

Part II

AVIATION DEPARTMENT STANDARD LEASE CONDITIONS

I. Definitions.

A. "Airport" means Kansas City International Airport and Downtown Airport, in accordance with the context of this Lease.

B. "City" means City of Kansas City, Missouri.

C. "Code" means Kansas City, Missouri Code of General Ordinances.

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

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

F. "Director" means Kansas City, Missouri Director of Aviation.

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

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

I. "Premises" means the leasehold or site occupied by Lessee pursuant to the lease,

license or permit that is the subject of this Lease.

II. Premises Use and Ownership.

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

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

C. Lessee's Access to Premises.

Licensee is granted the right, for itself, its agents, employees, patrons, suppliers and other persons doing business with Licensee, of ingress and egress to and from the Premises over Airport roadways, including the use of common use roadways, and other common areas as reasonable necessary to use the Premises 24 hours a day, 7 days a week, subject only to law and to such reasonable rules and regulations governing the use of the Airport as the Director may establish. Notwithstanding the forgoing, Licensee is required to obtain all appropriate badging at their sole cost and expense and comply with all security and access requirements. "Common areas" shall mean those areas which are furnished in and about the Premises for the common and non-exclusive use of Licensee and City and their officers, agents, employees, customers, invitees and licensees.

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

E. Permits/Licenses. Lessee will obtain, maintain and pay for all licenses and

permits necessary or required by law for the conduct of its business and operations.

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

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

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

III. Repair & Maintenance of Premises.

A. Provisions Applicable to All Leases.

1. Lessee will keep the Premises and all improvements thereon in good repair and in a clean and orderly condition and appearance, all papers and debris picked up, and the areas immediately adjacent to the exits and entrances clean and orderly and free of obstructions. Lessee will not do

or suffer any material waste or damage, disfigurement or injury to the Premises or any part thereof.

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

IV. Assignment, Sublease & Encumbrances.

A. Upon written notice to Licensor, Licensee may assign the License to its principal, affiliates, subsidiaries or any entity which acquires all or substantially all of its assets in the applicable Federal Communications Commission license area by reason of a merger, acquisition or other business reorganization without the consent of City.

B. As to other parties, this License may not be sold, assigned or transferred without the prior written consent of Licensor, which consent will not be unreasonably withheld and following such consent, Licensee shall provide to City a duplicate original of such assignment within sixty (60) days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee, by which the assignee shall assume all of the terms, covenants and conditions of this License on the part of the Licensee to be performed and observed.

No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder.

Any assignment of this License shall:

- a. Be in writing, duly executed and acknowledged by the assignor;
- b. Include the entire then unexpired term of this License; and
- c. Include each and every obligation of Licensee, transferred and accepted by assignee.

V. Defaults & Remedies.

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

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

or a voluntary agreement with Lessee's creditors;

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

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

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

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

1. Terminate the Lease upon three (3) days written notice to Lessee;
2. Re-enter the Premises and every part thereof on the effective date of termination of the Lease without further notice of any kind, remove any and all persons therefrom and regain and resume possession either with or without the institution of summary or legal proceedings. Such re-entry, however, shall not in any manner affect, alter or diminish any of the obligations of Lessee under the Lease;
3. Upon termination of the Lease or upon re-entry, regaining or resumption of possession of the Premises, occupy the

Premises and have the right in the name of the City to relet and permit any person, firm or corporation to enter the Premises and use the same for such term and on such conditions as City may determine; and

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

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

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

VI. Termination of Lease.

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

B. Holding Over. Should Lessee hold over the use of or continue to occupy the Premises or any part thereof after the termination of the letting, the holding over shall be deemed merely a tenancy from month to month upon a monthly rental in an amount equal to the rate existing at the end

of the Lease term (subject, however, to reappraisal or CPI-U increases).

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

D. Waiver of Redemption and Damages. Lessee hereby waives any and all rights or redemption granted by or under any present or future law or statute arising in the event it evicted or dispossessed for any cause or in the event City obtains or retains possession of the Premises in any lawful manner. Lessee further agrees that in the event the manner or method employed by City in reentering or regaining possession of the Premises gives rise to a cause of action in Lessee for damages or in forcible entry and detainer under the laws of the State of Missouri, then the total amount of damages to which Lessee shall be entitled to in any such action shall be the sum of One Dollar (\$1.00) and Lessee agrees that the provisions of this section may be filed in any such action as its stipulation fixing the amount of damages to which it would be entitled therein.

E. Termination from Taking. If during the term of this Lease there shall be a taking of the whole or substantially all of the Premises, this Lease shall terminate and expire on the date of such taking and the rent payable hereunder shall be equitable apportioned and paid to the date of such taking. "Substantially all of the Premises" shall be deemed to have been taken if the

untaken part of the premises shall be insufficient for the economic and feasible continued operation of the Lessee's business in connection therewith.

