

**HEART FOREST LEASE AND MANAGEMENT AGREEMENT  
at KANSAS CITY INTERNATIONAL AIRPORT  
For Contract No. 6222030012**

THIS HEART FOREST LEASE AND MANAGEMENT AGREEMENT (“Lease” or “Agreement”) is made and entered into this \_\_\_\_\_, between KANSAS CITY, MISSOURI, by and through its AVIATION DEPARTMENT, a municipal corporation of the State of Missouri, (“City” and “Aviation Department”), and FOUNDATION FOR REGENERATION, INC, a Missouri Nonprofit Corporation (“Foundation”).

WHEREAS, the 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, the Airport is subject to various obligations including but not limited to federal grant assurances; and

WHEREAS, the Heart Forest, first planted in April 1990 as a public demonstration to the community’s commitment to a heart-centered spirit of community regeneration, is located on the grounds of the Airport, southwest of the Airport terminal, near North Brightwell Road and N.W. 104<sup>th</sup> Street; and

WHEREAS, the Foundation desires to lease and maintain the premises encompassing the Heart Forest and the City desires to have the Heart Forest maintained and enhanced at the Airport;

NOW, THEREFORE. The parties agree as follows:

This Lease consists of two parts: Part I - Lease Agreement and Part II - Supplemental Terms and Conditions to All Airport Agreements along with the below listed attachments. These parts and any attachments or exhibits are attached hereto and incorporated herein.

Exhibit A - Leased Premises

Exhibit B - Storm Water Best Management Practices

Exhibit C - Tenant Modifications: Responsibilities of Foundation as  
Tenant and City Responsibilities to Foundation

Exhibit D - Rules & Regulations

Exhibit E - CREO Civil Rights & Wage Assurances (032223)

**PART I – LEASE AGREEMENT**

**ARTICLE I  
PREMISES & TERM**

**Sec 1.1. Leased Premises.** The City hereby leases to Foundation, and Foundation leases from the City, the real property encompassing the Heart Forest and a defined perimeter immediately adjacent thereto as is more fully described in **Exhibit “A” – Leased Premises**, which is attached hereto and incorporated by reference (hereinafter “Premises”). The Foundation has inspected the

Premises and accepts them in its “as is” condition. Except as otherwise set forth in this Lease, the City implies no further warranties or representations with regard to the Premises.

**Sec. 1.2. Term of Lease.** This Lease and Maintenance Agreement shall commence on January 1, 2024 to continue for an “Initial Term” of two years, ending on December 31, 2025, during which time Foundation may request to amend the Lease for the construction of direct site access, parking facilities, and public meeting structures (collectively the “Facilities”, each a “Facility”) with approval from the Director of the Aviation Department (“Director”). This Lease (inclusive of any extensions) shall not extend beyond December 31, 2035.

**A. Option to Renew.**

(1) The Foundation may renew the Lease and Maintenance Agreement for a “First Option Term” of five years, ending on December 31, 2030 unless terminated by either party. If the Foundation exercises its First Option Term renewal, the Foundation shall provide written notice to City no later than ninety (90) days prior to the expiration of the Initial Term. Thereafter, the City shall have thirty (30) days to affirmatively refuse the First Option Term extension in which case the Lease will automatically terminate on December 31, 2025.

(2) Thereafter, the Foundation may renew the Lease and Maintenance Agreement for a “Second Option Term” of five additional years, ending on December 31, 2035 unless terminated by either party. If the Foundation exercises its Second Option Term renewal, the Foundation shall provide written notice to City no later than ninety (90) days prior to the expiration of the First Option Term of its intent to exercise the option to extend. Thereafter, the City shall have thirty (30) days to affirmatively refuse the Second Option Term extension in which case the Lease will automatically terminate on December 31, 2030.

**B. Termination Rights.** Either the Foundation or City may terminate this Lease (including renewal terms) at any time with a 180-day written notice.

**C. Termination from Taking.** If the Premises or any substantial part thereof shall be taken by any competent authority under the power of eminent domain or be acquired for any public or quasi-public use or purpose, or as may be required by the federal government, the term of this Lease shall cease and terminate upon the date then the possession of the Premises or the part thereof so taken shall be required for such use of purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises, either party shall have the right to cancel this Lease after having given written notice of cancellation to the other party not less than 90 days prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by the Lessor to the Lessee upon cancellation of the lease.

**D. Holdover.** If Foundation holds over and continues possession or use of the Premises after expiration of this Lease or any extension of that term, other than as provided above, Foundation will be deemed to be occupying the Premises at sufferance from month-to-month tenancy, without limitation of any of the City’s rights or remedies, subject to all of the terms and conditions of this Agreement.

**E. No Notice to Quit Possession.** No notice to quit possession at the expiration date of the term of this Lease shall be necessary. Foundation 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.

- F. 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 Foundation, 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 Foundation 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 or covenants set forth herein, 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.

**Sec. 1.3. Personal Property.** Reserved.

**Sec. 1.4. Use of Premises.** The Foundation, subject to the terms of this Lease, shall use the Premises to manage, maintain and/or enhance the Heart Forest as a public demonstration showcasing the promise and potential of regeneration. Any use of the Premises that is not authorized under this Lease or subsequently approved by the City shall constitute acceptable grounds for immediate termination.

**Sec. 1.5. Relocation of Premises.** Reserved.

**Sec. 1.6. Foundation Access to Premises.** Officers, agents, employees, contractors, suppliers, guests and invitees of the Foundation have the right, at all reasonable times, to access, ingress to and egress from the Premises for the purposes specified in this Agreement.

**Sec. 1.7. City Access to Premises.** The Premises are and shall remain the sole property of the City. This Lease and Maintenance Agreement creates no property rights in the Foundation in the Premises. The City has and shall retain control of all rights of access to the Premises at any time and for any reason.

**Sec. 1.8. 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 Foundation's use of the Premises:

- A. All gas, oil and minerals in and under the soil on the Premises;
- B. 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.
- C. To grant, without compensation to Foundation, utility rights-of-way to itself and others, over, under, through, across or on the Premises.

**Sec. 1.9. Avigation Reservation.** The City reserves, for itself and as a public benefit, a perpetual and assignable Avigation Reservation and right-of-way, for the free and unobstructed passage of aircraft in, through, and across all navigable air space above the Premises, together with the continuing right to cause and allow in all airspace above or on the surface of the Premises such noise, vibration, fumes, dust, fuel particles, illumination, interference with television, radio or any other type of transmission and other effects as may be caused by or result from the operation of aircraft or the landing at or taking off from or from the operation of aircraft on or at the Airport, also together with the rights to mark and light obstructions to air navigation any and all buildings, structures or other improvements and trees or other objects which extend into this Avigation Reservation. Additionally, the Foundation shall not allow the premises to be used

in any manner to create interference with visual contact, radio, radar, microwave, electromagnetic or any other communication between any installation serving the Airport and aircraft or as to make it difficult for flyers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the Airport, or as may otherwise endanger or constitute a hazard to the landing, taking off or maneuvering of aircraft under the applicable regulations of the U.S. Department of Transportation, Federal Administration, in effect from time to time or of any successor agency having jurisdiction. The term "aircraft" means any contrivance now known or hereafter invented, designed or used for navigation or flight in air or space involving either persons or property.

**Sec. 1.10. Restricted Areas/Security.** Foundation 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. Foundation shall fully comply with applicable provisions of Transportation Security Administration regulations (TSA) 49 C.F.R. Part 1542, (and 49 C.F.R. Part 1540 if Foundation is an air carrier). City has adopted a Security Plan for the Airport approved by the FAA pursuant to 49 C.F.R. Part 1542. Foundation agrees to be bound by and follow the Security Plan. Any access to the Airport granted to Foundation 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 Foundation that Foundation is not authorized to engage in or perform under this Lease unless expressly authorized in writing by the Director in accordance with 49 C.F.R. Part 1542. In the event Foundation, its officer, employees, invitees or contractors 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, Foundation 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 Foundation in writing of any claimed violations so as to permit Foundation an opportunity to participate in any investigation or proceedings

**Sec. 1.11. Quiet Enjoyment.** Upon the observance and performance of all the covenants, terms and conditions on Foundation's part to be observed and performed, Foundation (and any subtenants) 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 equitably claiming, by, through or under the City, subject, nevertheless, to the terms and conditions of this Lease.

