and any appurtenances are the sole expense and responsibility of the Lessee. At the cancellation of this Lease, the Lessee shall remove all such property. In case Lessee does not remove FF&E at the end of the lease, then provisions of Part II, Section VI. B. Holding Over will be in effect.

**Sec. 1.4. Use of Premises.** Lessee shall use the Premises solely for a weather station for the airlines or other tenants at the Airport as provided for in accordance with this Lease. Any unauthorized use of the Premises shall constitute acceptable grounds for immediate termination.

**Sec. 1.5. Relocation of Premises.** The City reserves the right to relocate the Lessee, at the Lessee's sole expense, during the term of this Lease to alternative premises upon 60 days written notice to the Lessee. The City further reserves the right to expand or reduce the assigned premises upon the same advanced written notice thereof. If Lessee relocates during the term of this Lease, Lessee shall pay the rent as provided for in Article II, Section 2.1.A. of this Lease.

**Sec. 1.6. Improvements to Leased Space.** No improvements, structures, facilities, alterations or additions to the Premises will be made by Lessee without prior written approval of the Director. This approval shall be in the form of a separate Tenant Modification Agreement through the Aviation Department's Engineering Division signed by City and Lessee. The Tenant Modification Agreement may have requirements for payment and performance bonds, prevailing wage, Minority/Women's Business Enterprise participation, and Federal Aviation Administration review, among other conditions. Lessee shall be responsible, at the Lessee's sole expense, for any and all improvements made to the Premises during the term of this Lease.

## **ARTICLE II** **RENT**

### **Sec. 2.1. Rents, Fees and Charges.**

- A. Ground Rent Payments. Lessee shall pay the City \$.30 per square foot beginning on the Commencement Date. Annually the ground rent will be increased at a rate of 3.0% throughout the term of the lease.
- B. Additional Rent. In addition to the Ground Rent, Lessee agrees to pay as additional rent any sums which may become due by reason of failure of Lessee to comply with any covenants of this Lease and all damages, costs and expense which City may incur because of any default of Lessee or failure to perform and any damages caused to the Premises by any act or negligence of Lessee, its officers, employees, agents and invitees.
- C. Method of Payment. Lessee will make a payment on signing and annually by the 20<sup>th</sup> of the month before the anniversary equal to the total annual Ground Rent payments without notice or demand by City and without abatement, deduction or set-off, except as herein specifically provided. The payments will be made in legal tender of the United States and mailed to the Aviation Department. P.O. Box 844124, Kansas City, Missouri 64184-4124, payable to "City Treasurer" or by established ACH A service charge of one and one-half percent (1½%) per month shall automatically accrue to all payments made after the due date.
- D. Net Lease. It is the purpose and intent of the City and Lessee that this is a net lease and that from and after the Commencement Date, the rent shall, except as herein otherwise provided, be absolutely net to City, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Premises and/or the operation of Lessee's business in connection therewith, except as herein otherwise provided, which may arise or become due during the term hereof, shall be paid by Lessee and that City shall be protected, defended, indemnified and held harmless by Lessee from and against the payment of same or any obligation to pay the same.

- E. Partial Year. If the Commencement Date should occur on any date other than the first day of a calendar month, Lessee shall pay City on the Commencement Date the proportionate amount of rent accrued for the balance of such current calendar month.
- F. Fees and Charges. In the event the Premises, together with all other land located within the Airport, is subjected to a Declaration of Covenants and Restrictions, which includes, among other things, a provision for assessment of charges for maintenance of common properties and/or for provision of common charges to all land within the Airport, Lessee shall pay, in addition to any rent, its proportionate share of such charges.

**ARTICLE III**  
**REPAIRS AND MAINTENANCE OF PREMISES**

**Sec. 3.1. Repairs.** Lessee, at its sole cost and expense, shall take good care of the Premises and all improvements thereto and additions thereon or thereto, and shall keep the same in good order and condition, except for reasonable wear and tear after the necessary repair, replacement, restoration or renewal by Lessee pursuant to its obligations hereunder, and shall make all necessary repairs thereto, which will assume such obligations. All repairs, restorations and renewals made by Lessee shall be at least equal in quality and class to the original work with respect hereto.

**Sec. 3.2. Maintenance.**

- A. At its sole cost and expense, the Lessee shall maintain and repair the Premises, its fixed improvements and its operating equipment at all times in accordance with all applicable present and future federal, state, local, or other statutes, charters, laws, rules, orders, regulations and ordinances, including those of the City.
- B. If applicable, The Lessee shall provide all necessary maintenance, repairs, renewals and replacements to the building's interior of the Leased Premises and utility systems. The Lessee also shall provide janitorial and custodial services for the Premises, including window washing, lamp replacement, window glass replacement and trash removal services.
- C. All maintenance, repairs, renewals and replacements shall be at the Lessee's sole expense and shall be subject to periodic monitoring by the City to insure a continuing high quality of appearance and a facility structural condition commensurate with maintenance and safety standards required for public facilities.
- D. Lessee shall comply with all rules and regulations promulgated by the federal, state and local entities including, but not limited to, the handling and disposal of refuse.

**Sec. 3.3. Utility Services.** Lessee may install and construct necessary utility lines or mains across reasonable routes as the City may designate. Any change in, deletion of, or addition to such lines and mains shall be at the sole cost and expense of Lessee.

**ARTICLE IV**  
**DAMAGE, DESTRUCTION, RESTORATION OF PREMISES**

**Sec. 4.1. Damage or Destruction and Restoration.** In case of any material damage to or destruction of the Premises or any part thereof, Lessee will give prompt notice to the City and, excepts as otherwise herein provided in Section 4.2, Lessee shall have the option to:

- A. Promptly commence and complete with due diligence and in accordance with plans approved by Lessee and the City, the restoration of the Premises as nearly reasonably practicable to the value and condition thereof immediately prior to such damage or destruction (with alterations, at Lessee's election, and with the prior consent and approval of the City), or
- B. If Lessee and the City mutually agree, Lessee may use the insurance proceeds to construct other airline-related facilities providing equal security protection for any bondholders to those facilities not restored. In the event of such damage or destruction, the proceeds from all property insurance policy or policies shall be devoted exclusively to the restoration of the Premises except as provided elsewhere in this Lease.

