



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

November 1, 2011

Ordinance 17217

Proposed No. 2011-0426.1

Sponsors McDermott, Hague, Phillips,
Patterson, Lambert, Gossett, Ferguson and
Dunn

1 AN ORDINANCE authorizing the King County executive
2 to enter into a long-term lease agreement with CharlesAir
3 LLC for a portion of the King County international airport
4 located in council district 8.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 SECTION 1. Findings: In accordance with K.C.C. 4.56.150, 4.56.160, 4.56.180
7 and chapter 15.72, the King County council may adopt an ordinance permitting the
8 county to lease its property for a term of years not to exceed thirty-five years if the value
9 of the leasehold improvements is or will be at least equal to the value of the property to
10 be leased.

11 SECTION 2. The King County executive has negotiated a new lease with
12 CharlesAir LLC providing for its construction of a corporate aircraft hangar and office
13 complex at King County international airport.

14 SECTION 3. The appropriate county officials, agents and employees are hereby
15 authorized to take all actions necessary to implement the lease and all actions up to now
16 taken by county officials, agent and employees consistent with the terms and purposes of
17 the lease agreement are hereby ratified, confirmed and approved.

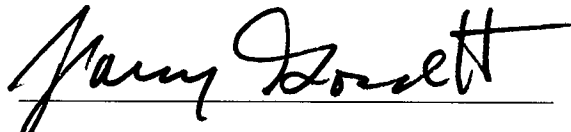
18 SECTION 4. If any one or more of the covenants or agreements provided in this
19 ordinance to be performed on the part of the county is declared by any court of competent
20 jurisdiction to be contrary to law, then such a covenant or covenants, agreement or
21 agreements are null and void and shall be deemed separable from the remaining
22 covenants and agreements of this ordinance and in no way affect the validity of the other
23 provisions of this ordinance or of the lease.

24 SECTION 5. The King County executive is hereby authorized to execute a lease
25 agreement in substantially similar form to Attachment A to this ordinance.
26

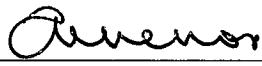
Ordinance 17217 was introduced on 10/24/2011 and passed by the Metropolitan King
County Council on 10/31/2011, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr.
McDermott
No: 0
Excused: 0

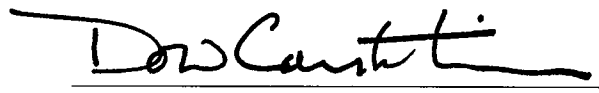
KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 9 day of NOVEMBER, 2011.


Dow Constantine, County Executive

RECEIVED
2011 NOV - 9 PM 0:55
CLERK
KING COUNTY COUNCIL

Attachments: A. CharlesAir LLC Lease Agreement

Attachment A

Lease
CharlesAir LLC

KING COUNTY INTERNATIONAL AIRPORT

7277 Perimeter Road S
 Seattle, Washington 98108
 (206) 296-7380

LEASE AGREEMENT

1. PARTIES. This Lease effective the ____ day of _____ 2011, is between King County, a municipal corporation and a political subdivision of the State of Washington, and CharlesAir LLC, herein called "Lessee."
2. PREMISES. King County hereby rents to Lessee, upon the following terms and conditions, premises located in King County, Washington, legally described in Exhibit "A" (attached) (the "Premises"), and commonly known as:

 Property Known as: 9010 East Marginal Way South, Seattle, WA 98108
 Approx. 210,928± Square Feet.
3. TERM.
 - A. The term of this Lease is for thirty-five (35) years (the "Lease Term"). The Lease Term shall commence on the Commencement Date, and end on the thirty-fifth (35th) anniversary of the Commencement Date.
4. COMMENCEMENT DATE. The Commencement Date of this Lease shall be twenty (20) days after the effective date of an ordinance adopted by the King County Council approving this lease. By executing and delivering a copy of this Lease to King County, Lessee shall be deemed to have made an offer to enter into this Lease that Lessee shall have the right to rescind and withdraw by written notice to King County given at any time prior to the adoption of such ordinance by the King County Council. If Lessee so rescinds and withdraws its offer to enter into this Lease, this Lease shall not become effective or binding on either party and neither party shall have any rights or obligations hereunder.
5. RENT. Rent for the Premises shall be as set forth in this Section 5 and shall be subject to adjustment under Section 2 of the General Terms and Conditions attached hereto as Exhibit B. So that the periodic adjustments in rent under Section 2 of the General Terms and Conditions occur in the same years as the comparable adjustments of rent under other airport leases (in 2012 and every three years thereafter, i.e., in 2015, 2018, 2021 and so on), King County and Lessee have agreed that, depending on when the Commencement Date occurs, rent initially will be governed by either Section 5(A) or 5(B) below.
 - A. If the Commencement Date occurs before January 1, 2012, Lessee shall pay to King County initial rent of \$1.60 per square foot of the Premises per year,

\$28,123.73 DOLLARS per month, payable in advance on or before the first day of each and every calendar month, for the period from the Commencement Date to but not including the first annual anniversary of the Commencement Date. Effective on and continuing after the first annual anniversary of the Commencement Date through the remainder of the Lease Term, Lessee shall pay to King County the Fair Market Rental Value of the Premises, as defined in and from time to time redetermined pursuant to Section 2 of the General Terms and Conditions attached hereto as Exhibit B. For example, if the Commencement Date were November 21, 2011, Lessee would pay rent at an initial rate of \$1.60 per square foot of the Premises for the period from November 21, 2011 through November 20, 2012, and at the Fair market Rental Value of the Premises, determined in accordance with Section 2 of the General Terms and Conditions, from and after November 21, 2012 until the next adjustments of rent under Section 2 of the General Terms and Conditions on November 21, 2015, 2018, 2021 and so on.

- B. If the Commencement Date occurs on or after January 1, 2012, Lessee shall pay to King County the Fair Market Rental Value of the Premises as set forth in the updated airport appraisal schedule to be completed prior to January 1, 2012 (the "New Appraisal") for the period from the Commencement Date to the third annual anniversary of the Commencement Date in 2015. Effective on and continuing after the third annual anniversary of the Commencement Date through the remainder of the Lease Term, Lessee shall pay to King County the Fair Market Rental Value of the Premises, as defined in and from time to time redetermined pursuant to Section 2 of the General Terms and Conditions. For example, if the Commencement Date were January 21, 2012, Lessee would pay rent at the Fair Market Rental Value of the Premises as set forth in the New Appraisal for the period from January 21, 2012 through January 20, 2015, and, commencing on January 21, 2015, 2018, 2021 and so on, at the Fair Market Rental Value of the Premises, determined for each new three-year period in accordance with Section 2 of the General Terms and Conditions. When the New Appraisal has been completed, King County shall deliver a copy thereof to Lessee.
- C. Lessee shall also pay Leasehold Excise Tax levied on the rent pursuant to RCW Chapter 82.29A ("LET"), currently at a rate of 12.84%, which would be \$3,611.09 DOLLARS per month based on the initial, temporary rental rate of \$1.60 per square foot of the Premises per year. If and when the rent changes by reason of an adjustment pursuant to Section 2 of the General Terms and Conditions (including one made pursuant to Section 5(A) above, if applicable), the amount of LET payable by Lessee shall be adjusted accordingly.
- D. All adjustments to rent shall be made in compliance with applicable FAA regulations requiring that similarly situated tenants be treated similarly.