## **ARTICLE II RENT AND SCOPE OF SERVICES**

**Sec. 2.1. Rent.** City agrees to lease Premise to Foundation at no charge for the term of this agreement.

**Sec. 2.2. Management Obligations of Foundation.** The Foundation agrees to manage and maintain the Premises and at its sole cost and expense shall:

- A. Perform all work, provide all personnel and take all action necessary to protect, maintain, restore, operate and develop the Premises in accordance with the terms of this Lease and Management Agreement, including care of existing trees and planting of any additional trees on the Premises which, in the sole discretion of the Foundation, are compatible with

- the design and concept of the Heart Forest (as long as plantings do not interfere with air navigation);
- B. Maintain the Premises solely for lawful forest propagation purposes in conformance with federal, state and local law and regulations;
  - C. Cultivate and manage the Premises according to good forestry practices;
  - D. Keep any boundary fences, gates, gravel roads, entrances and terraces on the Premises in good repair except for reasonable wear and tear, keep all ditches, drains and water courses on the Premises open, clean and in good working order;
  - E. Ensure in any repair set forth in Article IV of this Lease are made in a commercially reasonable manner and that such repair is at least equal in quality and class to the original work, if applicable, being repaired;
  - F. Keep and maintain all portions of the Premises in a clean and orderly condition, free of rubbish, non-serviceable equipment and vehicles, and unlawful obstructions. Lessee shall keep Premises and access points mowed;
  - G. Coordinate with Airport Operations on any and all wildlife issues on leased premises.
  - H. Lock all KCI Airport gates immediately after each passage through the gate; provided that the Foundation will provide its own lock, which must be approved by the Director of Aviation. Any lock found unlocked will be locked out of the chain-of-locks. Repeated offenses may result in the loss of privilege to pass to and from the area secured. No equipment or materials are to be parked, placed, or stacked within fifteen feet of any Air Operations Area fence so as to aid entrance to the airfield or at such locations as to interfere with the visual and radio trans-receivers of the airport instrument landing systems;
  - I. Not construct, erect or place any temporary or permanent buildings or improvements on the Premises without the prior written approval of the Director;
  - J. Not use, generate, store, treat, dispose of or otherwise introduce into, or on or about the Premises, any hazardous substance (as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601, et seq. or any other applicable federal, state or local law or regulation);
  - K. Obtain the prior written approval of the Director prior to any excavation, grading or alteration of the topography of the Premises;
  - L. With the prior written approval of the Director, have the right to hold public events on the Premises to promote the purposes of the Heart Forest. Events may be submitted for approval either by an annual schedule of events or on an individual event basis.
  - M. Utility services if required by Foundation during the Lease term for the Premises must be obtained and maintained by Foundation at its own expense. With prior written approval by the City, Foundation 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 Foundation.

**Sec. 2.3. Other Obligations of Foundation.** The Foundation shall bear, at its own expense, all costs of operating its equipment and business including any and all ad valorem, sales, use or other taxes levied, assessed or charged upon or with respect to the leasehold estate, the Premises or improvements or property Foundation places thereon and any assessed against the operation of the business and any ad valorem, sales, use or similar taxes levied or assessed on any payments made by Foundation hereunder, regardless of whether said items are billed to City or the Foundation. Foundation shall bear all cost of obtaining any permits, licenses, or other authorizations required by City or any agency of government or law in connection with the operation of its business at the Airport, and upon request provide copies of all such permits,

certificates and licenses shall be forwarded to City. Foundation reserves the right to contest any such taxes and withhold payment of such taxes, so long as the nonpayment of such taxes does not result in a lien against the leased Premises or a direct liability on the part of City.

**Sec. 2.4. Obligations of City.** The City shall use its best effort to maintain the Premises and the Heart Forest on the Premises as open space with access by the public at reasonable times.

### **ARTICLE III DEFAULTS & REMEDIES**

**Sec. 3.1. Foundation Defaults.** Each of the following will constitute a default by Foundation hereunder:

- A. Foundation's failure to perform or violation of any provision, covenant or condition of this Lease within thirty (30) days after written notice is received. If the cure or performance thereof reasonably requires more than thirty (30) days to complete, then Foundation's failure to begin to take commercial reasonable steps to cure within such thirty (30) day period and thereafter proceed diligently to complete such cure will also constitute a default of this Lease.
- B. The attempted assignment or assumption of this Lease in violation of the terms of this Lease.
- C. The filing by the Foundation of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Foundation's assets; or the adjudication of the Foundation as a bankrupt pursuant to any involuntary bankruptcy proceedings; or the taking, by a court of competent jurisdiction of Foundation's assets pursuant to proceedings brought under the provisions of any federal reorganization act; or the appointment of a receiver or trustee of the Foundation's assets by a court of competent jurisdiction or a voluntary agreement with Foundation's creditors.

**Sec. 3.2. City Defaults.** Each of the following will constitute a default by City hereunder:

- A. Except as provided in Section 3.2B hereof, City's failure to perform or violation of any provision, covenant or condition of this Lease within thirty (30) days after written notice is received. If the cure or performance thereof reasonably requires more than thirty (30) days to complete, then City's failure to begin to take commercially reasonable steps to cure within such thirty (30) day period and thereafter proceed diligently to complete such cure will also constitute a default of this Lease.
- B. 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 Foundation from operating thereon for a period of at least thirty (30) consecutive days.

**Sec. 3.3. City's Remedies.** Upon default by Foundation of this Lease which is not cured within any applicable notice or cure period, City may do any one or more of the following:

- A. After giving an additional thirty (30) days written notice to Foundation and the opportunity to cure within such thirty (30) day period, terminate the Lease by giving written notice to Foundation, set forth in this Lease and pursuant to Exhibit "D".
- B. Re-enter the Premises and 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 or rights of Foundation under the Lease.

- C. 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.
- D. Perform, on behalf and at the expense of Foundation, any obligation of Foundation under this Lease which Foundation has failed to perform and of which City has given Foundation 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 Foundation 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 Foundation if City, in its good faith judgment, believes it would be materially injured by failure to take rapid action or if the unperformed obligation of Foundation constitutes an emergency.
- E. Any other remedy that City may have under law or equity.

**Sec. 3.4. Foundation's Remedies.** Upon default by City of this Lease, Foundation may cancel the Lease in its entirety after 30 days prior written notice to the City or pursue any other remedy Foundation may have under law or equity.

#### **ARTICLE IV REPAIRS AND MAINTENANCE OF PREMISES**

**Sec. 4.1. Repairs.** Foundation, at its sole cost and expense, shall take good and commercially reasonable care of the Premises and all improvements thereto and additions thereon or thereto, and shall keep the same in good order and condition (including repairs), except for commercially reasonable wear and tear after the necessary repair, replacement, restoration or renewal of the Premises by Foundation pursuant to its obligations hereunder. Foundation will not do or suffer any material waste or damage, disfigurement or injury to the Premises or any part thereof. Notwithstanding the foregoing, Foundation shall have no obligation to maintain or keep in repair any of the common areas of the Airport. The City shall be solely obligated to maintain and keep in repair any of the commons areas of the Airport but shall only be obligated to Foundation to provide such maintain and repair if the failure to do so adversely impacts Foundation's right to quiet enjoyment of the Premises or, alternatively, adversely impacts Foundation's obligations under this Lease.

**Sec. 4.2. Maintenance.** Reserved.

**Sec. 4.3. Utility Services.** New utility services required by Foundation during the Lease term shall be at the sole cost and expense of Foundation. Foundation may install and construct necessary utility lines or mains across reasonable routes to and from the Premises as the City may designate or approve. Any change in, deletion of, or addition to existing utility lines or mains shall be at the sole cost and expense of Foundation.

**Sec. 4.4. Obligations of Foundation.**

- A. Conduct its operation hereunder in a safe, orderly and proper manner, considering the nature of such operation so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport or around the Premises.