**Sec. 4.2. Lessee's Election Not to Restore Damaged Property.** In the event of damage to or destruction or loss of such improvements by an insured risk, which damage, destruction or loss is not capable of being repaired within 90 days, Lessee shall have the election, indicated by written notice given to City within 90 days after the occurrence of such event, not to repair, restore, rebuild or replace the improvements, such election to be effective as of the date of such damage, destruction or loss and, upon such election, Lessee shall be relieved of all further liability and obligations hereunder. In the event Lessee exercises the foregoing election, the net amount of the insurance proceeds received by it from the insurance required herein on the property shall be forwarded to City. In the event Lessee does not exercise the foregoing election, or in the event said damage, destruction or loss is capable of being repaired within 90 days, Lessee shall promptly repair, replace, restore or rebuild said improvements to the extent of the insurance proceeds received by it, as nearly as possible to the condition said improvements were in immediately prior to such damage, destruction or loss, or with such changes or alterations as may be approved by City. If such damage, destruction or loss occurs within the last six months of the term of this Lease, then Lessee shall have the option either to effect such repair, replacement, restoration or rebuilding or, in lieu thereof, to pay to City the proceeds received by reason of such damage, destruction or loss from the insurance required herein.

**ARTICLE V**  
**MISCELLANEOUS PROVISIONS**

**Sec. 5.1. Notices.** Except as herein otherwise expressly provided, all notices required by this Lease shall be in writing sent regular U.S. mail, postage prepaid; commercial overnight courier; or facsimile to the following:

City: Kansas City International Airport  
Properties & Commercial Development  
601 Brasilia Avenue  
Kansas City, Missouri 64153  
Phone: 816.243.3005  
Email: [pete.fullerton@kcmo.org](mailto:pete.fullerton@kcmo.org)

Lessee:

SUREWX, Inc  
8770 West Bryn Mawr Ave.  
Suite 1300, #174  
Chicago, IL 60631-3515  
Phone: 773.382.2811  
Email: mmeadors@surewx.com

All notices are effective on the date of mailing in the U.S. mail, deposit with an overnight courier or transmission by email.

**Sec. 5.2. Relocation.** The City reserves the right to relocate the Lessee, at the Lessee's sole expense, during the term of this Lease to alternative premises upon 30 days written notice to the Lessee. The City further reserves the right to expand or reduce the assigned premises upon the same advanced written notice thereof. If Lessee relocates during the term of this Lease, Lessee shall pay the per square foot rental rates which Lessee occupies, as provided for in Part 1, Section 2.1.A. of this Lease.

**Sec. 5.3. Improvements.** Lessee shall be responsible, at the Lessee's sole expense, for any and all improvements made to the Premises during the term of this Lease. No improvements, structures, facilities, alterations or additions to the Premises will be made by Lessee without prior written approval of the Director. This approval shall be in the form of a separate Tenant Modification Agreement through the Aviation Department's Engineering Division signed by City and Lessee. The Tenant Modification Agreement may have requirements for payment and performance bonds, prevailing wage, Minority/Women's Business Enterprise participation, and Federal Aviation Administration review, among other conditions.

**Sec. 5.4. Priorities.** In the event that any of the terms and conditions in Part I, Part II and Part III of this Lease conflicts, interpretation of this Lease shall be according to the following priority, except as mandated by law, including City Ordinances.

- 1. Part I
- 2. Part II
- 3. Part III

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Lease the day and year first above written.

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney (date)

**KANSAS CITY, MISSOURI**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACTOR**

I hereby certify that I have authority to execute this document on behalf of Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Part II

### **AVIATION DEPARTMENT STANDARD LEASE CONDITIONS**

#### **I. Definitions.**

A. “*Airport*” means Kansas City International Airport and Charles B. Wheeler Downtown Airport, in accordance with the context of this Lease.

B. “*City*” means City of Kansas City, Missouri.

C. “*Code*” means Kansas City, Missouri Code of Ordinances.

D. “*Contract*” includes any and all City of Kansas City, Missouri, Aviation Department contracts, agreements, leases, licenses, permits, concessions or other documents, however denominated that grant or convey a right or privilege on an Airport, and to which this Exhibit is annexed and made a part thereof.

E. “*Contractor*” means every lessee, licensee, permittee, concessionaire or other person, firm or corporation exercising a right or privilege on an airport pursuant to a contract, and includes Contractor’s heirs, personal representatives, successors-in-interest and assigns.

F. “*Director*” means Kansas City, Missouri Director of Aviation.

G. “*Lease*” includes any and all City of Kansas City, Missouri, Aviation Department contracts, agreements, leases, licenses, permits, or other documents, however denominated that grant or convey a right or privilege on an Airport, and to which this Exhibit is annexed and made a part thereof.

H. “*Lessee*” means every lessee, licensee, permittee, concessionaire or other person, firm or corporation exercising a right or privilege on an airport pursuant to a contract, and includes Lessee’s heirs, personal representatives, successors-in-interest and assigns.

I. “*Premises*” means the leasehold or site occupied by Lessee pursuant to the lease, license or permit that is the subject of this Lease.

#### **II. Premises Use and Ownership.**

A. Use. The Premises will be used by Lessee only for the purposes set forth in the Lease.

B. Title. Unless otherwise provided in the Lease, title to the Premises and any improvements, whether existing or installed by Lessee as part of the Lease, shall remain and are at all times in the City.

C. Lessee’s Access to Premises. Lessee is granted the right, for itself, its agents, employees, patrons, suppliers and other persons doing business with Lessee, of ingress and egress to and from the Premises over Airport roadways, including the use of common use roadways, and other common areas as reasonable necessary to use the Premises, subject only to law and to such reasonable rules and regulations governing the use of the Airport as the Director may establish, including the establishment of a fee or charge for the privilege of entry upon the Airport. “Common areas” shall mean those areas which are furnished in and about the Premises for the common and non-exclusive use of Lessee and City and their officers, agents, employees, customers, invitees and licensees.

D. Signs. No signs or advertising displays exposed to public view will be painted on or erected in any manner on the Premises without the prior written approval of the Director and in accordance with the City’s standards with respect to wording, type, size, design, color and location. Upon termination, cancellation or expiration of the Lease, Lessee at its costs will remove, obliterate or paint out, any and all of its signs, advertising and displays as the Director may direct and restore the Premises to its original condition.