- E. All rents and taxes shall be made payable to the KING COUNTY INTERNATIONAL AIRPORT and are to be received in the office of:

King County International Airport
7277 Perimeter Road S
Seattle, Washington 98108

- F. Said rent is exclusive of any other sale, franchise, business or occupation, or other tax based on rents. Should any such taxes apply during the life of this Lease, the rent shall be increased by such amount.
- G. As consideration for the Lessee's agreement to pay all costs associated with the demolition and removal of the existing improvements coupled with the design and construction costs for the airfield access ramp, Lessee, during the first thirty-seven (37) months following commencement of the Lease, will pay 25% of the initial rent. Per RCW 82.29A.020, LET will remain 12.84% of the full rental rate of the Premises as in effect from time to time.

6. SECURITY AND DAMAGE DEPOSITS. At the Commencement Date of this Lease, the Lessee shall pay the first (1st) month's rent and leasehold excise tax. In addition, at the Commencement Date of this Lease, the Lessee shall deposit with King County a sum equal to two (2) months of the rent then payable under whichever of Section 5(A) or 5(B) above is applicable (without taking into account the rent abatement under Section 5(G) above), plus the LET payable thereon as a security deposit for the payment of rent and tax. If and when the rent is adjusted under Section 2 of the General Terms and Conditions (including pursuant to Section 5(A) above, if applicable), the security deposit will be adjusted, if necessary, to an amount equal two (2) months' rent, plus LET thereon, and either King County shall refund to Lessee the excess of the security deposit then held by King County over such amount (if rent decreases) or Lessee shall deposit with King County any shortfall between the security deposit then held by King County and such new amount (if rent increases). The security deposit may be made, at Lessee's election, either in cash or in the form of an irrevocable letter of credit in favor of King County. If made in the form of a letter of credit, Lessee shall renew or replace said letter of credit not later than 30 days prior to the expiration thereof, or King County shall be entitled to convert the letter of credit to a cash security deposit. The security deposit is the only sum to be credited toward payment of the last month's rent upon Lessee's termination of the Lease. The return of this deposit, or any portion of it, shall be conditioned on the performance of all the Lessee's duties. Within (60) days after termination of the tenancy and vacation of the Premises King County will return any sum due the Lessee from this deposit retained by King County. Furthermore, the Lessee understands and agrees that all rents, late charges and utility bills owing, unless paid by the Lessee, may be deducted from the deposit for damage and cleaning at the time of Lessee's vacation of the Premises if any amount remains in that fund after subtraction of damage and cleaning costs. The deposits need not be held in any special account and no interest will be paid thereon.

7. USE. Lessee shall use said Premises for the following purposes and no others without prior written consent of King County:
- Construction of hangar and related improvements for operations permitted under the next following bullet point
 - Tenant Owned/Leased aircraft storage, repair, maintenance, overhaul, reconstruction, self-fueling; other non-retail aviation purposes; and non-retail reception, lounge, dining, offices and automobile parking supporting such aviation purposes
- To the best knowledge of King County, the lease of the Premises by King County to Lessee pursuant to this Lease does not violate, and complies in all material respects with, all applicable subdivision laws, ordinances, rules and regulations and there are no conditions, restrictions or encumbrances to which the Premises are subject that would preclude the redevelopment and use of the Premises by Lessee as provided in this Lease. Upon the Commencement Date, King County shall deliver the Premises to Lessee free and clear of all tenancies or occupancies of any kind. If it is hereafter alleged that the lease of the Premises by King County to Lessee pursuant hereto violates or does not comply in all material respects with an applicable subdivision law, ordinance, rule or regulation, King County shall take such commercially reasonable actions as it lawfully may to defend against such allegation and, if the allegation has a reasonable basis in fact or law, to cure such alleged violation or noncompliance.
8. DEMOLITION OF EXISTING IMPROVEMENTS. Lessee is responsible for the demolition and removal of all existing improvements on the Premises, securing all necessary demolition permits, and paying for all other costs associated with site preparation. It is estimated that the cost for demolition, as contemplated in this paragraph, will be approximately \$700,000.00.
9. CONSTRUCTION OF AIRFIELD ACCESS. Lessee is responsible for the design and construction of an airfield access ramp from the Premises to the west taxiway of King County International Airport. The airfield access ramp constructed shall be consistent with the general design and have the load characteristics of the ramp described in Exhibit "C" hereto. Lessor agrees to cooperate with Lessee to obtain all necessary and appropriate permits and approvals required for construction of such airfield access ramp, and to undertake all necessary and appropriate actions allowing Lessee to expeditiously construct such airfield access ramp. It is estimated that the cost to construct such an airfield access ramp will be from \$700,000.00 to \$900,000.00.
10. CONSTRUCTION OF IMPROVEMENTS. King County hereby approves the construction by Lessee of hangar, maintenance, office and related facilities on the Premises (the "Project"), as more specifically described in Exhibit "C" attached hereto. Lessee shall use commercially reasonable efforts to submit to King County's Department of Development and Environmental Services a building permit application (including detailed plans and specifications) for the lease improvements

described in Exhibit "C" no later than 150 days after the Commencement Date of this Lease. Lessee shall also use commercially reasonable efforts to obtain all permits for the Project (in final, unappealable form) from agencies with jurisdiction (the "Project Approvals") no later than one (1) year from the Commencement Date of this Lease (the "Outside Permit Date"), and shall commence demolition of existing improvements on the Premises within 30 days of the date all Project Approvals are obtained (the "Demolition Commencement Date"). Lessee shall thereafter undertake and complete the permitted improvements within a commercially reasonable amount of time following the Demolition Commencement Date.

If Lessee determines, in its sole discretion, that it cannot, after all commercially reasonable efforts have been exhausted, obtain the Project Approvals to enable it to substantially construct the Project as contemplated in Exhibit C, then Lessee may terminate this Lease by written notice to King County given within thirty (30) days following the Outside Permit Date, with all rents paid and costs incurred by Lessee, including but not limited to permit costs, design and development expenses, and costs associated with the demolition of the existing hangar, to be forfeited by Lessee. If, despite Lessee's having submitted a complete building permit application that complies with applicable requirements within the timeframe provided above and used commercially reasonable efforts to obtain all Project Approvals required to be obtained from King County, King County fails to process Lessee's application and issue Project Approvals in a reasonable period of time, taking into account the nature of Lessee's proposed construction and the time normally required by King County to process similar applications, Lessee shall be entitled to an abatement of rent equal to one day's rent for each day of King County's delay in issuing Project Approvals beyond such reasonable period.

The estimated total cost of the improvements described in this paragraph is approximately NINETEEN MILLION DOLLARS (\$19,000,000.00).