- B. Control, within reason, the conduct of its employees, invitees, and of those doing business with it and, upon objection from City concerning the conduct, shall immediately take all reasonable steps necessary to remove the cause of objection.
- C. Remove from the Premises or otherwise dispose of in a lawful manner all garbage, debris and other waste materials (whether solid or liquid) arising out of its occupancy of the Premises or out of its operations. Foundation shall use extreme care when effecting removal of all waste. Adhere to City's Storm Water Best Management Practices (Exhibit "B").
- D. Not commit any nuisance, waste, or damage to the Premises or other areas of the Airport and shall not do or permit to be done anything which may result in the creation or commission or maintenance of such nuisance, waste or damage to the Premises.
- E. Not create nor permit to be caused or created upon the Airport or the Premises any obnoxious odor, smoke or noxious gases or vapors.
- F. Not do or permit to be done anything which may interfere with effectiveness or accessibility of any utility or other system, including, the drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on the Premises.
- H. Not do or permit to be done any act or thing upon the Premises:
  - (1) Which will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof or other contiguous property; or
  - (2) Which may constitute an extra-hazardous condition so as to increase the risks normally attendant upon the operations permitted by this Lease.
- I. Not keep or store flammable liquids within any covered and enclosed portion of the Premises in violation of applicable law or in excess of Foundation's working requirements. Any such liquids having a flash point of less than 110°F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.
- J. Pay all applicable sales taxes, ad valorem taxes and any other taxes or assessments with respect to or against the Premises or the leasehold estate, whether billed to the City or the Foundation. Foundation reserves the right to contest any such taxes and withhold payment of such taxes, so long as the nonpayment of such taxes does not result in a lien against the leased Premises or a direct liability on the part of City.
- K. Be responsible for all cost and expenses relating to taxes, insurance and maintenance regardless of whether buildings and improvements are then owned by Tenant or City and the operation of the Premises as this Lease is deemed to be a net lease.

## ARTICLE V

### DAMAGE, DESTRUCTION, RESTORATION OF PREMISES

**Sec. 5.1. Damage or Destruction and Restoration.** In case of any material damage to or destruction of the Premises or any part thereof, Foundation will give prompt notice to the City and, except as otherwise provided in this Lease, Foundation shall have the option to:

- A. Promptly commence and complete with due diligence and in accordance with plans approved by Foundation 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 Foundation's election, and with the prior consent and approval of the City), or
- B. 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. 5.2. Foundation'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, Foundation 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, Foundation shall be relieved of all further liability and obligations hereunder. In the event Foundation 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 Foundation does not exercise the foregoing election, or in the event said damage, destruction or loss is capable of being repaired within 90 days, Foundation 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 Foundation 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 VI IMPROVEMENTS**

**Sec. 6.1. Improvements to Premises.** Foundation shall be responsible, at the Foundation's sole expense, for any and all "Improvements" (as defined in Section 6.2) made to the Premises during the term of this Lease. All Improvements shall be made in accordance with the provisions of this Lease.

**Sec. 6.2. Construction of Project.** "Improvements" shall mean the Facility and any and all other improvements now existing or hereafter placed on the Premises as permitted by this Lease. Improvements shall not include any activity relating to the inventorying, restoring, replanting, reforestation or maintaining of the Heart Forest itself.

**Sec. 6.3. Plans and Specifications.** Prior to any construction of, or improvements or additions to, the Improvements, Foundation shall submit to City for its approval for review, the Plans and Specifications. The Plans and Specifications shall be prepared by architects and engineers registered in the State of Missouri.

Prior to any construction of or improvements or additions to the Improvements, Foundation must first obtain prior written approval from the City and Kansas City, Missouri Director of Aviation ("Director") through the Aviation Department's Engineering Division, of all Plans and Specifications for any and all designs, construction, improvements or additions. The City and Director shall review any such request by Foundation within forty-five (45) days following Foundation's written request and submissions of corresponding Plans and Specifications. The City acknowledges that the Plans and Specifications are subject to modification on the basis of the timing of the Award and the final approval of the Plans and Specifications, and agrees that the City and Director shall consent to modifications to the Plans and Specifications if the same do not materially differ in exterior appearance, traffic flow, and adequacy of parking from Plans and Specifications previously approved by the City and Director.

Factors relevant to approval are limited to: exterior appearance, traffic flow, and adequacy of parking. All construction and Improvements undertaken by Foundation shall be completed in a workmanlike manner without damage to existing facilities, subject to the terms and conditions set forth in Exhibit "C", Responsibilities Foundation and City. It is understood that adequate parking for the Premises will be constructed and maintained by the Foundation. Parking of vehicles, trucks or motorized equipment outside of designated parking areas will not be allowed except as needed during times of construction for the purposes of convenience for contractors and deliveries provided such parking on the sides of the road allowing the safe and convenient flow of vehicular traffic. Parking areas on the Premises are exclusively to be used for the use and benefit of the Premises.

**Sec. 6.4. Public Improvements.** Any utilities, storm water drainage, or new or redirected roadways for ingress or egress required shall be incorporated into Foundation's Plans and Specifications submitted for City's review and approval under Section 6.2 and completed at Foundation's sole cost and expense.

**Sec. 6.5. Critical Path.** Upon Foundation's receipt of the Approvals, Foundation shall immediately endeavor to prepare a Critical Path Method schedule for approval by the City and Director that will ensure completion of the Improvements within the timeframe set forth in the Tenant Modification process. This schedule shall be submitted and approved by the City and Director before a Notice to Proceed with construction is issued, such approval not to be unreasonably withheld, conditioned or delayed.

**Sec. 6.6. Ownership of Improvements.** All Tenant Improvements and Infrastructure Improvements are made for the benefit of the City. Foundation and City agree that all improvements now existing or constructed hereinafter on the Land, as well as all alterations or additions thereto, shall be owned by the City, subject to the terms and conditions of this Lease. Foundation will indemnify and defend the City for all mechanics liens arising out of construction of the Tenant Improvements or the Infrastructure Improvements of record on the Premises or which are filed after title to the Tenant Improvements transfers to the City.

## **ARTICLE VII ASSIGNMENT, SUBLEASE, & ENCUMBRANCES**

**Sec. 7.1. No Right to Assign.** Foundation has no right to assign this Lease and Management Agreement without the prior written consent of City, which consent shall not be unreasonably withheld or delayed.

**Sec. 7.2. City Consent.** In the event of any proposed assignment, Foundation, 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 and a fully executed original set of any and all documents being used to affect the proposed actions in a form reasonably acceptable to the City. All documents will clearly set forth that the assignment and assumption actions are subject to and conditioned upon the City's consenting thereto in writing. Any assignee must have assumed all obligations of Foundation under this Lease and shall have specifically agreed to perform and observe the covenants and conditions contained in this Lease

on Foundation's part to be performed and observed. Upon such assumption by any assignee, Foundation shall be released from its obligations under this Lease.

**Sec. 7.3. 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 Foundation to result in a change in control of Foundation 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 Foundation; transfer of shares by devise or descent upon the death of any existing stockholder; merger of Foundation into any parent or subsidiary corporation of Foundation or sale of all or substantially all of Foundation's stock to any such parent or subsidiary corporation.

**Sec. 7.4. Assignment to Affiliate.** Notwithstanding the foregoing provisions, Foundation shall have the right to assign this Lease to (1) any corporation into which or with which Foundation has merged or consolidated; (2) any parent, subsidiary, successor or affiliated entity of Foundation; or (3) any entity which acquires all or substantially all of the assets of or ownership interests in Foundation.

**Sec. 7.5. Subleases.** Reserved.

## **ARTICLE VIII CONSTRUCTION LIEN**

**Sec. 8.1. No Liens.** City's interest in the Premises shall not be subjected to any construction, mechanics, materialman's, tax, laborer's or any other lien, whether City has given its written approval for the improvements or otherwise, and Foundation shall save and hold harmless City and its interest in the Premises from any such lien or purported lien. Within fifteen (15) days of filing of any lien, Foundation shall cause same to be satisfied or shall post bond for the lien.

**Sec. 8.2. Mechanic's/Materialman's Liens.** Foundation will promptly cause to be released or bond around any mechanic's or materialman's or any other involuntary lien placed upon the Premises or the leasehold by reason of any work or labor performed or materials furnished by any mechanic or materialman.

**Sec. 8.3. Removal of Foundation's Property.** Reserved.

## **ARTICLE IX MORTGAGE RIGHTS**

Sec. 9. Reserved.

## **ARTICLE X INGRESS AND EGRESS**

**Sec. 10.1. Use of Public Way.** Foundation its contractors, suppliers of material and furnishers of services, shall have the right of ingress and egress to the Premises via appropriate public way to be used in common with others having rights of passage within the Premises, provided that City may,

from time to time, substitute other means of ingress and egress so long as an alternate adequate means of ingress and egress is available.