E. Permits/Licenses. Lessee will obtain, maintain and pay for all licenses and permits necessary or required by law for the conduct of its business and operations.

F. City's Right of Entry. City shall have the right to enter upon the Premises at all reasonable times to inspect the Premises; to observe the performance by Lessee of its obligations under the or for doing any act or thing which City may be obligated or have the right to do under the Lease; to perform maintenance and make repairs in any case where Lessee is obligated, however, but has failed to do so, after City has given Lessee reasonable notice so to do (in which event, Lessee shall reimburse City for the reasonable cost thereof promptly upon demand); or otherwise. No abatement of fees and charges shall be claimed by or allowed to Lessee by reason of the exercise of such right. City shall not be obligated to inform Lessee that an inspection or observation is planned or in progress.

G. City's Exclusive Rights in Premises. City reserves exclusive rights to the following; provided, however that the City's use or exercise of those rights will not unreasonably interfere with Lessee's use of the Premises:

1. All gas, oil and minerals in and under the soil on the Premises;
2. All cemeteries, archeological findings and other historical sites on the Premises. City shall make all decisions as to the preservation, use or relocation of those findings or sites.
3. To grant, without compensation to Lessee, utility rights-of-way to itself and others, over, under, through, across or on the Premises.

### **III. Repair & Maintenance of Premises.**

#### **A. Provisions Applicable to All Leases.**

1. Lessee will keep the Premises and all improvements thereon in good repair and in a clean and orderly condition and

appearance, all papers and debris picked up, and the areas immediately adjacent to the exits and entrances clean and orderly and free of obstructions. Lessee will not do or suffer any material waste or damage, disfigurement or injury to the Premises or any part thereof.

2. City reserves the right but shall not be obligated to Lessee to maintain and keep in repair all of the common areas of the Airport.

### **IV. Assignment, Sublease & Encumbrances.**

A. No Right to Assign, Sublease, and Encumber. Lessee has no right to assign, sublet, mortgage, encumber or otherwise affect this Lease or any interest therein, without the prior written consent of City in its sole and absolute discretion.

B. City Consent. City shall not be obligated to consent to a sublease or assignment. In the event of any proposed sublease or assignment, Lessee, not less than 30 days prior to the proposed effective date of such action, shall give notice to the City which includes the name, address and telephone number of the proposed assignee or sublessee and a fully executed original set of any and all documents being used to effect the proposed actions in a form acceptable to the City. All documents will clearly set forth that the sublease or assignment and assumption actions are subject to and conditioned upon the City's consenting thereto in writing. Any assignee or sublessee must have assumed all obligations of Lessee under this Lease and shall have specifically agreed to perform and observe the covenants and conditions contained in this Lease on Lessee's part to be performed and observed.

C. Transfer by Operation of Law. Any assignment or transfer of the lease by operation of law or any issuance, sale or transfer of a sufficient number of shares of stock in Lessee to result in a change in control of Lessee shall be deemed an assignment of this Lease for purposes of

this section; provided, however, that nothing in this section shall be deemed to require such consent solely as a result of issuance, transfer or sale of shares among the existing stockholders of Lessee; transfer of shares by devise or descent upon the death of any existing stockholder; merger of Lessee into any parent or subsidiary corporation of Lessee or sale of all of Lessee's stock to any such parent or subsidiary corporation.

**V. Defaults & Remedies.**

A. Lessee Defaults. Each of the following will constitute a default by Lessee hereunder:

1. Lessee's failure to pay when due any rent, charges or any other payments of money required to be paid by Lessee hereunder;
2. Lessee's failing to perform or violation of any provision, covenant or condition of this Lease (other than payment of money) within 30 days after written notice or, if the cure or performance thereof reasonably requires more than 30 days to complete, Lessee's failing to begin cure or performance thereof within such thirty-day period and proceed diligently to cure or completion thereafter;
3. Use of the Premises for anything other than the use specified in the Lease;
4. Lessee vacates, abandons or deserts the Premises or fails to occupy the Premises for more than 30 consecutive days;
5. The attempted assignment or assumption of this Lease by anyone without the prior written consent of City;
6. The suspension or revocation of any act, power, license, permit or authority that prevents Lessee from fully complying with all of the rights and obligations hereunder for any period;
7. The filing by the Lessee or its assignee

or sublessee of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Lessee's assets; or the adjudication of the Lessee or its assignee or sublessee as a bankrupt pursuant to any involuntary bankruptcy proceedings; or the taking, by a court of competent jurisdiction of Lessee's or its assignee's or sublessee's, assets pursuant to proceedings brought under the provisions of any federal reorganization act; or the appointment of a receiver or trustee of the Lessee's or its assignee's or sublessee's assets by a court of competent jurisdiction or a voluntary agreement with Lessee's creditors;

8. The levy of any attachment or execution of any process of a court of competent jurisdiction which does or, as a direct consequence of such process, will interfere with its operations under the Lease, and which is not enjoined, vacated, dismissed or set aside within a period of 30 days.

B. City Defaults. Each of the following will constitute a default by City hereunder:

1. Except as provided in Section V.B.2 hereof, City's failing to perform or violation of any provision, covenant or condition of this Lease within 30 days after written notice or, if the cure or performance thereof reasonably requires more than 30 days to complete, City's failing to begin cure or performance thereof within such thirty-day period and proceed diligently to cure or completion thereafter;
2. The lawful assumption by the United States government, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part thereof, in such manner as to materially restrict Lessee from operating thereon for a period of at least 30 days.

C. City's Remedies. Upon default by Lessee of this Lease, City may do any one or more of the following:



1. Terminate the Lease upon three days written notice to Lessee;

2. Re-enter the Premises and every part thereof on the effective date of termination of the Lease without further notice of any kind, remove any and all persons therefrom and regain and resume possession either with or without the institution of summary or legal proceedings. Such re-entry, however, shall not in any manner affect, alter or diminish any of the obligations of Lessee under the Lease;

3. Upon termination of the Lease or upon re-entry, regaining or resumption of possession of the Premises, occupy the Premises and have the right in the name of the City to relet and permit any person, firm or corporation to enter the Premises and use the same for such term and on such conditions as City may determine; and

4. Perform, on behalf and at the expense of Lessee, any obligation of Lessee under this Lease which Lessee has failed to perform and of which City have given Lessee notice, the cost of which performance by City, together with interest thereon from the date of such expenditure, shall be deemed Additional Rent and shall be payable by Lessee to City upon demand. Notwithstanding the provisions of this clause and regardless of whether a default shall have occurred, city may exercise the remedy described in this clause without any notice to Lessee if City, in it good faith judgment, believes it would be materially injured by failure to take rapid action or if the unperformed obligation of Lessee constitutes an emergency; and

5. Any other remedy that City may have under law or equity.

D. Lessee Remedies. Upon default by City of this Lease, Lessee may cancel the Lease in its entirety after 30 days prior

written notice to the City.