11. OPTION TO RECLAIM A PORTION OF THE PREMISES. King County shall have the right, at any time and in its sole and absolute discretion, by written notice to Lessee (the "Termination Notice"), to terminate this Lease with respect to the portion of the Premises comprising approximately fifty thousand square feet (50,000 s.f.) that is identified on Exhibit C as the "Option Parcel." If King County gives a Termination Notice, this Lease shall terminate with respect to the Option Parcel on the date (the "Option Parcel Termination Date") specified in the Termination Notice, which date shall not be earlier than one hundred eighty (180) days after the Termination Notice is given. On the Option Parcel Termination Date, Lessee shall surrender the Option Parcel to King County in good condition, free of all (a) improvements placed thereon by Lessee (other than paving, landscaping and subsurface improvements such as drainage lines, all of which may remain), (b) all tenancies created by Lessee and (c) all claims and interests arising through or under Lessee, all of which Lessee shall remove or cause to be released at its sole cost and expense. From and after the termination of the Lease with respect to the Option Parcel, King County shall be solely responsible for the Option Parcel and the use and occupancy thereof and

Lessee shall have no further obligations or liability with respect thereto other than those that, by their express terms, survive the expiration or termination of the Lease. In connection with the termination of this Lease with respect to the Option Parcel, Lessee and King County shall enter into an amendment to this Lease that changes the description of the Premises and the rent to reflect the termination of the Lease with respect to the Option Parcel. It shall be a condition to Lessee's obligation to terminate the Lease with respect to the Option Parcel that King County, at its expense, have so divided the Option Parcel from the rest of the Premises that the rest of the Premises is a legal lot under Washington law that may lawfully be leased by King County to Lessee. Lessee shall reasonably cooperate with King County as necessary to facilitate the division of the Option Parcel from the Premises. King County shall reimburse Lessee for the actual, reasonable out-of-pocket costs and expenses incurred by Lessee in connection with the termination of this Lease with respect to the Option Parcel, other than the costs incurred by Lessee to put the Option Parcel in the condition required by this Section 11 for its surrender.

12. GENERAL TERMS AND CONDITIONS. Attached hereto as Exhibit B and incorporated herein by reference are King County General Terms and Conditions.
13. ENTIRE AGREEMENT AMENDMENTS. This printed Lease with the attached General Terms and Conditions and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, current or past representations, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties.
14. NOTICES. Required notices except legal notices shall be given in writing to the following respective addresses:

To King County: Stephen L. Salyer
 Manager, Real Estate Services
 King County
 King County Administration Building
 500 Fourth Avenue, Room 500
 Seattle, WA 98104-2337

and to:

Airport Director
 King County International Airport
 7277 Perimeter Road S
 Seattle, WA 98108

To Lessee: CharlesAir LLC
 Attention: Director, Corporate Facilities
 MS# S-AD1

For notices sent by mail:

P.O. Box 34067
 Seattle, WA 98124-1067

For notices sent by personal delivery or overnight courier:

2401 Utah Avenue South, Suite 800
 Seattle, WA 98134-1435

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed.

15. ACCESS AND DRIVEWAY MAINTENANCE. Lessor shall continue to own the existing twenty-four (24) foot wide access driveway on the north side of the Premises (marked "South 90th Street") (the "Access Drive"). Lessee and its permitted subtenants shall be permitted to use the Access Drive for purposes of ingress and egress. Additionally, Lessee, and the tenant occupying the leasehold located at 8900 East Marginal Way South (the "Adjoining Tenant"), shall be jointly responsible for the maintenance and repair of the Access Drive, including but not limited to:

- annual pavement maintenance and repairs including crack sealing, patching and striping
- catch basin cleaning
- street lighting replacement (i.e., light bulbs, not lighting fixtures)
- street sweeping
- snow removal

The Lessor shall inspect the Access Drive annually to identify the required maintenance work, and convey this information to the Lessee and the Adjoining Tenant for completion within 60 days of notification; provided, however, that if such work cannot, using commercially reasonable efforts, be completed within such 60-day period and Lessee and the Adjoining Tenant commence and thereafter diligently pursue such work using commercially reasonable efforts, Lessee and the Adjoining Tenant shall have such longer period to complete the work as may be necessary. If Lessee and the Adjoining Tenant do not timely complete such maintenance, then the County may complete such maintenance and invoice Lessee and the Adjoining Tenant for equal shares of such cost, which amount shall be due as additional rent. Lessee shall not be responsible for capital improvements to the Access Drive or any other improvements exceeding normal maintenance, such as new sealcoat or asphalt

overlay, repair or improvement of below-ground utilities (including storm water facilities), repairs of potholes and voids, and below-grade work of any kind, all of which shall be the responsibility of Lessor at Lessor's sole expense. Lessor shall not grant the right to use the Access Drive to anyone other than Lessee, the Adjoining Tenant and, to the extent permitted under their leases, their subtenants. Lessee shall have the right to place at the entrance to the Access Drive signage indicating that the Access Drive is a private way and access thereto is restricted. If the Adjoining Tenant so agrees, Lessee and the Adjoining Tenant shall have the right to secure the Access Drive so as to prevent its use by anyone other than Lessee, the Adjoining Tenant, their permitted subtenants, Lessor and police, firemen and other emergency personnel.

- 16. SUBLEASE. Lessee shall be allowed to sublease the Premises for purposes of hangar/storage, maintenance, repair and self-fueling of sublessee owned/leased aircraft, other aviation purposes permitted under Section 7 above and operations relating thereto, including office space relating to flight operations and automobile parking spaces.
- 17. RECORDATION OF MEMORANDUM. King County shall execute and deliver to Lessee for recordation at Lessee's sole cost, promptly following delivery thereof to King County, a memorandum of this Lease prepared by Lessee in form and substance reasonably satisfactory to King County.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the ____ day of _____, 2011.

LESSEE:

LESSOR:

CharlesAir LLC

King County, a Political Subdivision of the State of Washington

By: [Signature]

By: _____

Its: President

Its: _____

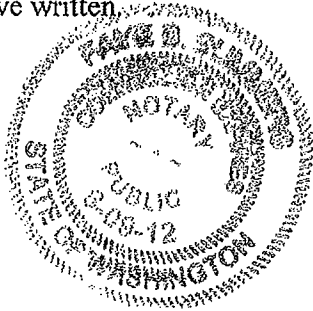
Date: August 17, 2011

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 17th day of August, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Michael Malanga, to me known to be the ^{PRESIDENT} ~~Manager~~ of CharlesAir LLC, a Washington limited liability company, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that said person was authorized to execute the said instrument for said company,

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written



[Handwritten Signature]

Printed Name: Faye B. Summers
NOTARY PUBLIC in and for the State of
Washington, residing at Seattle, WA
My Commission Expires: 6-9-12

EXHIBIT A

See, the PLS, Inc. Record of Survey for Lease 7297 dated May 7, 2009, as recorded in the land records of King County on May 19, 2009 under Recording No. 20090519900003, attached hereto.