**Sec. 10.2. Road Closures.** City may at any time temporarily or permanently close any such roadway, and any other area at the Premises presently or hereafter used as such, so long as a means of ingress and egress is made available to Foundation. Foundation hereby releases and discharges City, its successors and assigns, of and from any and all claims, demands or causes of action which Foundation may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any street, roadway, or other areas used as such, whether within or outside the Premises, provided that City makes available to Foundation an alternate means of ingress and egress.

**Sec. 10.3. Ingress & Egress.** Foundation is granted the right, for itself, its agents, employees, patrons, suppliers and other persons doing business with Foundation, of ingress and egress to and from the Premises over Airport roadways, including the use of common use roadways, and other common areas as reasonably 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; provided, however, that neither Foundation nor any of its subtenants, contractors, agents or invitees shall be charged any fee to gain access to the Premises. "Common areas" shall mean those areas which are furnished in and about the Premises for the common and non-exclusive use of Foundation and City and their officers, agents, employees, customers, invitees and licensees.

## **ARTICLE XI ENVIRONMENTAL PROVISIONS**

**Sec. 11.1. Environmental Requirements.** Foundation 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, super lien 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.

**Sec. 11.2. Review of Environmental Documents.** Foundation, 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 Foundation 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 Foundation to file any notice or report of a release or threatened release of Hazardous Materials on under or about the Premises or the Airport, Foundation 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.

**Sec 11.3. Access for Environmental Inspection.** City shall have access to the Premises to inspect the same in order to confirm Foundation is using the Premises in accordance with all Environmental Laws. If the City elects to so inspect the Premises, any tests shall be conducted by qualified independent experts chosen by the City but subject to Foundation's approval. If either party conducts an environmental assessment of the Premises during the term of this Lease, such party shall provide a copy of the environmental report to the other party promptly after receipt thereof. The preceding sentence shall not be construed to impose upon either party an obligation to conduct any environmental assessment of the Premises.

**Sec. 11.4. Environmental Noncompliance.** If Foundation 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 Foundation's expense, to insure compliance with Environmental Laws.

**Sec. 11.5. Storage, Use or Disposal of Hazardous Materials.** Foundation shall not store, use or dispose of any Hazardous Materials on the Premises in violation of Environmental Laws.

**Sec. 11.6. Duty to Notify City.** In the event of a release or threatened release of Hazardous Materials in violation of Environmental Laws arising out of Foundation's use or occupancy of the Premises or in the event any claim, demand, action or notice is made against Foundation regarding Foundation's failure or alleged failure to comply with any Environmental Laws, Foundation shall notify City, in writing, and shall provide City with copies of any written claims, demands, notices, or actions so made.

**Sec. 11.7. Environmental Remediation.** Foundation shall undertake such steps to remedy and remove any Hazardous Materials not in compliance with Environmental Laws arising out of Foundation'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 Premises into compliance with all Environmental Laws. Such work shall be performed at Foundation's sole expense, after Foundation 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. Foundation shall pay the cost of such review and inspection. Specific cleanup levels for any environmental remediation work shall be designed to comply with all applicable Environmental Laws.

**Sec. 11.8. National Emission Standards for Hazardous Air Pollutants.** Foundation 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.

**Sec. 11.9. Environmental Indemnification.** In addition to any indemnification set forth herein, Foundation 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 Foundation'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 Foundation'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 of 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 Foundation's Management at the Airport or violation of any Environmental Laws), or (ii) any breach by Foundation of any of its warranties, representations or covenants in this Section. Foundation'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.

**Sec. 11.10 No Liability for Pre-Existing Conditions.** Notwithstanding anything to the contrary contained in this Lease, Foundation shall have no obligation or liability whatsoever with respect to (1) any Hazardous Materials that are present on the Premises as of the Commencement Date; (2) any violation of Environmental Law that exists as of the Commencement Date; or (3) the presence or release of any Hazardous Materials or the violation of any Environmental Law that is caused by a party other than Foundation. The City represents to Foundation that as of the Commencement Date the Premises will not contain any Hazardous Materials and will attempt to maintain compliance with all Environmental Laws.

**Sec. 11.11. 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-product 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-product 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.

**ARTICLE XII**  
**IDEMNIFICATION & INSURANCE**

**Sec. 12.1. General Indemnification.** For purposes of this Section only, the following terms shall have the meanings listed:

- A. Claims means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the City in the enforcement of this indemnity obligation.
- B. Foundation's Agents means Foundation's officers, employees, successors, assigns and other agents.
- C. City means City and its agents, officials, officers and employees.
- D. Coverage. Foundation's obligations under this Paragraph with respect to indemnification of City for acts or omissions, including negligence, shall be limited to the coverage and limits of insurance that Foundation is required to procure and maintain under this Lease.
- E. Negligence. Foundation shall defend, indemnify and hold harmless City from and against all claims arising out of or resulting from all acts or omissions in connection with this Lease to the extent caused by the negligence of Foundation or Foundation's Agents. Foundation is not obligated under this Section to indemnify City for the sole negligence of City.
- F. In no event shall the language in this section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

**Sec. 12.2. Insurance.** Foundation 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, Foundation shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City.

- A. Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$2,000,000.00 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
  - i. Severability of Interests Coverage applying to Additional Insureds
  - ii. Contractual Liability
  - iii. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$ 2,000,000
  - iv. No Contractual Liability Limitation Endorsement
  - v. Additional Insured Endorsement, ISO form CG20 10, current edition or its equivalent
- B. Workers' Compensation Insurance as required by statute, including Employers Liability with limits of:
  - i. Workers' Compensation – Statutory
  - ii. Employers Liability - \$1,000,000 accident with limits of; \$1,000,000 disease-policy limit; \$1,000,000 disease-each employee.
- C. 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.

- D. 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.
- E. If this Contract is for professional services, Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
- F. If applicable, Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- G. If applicable, Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
  - i. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Vendor. If not covered under the Vendor's liability policy, such "property" coverage of the Agency may be endorsed onto the Vendor's Cyber Liability Policy as covered property as follows:
  - ii. If the Vendor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Lessee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
    - a. All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the City ten (10) days written



notice of cancellation in the event that the cancellation is for Lessee's nonpayment of premiums and thirty (30) days written notice of cancellation to City for all other reasons of cancellation.

- b. The Commercial General and Automobile Liability Insurance Policies specified above shall provide that City and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. Lessee shall provide to City at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.
- c. All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of A-, V or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.
- d. Regardless of any approval by City, Lessee shall maintain the required insurance coverage in force at all times during the term of this Contract. Lessee's failure to maintain the required insurance coverage will not relieve Lessee of its contractual obligation to indemnify the City pursuant to this Section of this Contract. In the event Lessee fails to maintain the required insurance coverage in effect, City may declare Lessee in default.
- e. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

**Sec. 12.3. Cancellation of Insurance Policies.** All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the City ten (10) days written notice of cancellation in the event that the cancellation is for Foundation's nonpayment of premiums and thirty (30) days written notice of cancellation to City for all other reasons of cancellation.

**Sec. 12.4. Additional Insureds.** 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. Foundation shall provide to City at execution of this Lease a certificate of insurance showing all required endorsements and additional insureds.

**Sec. 12.5. Insurance Companies.** All insurance coverage must be written by companies that have an A.M. Best's rating of "A-V" or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.

**Sec. 12.6. Maintenance of Insurance.** Regardless of any approval by the City, Foundation shall maintain the required insurance coverage in force at all times; Foundation's failure maintain the required insurance coverage will not relieve Foundation of its contractual obligation to indemnify the CITY. In the event of Foundation fails to maintain the required insurance in effect, City may declare Foundation in default.

**Sec. 12.7. No Waiver.** In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity,

governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

### **ARTICLE XIII CITY REQUIREMENTS**

**Sec. 13.1. Gratuities and Kickbacks.** The provisions of City's Code Section 3-303, prohibiting gratuities to City employees, and kickbacks by subcontractors, and Code Section 3- 307 and 3-309, imposing sanctions for violations, shall apply to this Lease.

- A. Gratuities. Foundation 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.
- B. Kickbacks. Foundation 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 Foundation or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

**Sec. 13.2. Conflicts of Interest.** The provisions of City's Code Sections 3-301 prohibiting City officers and employees from having a financial or personal interest in any contract with City, and Code Sections 3-307 and 3-309, imposing sanctions for violations, shall apply to this Lease. Foundation 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 Foundation in this Lease.