## **VI. Termination of Lease.**

A. No Notice to Quit Possession. No notice to quit possession at the expiration date of the term of this Lease shall be necessary. Lessee agrees that at the expiration date of the term of this Lease, or at the earlier termination thereof, it shall peaceably surrender possession of the Premises in good condition, reasonable wear and tear and acts of God excepted. City shall have the right to re-enter and take possession of the Premises at that time with or without process of law.

B. Holding Over. (Intentionally Deleted)

C. Waiver. No acceptance by City of the rent and charges or other payments specified herein, in whole or in part, and for any period or periods, after a default of any of the terms, covenants and conditions to be performed, kept or observed by Lessee, other than the default in the payment thereof, shall be deemed a waiver of any right on the part of City to cancel or terminate this Lease on account of such default. No waiver by City at any time of any default by Lessee shall be or be construed to be a waiver at any time thereafter by City of any other or subsequent default in performance of any terms, conditions, covenants and no notice by City shall be required to restore or revive time as of the essence hereof after waiver by City of default in one or more instances.

D. Waiver of Redemption and Damages. Lessee hereby waives any and all rights or redemption granted by or under any present or future law or statute arising in the event it evicted or dispossessed for any cause or in the event City obtains or retains possession of the Premises in any lawful manner. Lessee further agrees that in the event the manner or method employed by City in reentering or regaining possession of the Premises gives rise to a cause of action in Lessee for damages or in forcible entry and detainer under the laws of the State of Missouri, then the total amount of damages

to which Lessee shall be entitled to in any such action shall be the sum of One Dollar (\$1.00) and Lessee agrees that the provisions of this section may be filed in any such action as its stipulation fixing the amount of damages to which it would be entitled therein.

E. Termination from Taking. If during the term of this Lease there shall be a taking of the whole or substantially all of the Premises, this Lease shall terminate and expire on the date of such taking and the rent payable hereunder shall be equitable apportioned and paid to the date of such taking. "Substantially all of the Premises" shall be deemed to have been taken if the untaken part of the premises shall be insufficient for the economic and feasible continued operation of the Lessee's business in connection therewith.

F. Personal Property not Removed. Any personal property of Lessee which shall remain in or on the Premises after the termination of this Lease may, at the option of City, be deemed to have been abandoned by Lessee and either may be retained by City as its property or be disposed of, without accountability, in such manner as City may see fit, or if City shall give written notice to Lessee to such effect, such property shall be immediately removed by Lessee at Lessee's sole cost and expense.

## **VII. Quiet Enjoyment.**

Upon payment by Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the Premises for the term demised without hindrance or interruption by City or any other person or persons lawfully or equitable claiming, by, through or under the City, subject, nevertheless, to the terms and conditions of the lease.

## **VIII. Environmental Requirements.**

A. Lessee hereby covenants and agrees to

comply in all material respects with all applicable Environmental Laws and Regulations in connection with its use and occupancy of the Premises, or its operations of the facilities. For purposes of this Lease, "Environmental Laws" shall mean and include all federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.*, and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. §136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 *et seq.*; the Noise Control Act, 42 U.S.C. §4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §9601 *et seq.*; the Toxic Substance Control Act ("TSCA"), 15 U.S.C. §2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. §2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, 42 U.S.C. §1010 *et seq.*; all Missouri State environmental protection, superlien and environmental clean-up statutes, with implementing regulations and guidelines and all local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

## **B. Review of Environmental Documents.**

Lessee, at request of City, shall make available for inspection and copying upon reasonable notice and at reasonable times,

any or all of the documents and materials Lessee has prepared pursuant to any environmental law or submitted to any governmental regulatory agency; provided, that such documents and materials relate to environmental issues or environmental laws and are pertinent to the Airport or the Premises. If any environmental law requires Lessee to file any notice or report of a release or threatened release of Hazardous Materials on under or about the Premises or the Airport, Lessee shall provide a copy of such report or notice to City and, to the extent practicable, shall receive the approval of City prior to submitting such notice or report to the appropriate governmental agency.

C. Access for Environmental Inspection. City shall have access to the Premises to inspect the same in order to confirm Lessee is using the Premises in accordance with all of environmental laws. Any tests shall be conducted by qualified independent experts chosen by Lessee and subject to City's approval. Lessee shall provide copies of reports from any testing to City upon receipt.

D. Environmental Noncompliance. If Lessee fails to comply with any applicable environmental laws, City, in addition to its rights and remedies provided elsewhere within this Agreement, may enter the Premises and take all reasonable and necessary measures, at Lessee's expense, to insure compliance with environmental laws.

E. Written Authorization Necessary to Store, Use or Dispose of Hazardous Materials. Lessee shall not store, use or dispose of any Hazardous Materials on the Premises unless Lessee first secures the written authorization of City and complies with any conditions City may impose, including the submission to City of all Material Safety Data Sheets for the materials to be stored.

F. Duty to Notify City. In the event of a release or threatened release of Hazardous

Materials or other contaminants into the environment relating to or arising out of Lessee's use or occupancy of the Premises or in the event any claim, demand, action or notice is made against Lessee regarding Lessee's failure or alleged failure to comply with any environmental laws, Lessee shall notify City, in writing, and shall provide City with copies of any written claims, demands, notices, or actions so made.

G. Environmental Remediation. Lessee shall undertake such steps to remedy and remove any Hazardous Materials and any other environmental contamination that arises out of Lessee's use of the Premises that are necessary to protect the public health and safety and the environment from actual or potential harm and to bring the Contaminated Premises into compliance with all environmental laws. Such work shall be performed at Lessee's sole expense, after Lessee submits to City a written plan for completing such work and receives the prior written approval of City. City shall have the right to review and inspect all such work at any time using consultants and representatives of its choice. Lessee shall pay the cost of such review and inspection. Specific cleanup levels for any environmental remediation work shall be designed to meet all of the applicable environmental laws.