EXHIBIT B**KING COUNTY INTERNATIONAL AIRPORT (KCIA)
GENERAL TERMS AND CONDITIONS****1. LATE PAYMENT, TAXES, LICENSES, FEES AND ASSESSMENTS.**

- A. **LATE PAYMENTS.** Lessee acknowledges that the late payment by Lessee to King County of any rent or other sums due under this Lease will cause King County to incur administrative, collection, processing and accounting costs and expenses not contemplated under this Lease, the exact amounts of which are extremely difficult and impractical to fix. Therefore, if any rent or other sum due under this Lease is not received by King County from Lessee by the tenth calendar day of the month in which said rent or other sum is due ("**the Delinquency Date**"), Lessee shall immediately on the Delinquency Date pay to King County a late charge equal to the greater of (i) five percent (5%) of the amount of such rent or other sum, or (ii) Fifty Dollars (\$50.00). King County and Lessee agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to King County for its loss caused by Lessee's nonpayment. Should Lessee pay said late charge but fail to pay contemporaneously therewith all unpaid amounts of rent or other sums due under this Lease, King County's acceptance of this late charge shall not constitute a waiver of Lessee's default with respect to Lessee's nonpayment or prevent King County from exercising all other rights and remedies available to King County under this Lease or under law. Additionally, all such delinquent rent or other sums, and all late charges not paid when due, shall bear interest for each day following their Delinquency Date until paid at a percentage rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted under applicable laws. Waiver of the late charge or interest with respect to any delinquent payment will not be deemed to constitute a waiver of the late charge or interest with respect to any subsequent delinquent payment. Any payments of any kind returned for insufficient funds will be subject to an additional charge of \$25.00 payable by Lessee to King County. In addition, if payments are received by check or draft from Lessee, and two (2) or more of such checks or drafts are dishonored by the bank or other financial institution they were drawn upon in any twelve (12) month period, King County may thereafter require all rent and other payments due hereunder from Lessee to King County to be made by bank cashier's or bank certified check or other similar means of payment and King County shall not be required to accept any checks or drafts of Lessee which do not comply with such requirements.
- B. **LEASEHOLD TAX.** A Leasehold Excise Tax, if applicable, is levied pursuant to the Revised Code of Washington (R.C.W.) Chapter 82.29A. The Lessee agrees to pay this tax to King County. If the State of Washington

changes the Leasehold Excise Tax or if King County receives authorization to levy this tax, the tax payable shall be correspondingly changed.

C. LICENSE, TAXES AND FEES. Throughout the term of this Lease, Lessee shall pay all applicable taxes and all license and excise and other applicable fees including, but not limited to, fuel flowage fees and landing fees, covering the business conducted on the Premises as provided for in King County Code Title 15 as now existing and as it may be amended.

D. MITIGATION ASSESSMENTS.

1) KCIA is developing for future implementation a plan for mitigation of existing noise, surface and groundwater, safety, and traffic conditions. This plan, subject to King County Council adoption, will be financed from mitigation fees which will be assessed to all Boeing Field users in proportion to their contribution to the condition and/or circumstance which is being mitigated and/or their proportionate use of the improvement requiring mitigation investment.

2) Lessee shall pay any mitigation assessments now in effect, or hereafter established by the County according to King County Council Motion #9523 dated March 28, 1995. This Lease shall be considered a "new lease" for purposes of said Motion #9523, and Lessee shall pay all such mitigation assessments commencing with the effective date of such assessments as promulgated by the County.

2. RENT ADJUSTMENT. To ensure a fair rent based upon the fair market value of the Premises, King County may adjust the rent to the then current Fair Market Rental Value (as defined below) every three years. However, as provided in Sections 5(A) and 5(B) of the Lease, the date of the first adjustment will depend on the Commencement Date. If, as provided in Section 5(A) of the Lease, the Commencement Date occurs on or before January 1, 2012, the first adjustment will occur on the day that is the first annual anniversary of the Lease Commencement Date so that Lessee's periodic rent adjustments under this Section 2 will occur on the same three-year cycle as other tenants at the airport (i.e., in 2012, 2015, 2018 and so on). If, as provided in Section 5(B) of the Lease, the Commencement Date occurs on or after January 1, 2012, the first adjustment under this Section 2 will occur in 2015. Subsequent adjustments will take effect on the third anniversary of the previous adjustment. The date on which a rent adjustment becomes effective is referred to hereafter as "**the Rent Adjustment Date**". The three year period commencing on the Rent Adjustment Date is referred to hereafter as "**the Succeeding Period**".

A. FAIR MARKET RENTAL VALUE DEFINED. For all purposes required under this Lease, "**Fair Market Rental Value**" is defined as: An amount in the competitive market that a well-informed and willing lessor, who desires but is not required to lease, would accept, and which a well-informed and

willing lessee, who desires but is not required to lease, would pay for the temporary use of the Premises (excluding improvements to the Premises constructed at Lessee's expense made during the initial term of the lease), after due consideration of all the elements reasonably affecting value. Fair Market Rental Value may be more or less than the rent then in effect for the Premises. If the Commencement Date occurs prior to January 1, 2012, such that the initial rent under Section 5(A) above is \$1.60 per square foot until the first annual anniversary of the Commencement Date, Lessee's agreement to pay such rent for such period shall not itself be considered by King County or any arbitrators appointed under Section 2(C) below as evidence that \$1.60 is the Fair Market Rental Value of the Premises for the three-year rent adjustment cycle 2012-2015.

- B. NOTICE OF RENTAL ADJUSTMENT. When it elects to adjust the rent (including an adjustment under Section 5(A) of the Lease of the initial rent of \$1.60 per square foot, if applicable), King County will give Lessee at least thirty days written notice of the adjusted rent for the Succeeding Period. The rent as adjusted shall take effect on the Rent Adjustment Date specified in the notice. Unless Lessee, within thirty days following receipt of notice from King County, gives King County written notice of its rejection of the adjusted rent together with Lessee's statement of the amount Lessee considers to be the Fair Market Rental Value, the rent as adjusted by King County will become the rent for the Succeeding Period. If Lessee so notifies King County of its rejection of the adjusted rent, the parties will negotiate in good faith in an attempt to agree upon the rent adjustment.
- C. ARBITRATION.
- 1) If, thirty days after King County receives Lessee's notice of its rejection of the rent as adjusted by King County, Lessee and King County cannot agree upon the rent adjustment, the rent for the Succeeding Period will be adjusted by arbitration. Lessee and King County will each select one disinterested arbitrator, and the two selected arbitrators will select a third.
 - 2) King County will give Lessee written notice of the name and address of its selected arbitrator and his or her qualifications. Unless otherwise agreed in writing by King County, Lessee shall give King County written notice of the name and address of Lessee's selected arbitrator and his or her qualifications within thirty days after Lessee's receipt of King County's notice. If Lessee fails to so provide its written notice to King County, Lessee shall be deemed to waive its right to arbitration, the arbitration shall not proceed, and the rent as adjusted by King County shall become the rent for the Succeeding Period.