**Sec. 13.3. Prohibition Against Contingent Fees.** The provisions of City's Code Section 3- 305, prohibiting the retention of persons to solicit contracts for contingent fees, and Sections 3- 307 and 3-309, imposing sanctions for violations, shall apply to this Lease. Foundation 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 Foundation 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.

**Sec. 13.4. Earnings Tax/Occupational License Clearance.** As a condition precedent to approval of this Lease, Foundation 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.

**Sec. 13.5. Audits.** The City and the Aviation Department shall have the right to audit this Lease and all Foundation's books, documents and records relating thereto. Such books, documents and records will be made available on ten (10) days written notice. Foundation agrees to maintain its books, records and documents relating to this Lease during the Lease term, including any extensions, and for three (3) years thereafter.

#### **ARTICLE XIV MISCELLANEOUS PROVISIONS**

**Sec. 14.1 Headings.** 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.

**Sec. 14.2 Merger.** This Lease, including any referenced Attachments or Exhibits, constitutes the entire agreement between City and Foundation with respect to this subject matter, and supersedes all prior agreements between City and Foundation 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.

**Sec. 14.3. Governing Law.** This Agreement is made in and shall be construed and governed in accordance with the law of the State of Missouri without giving effect to Missouri's choice of law provisions. The City and Foundation: (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.

**Sec. 14.4. Americans with Disabilities Act.** Foundation 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.

**Sec. 14.5. 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.

**Sec. 14.6. Modification.**

- A. 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 Foundation.
- B. 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 Foundation.

**Sec. 14.7. 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.

**Sec. 14.8. Binding Effect.** This Lease shall be binding upon City and Foundation and their successors in interest.

**Sec. 14.9. Representations and Warranties.** City and Foundation each certify that it has the power and authority to execute and deliver this and to perform this Lease in accordance with its terms.

**Sec. 14.10. Compliance with Laws.** Foundation shall comply with all federal, state and local laws, ordinances and regulations applicable to this Lease. Foundation, 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.

**Sec. 14.10.1 Nondiscrimination in Employment (City Specific Requirement).** Foundation 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. Foundation shall not engage in any discrimination as prohibited by Chapter 3 of the City Code.

**Sec. 14.10.2 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.

**Sec. 14.10.3. Title VI of the Civil Rights Act of 1964 (City Specific Requirement).** 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. Foundation shall not discriminate on the grounds of race, color, or national or origin (including limited English proficient individuals).

**Sec. 14.10.4. Anti-Discrimination Against Israel.** Contract exceeds \$100,000.00 and Design Professional employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Design Professional 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.

**Sec. 14.11. 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.

**Sec. 14.12. Interpretation.** The language of this Lease shall be construed according to its fair meaning, and not strictly for or against either City or Foundation.

**Sec. 14.13. 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.

**Sec. 14.14. Time of the Essence.** Time is of the essence of this Lease.

**Sec. 14.15. Memorandum of Lease.** At the request of the City or Foundation, the parties hereto shall execute and acknowledge a memorandum hereof in recordable form that Foundation shall file for recording in the real property records of the county in which the Premises is situated.

**Sec. 14.16. Estoppel Certificate.** The City, upon request by Foundation or a Leasehold Mortgagee, shall execute an estoppel certificate confirming the terms of this Lease, certifying as to whether or not Foundation is in compliance with all of the terms and conditions of this Lease, and containing such other matters as may be reasonably requested.

**Sec. 14.17. No Merger.** In the event that the same person or entity should acquire both the interest held by the City and the interest held by Foundation in this Lease, same shall not work a merger of such interests and this Lease shall continue in effect, unless a written instrument to the contrary is signed by the holder of such interests and filed in the real property records of the county in which the Premises is situated.

**Sec. 14.18. Consents and Approvals.** In any case where a consent or approval by the City or Foundation is required hereunder, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

**Sec. 14.19. Affirmative Action.** If applicable to this Contract and 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 38 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 38 of City's Code.

Contractor shall, if applicable:

- 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.
- E. 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 38 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.

**Sec. 14.20 General Civil Rights Provisions.** To the extent applicable, the Foundation agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure 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 is in addition to that required of Title VI of the Civil Rights Act of 1964.

## **ARTICLE XVI ADDITIONAL PROVISIONS**

**Sec. 15.1. Notices.** Except as herein otherwise expressly provided, all notices required by this Lease shall be in writing sent regular U.S. mail, postage prepaid, email, or commercial overnight courier to the following:

CITY

Kansas City International Airport  
Properties & Commercial Development  
601 Brasilia Avenue  
Kansas City, MO 64105  
jill.ronk@kcmo.org

FOUNDATION

Foundation for Regeneration Inc.  
325 Ord Street  
Kansas CITY, MO 64124  
brian@regeneration.us  
bweinberg09@gmail.com

All notices are effective three days after the date of mailing in the U.S. mail, upon delivery by an overnight courier or transmission by email.

**Sec. 15.2. Public Airport.** The Foundation understands and agrees that the Premises are located on the grounds of the Airport, which is operated and maintained for public aeronautical purposes and subject to restrictions imposed by the federal government. This Agreement shall be subject and subordinate to any present or future agreement between the City and the United States of America with regard to the Airport and the Premises.

**Sec. 15.3. Reservations of City.** The City reserves the right to take any action with regard to Airport and the Premises to:

- A. Repair, maintain, further develop or improve Airport or its airport landing area or other navigation facilities as it sees fit, regardless of the desires or views of the Foundation and without interference or hindrance;
- B. Take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent the Foundation from erecting, or permitting to be erected, any building or other structure, planting any trees, or installing lights on the airport which in the opinion of the City would limit the usefulness of the airport or constitute a hazard to aircraft;
- C. During time of war or national emergency, enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this Agreement which are inconsistent shall be suspended;
- D. Grant utility rights-of ways over, under, through, across or on the Premises;
- E. Use and maintain for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in that airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using the airspace or landing at, taking off from, or operating on or about the airport.
- F. In addition to the insurance requirements listed in Part II, Aviation Department Standard Lease Conditions, Section IX, F, Insurance, the Foundation will include an environmental rider of at least \$25,000.00 that covers the City's costs to clean-up any hazardous contamination to the land or water sources caused by accidental or negligent acts of the Foundation.
- G. The Aviation Department allows access to archery hunters who are part of a Missouri Department of Conservation (MDC) managed archery hunt for deer control. This is vital to the safety of our traveling public and airline jets. The hunting periods are from September to mid-January annually. Therefore, Foundation will be required to allow MDC hunters into the leased area. MDC takes every precaution to make sure both cattle and farm tenants are safe. All MDC hunter vehicles are marked with colorful 8 ½" x 11" signs on their windshields. Any unauthorized hunters should be reported to the Airport Police at 816-243-4000.

- H. The Aviation Department will allow access to all agricultural premises for the study of wildlife management practices by the United States Department of Agriculture, Wildlife Services Division. Surveys may take place between October 1 and February 28 of each year with minimal impact on tenant use of agricultural premises.

**Sec. 15.4. Priorities.** In the event that any of the terms and conditions in Part I or Part II of this Lease conflicts, the more stringent provision shall apply unless otherwise mandated by law.

**Sec 15.5 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 (which approval shall not be unreasonably withheld or delayed) 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, Foundation at its costs will remove, obliterate or paint out, any and all of its signs, advertising and displays as the Director may reasonably direct.

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

ATTEST:

FOUNDATION FOR REGENERATION, INC.