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

VII. Quiet Enjoyment.

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

VIII. Environmental Requirements.

A. Lessee hereby covenants and agrees to comply in all material respects with all applicable Environmental Laws and Regulations in connection with its use and occupancy of the Premises, or its operations of the facilities. For purposes of this Lease, "Environmental Laws" shall mean and include all federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. §7401 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. §136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 et seq.; the Noise Control Act, 42 U.S.C. §4901 et

seq.; the Occupational Safety and Health Act, 29 U.S.C. §651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §9601 et seq.; the Toxic Substance Control Act ("TSCA"), 15 U.S.C. §2601 et seq.; the Atomic Energy Act, 42 U.S.C. §2011 et seq.; and the Nuclear Waste Policy Act of 1982, 42 U.S.C. §1010 et seq.; all Missouri State environmental protection, superlien and environmental clean-up statutes, with implementing regulations and guidelines and all local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

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

C. Access for Environmental Inspection. City shall have access to the Premises to inspect the same in order to confirm Lessee

is using the Premises in accordance with all of environmental laws. Any tests shall be conducted by qualified independent experts chosen by Lessee and subject to City's approval. Lessee shall provide copies of reports from any testing to City upon receipt.

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

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

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

G. Environmental Remediation. Lessee shall undertake such steps to remedy and remove any Hazardous Materials and any other environmental contamination that arises out of Lessee's use of the Premises that are necessary to protect the public health and safety and the environment from actual or potential harm and to bring the Contaminated Premises into compliance with all environmental laws. Such work shall be performed at Lessee's sole expense, after Lessee submits to City a

written plan for completing such work and receives the prior written approval of City. City shall have the right to review and inspect all such work at any time using consultants and representatives of its choice. Lessee shall pay the cost of such review and inspection. Specific cleanup levels for any environmental remediation work shall be designed to meet all of the applicable environmental laws.

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

I. Duty to Correct Hazardous or Potentially Hazardous Conditions. If City reasonably determines that a condition of the Premises or other City property caused as a result of Lessee's use of the Premises is hazardous or potentially hazardous to persons or property, it may direct Lessee, in writing, to correct the condition, and Lessee, at its expense, shall immediately comply with such directive.

J. Environmental Indemnification. In addition to any indemnification set forth herein, Lessee hereby indemnifies and agrees to defend and hold harmless City, its agents, partners, officers, representatives and employees, from all costs, claims, demands, actions, liabilities, complaints, fines, citations, violations or notices of violation ("Claims") arising from or attributable to (i) the presence due to Lessee's handling, generation, manufacturing, processing, treating, storing, using, reusing, refining, recycling, reclaiming, blending or burning for energy recovery, incinerating, accumulating speculatively, transporting, transferring, disposing or abandoning of Hazardous Materials ("Management") at the Airport or the subsurface thereof or the violation of

any environmental laws due to Lessee's Management, including, without limiting the generality thereof, any cost, claim, liability or defense expended in remediation required by a governmental authority, or by reason or any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment (as environment is defined in CERCLA), due to Lessee's Management at the Airport or violation of any environmental laws), or (ii) any breach by Lessee of any of its warranties, representations or covenants in this Section. Lessee's obligations hereunder shall survive the termination or expiration of this Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Airport or any part thereof.

K. Definitions. For purposes of this Section, the term "Hazardous Materials" shall mean and include the following, including mixtures thereof; any hazardous substance, pollutant, contaminant, waste, by-produce or constituent as defined in any environmental law; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos-containing materials, PCBs and other substances regulated under the TSCA; source material, special nuclear material, by-produce material and any other radioactive materials or radioactive wastes however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. §1910.1200 et seq.; any "Hazardous Waste" as defined by the Missouri Hazardous Waste Management Law, Mo.Rev.Stat. §§260.350 to 260.480; and industrial process and pollution control

wastes, whether or not hazardous within the meaning of RCRA.

IX. General Indemnification.

A. For purposes of this Section 1 only, the following terms shall have the meanings listed:

1. **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.

2. **Lessee's Agents** means Lessee's officers, employees, sublessees, subcontractors, successors, assigns, invitees, and other agents.

3. **City** means City, its Agencies, its agents, officials, officers and employees.

B. Lessee's obligations under this Section with respect to indemnification for acts or omissions, including negligence, of City, shall be limited to the coverage and limits of insurance that Lessee is required to procure and maintain under this Contract. Lessee affirms that it has had the opportunity to recover all costs of the insurance requirements imposed by this Contract in its contract price.

C. Lessee 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 Contract caused in whole or in part by Lessee or Lessee's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of City. Lessee is not obligated under this Section to indemnify City for the sole negligence of City.