H. National Emission Standards for Hazardous Air Pollutants. Lessee warrants that all planning, design, fabrication, installation, construction, start-up, testing, maintenance and repair work performed pursuant to this Agreement shall be performed in accordance with any applicable National Emission Standards for Hazardous Air Pollutants ("NESHAP"), 40 C.F.R. 61.145.

I. Duty to Correct Hazardous or Potentially Hazardous Conditions. If City reasonably determines that a condition of the Premises or other City property caused as a result of Lessee's use of the Premises is hazardous or potentially hazardous to persons or property, it may direct Lessee, in writing, to

correct the condition, and Lessee, at its expense, shall immediately comply with such directive.

**J. Environmental Indemnification.** In addition to any indemnification set forth herein, Lessee hereby indemnifies and agrees to defend and hold harmless City, its agents, partners, officers, representatives and employees, from all costs, claims, demands, actions, liabilities, complaints, fines, citations, violations or notices of violation (“Claims”) arising from or attributable to (i) the presence due to Lessee’s handling, generation, manufacturing, processing, treating, storing, using, reusing, refining, recycling, reclaiming, blending or burning for energy recovery, incinerating, accumulating speculatively, transporting, transferring, disposing or abandoning of Hazardous Materials (“Management”) at the Airport or the subsurface thereof or the violation of any environmental laws due to Lessee’s Management, including, without limiting the generality thereof, any cost, claim, liability or defense expended in remediation required by a governmental authority, or by reason or any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment (as environment is defined in CERCLA), due to Lessee’s Management at the Airport or violation of any environmental laws), or (ii) any breach by Lessee of any of its warranties, representations or covenants in this Section. Lessee’s obligations hereunder shall survive the termination or expiration of this Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting

**the Airport or any part thereof.**

**K. Definitions.** For purposes of this Section, the term “Hazardous Materials” shall mean and include the following, including mixtures thereof; any hazardous substance, pollutant, contaminant, waste, by-produce or constituent as defined in any environmental law; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos-containing materials, PCBs and other substances regulated under the TSCA; source material, special nuclear material, by-produce material and any other radioactive materials or radioactive wastes however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. §1910.1200 *et seq.*; any “Hazardous Waste” as defined by the Missouri Hazardous Waste Management Law, Mo.Rev.Stat. §§260.350 to 260.480; and industrial process and pollution control wastes, whether or not hazardous within the meaning of RCRA.

**IX. Insurance and Indemnification.**

**A. Indemnification.** Lessee shall defend, indemnify, and hold harmless City and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys’ fees, arising out of or resulting from any acts or omissions in connection with this Lease, caused in whole or in part by Lessee, its employees, agents, or subcontractors, or caused by others for whom Lessee is liable, regardless of whether or not caused in part by any act or omission of City, its agencies, officials, officers, or employees. Lessee’s obligations under this section with respect to indemnification for acts or omissions of City, its agencies, officials, officers or employees shall be limited to the

**coverage and limits of insurance that Lessee is required to procure and maintain under this Lease.**

B. Insurance. Lessee shall procure and maintain in effect throughout the duration of this Lease insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Lease, Lessee shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City.

1. Commercial General Liability Insurance with limits of \$2,000,000.00 per occurrence and \$4,000,000.00 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- (a) Severability of Interests Coverage applying to Additional Insureds
- (b) Contractual Liability
- (c) Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$1,000,000.00
- (d) No Contractual Liability Limitation Endorsement  
( ISO form CG20 10, current edition or its equivalent)

2. Workers' Compensation Insurance as required by statute.

3. If applicable, Commercial Automobile Liability Insurance with a limit of \$1,000,000.00 per occurrence, covering owned, hired and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Agreement.

4. Full Replacement Cost Insurance on all of the improvements on the Premises (now or hereafter existing) or used in

connection therewith against any loss or damage by fire, flood, earthquake and other or any casualties or peril, and all other perils as are included within what is commonly known as "all risk coverage" for any improvements on the Premises with full replacement cost insurance, in amounts sufficient to prevent City from being or becoming a co-insurer within the terms of the policy or policies in question and in no event less than the full replacement cost value thereof, exclusive of the cost of foundations, excavations, and footings below the lowest basement floor, and without any deduction being made for depreciation. The replacement cost value shall be determined from time to time, but not more frequently than once in any 12 consecutive calendar months at the request of City, by an appraiser, architect and/or contractor. All property insurance proceeds shall promptly be deposited with the City.

B. No policy may be canceled until after 30 days written notice of cancellation to City, ten days in the event of nonpayment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that the City and its agencies, officials, officers and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Lease. Lessee shall provide to City at execution of this Lease a certificate of insurance showing all required endorsements and additional insureds.

C. All insurance coverage must be written by companies that have an A.M. Best's rating of "B+V" or better, and are licensed or approved by the State of Missouri to do business in Missouri.

D. Regardless of any approval by the City, it is the responsibility of Lessee to maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of Lessee's failure to maintain the required insurance in

effect, City may obtain such insurance and any premiums paid by the City shall be payable by Lessee to the City with the next installment of rent due under the Lease with interest thereon of one and one-half percent (1.5%) per month or may pursue its remedies for breach of this Lease as provided for herein and by law. Lessee understands and agrees that insurance coverages may be reasonably increased or added to in order to protect the City and its property.

E. Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of Lessee under this Lease. Lessee agrees that all claims will be handled by a person with a permanent office in the Kansas City metropolitan area.

#### **X. Liens and Removal of Fixtures.**

A. Mechanic's/Materialman's Liens. Lessee will not permit any mechanic's or materialman's or any other lien to be placed upon the Premises or the leasehold, or the equipment or facilities thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman.

B. Removal of Fixtures. If Lessee is allowed to remove any fixtures or improvements when this Lease terminates, it will do so at its expense and will restore the Premises to its original condition prior to installation of the fixtures or improvements.