\_\_\_\_\_  
Secretary  
(if applicable)

\_\_\_\_\_  
By: Robert Berkebile  
Title: President

KANSAS CITY, MISSOURI

\_\_\_\_\_  
By: Justin Meyer  
Title: Interim Director of Aviation

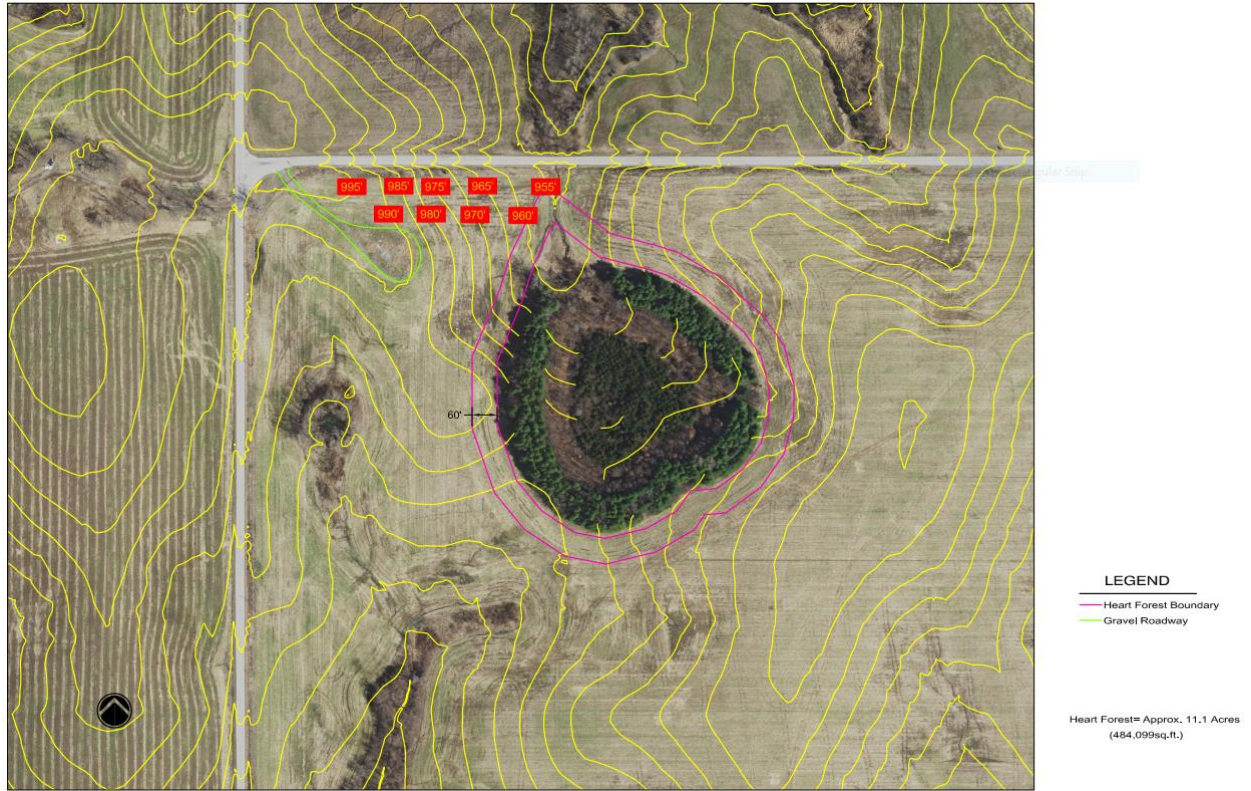
\_\_\_\_\_  
By: Brian Weinberg  
Title: Secretary

Approved as to form:

\_\_\_\_\_  
By: City Attorney

## EXHIBIT A LEASED PREMISES

The Leased Premises or “Premises” shall include the entire area within the Heart Forest Boundary, as depicted below, and shall also include the 60-foot-wide perimeter surrounding the Heart Forest. This Exhibit A may be amended between the Director and Foundation without further Council approval.



## **EXHIBIT B**

### **STORM WATER BEST MANAGEMENT PRACTICES**

The Airport operates under the requirements of a National Pollutant Discharge Elimination System (“NPDES”) Permit issued by the Missouri Department of Natural Resources (“MDNR”). The NPDES Permit imposes controls that assure that the Airport storm water discharges meet applicable water quality standards. NPDES controls are implemented at the Airport by operation of the Airport Storm Water Pollution Prevention Plan (“SWPPP”). Under the terms of the Permit, the Airport is responsible to the State of Missouri for all industrial and storm water discharges origination on Airport property. Each tenant is responsible to the Airport for contributions to the Airport industrial and storm water that originate for the tenant’s leases property and from the tenant’s activities anywhere on Airport property.

The following Best Management Practices (“BMP”) require conformity to NPDES Permit mandates for activities that take place on Airport property. These BMP’s apply to Airport departments, tenants, and all individuals (persons) whose activities could contribute to industrial or storm water discharges from Airport property. Airport departments and tenants are responsible for the actions of their personnel, contractors, supplies, services, providers, holders of operating permits, and all others who enter Airport property under their authorization.

1. All vehicles operated on the Airport shall be maintained in good condition at all times and be free of oil and gas leaks.
2. Each tenant operator shall keep individual areas clean of vehicle liquid spills.
3. No tenant shall permit or cause to be permitted the discharge of flammable or combustible liquids or any waste liquid containing crude petroleum or its products into or upon any, street, highway, drainage canal, ditch, storm drainage system, lake, waterway or ground.
4. Outside repairs, servicing, washing or adjustments to ground vehicles which could cause pollutants, including by not limited to grease, oil, fuel, detergents, etc., to enter storm water systems is prohibited.
5. Tenants shall properly maintain fuel systems and oil water separators as to prevent discharge of petroleum contaminants to the Airport’s storm water discharge systems.
6. Outside use of soaps, surfactants or materials that would ultimately enter the storm water and negatively impact the Airport NPDES permit is prohibited.
7. Tenant will be responsible for initiating immediate containment of spills and immediate cleanup/remediation of releases that can or will impact storm water systems. Note: Application of oil dry on a petroleum spill without subsequent removal/disposal of oil dry from pavement does not constitute acceptable cleanup.
8. All spills, irrespective of exceeding environmental regulation reportable quantities that could or have entered the storm water systems shall be reported to Airport immediately following initial actions taken to contain and/or cleanup the release. In the event that a release is deemed to be beyond the Foundation’s ability to safely address or presents an immediate hazard to life, property or impact or storm water systems the Airport Communications Center shall be notified immediately.
9. The application of Aircraft Deicing Fluid (“ADF”) is authorized on carrier and cargo aprons only. Any unused or out of specification ADF will be disposed of off Airport to include the ADF impact water (rinsate) from the cleaning of tanks and vehicles. Any inadvertent loss of ASF fluid that was not sprayed on an aircraft during winter operations constitutes a spill and will be cleaned up and disposed of in the same manner as a grease/oil spill.

**EXHIBIT C**  
**TENANT MODIFICATIONS: RESPONSIBILITIES OF FOUNDATION as TENANT**  
**and CITY RESPONSIBILITIES to FOUNDATION**

**RESPONSIBILITIES OF FOUNDATION AS TENANT**

1. The Foundation ("Tenant" or "Lessee") shall not begin any work on the Improvements or any future Improvements until the Aviation Department has (1) reviewed and approved preliminary site plans and preliminary plans and (2) issued a Notice to Proceed.
2. The Tenant shall submit evidence of the contractor's required insurance through completion of this project to the Aviation Department in accordance with the City's insurance policy as follows:
  - a. Tenant shall insure its Contractor shall procure and maintain in effect throughout the duration of this Project insurance coverage not less than the types and amounts specified in this section. Policies containing a Self-Insured Retention will be unacceptable to City.
    - (1) Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$2,000,000 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 \$2,000,000;
      - (d) No Contractual Liability Limitation Endorsement; and
      - (e) Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent.
    - (2) Workers' Compensation Insurance: as required by statute, including Employers' Liability with limits of: Workers' Compensation Statutory Employers' Liability \$1,000,000 accident with limits of: \$1,000,000 disease-policy limit \$1,000,000 disease-each employee
    - (3) Commercial Automobile Liability Insurance with a limit of \$1,000,000 per occurrence, covering owned, hired and non-owned automobiles (with required \$10,000,000 for Airport Operations Area users as, to the extent and when required by the City on a non-discriminate basis for all Airport Operations Area users). 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.
    - (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.
    - (5) If this Contract is for professional services, Tenant shall obtain Professional Liability (Errors and Omissions) Insurance with limits no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
    - (6) If applicable, Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and

obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

- (7) If applicable, Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- (a) The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of the Vendor. If not covered under the Vendor's liability policy, such "property" coverage of the Agency may be endorsed onto the Vendor's Cyber Liability Policy as covered property as follows:
- (b) If the Tenant maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Tenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
- (i) All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the City ten (10) days written notice of cancellation in the event that the cancellation is for Tenant's nonpayment of premiums and thirty (30) days written notice of cancellation to City for all other reasons of cancellation.
- (ii) The Commercial General and Automobile Liability Insurance Policies specified above shall provide that City and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. Tenant shall provide to City at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.
- (iii) All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of A-, V or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.
- (iv) Regardless of any approval by City, Tenant shall maintain the required insurance coverage in force at all times during the term of this Contract. Tenant's failure to maintain the required insurance coverage will not relieve Tenant of its contractual obligation to indemnify the City pursuant to this Section of this Contract. In the event Tenant fails to maintain the required insurance coverage in effect, City may declare Tenant in default.
- (v) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity,

governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

- b. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to City, ten (10) days in the event of non-payment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that 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 Agreement. Contractor shall provide prior to issuance of the Notice to Proceed a certificate of insurance showing all required endorsements and additional insureds. The certificate shall be on the City's standard form.
  - c. All insurance coverage must be written by companies that have an A.M. Best's rating of "A-V" or better, and are licensed or approved by the State of Missouri to do business in Missouri.
  - d. Regardless of any approval by City, it is the responsibility of Tenant to assure that its contractor maintains 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 Tenant's contractor's failure to maintain the required insurance in effect, City may order Tenant to immediately stop work and, upon ten (10) days' notice and an opportunity to cure, may pursue its remedies for breach of the Lease Agreement as provided for therein and by law.
3. If applicable, the Tenant will display and cause its contractors to display the field card issued by Aviation Department – Planning & Engineering, in a prominent manner on the public side of the construction barriers.
  4. The Tenant will obtain or cause its contractor to obtain all necessary permits required by the City Planning & Development Department.
  5. The Tenant will notify Aviation Department – Planning & Engineering prior to any building inspections by the City Planning & Development Department.
  6. The Tenant will notify Aviation Department – Planning & Engineering prior to scheduling a final inspection upon complete of construction. The inspection will include the Tenant's contractor.
  7. The Tenant shall provide one set of hard copy as-built drawings and one set copy electronic as-built drawings on compact disk (CD) to the Aviation Department upon completion of this project.
    - a. The hard copy version of the As-Builts shall include:
      - i. The prime contractors hand marked ('Red-lined) changes to the bid set plans in association with their trade
      - ii. The subcontractors hand marked ('Red-lined ) changes to the original bid set plans in association with their trade
    - b. The electronic version of the As-Builts shall include:
      - i. The electronic conversion of the prime contractors hand marked ('Red-lined) changes to the bid set plans made by the lead design professional of the project
      - ii. The electronic conversion of the sub-contractors hand marked ('Redlined) changes to the bid set plans made by the associated subconsultants of the project
    - c. Included in the Tenant Modification is the official Aviation Department accepted electronic version of Micro Station or Auto Cad.
    - d. Tenant shall send the As-Builts to the Aviation Department project manager before final acceptance of the project is granted.
  8. Certification of Occupancy. The Tenant shall provide the Aviation Department with a copy of the Certification of Occupancy issued by the entity representing the Kansas City Building Inspection division
  9. Excavation Permit. Tenant will assure that its contractor, before any excavation, shall secure from the Aviation Department, Planning & Engineering Division a signed excavation permit showing the

approximate location of known existing utilities in the area. The Aviation Department does not guarantee that all utilities are shown and, therefore, the contractor shall assume all risks in protecting and locating the utilities.

10. Use of Premises. Interruption of the operations of the Airport shall be kept to an absolute minimum. The contractor shall plan and perform all work under this agreement so as not to interfere with normal airport operations.
  - a. The contractor, at its own cost, shall make all arrangements for all electrical power required prior to the acceptance of the work.
  - b. The contractor shall confine its apparatus, its workmen, and its route of access to the work area to the limits shown on the drawings and the Premises or, if work is performed outside of the Premises, to the directions of the Director of Aviation. The contractor must provide its own storage for equipment and materials to be used on the job site in the area. Only Tenant's and contractor's work vehicles will be permitted on the work area. If work is performed outside of the Premises, the Contractor's employees' vehicles shall be parked only in the area designated by the Director of Aviation.
  - c. The contractor shall not allow the area of the work to become littered with trash, waste materials or debris, but shall maintain it in a neat and orderly condition.
  - d. The contractor shall protect all areas of work performed under this Agreement from damage, including damage caused by weather conditions, and contractor shall replace or repair any damaged portions to the satisfaction of the Foundation.
  - e. The contractor shall be responsible for the preservation of public and private property in and adjacent to the work area. Contractor shall be responsible, during the prosecution of the work, for all damage or injury to property of any character, or to persons, resulting from any act, omission, neglect or misconduct in its manner or method of executing the work. Contractor shall restore such property at its own expense to a condition equal to that existing before such damage or injury by repairing, rebuilding or otherwise restoring such property, as it may be directed, or shall make restitution for such damage or injury in an acceptable manner. In case of a failure on the part of the contractor to restore such property or to make good such damage or injuries, the Director of Aviation, upon 48 hours written notice to the Tenant, may repair, rebuild or otherwise restore such property as the Director may deem necessary, and the cost thereof will be the responsibility of the Tenant under this Contract.
  - f. The CITY shall have the authority to use such areas of the completed or partially completed work for such periods of time as required to maintain airport operations during emergencies. Tenant and contractor shall cooperate by providing access and shall maintain such area during its use by the CITY.
11. Health and Safety Requirement. Contractor shall furnish, erect, and maintain all safety devices required for the protection of persons, property, and operations on the Airport. The Contractor shall take all necessary precautions to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed and shall comply with all applicable provisions of federal, state and municipal safety laws and building codes.

#### **RESPONSIBILITIES OF CITY**

1. Aviation Planning and Engineering will provide, as appropriate, Foundation a copy of Aviation Department design standards.
2. Assist Foundation by placing at its disposal available information relative to the project.
3. Examine all studies, reports, sketches, estimates, specifications, drawings, and other documents presented by Foundation and shall render in writing decisions pertaining thereto within a reasonable time so as not to delay the work of Foundation.

4. Designate a person to act as the City's representative with respect to the work to be performed under this project.
5. Assist Foundation in obtaining approval of governmental authorities having jurisdiction over the project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the project.



**EXHIBIT D**  
**RULES AND REGULATIONS**

1. The sidewalks, entries, and driveways of the Premises shall not be obstructed by Tenant, or its agents, or used by them for any purpose other than ingress and egress to and from the Premises.
2. Tenant shall not place any personal property or objects in the parking areas, landscaped areas or other areas outside of its Premises, or on the roof of the Building.
3. Except for service dogs, no animals shall be allowed in, or on, any part of the Property or the Premises.
4. Tenant shall not disturb any other occupants of the Building or Premises by the use of any radio, speakers, or musical instrument or by the making of loud or improper noises.
5. If Tenant desires telegraphic, telephonic or other electronic connections in the Premises, Landlord or its agents will direct the electrician as to where and how any conduit or wires may be introduced; and, without such direction, no boring or cutting of wires or conduit will be permitted. Any such installation or connection shall be made at the Tenant's expense.
6. Tenant shall not install or operate any steam or gas engine or boiler except as specifically approved in the Lease. The use of oil, gas or inflammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Premises.
7. Parking any type of recreational vehicles is specifically prohibited on or about the Premises or Property. Parking any type of trucks, trailers or other vehicles in the Building is specifically prohibited. In no event shall inoperable cars, trucks or trailers be parked at the Premises. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. All parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specified by Landlord or in the Lease. There shall be no repair, maintenance or washing of vehicles in the parking lot, drive areas, or truck courts.
8. Tenant shall maintain indoor Premises free from rodents, insects and other pests.
9. Landlord reserves the right to exclude or expel from the Premises any person who, in the judgement of the Landlord, is intoxicated or under the influence of liquor or drugs or who shall in any manner do any act in violation of the Rules and Regulations of the Premises.
10. Tenant shall not cause any unnecessary labor or maintenance by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to Tenant for any loss of any property on the Premises, however occurring, or for any damage done to the effects of Tenant by the janitors, maintenance personnel, or any other employee or person.
11. Tenant shall give Landlord prompt notice of any defects or leaks in the water, lawn sprinkler, sewage, gas pipes, exterior electrical lights and fixtures, heating apparatus, fire sprinklers or any other service system or equipment affecting the Premises.
12. Tenant shall not permit dumping waste or refuse, other than in the designated receptacles, or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises, Building or property.
13. All movable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas provided for that purpose and all trash receptacles shall remain closed at all times.
14. No public or private auction will be permitted on the Premises, Building or the Property.
15. No awnings shall be placed over the windows in the Premises except with the prior written consent of Landlord.