- 3) If the two arbitrators have not selected a third arbitrator within thirty days after the selection of the last selected of the two, either Lessee or King County will apply to the Presiding Judge of the Superior Court in King County for the appointment of a third arbitrator.
- 4) Each arbitrator will be a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, or other appraisal society or association having equivalent ethical and professional standards. If, in the future, a licensing requirement for real estate appraisers is imposed by any legislative body with jurisdiction, each arbitrator shall also be licensed. The arbitrators shall not only be impartial, but also shall not have been an employee of, or retained under contract by, either party for a period of one year before the arbitration, and shall have no financial interest in the subject of the arbitration. Each party shall have the right to disqualify any arbitrator who does not meet the requirements of this section by sending a written notice to the other party and to all the arbitrators stating the grounds for disqualification. If the disqualified arbitrator is a party-appointed arbitrator, then that party shall, within fourteen days after its receipt of the other party's notice of disqualification, appoint another arbitrator who meets the requirements of this section to serve in place of the party's disqualified arbitrator. If the disqualified arbitrator is the third arbitrator, then the two party-appointed arbitrators shall, within fourteen days after their receipt of a party's notice of disqualification, select a third arbitrator who meets the requirements of this section to serve in place of the disqualified arbitrator.
- 5) The arbitrators shall give the parties sixty days notice in writing of the date on which the arbitration is to commence. Unless otherwise agreed in writing by King County and Lessee, each party shall, no later than thirty days before the arbitration is scheduled to commence, provide the other party with a copy of an appraisal report prepared by a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, or other appraisal society or association having equivalent ethical and professional standards, that supports that party's claim of Fair Market Rental Value. If Lessee fails to so provide a copy of its appraisal report to the County, Lessee shall be deemed to waive its right to arbitration, the arbitration shall not proceed, and the rent as adjusted by King County shall become the rent for the Succeeding Period.
- 6) The three arbitrators will determine a fair rent for the Premises for the Succeeding Period based upon the Fair Market Rental Value as defined in King County Code 4.56.010. The decision of a majority of the arbitrators will bind both Lessee and King County. Both King County and the Lessee agree that all non-mandatory provisions of

RCW 7.04A are waived and that, unless requested by a majority of the arbitration panel, no formal hearing will be held, no witnesses will testify, and no attorneys will participate in the arbitration. At the conclusion of the arbitration, the arbitrators will submit a written report in counterpart copies to Lessee and King County, which shall state their determination of the rent to be paid by Lessee for the Succeeding Period. The report shall contain all pertinent evidence that led to their conclusion together with an explanation of their reasoning for such conclusion.

- D. COST OF ARBITRATION. Each party shall pay for its appraisal and shall bear the expense of its own counsel, and any other of its representatives and/or experts that may be required to prepare for or, in the event it is requested by the arbitration panel, participate in the arbitration. Each party shall also pay the fees and expenses of its selected arbitrator. The fees and expenses of the third arbitrator and all other costs of the arbitration will be divided equally between Lessee and King County.
- E. RENT PENDING ADJUSTMENT AND RETROACTIVITY. In the event resolution of the rental adjustment is not completed either by negotiation or arbitration prior to the Rent Adjustment Date:
- 1) Lessee shall, pending resolution of such rent adjustment, continue to pay King County the rent then in effect;
 - 2) The adjusted rent, as determined either by negotiation or arbitration, shall be retroactive to the Rent Adjustment Date; and
 - 3) King County, at its option, may elect to require Lessee to pay interest in the amount of twelve percent per annum commencing on the Rent Adjustment Date on any sum due as a result of a retroactive increase.
3. COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Premises, Lessee will comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. The Lessee specifically agrees to comply and pay all costs associated with achieving such compliance without any notice from King County, and further agrees that King County does not waive this section by giving notice of demand for compliance in any instance.
4. UTILITIES. Lessee shall pay for all costs, expenses, fees, services, and charges of all kinds for heat, light, water, gas, and telephone, and for all other public utilities used on said Premises so that the same shall not become a lien against the leased Premises.
5. IMPROVEMENTS AND ALTERATIONS.

- A. Except as approved by King County under Section 10 of the Lease Agreement or otherwise contemplated in the Lease Agreement, and other than alterations, improvements and fixtures located entirely inside improvements constructed by Lessee in accordance with the provisions of the Lease Agreement, Lessee shall make no significant alterations or improvements to or upon the Premises, or install any fixtures (other than trade fixtures which can be removed without injury to the Premises) without first obtaining prior written approval from King County, approval which will not be unreasonably denied or delayed.
- B. All improvements and alterations erected or made on the Premises by Lessee shall be and remain the property of Lessee during the term of this Lease. Unless otherwise stipulated, all improvements or alterations erected or made on the Premises (not including personal property, equipment and removable fixtures, which shall remain the property of Lessee) shall, upon expiration or earlier termination of this Lease, belong to King County without compensation to the Lessee; however, King County shall have the option, to be exercised on expiration or earlier termination of the Lease, to require the Lessee, at Lessee's expense, to remove any or all such improvements or alterations.

6. **CONDITION OF PREMISES.**

- A. Lessee has inspected and knows the condition of the Premises, and accepts the Premises as is.
- B. Notwithstanding the provisions of paragraph 31(B)(6) of this document, Lessee acknowledges that the Premises may contain Hazardous Materials, as defined in Section 30 of these General Terms and Conditions, and Lessee accepts the Premises "AS IS", including, without limitation, the presence of any Hazardous Materials, underground storage tanks or contaminated soil, or the actual or threatened release, deposit, seepage, migration or escape of Hazardous Materials at, from or into the Premises, and the compliance or noncompliance of the Premises with applicable federal, state, county and local laws and regulations including, without limitation, the Environmental Laws as defined in Section 30 of these General Terms and Conditions.
- C. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LEASE AGREEMENT, KING COUNTY DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PREMISES, AND NO OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF KING COUNTY IS AUTHORIZED OTHERWISE. WITHOUT LIMITATION, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LEASE AGREEMENT, THE FOREGOING SPECIFICALLY EXCLUDES WARRANTIES WITH RESPECT TO THE CONDITION OF

THE PREMISES FOR DEVELOPMENT AND/OR USE BY LESSEE, THE PRESENCE OF ANY HAZARDOUS MATERIALS, UNDERGROUND STORAGE TANKS OR CONTAMINATED SOIL, OR THE ACTUAL OR THREATENED RELEASE, DEPOSIT, SEEPAGE, MIGRATION OR ESCAPE OF HAZARDOUS MATERIALS AT, FROM OR INTO THE PREMISES, AND THE COMPLIANCE OR NONCOMPLIANCE OF THE PREMISES WITH APPLICABLE FEDERAL, STATE, COUNTY AND LOCAL LAWS AND REGULATIONS, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL LAWS.