#### **XI. City Requirements.**

A. Gratuities and Kickbacks. The provisions of City's Code Section 2-1765, prohibiting gratuities to City employees, and kickbacks by subcontractors, and Code Section 2-1770 and 2-1771, imposing sanctions for violations, shall apply to this Lease. (Code § 2-1765)

1. Gratuities. Lessee certifies that it has not and will not offer or give any city employee or officer a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any

part of a contract requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract, or to any solicitation or proposal therefor.

2. Kickbacks. Lessee certifies that no payment, gratuity, offer of employment or benefit has been or will be made by or on behalf of or solicited from a subcontractor under a contract to Lessee or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

B. Conflicts of Interest. The provisions of City Charter Section 472 and City's Code Sections 2-1015 and 2-1764, prohibiting city officers and employees from having a financial or personal interest in any contract with City, and Code Sections 2-1016 and 2-1770, imposing sanctions for violations, shall apply to this Lease. Lessee certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Lease, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Lessee in this Lease.

C. Prohibition Against Contingent Fees. The provisions of City's Code Section 2-1766, prohibiting the retention of persons to solicit contracts for contingent fees, and Sections 2-1770 and 2-1771, imposing sanctions for violations, shall apply to this Lease. Lessee certifies that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained

by Lessee for the purpose of securing business. For breach or violation of this warranty, City shall have the right to annul this Lease without liability or, at its discretion, to deduct from the Lease price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee. (Code § 2-1766)

D. If in this Lease the City is committed to the expenditure of \$5,000 or more in return for goods or services, then Lessee shall comply with City Code Chapter 46, Noise Control. (Code § 46-92).

E. Earnings Tax/Occupational License Clearance. As a condition precedent to approval of this Lease, Lessee shall furnish the City sufficient proof from City's Commissioner of Revenue, dated not more than 60 days before the date furnished to the City, that it is not delinquent for any City earnings or occupational license taxes, including withholdings from its respective employees.

F. Records/Audit. The City Auditor, City's Director of Human Relations and the Aviation Department shall have the right to audit this Lease and all Lessee's books, documents and records relating thereto and such books, documents and records will be made available on ten days written notice. Lessee agrees to maintain its books, records and documents relating to this Lease during the Lease term and for three years thereafter.

## **XII. Miscellaneous Provisions.**

A. Headings; Construction of Lease. The headings of each section of this Lease are for reference only. Unless the context of this Lease clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

B. Merger. This Lease, including any referenced Attachments or Exhibits, constitutes the entire agreement between City and Lessee with respect to this subject matter, and supersedes all prior agreements between City and Lessee with respect to this subject matter, and any such prior agreement shall be void and of no further force or effect as of the date of this Lease.

C. Governing Law. This Lease shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The Landlord and Tenant: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum non conveniens as an objection to the location of any litigation.

D. Americans with Disabilities Act. Lessee agrees to comply, during the course of this Agreement, with all provisions of the Americans with Disabilities Act, Public Law 101-336 as well as 28 CFR Parts 35 and 36 and 29 CFR Part 1630, as applicable and as amended from time to time.

E. Rights & Remedies Cumulative. All rights and remedies granted to City herein and any other rights and remedies which City may have at law and in equity are hereby declared to be cumulative and not exclusive, and the fact that the City may have exercised any remedy without terminating this Lease shall not impair City's rights thereafter to terminate or to exercise any other remedy herein granted or to which City may be otherwise entitled.

F. Modification.

1. Unless stated otherwise in this Lease, no provision of this Lease may be waived, modified or amended except by written amendment signed by City and Lessee.

2. No act, conversation or communication with any officer, agent or employee of

City, either before or after the execution of this Lease, shall affect or modify any term or terminology of this Lease and any such act, conversation or communication shall not be binding upon City or Lessee.

G. Severability of Provisions. Except as specifically provided herein, all of the provisions of this Lease shall be severable. In the event that any provision of this Lease is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Lease shall be valid unless the court finds the valid provisions of this Contract are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Lease could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

H. Binding Effect. This Lease shall be binding upon City and Lessee and their successors in interest.

I. Representations and Warranties. City and Lessee each certify that it has the power and authority to execute and deliver this and to perform this Lease in accordance with its terms.

J. Compliance With Laws. Lessee shall comply with all federal, state and local laws, ordinances and regulations applicable to this Lease. This obligation includes compliance with City's nondiscrimination laws as set out in Chapter 38 of its Code of Ordinances. Lessee, at its own expense, shall secure all occupational and professional licenses and permits from public or private sources necessary for the fulfillment of its obligations under this Lease.

K. Force Majeure. Neither party shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of this

Agreement due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, action of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible or which is not in its power to control.

L. Interpretation. The language of this Lease shall be construed according to its fair meaning, and not strictly for or against either City or Lessee.

M. No Personal Liability. No councilman, director, officer, employee or other agent of either party shall be personally liable under or in connection with this Lease.

N. Time of the Essence. Time is of the essence of this Lease.

O. Affirmative Action. Lessee shall establish and maintain for the term of this Lease an Affirmative Action Program in accordance with the provisions of Chapter 38 of the Code, the rules and regulations relating thereto and any additions or amendments. Lessee shall not discriminate against any employee or applicant for employment because of race, color, creed or religion, ancestry or national origin, sex, handicap or disability, age, familial status, marital status or sexual orientation, in a manner prohibited by Chapter 38 of the Code. If Lessee fails, refuses or neglects to comply with Chapter 30 of the Code, then the failure shall be deemed a total breach of this lease and this Lease may be terminated, canceled or suspended, in whole or in part, and Lessee may be declared ineligible for any further contracts funded by the City for a period of one year. This is a material term of this Lease.



### Part III

## **SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS**

### **I. Assurances.**

A. Lessee shall furnish its services on a fair, equal and not unjustly discriminatory basis to all users of the Airport.

B. Lessee shall charge fair, reasonable and not unjustly discriminatory prices for each unit or services; provided that, Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers. Non-compliance with this requirement shall be a material breach of this Lease for which the City shall have the right to terminate this Lease and any estate created herewith, without liability therefor; or, at the election of the City or the United States, either or both of said governments shall have the right to judicially enforce said requirement.

C. Lessee warrants that no person shall, on the grounds of race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability, be excluded from participating in any activity conducted on or from the Premises, or otherwise be excluded from the benefits offered by Lessee to the general public.