16. The Premises shall not be used for lodging, sleeping or cooking (other than kitchenette or break room use) or for any immoral or illegal purposes or for any purpose other than that specified in the Lease. No gaming devices shall be operated in the Premises.
17. Tenant shall ascertain from Landlord the maximum amount of electrical load which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Building, Premise or the Property and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electrical equipment shall not relieve Tenant from the obligation to use no more electricity than such safe capacity.
18. Tenant assumes full responsibility for protecting the Premises from theft, robbery and pilferage.
19. Tenant shall not permit recreational or medical marijuana to be grown, sold, dispensed, or consumed on the Premises or Property, provided that this Rule 19 will not prohibit Tenant's ability, in the normal course of its business operations, to transport cannabis containing products, provided Tenant's operations remain in compliance with Legal Requirements.
20. Tenant shall not permit smoking in any interior area of the Premises.

**EXHIBIT E**  
**CREO CIVIL RIGHTS & 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.

**PART II**  
**SUPPLEMENTAL TERMS AND CONDITIONS**  
**TO ALL AIRPORT AGREEMENTS (102623)**

**SECTION 1. TERMS AND CONDITIONS ESTABLISHED IN THIS SECTION SHALL APPLY REGARDLESS OF MORE PERMISSIVE LANGUAGE IN ANY OTHER SECTION OF THIS CONTRACT.** Changes in contract performance or source of funding may result in the application of additional provisions. The term Lessee for purposes of Part III shall include parties granted property based rights under Part I and II of this agreement. Lessee for purposes of Part III shall include Licensees and Permittee, however, shall not be afforded Lease rights and privileges unless granted such in Part I and II. Lessee performing construction or other work requiring AIP compliance shall be referred to as "Contractor" herein. Concession agreement specific ACDBE requirements are contained in the Concession agreement.

**SECTION 2. COMPLIANCE WITH APPLICABLE LAW.** By submitting the proposal that this agreement is based on, the Lessee affirms that the Lessee and its team members and employees shall comply with all federal, state and local laws, ordinances and regulations applicable to the Contract. This obligation includes compliance with City's nondiscrimination laws, including to the extent applicable including those set out in this agreement and attached to this Contract. Lessee shall secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of its obligations under this Contract.

**SECTION 3. DUTIES AND OBLIGATIONS NOT LIMITED.** The duties and obligations imposed by this Contract and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

**SECTION 4. SCOPE OF WORK LIMITED.** This contract is strictly limited to the scope of work outlined herein. The scope of work cannot be altered except by written amendment or change order incorporating additional provisions. Altering the scope of work to include services funded through Airport Improvement Funds may require additional contractual provisions and obligations and void this contract and any obligations of the City to pay for services provided under the terms of this agreement.

**SECTION 5. ACCESS TO RECORDS.** The Lessee must maintain an acceptable cost accounting system. The Lessee agrees to provide the Owner, 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 contract for the purpose of making audit, examination, excerpts and transcriptions. The 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.

**SECTION 6. GENERAL CIVIL RIGHTS PROVISIONS.** In all its activities within the scope of its airport program, the Lessee agrees to 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, color, 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 the 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.

## **SECTION 7. CIVIL RIGHTS – TITLE VI ASSURANCE**

- A. **TITLE VI Solicitation Notice.** The City of Kansas City, Missouri, 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 for any contract entered into pursuant to this advertisement, businesses will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will 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.
- B. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this contract, the Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the “Lessee”) 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 100-209) (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).

C. **Compliance with Nondiscrimination requirements.** During the performance of this contract, the Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the “Lessee”) agrees as follows:

1. **Compliance with Regulations:** In all its activities within the scope of its airport program, the Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts 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. **Nondiscrimination:** 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 Nondiscrimination Acts and 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 Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Lessee 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 Lessee of the Lessee’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
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 Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination 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 Sponsor 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 Sponsor 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 Sponsor 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 Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Lessee may request the United States to enter into the litigation to protect the interests of the United States.

7. **Limited English Proficiency.** 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.

**SECTION 8. 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.

**SECTION 9. ADDITIONAL FEDERAL REQUIREMENTS.** This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the City of Kansas City and the United States relative to the development, operation or maintenance of the airport, including grant agreements.

This Agreement and all the provisions hereof shall be subject to whatever right the United States government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of any City airport, all or a portion of the airport system, or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the premises.

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 of eighty (80) feet. 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.

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



**SECTION 10. CLAUSES FOR CONSTRUCTION, USE, AND ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM— License, Permits, Concession on Property Improved Under AIP**

- A. The (Contractor, grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, contractor, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- B. With respect to (licenses, leases, permits, right to use under contract, etc.), in the event of breach of any of the above Non-discrimination covenants, City of Kansas City, Missouri, will have the right to terminate the (license, permit, contract, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, contract, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, City of Kansas City, Missouri will there upon revert to and vest in and become the absolute property of City of Kansas City, Missouri and its assigns.

**SECTION 11. REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE AIRPORT IMPROVEMENT PROGRAM.**

- A. The (contractor, grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, contract, etc.) 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 (contractor, grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, 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, contracts, etc., in the event of breach of any of the above Nondiscrimination covenants, City of Kansas City, Missouri will have the right to terminate the (contract, lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (contract, lease, license, permit, etc.) had never been made or issued.
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of Kansas City, Missouri, will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the City of Kansas City, Missouri, and its assigns.

**SECTION 12. RESTRICTED AREAS SAFETY AND 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 airport security protocols and training established in accordance with 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 Contract unless expressly authorized in writing by the Director in accordance with TSA CFR 49 part 1542. In the event Lessee, its officer, employees, or invitees 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.

**SECTION 13. RESERVATIONS.** The City reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Lessee and without interference or inference.

The City reserves the right, but shall not be 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.

There is hereby reserved to the City, its successors, assigns and subsequent transferees, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises. The public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation from the Kansas City Downtown Airport and/or the Kansas City International Airport.

**SECTION 14. ACCOMMODATIONS.** Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to patrons.

Lessee shall insert this requirement in any agreement, contract or other document by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein.

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 as a result of this agreement to the general public.

Non-compliance with this provision shall constitute a material breach thereof and in the event of such non-compliance the City of Kansas City shall have the right to terminate this Agreement without liability therefore or at the election of the City of Kansas City or the United States, either or both said governments shall have the right to judicially enforce these provisions.

**SECTION 15. AFFIRMATIVE ACTION REQUIREMENTS.** Reserved.

**SECTION 16. BREACH OF CONTRACT.** Reserved.

**SECTION 17. BUY AMERICAN PREFERENCE.** Reserved.

**SECTION 18. CLEAR AIR and WATER POLLUTION CONTROL.** Reserved.

**SECTION 19. CONTRACT WORK HOURS AND SAFETY STANDARDS.** Reserved.

**SECTION 20. COPELAND ANTI-KICKBACK.** Reserved.

**SECTION 21. DAVIS BACON REQUIREMENTS.** Reserved.

**SECTION 22. DEBARMENT AND SUSPENSION.** Reserved.

**SECTION 23. DISADVANTAGED BUSINESS ENTERPRISE.** Reserved.

**SECTION 24. DISTRACTED DRIVING.** Reserved.

**SECTION 25. DOMESTIC PREFERENCES FOR PROCUREMENTS.** Reserved.

**SECTION 26. EQUAL EMPLOYMENT OPPORTUNITY.** Reserved.

**SECTION 27. FAIR LABOR STANDARDS ACT.** Reserved.

**SECTION 28. FOREIGN TRADE RESTRICTION.** Reserved.

**SECTION 29. LOBBYING FEDERAL EMPLOYEES.** Reserved.

**SECTION 30. OCCUPATIONAL SAFETY AND HEALTH ACT.** Reserved.

**SECTION 31. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** Reserved.

**SECTION 32. PROHIBITION OF SEGREGATED FACILITIES.** Reserved.

**SECTION 33. RECOVERED MATERIALS.** Reserved.

**SECTION 34. RIGHT TO INVENTIONS.** Reserved.

**SECTION 35. SEISMIC SAFETY.** Reserved.

**SECTION 36. TAX DELINQUENCY AND FELONY CONVICTION.** Reserved.

**SECTION 37. TERMINATION OF CONTRACT.** Reserved.

**SECTION 38. TRADE RESTRICTION.** Reserved.

**SECTION 39. VETERAN'S PREFERENCE.** Reserved.