- D. King County shall not have any obligation to Lessee to make any changes or improvements, or to incur any expenses whatsoever for the maintenance, monitoring, repair or remediation of the Premises.
 - E. Lessee acknowledges and agrees that King County shall have no liability to Lessee for, and that Lessee shall have no recourse against King County for, any defect or deficiency of any kind whatsoever in the Premises without regard to whether such defect or deficiency was discoverable by Lessee or King County.
 - F. Nothing in this Section 6 or any other provision of the Lease Agreement shall relieve King County of, or make Lessee responsible for, (1) any obligations of King County under applicable Environmental Laws to respond to, monitor, remove and remediate Hazardous Materials present in, on or under the Premises or migrating from the Premises as of the Commencement Date or (2) liabilities of King County to third parties by reason of Hazardous Materials present in, on or under the Premises or migrating from the Premises as of the Commencement Date.
7. **CONSTRUCTION DEFECTS.** King County shall not be liable to the Lessee for claims or damages arising from any defect in the construction of or the present condition of the Premises, whether known or unknown, or for damage by storm, rain, or leakage or any other occurrence.

8. **MAINTENANCE.**

- A. Throughout the term of this Lease, Lessee shall, without cost or expense to King County, keep and maintain the leased Premises and all improvements, landscaping, fixtures and equipment which may now or hereafter exist thereon, in a neat, clean, and sanitary condition and shall, except for reasonable wear and tear, at all times preserve the Premises in good and safe repair. Upon the expiration or sooner termination of the Lease, Lessee shall forthwith return the same in as good condition as existed at the commencement of occupancy (ordinary wear and tear excepted).
- B. If, after thirty (30) days' notice from King County, Lessee fails to maintain or repair any part of the leased Premises or any improvement, landscaping, fixtures or equipment thereon, King County may, but shall not be obligated to, enter upon the leased Premises and perform such maintenance or repair, and Lessee agrees to pay the costs thereof to King County upon receipt of a written demand. Any unpaid sums under this paragraph shall be payable as additional rent on the next rent payment date due following the written demand and will bear interest at a percentage rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted under applicable laws.

9. **INDEMNITY AND HOLD HARMLESS.** The Lessee agrees to indemnify and hold King County harmless as provided herein to the maximum extent possible under law. Accordingly, the Lessee agrees for itself, its agents, successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and its employees and agents, from and against liability for all claims, demands, suits, and judgments, including costs of defense and attorney fees thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Lessee's exercise of rights and privileges granted by this Lease, except to the extent of King County's sole negligence. The Lessee's obligations under this section shall include:

- A. The duty to promptly accept tender of defense and provide defense to the County at the Lessee's own expense, including attorney fees;
- B. Indemnification of claims made by the Lessee's own employees or agents; and,
- C. Waiver of the Lessee's immunity under the industrial insurance provisions of Title 51 R.C.W. but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this section, all such fees, expenses and costs shall be recoverable from the Lessee.

In the event it is determined that R.C.W. 4.24.115 applies to this Lease, the Lessee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder. Further, Lessee agrees to defend, indemnify, and hold the County harmless for claims by Lessee's employees and agrees to waive, as respects the County only, its immunity under Title 51 R.C.W., which waiver has been mutually negotiated by the parties.

The provisions of this Section 9, Indemnity and Hold Harmless, shall survive the expiration or termination of this Lease with respect to any event that occurs prior to, or on the date of, such expiration or termination.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.

10. PROPERTY INSURANCE.

A. BUILDINGS/STRUCTURES/FACILITIES. The Lessee will carry "All Risk" property insurance including business interruption coverage to provide for the continuing expense of rent to the owner, in an amount equal to the full replacement value of all improvements, structures, and buildings located on the Premises and rental coverage equal to twelve months rental. The policy shall include King County as a Loss Payee as its interests appear. A certificate of insurance and endorsement evidencing the above must be provided to King County. King County will not carry insurance on Lessee's property.

B. BUILDINGS/STRUCTURES/FACILITIES UNDER CONSTRUCTION. Prior to commencement of any construction and until construction is complete and accepted by the Lessee, the Lessee shall cause the construction contractor(s) to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to said construction. The Lessee and King County shall be included as an insured or added as an additional insured on all policies except as otherwise provided herein. The cost of such insurance shall be paid by the Lessee and/or any of the Lessee's contractors.

For All Coverages: Each insurance policy shall be written on an "Occurrence" form.

I. Minimum Scope Of Insurance.

Coverage shall be at least as broad as:

- a) General Liability: Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY:

- b) Products and Completed Operations: The General Liability Policy required in this section shall include Products and Completed Operations coverage.
- c) Automobile Liability: Insurance Services Office form number (CA 0001 ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9. This policy shall include coverage provided by the MCS-90 endorsement, if applicable to the activities of Lessee or its contractors.
- d) Professional Liability, Errors and Omissions Coverage: In the event that services delivered pursuant to construction either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided by those entities providing Professional Services. "Professional Services" for the purposes of this section shall mean any services provided by a licensed professional.
- e) Builder's Risk Insurance: The Lessee will obtain, or cause to be obtained, an all risk builder's risk policy (Insurance Services Offices form number (CP-00 02 Ed. 10-90) BUILDER'S RISK COVERAGE FORM) and CAUSES OF LOSS – SPECIAL FORM (CP 10 30 Ed. 10 90) covering 100% of the replacement value of the building/structures.
- f) Worker's Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.
- g) Stop Gap, Employers Contingent Liability.

2. Minimum Limits Of Insurance.

Limits shall be not less than, for:

- a) General Liability: \$5,000,000 combined single limit per occurrence for injuries to persons and property damage.
- b) Products and Completed Operations: \$5,000,000.
- c) Automobile Liability: \$5,000,000 combined single limit per accident for bodily injury and property damage.
- d) Professional Liability, Errors & Omissions: \$1,000,000.
- e) Builder's Risk Insurance: 100% replacement cost value.

- f) Workers Compensation: Statutory requirements of the State of residency.
 - g) Stop gap employer's liability \$1,000,000.
3. The insurance requirements of this Section 10(B) shall be subject to the provisions of Section 11C through H inclusive, except that specific coverages and endorsements shall not be required (a) if and so long as neither Lessee nor its contractors engage in the specific activity that would be insured by the coverage in question and (b) provided that King County has been so advised by Lessee and concurs that the facts are as so presented.

C. PROPERTY RECONSTRUCTION FOLLOWING CASUALTY. In the event of the total or partial destruction by casualty or otherwise of the building, structures, or facilities currently on the Premises or subsequently constructed by the Lessee, the Lessee shall have the obligation to reconstruct such facilities to their former condition and usability and proceed with reasonable diligence to prepare plans and specifications for and carry out, all work necessary (a) to repair and restore the building and/or improvements on the Premises damaged by the casualty to their former condition, or (b) to replace said building and/or improvements with a new building and/or improvements on the Premises of a like quality and usefulness of the building and/or improvements which were damaged. The foregoing notwithstanding, if, upon completion of the repair and reconstruction required by this Section, there would be five (5) or fewer years remaining in the term of the Lease, Lessee shall have the right to elect, by written notice given to King County within ninety (90) days after the casualty, not to repair or reconstruct the building, structures and facilities on the Premises, provided, however, that Lessee has maintained the property insurance required by Section 10(A) above. If, under the preceding sentence, Lessee timely and validly elects not to repair or reconstruct the building, structures and facilities on the Premises after a casualty, (1) the Lease shall terminate on the date Lessee gives notice of its election or upon such later date as Lessee may specify in such notice (not to be more than ninety (90) days after such notice is given) and (2) Lessee shall assign to King County all proceeds of Lessee's property insurance payable in respect of the casualty in question and deliver to King County all of such proceeds received by Lessee and not applied to the preservation and protection of the building, structures and facilities on the Premises prior to the date on which the Lease terminates.