D. As part of the consideration of this Lease, Lessee does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a DOT program or activity is extended for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Code of Federal Regulations, Title 49, DOT, Subtitle A, Office of the Secretary of Transportation,

part 21-Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights of 1964, as said regulations exist and may be amended from time to time.

In this Lease, the Covenant is hereby made a covenant running with the land for the term of the Lease, and is judicially enforceable by the United States.

E. As part of the consideration of the Lease, Lessee does hereby covenant and agree that:

1. No person on the grounds of race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity) age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; and

2. In the construction of any improvements on, over or under such Premises and the furnishing of services thereon, no person on the grounds of race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity) age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

3. That the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Nondiscrimination Acts and Authorities. In this Lease, the Covenant is hereby made a covenant running with the land for the term of the Lease, and is judicially enforceable by the United States.

F. The foregoing discrimination covenants are a material part of this Lease and for breach thereof the City

shall have the right to terminate this Lease and to reenter and repossess the Premises and facilities thereon, and hold the same as if said Lease had never been made. This provision does not become effective until the procedures of 49 CFR part 21 are followed and completed, including expiration of appeal rights.

G. Lessee agrees to insert the foregoing six provisions (A-F) in any lease, contract or agreement by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on or from the Premises.

H. Lessee agrees that it will undertake an affirmative action plan in conformance with 14 CFR part 152, Subpart E, to ensure that no person shall on the grounds of race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity) age, or disability be excluded from participating in any employment, contracting or leasing activities covered in 14 CFR part 152, Subpart E. Lessee assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any covered program or activity. Lessee further agrees that it will require its covered suborganizations to provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require like assurances from their suborganizations, as required by 14 CFR part 152, Subpart E.

I. The City reserves the right, but is in no way obligated to Lessee, to further develop or improve the landing area of the Airport as it deems appropriate, without regard to Lessee, and without interference or hindrance from Lessee.

J. The City reserves the right, but is in no way obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of

the Airport, together with the right to direct and control all activities of Lessee in this regard.

K. Lessee acknowledges that this Lease is subordinate to any existing or future agreement between the City and the United States concerning the development, operation or maintenance of the Airport.

L. The Lease is subordinate to the reserved right of the City its successors, assigns, and subsequent transferees to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft through said airspace or in landing at or taking off from, or operation on an Airport.

M. Lessee agrees to comply with the notification and review requirements of Federal Aviation Regulation part 77 in the event future construction of a structure is planned for the Premises, or in the event of a planned modification of a structure on the Premises. Lessee covenants for itself, its successors and assigns that it will not erect or permit the erection of any structure or permit the growth of any tree, on the Premises above the mean sea level elevation that is defined as an object that effects navigable airspace as defined in Federal Aviation Regulations part 77. As a remedy for the breach of said covenant the City of Kansas City, Missouri, reserves the right to enter upon the Premises and remove the offending structure or cut the offending tree, all at the expense of Lessee.

N. Lessee, by accepting this Lease, covenants for itself, its successors and assigns that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft from the Airport, or otherwise constitute a hazard to air navigation. As

a remedy for the breach of said covenant, the City reserves the right to enter upon the Premises and cause the abatement of such interference, all at the expense of Lessee.

O. The Lessee, its officers, administrators, representatives, successors and assigns will not erect on or permit the erection of any structure or object, nor permit the growth of any tree or vegetation on the premises above ground level elevation without prior approval from the City and, as required by the law, subject to approval by the FAA. In the event the aforesaid covenants are breached, the City reserves the right to enter upon the premises and to remove the offending structure or object and cut the offending tree or vegetation, all of which shall be at the expense of Lessee. Lessee, its officers, administrators, representatives, successors and assigns will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft from the Kansas City Downtown Airport, the Kansas City International Airport, or otherwise constitute a hazard. In the event the aforesaid covenant is breached the City has the right to enter upon the premises and cause the abatement of such interference at the expense of Lessee.

P. Lessee acknowledges that nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC § 40103(e).

Q. This Lease and all provisions hereof are subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation and taking-over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

## **II. Right to Amend.**

In the event that the Federal Aviation Administration or its successors requires

modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, the Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required.

## **III. Restricted Areas/Security.**

Lessee will comply with any and all applicable present and future rules, regulations, restrictions, ordinances, statutes, laws and/or orders of any federal, state or local governmental entity regarding airfield security. Lessee shall fully comply with applicable provisions of the Code of Federal Regulations (CFR) Title 49: Transportation. Lessee shall fully comply specifically with 49 CFR part 1540 – Civil Aviation Security; 49 CFR part 1542 – Airport Security; 49 CFR part 1544 – Aircraft Operator Security: Air Carriers and Commercial Operators (if Lessee is an air carrier); and 49 CFR part 1546 – Foreign Air Carrier Security (if Lessee is a foreign air carrier). City has adopted a Security Plan for the Airport approved by the Transportation Security Administration (TSA) pursuant to Department of Transportation (DOT) TSA CFR 49 part 1542. Lessee agrees to be bound by and follow the Airport Security Plan. Any access to the Airport granted to Lessee shall not be used, enjoyed or extended to any person, entity or vehicle engaged in any activity or performing any act or furnishing any service for or on behalf of the Lessee that Lessee is not authorized to engage in or perform under this Lease unless expressly authorized in writing by the Director in accordance with TSA CFR 49 part 1542. In the event Lessee, its officer, employees, invitees or Lessee cause or contribute to unauthorized persons or vehicles entering the air operations areas of the Airport, or otherwise violate the Security Plan or any laws, regulations, rules, etc. governing airport security, and in addition to any other remedies available hereunder, Lessee shall be liable to City for an amount equal to any civil penalty imposed on City for such violations and hereby agrees to indemnify

City for any such federal civil penalties, provided City shall promptly notify Lessee in writing of any claimed violations so as to permit Lessee an opportunity to participate in any investigation or proceedings.

#### **IV. General Civil Rights Provisions.**

In all its activities within the scope of its airport program, the Lessee agrees that it will comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If, Lessee transfers its obligation to another, the transferee is obligated in the same manner as the Lessee. The above provision obligates the Lessee for the period during which the property is owned, used or possessed by the Lessee and the airport remains obligated to the Federal Aviation Administration.