D. 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.

X. Insurance.

A. Contractor shall procure and maintain in effect throughout the duration of this Contract 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 Contract, Contractor shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City unless City approves in writing the Contractor's Self-Insured Retention.

(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) Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
- (c) No Contractual Liability Limitation Endorsement.
- (d) Additional Insured Endorsement, ISO form CG20 10, or its equivalent.

(2) If applicable, Workers' Compensation Insurance, as required by statute, including Employers Liability with limits of:

Workers' Compensation Statutory
Employers Liability \$100,000 accident with
limits of:

- \$500,000 disease-policy limit
- \$100,000 disease-each employee

(3) Commercial Automobile Liability Insurance: with a limit of \$1,000,000 written on an "occurrence" basis, covering owned, hired, and non-owned automobiles. If the Contractor owns vehicles, coverage shall be provided on an "any auto" basis. If the Contractor does not own any vehicles, coverage shall be provided on a "hired autos" and "non-owned autos" basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor

vehicles, as to acts done in connection with the Agreement, by Contractor.

(4) If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.

B. The Commercial General 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 included as additional insureds for the services performed under this Contract. Contractor shall provide to City at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds. The certificates of insurance will contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

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. Contractor's failure to maintain the required insurance coverage will not relieve Contractor of its contractual obligation to indemnify the City pursuant to Sections 1 and 2. If the coverage afforded is cancelled or changed or its renewal is refused, Contractor shall give at least thirty (30) days prior written notice to City. In the event of Contractor's failure to maintain the required insurance in effect, City may order Contractor to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Contract as provided for herein and by law.

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.

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

XI. Improvements and Modifications.

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

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

C. Removal of Fixtures. If Lessee is allowed to remove any fixtures or improvements when this Lease terminates, it will do so at its expense and will restore

the Premises to its original condition prior to installation of the fixtures or improvements.

XII. City Requirements.

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

1. Gratuities. Lessee certifies that it has not and will not offer or give any city employee or officer a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a contract requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract, or to any solicitation or proposal therefor.

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

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

employment to perform services on behalf of Lessee in this Lease.

C. Prohibition Against Contingent Fees.

The provisions of City's Code Section 2-1766, prohibiting the retention of persons to solicit contracts for contingent fees, and Sections 2-1770 and 2-1771, imposing sanctions for violations, shall apply to this Lease. Lessee certifies that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Lessee for the purpose of securing business. For breach or violation of this warranty, City shall have the right to annul this Lease without liability or, at its discretion, to deduct from the Lease price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee. (Code § 2-1766)

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

E. Earnings Tax/Occupational License Clearance. As a condition precedent to approval of this Lease if over \$131,000, Lessee shall furnish the City sufficient proof from City's Commissioner of Revenue, dated not more than 60 days before the date furnished to the City, that it is not delinquent for any City earnings or occupational license taxes, including withholdings from its respective employees.

F. Records/Audit. The City Auditor, City's Director of Human Relations and the Aviation Department shall have the right to audit this Lease and all Lessee's books, documents and records relating thereto and such books, documents and records will be made available on ten (10) days written notice. Lessee agrees to maintain its books, records and documents relating to

this Lease during the Lease term and for three (3) years thereafter.

XIII. Miscellaneous Provisions.

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

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

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

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

E. Rights & Remedies Cumulative. All rights and remedies granted to City herein and any other rights and remedies which City may have at law and in equity are hereby declared to be cumulative and not exclusive, and the fact that the City may have exercised any remedy without

terminating this Lease shall not impair City's rights thereafter to terminate or to exercise any other remedy herein granted or to which City may be otherwise entitled.

F. Modification.

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

2. No act, conversation or communication with any officer, agent or employee of City, either before or after the execution of this Lease, shall affect or modify any term or terminology of this Lease and any such act, conversation or communication shall not be binding upon City or Lessee.

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

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

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

J. Compliance With Laws. Lessee shall comply with all federal, state and local laws, ordinances and regulations applicable to this Lease. Lessee, at its own expense, shall secure all occupational and professional licenses and permits from

public or private sources necessary for the fulfillment of its obligations under this Lease.

K. Force Majeure. Neither party shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of this Agreement due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, action of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible or which is not in its power to control.

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

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

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

O. Affirmative Action. If applicable, Lessee shall establish and maintain for the term of this Lease an Affirmative Action Program in accordance with the provisions of Chapter 3 of the City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto. Lessee shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry or national origin, sex, disability, age, or sexual orientation, in a manner prohibited by Chapter 3 of the City's Code, then such failure shall be deemed a total breach of this Lease and this Lease may be terminated, canceled or suspended, in whole or in part, and Lessee may be declared ineligible for any further contracts funded by the City for a period of one (1) year. This is a material term of this Lease.