11. INSURANCE REQUIREMENTS. Except as otherwise provided herein, by the date of execution of this Lease, the Lessee shall procure and maintain for the duration of this Lease, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with exercise of the rights and privileges granted by this Lease, by the Lessee, its agents, representatives,

employees/subcontractors. The insurance required to be provided by Lessee under this Lease may be provided under blanket policies that cover Lessee and the Premises as well as other entities and properties. The cost of such insurance shall be paid by or on behalf of the Lessee. If there is any inconsistency between the minimum insurance requirements set forth below in this Lease and the insurance required by King County in any other Airport agreement to which the Lessee is a party, the Lessee shall maintain the most stringent insurance required.

In consideration of the duration of this Lease, the parties agree that the Insurance Requirements Section herein, at the discretion of the King County Risk Manager, may be reviewed and adjusted with each amendment and within 90 days of the end of the first 3 year period of the Lease Term and the end of each successive 3 year period thereafter.

Any adjustments made as determined by the King County Risk Manager, shall be in accordance with reasonably prudent risk management practices and aviation insurance industry standards and shall be effective on the first day of each successive 3 year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of the Lessee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

For all coverages: Each insurance policy shall be written on an "Occurrence" form, except that Professional Liability, Errors and Omissions Coverage may be provided on a "Claims Made" form.

- A. MINIMUM SCOPE OF INSURANCE. Coverage shall be at least as broad as:
- 1) General Liability:
Coverage shall include but not be limited to the following:
General liability for bodily injury, death, property damage (including explosion, collapse and underground), contractual, personal injury, liquor liability (if alcoholic beverages are sold or distributed), products/completed operations.
 - 2) Aircraft Liability (Owned, Leased and Non-owned Aircraft)
Aircraft liability for bodily injury, death, property damage, contractual and passenger liability.
 - 3) Automobile Liability:
Insurance Services Office form number (CA 00 01 ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the

combination of symbols 2, 8, and 9. Coverage endorsements to include MCS-90, if applicable to the activities of Lessee.

- 4) **Workers Compensation:**
Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.
- 5) **Employers Liability or "Stop Gap":**
The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.
- 6) **Hanger Keepers Liability**
Bailees coverage for non-owned aircraft held in the Lessee's care, custody and control.
- 7) **Environmental Impairment**
Pollution coverage for all clean-up and remediation costs and expenses arising out of Lessee use of leased Premises.

B. MINIMUM LIMITS OF INSURANCE. The Lessee shall maintain limits no less than, for:

- 1) **General Liability**
\$1,000,000 Combined single limit Bodily Injury and Property Damage
Per Occurrence \$5,000,000 Aggregate
- 2) **Aircraft Liability (combined single-limit per occurrence other than passenger liability in accordance with the following table)**

Maximum Gross Take-off Weight	Minimum Requirement: (each Occurrence)
Over 15,000 lbs.	\$15,000,000
10,001 – 15,000 lbs.	\$10,000,000
5,000 - 10,001 lbs.	\$5,000,000
Under 5,000 lbs.	\$1,000,000

- 3) **Automobile liability: \$5,000,000 combined single limit.**
- 4) **Workers Compensation: Statutory limits**
- 5) **Employers Liability or "Stop Gap": \$1,000,000**
- 6) **Hanger Keepers Liability: \$ 1,000,000**
- 7) **Environmental Impairment: \$ 500,000 Leased Premises**

- C. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to King County. The deductible and or self-insured retention of the policies shall not limit or apply to the Lessee's liability to the County and shall be the sole responsibility of the Lessee.
- D. OTHER INSURANCE PROVISIONS. The insurance policies required in this Lease are to contain or be endorsed to contain the following provisions:
- 1) General Liability, Aviation Liability, Hanger keepers, Automobile and Environmental Impairment Liability
 - a. Other than with respect to Environmental Impairment coverage, the County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Lessee in connection with this Lease.
 - b. The Lessee's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the Lessee's insurance or benefit the Lessee in any way.
 - c. The Lessee's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
 - 2) All Policies:
 - a. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits below those required by this Lease, except by the reduction of the applicable aggregate limit by claims paid, without replacement of the coverage in question with insurance that satisfies the requirements of the Lease until after thirty (30) days prior written notice has been given to the County.
- E. ACCEPTABILITY OF INSURERS. Except as otherwise provided in this Section 11(E), insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated with Bests' with minimum surpluses, the equivalent of Bests' surplus size VIII. If at any time, any of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Lessee shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the

County, with the appropriate certificates and endorsements for approval. The foregoing notwithstanding, if and so long as (1) Lessee is directly or indirectly wholly-owned by an entity (the "Parent") that, as part of its standard, company-wide risk management policies, insures some or all of Lessee's and such Parent's deductibles and self-insured retention of liability under its insurance policies through an insurance company owned in whole or in part by Parent (an "Affiliated Insurer") and (2) the Affiliated Insurer is organized, regulated, licensed and in good standing under the laws of a State or of the United States of America, Lessee may satisfy the requirements of this Lease with respect to the provision of environmental liability coverage through a policy issued by the Affiliated Insurer, regardless of whether the Affiliated Insurer is rated by a rating agency or, if it is rated, satisfies the rating requirements of this section.

- F. **VERIFICATION OF COVERAGE.** Lessee shall furnish the County with certificate(s) of insurance and endorsement(s) required by this Lease. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and are to be received and approved by the County prior to the commencement of activities associated with the Lease. The foregoing notwithstanding, the County agrees that, so long as (1) Lessee is directly or indirectly wholly-owned by its current Parent or a successor Parent that acquires substantially all of the outstanding stock or assets of Lessee's current Parent and (2) the insurance required of Lessee hereunder is provided through policies carried by Parent, Lessee may satisfy the requirements of this Section by providing the County with access to a website maintained by Parent that provides information on the policies maintained by Parent that cover Lessee and the Premises, if and so long as such website continues to be operated in substantially the same manner as it is, and to provide substantially the same information it provides, on the date hereof. Notwithstanding that such website may be available at other times, Lessee shall, prior to the commencement of activities associated with the Lease and on an annual basis thereafter, send to King County in the manner contemplated by Section 14 of these General Terms and Conditions, or forward by email to such representative of King County as King County may from time to time designate, the website page that displays the information that would otherwise be required to be provided in a certificate of insurance. If such information on any of the insurance policies required hereunder is not available on such a website, then Lessee shall furnish the County with the information on such policy as required under the first three sentences of this section.
- G. **MUTUAL RELEASE AND WAIVER.** To the extent a loss is covered by insurance in force, King County and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies,

including any extended coverage endorsements hereto; provided that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Lessee.