#### **V. Civil Rights-Title VI Assurances.**

##### Title VI Solicitation Notice

The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to any advertisement, disadvantaged business enterprises or airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to the related invitation and will not be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in consideration for an award.

#### Compliance with Nondiscrimination Requirements

During the performance of this Lease, the Lessee, for itself, successors in interest, and assigns (hereinafter referred to as the "Lessee"), agrees as follows:

1. Compliance with Regulations: The Lessee (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Lessee, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the Acts and the Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and the Regulations relative to Non-discrimination on the grounds of

race, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity) age, or disability.

4. Information and Reports: The Lessee will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts and Authorities and instructions. Where any information required of a Lessee is in the exclusive possession of another who fails or refuses to furnish the information, the Lessee will so certify to the City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a Lessee's noncompliance with the Non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Lessee under the contract until the Lessee complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Lessee will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the

Acts, the Regulations and directives issued pursuant thereto. The Lessee will take action with respect to any subcontract or procurement as the City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Lessee may request the City to enter into any litigation to protect the interests of the City. In addition, the Lessee may request the United States to enter into the litigation to protect the interests of the United States.

7. For persons with Limited English Proficiency (LEP), please contact KCAD Airport Communications Center (ACC) at 816-243-4000 for help to obtain interpreters of many different languages.

#### Title VI Clauses for Transfer of Real Property

The Lessee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that:

- a. In the event facilities are constructed, maintained, or otherwise operated on the property described in this lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent Title VI List of Nondiscrimination Acts and Authorities (as may be

amended) such that no person on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- b. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the City will have the right to terminate the lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the lease had never been made or issued.

#### **VI. Title VI List of Pertinent Nondiscrimination Acts and Authorities**

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as

amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority

populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

#### **VII. Additional Records Requirements.**

This requirement is in addition to any other records requirements herein. Lessee must maintain an acceptable cost accounting system. Lessee agrees to provide the City, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Lessee which are directly pertinent to the specific Lease for the purpose of making audit, examination, excerpts and transcriptions. Lessee agrees to maintain all books, records, and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

#### **VIII. Clean Air and Water Pollution**

**Control.** Lessee agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Lessee agrees to report any violation to the City immediately upon discovery. The City

assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Lessee must include this requirement in all subcontracts that exceed \$150,000.

#### **IX. Texting When Driving.**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the City encourages the Lessee to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Lessee must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

#### **X. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Lessee and its Sublessee(s) agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

#### **XI. Federal Fair Labor Standards Act (Federal Minimum Wage)**

This Lease incorporates by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor

standards for full and part time workers. The Lessee has full responsibility to monitor compliance to the referenced statute or regulation. The Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

obligations, rights and remedies otherwise imposed or available by law.

## **XII. Occupational Safety and Health Act of 1970**

This Lease incorporates by reference the requirements of 29 CFR part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## **XII. Disadvantaged Business Enterprise Requirements.**

To the extent that this Lease is covered by 49 CFR part 23, Subpart F, Lessee agrees that this Lease is subject to the requirements of the U.S. Department of Transportation Regulations at 49 CFR part 23, Subpart F. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award, or performance of any Lease covered by 49 CFR part 23, Subpart F.

Lessee agrees to include the foregoing statement in any subsequent Lease that it enters and cause those businesses to similarly include said statement in further agreements.

## **XIII. Duties and Obligations Not Limited.**

The duties and obligations imposed by the Lease and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties,



# EXHIBIT "A" – PREMISES

*When mutually agreed to by both parties, the Director of Aviation may amend Exhibit "A" and make any necessary changes without further City Council Approval.*

*15'x30' Site is 450 Square Feet*



## **EXHIBIT “B” – CREO CIVIL RIGHTS AND WAGE ASSURANCES (032223)**

**Non-discrimination in Employment.** Contractor shall not discriminate against any employee or candidate for employment on the basis of an individual’s race, hair texture or hair style associated with an individual’s race, color, sex, religion, national origin, or ancestry, disability, sexual orientation, gender identity, age, or in any other manner prohibited by Chapter 38 of the City Code. Contractor shall not engage in any discrimination as prohibited by Chapter 3 of the City Code.

**Ban the Box in Hiring and Promotion.**

- (a) Pursuant to Section 38-104, City Code Ordinances, Contractor shall not base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, unless the employer can demonstrate that the employment-related decision was based on all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position.
- (b) Notwithstanding subsection (a), Contractor may inquire about an applicant's criminal history after it has been determined that the individual is otherwise qualified for the position, and only after the applicant has been interviewed for the position. Any such inquiry may be made of all applicants who are within the final selection pool of candidates from which a job will be filled.
- (c) This provision shall not apply to positions where employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation.

**Title VI of the Civil Rights Act of 1964.** Title VI of the Civil Rights Act of 1964 requires that no person in the United States shall, on the grounds of race, color, or national or origin (including limited English proficient individuals), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The City of Kansas City, Missouri requires compliance with the requirements of Title VI in all of its programs and activities regardless of the funding source. Contractor shall not discriminate on the grounds of race, color, or national or origin (including limited English proficient individuals).

**Quality Services Assurance Act.** If this Contract exceeds \$160,000.00, Contractor certifies Contractor will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$15.00 per hour in compliance with the City’s Quality Services Assurance Act, Section 3-66, Code of Ordinances or City has granted Contractor an exemption pursuant to the Quality Services Assurance Act.

**Anti-Discrimination Against Israel.** If this Contract exceeds \$100,000.00 and Contractor employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Contractor certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

**Affirmative Action.** If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City’s Affirmative Action requirements in accordance with the provisions of Chapter 3 of City’s Code, the rules and regulations relating to those

sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- (a) Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- (b) Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years.
- (c) Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- (d) Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, cancelled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

**Compliance with Laws.** Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement. Contractor shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.

**Prevailing Wage.** If the Agreement exceeds \$75,000.00 and any of the Services performed by Contractor includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair, that is subject to the Missouri Prevailing Wage Law (Section 290.210, RSMo – 290.340, RSMo), Contractor shall immediately notify the City prior to performing Services so the parties can execute an agreement that incorporates, the appropriate Wage Order. Contractor shall comply with all requirements of Section 290.210, RSMo – 290.340, RSMo even if Contractor fails to notify the City.