- H. By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Lessee under this Lease. The Lessee shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
- I. Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.

12. **SURRENDER OF PREMISES.** At the expiration or earlier termination of this Lease, Lessee shall promptly surrender possession of the Premises to King County, and shall deliver to King County all keys that it may have to any and all parts of the Premises.
13. **DEFAULT AND RE-ENTRY.** If any rents above reserved or other obligations provided herein, or any part thereof shall be and remain unpaid when the same shall become due, or if Lessee shall violate or default on any of the covenants and agreements herein contained, then King County may terminate this Lease upon giving five (5) days' notice (in the case of monetary defaults) and thirty (30) days' notice (in the case of non-monetary defaults). Lessee may cure any such default by its payment or performance within said periods, provided that if a non-monetary default cannot be cured within said 30-day period, then Lessee shall not be in default if Lessee commences its cure within said 30-day period and takes actions and steps to cure the non-monetary default within a commercially reasonable amount of time. Upon an uncured default, King County may re-enter said Premises using such force as may be required. Notwithstanding such re-entry by King County, the liability of the Lessee for the rent provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee covenants and agrees to make good to King County any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. The Lessee shall pay such deficiency each month as the amount thereof is ascertained by King County. In the event it becomes reasonably necessary to make any changes, alterations, or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Lessee shall also be responsible for such cost. The foregoing notwithstanding, and without limiting any other rights or remedies of King County under the Lease or at law or in equity, King County shall not exercise its right to terminate the Lease by reason of Lessee's failure to pay its monetary obligations hereunder unless and until the amount of such obligations in arrears

exceeds Fifty Thousand Dollars (\$50,000.00). If King County terminates the Lease by reason of Lessee's default, Lessee shall be entitled to a credit against the damages for which Lessee is liable to King County by reason of such default and termination equal to the lesser of (a) the then-existing unamortized balance of Lessee's Investment (as defined below) as reflected on Lessee's books and records and (b) the then-fair market value of all Included Property (as defined in Section 20(D) below) acquired by King County by reason of the termination of the Lease. As used herein, "Lessee's Investment" shall mean the sum of (a) the costs and expenses identified in Section 20(E)(4) below plus (b) the aggregate of all sums invested by Lessee, both hard and soft costs, in acquiring, developing, constructing, altering and improving the Included Property acquired by King County by reason of the termination of the Lease. Unless King County and Lessee agree upon the fair market value of such Included Property, the procedures set forth in Section 2(C), "Arbitration," shall be followed to determine the fair market value.

14. **ASSURANCE OF PERFORMANCE.** In the event a default in the performance of any obligation under this Lease which remains uncured for a period longer than specified in Section 13 above, King County may request and the Lessee shall provide adequate assurance of the future performance of all obligations under this Lease. The adequacy of any assurance shall be determined according to commercially reasonable standards for lessors of real property in the County of King, State of Washington. Adequate assurance shall include, but not be limited to, a deposit in escrow, a guarantee by a third party acceptable to King County, a surety bond, or a letter of credit. Lessee's failure to provide adequate assurance within twenty (20) days of receipt of a request shall constitute a material breach and King County may in its discretion terminate this Lease.
15. **ADVANCES BY KING COUNTY FOR LESSEE.** If Lessee fails to pay any fees or perform any of its obligations under this Lease other than payment of rent, King County will mail notice to Lessee of its failure to pay or perform. Twenty (20) days after mailing notice, if Lessee's obligation remains unpaid or unperformed, King County may, but is not obligated to, pay or perform these obligations at Lessee's expense. Upon written notification to Lessee of any costs incurred by King County under this paragraph, Lessee will reimburse King County within twenty (20) days.
16. **NON-WAIVER.** It is hereby agreed that no waiver of any condition or covenant in this Lease or any breach thereof, shall be taken to constitute waiver of any subsequent breach.
17. **SIGNS.** No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by Lessee on any part of the outside of the Premises without the prior written consent of King County, provided that such consent shall not be unreasonably withheld. If Lessee violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the Lessee; provided, however, King County shall give Lessee written

notice of Lessee's violation of this provision and Lessee shall have forty-eight (48) hours after receiving said notice to comply with the terms of this provision. All signs erected or installed by Lessee shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.

18. **INSPECTION AND "FOR RENT" SIGNS.** King County reserves the right to inspect the Premises at any and all reasonable times throughout the term of this Lease, provided that King County shall give Lessee not less than twenty four (24) hours prior notice (except in an emergency, in which case King County shall give such advance notice as is practicable under the circumstances), shall not interfere unduly with Lessee's operations and shall use reasonable efforts to cooperate with any security measures Lessee may then have in effect. The right of inspection reserved to King County hereunder shall impose no obligation on King County to make inspections to ascertain the condition of the Premises, and shall impose no liability upon King County for failure to make such inspections. King County shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for thirty (30) days prior to the expiration or sooner termination of this Lease.
19. **LIENS.** It is understood and agreed that this Lease is executed and delivered upon the express condition that the Lessee will not and cannot contract any debt or debts for labor, materials, services, or otherwise which will or may become a lien against the interest of King County in the Premises, and King County hereby denies to Lessee any right, power, or authority to do any act, or contract any obligation or liability which would in any way subject the interest of King County in the Premises to any lien, claim, or demand whatsoever.
20. **ASSIGNMENTS.**
 - A. Lessee shall not assign or transfer this Lease or any interest therein, nor grant an option for such an assignment or transfer for the whole or any part of the Premises, nor shall this Lease or any interest hereunder be assignable or transferable by operation of law, or by any process or proceeding of any court or otherwise without the prior written consent of King County, which consent shall not be unreasonably withheld, conditioned or delayed. If Lessee is a corporation, partnership, limited liability company or other entity, Lessee further agrees that if at any time during the term of this Lease one-half (1/2) or more of the outstanding shares of any class of stock, partnership interests, membership interests or other equity interests of Lessee's corporation, partnership, limited liability company or other form of entity shall belong to any stockholders, partners, members or other owners, as the case may be, other than those who own one-half (1/2) or more of the outstanding shares of that class of stock, partnership interests, membership interests or other equity interests at the time of the execution of this Lease, such change in the ownership shall be deemed an assignment of this Lease within the meaning of this paragraph.

- 1) The foregoing notwithstanding, the following (each, an "Exempt Transfer") shall not be deemed an assignment for purposes of Paragraph 20.A and shall not require King County's consent: (a) a transfer of stock, partnership interests, membership interests or other equity interests in Lessee (i) by reason of the death of the person holding such interests or (ii) to any member or members of the immediate family of a person holding such interests or to trusts for their benefit; (b) a transfer of stock or other equity interests that are publicly traded on a recognized exchange; (c) an assignment of the Lease or transfers of stock, partnership interests, membership interests or other equity interests in Lessee to any entity that controls, is controlled by or is under common control with Lessee (as "control" is defined in subparagraph 20.A(2) below); (d) an assignment of the Lease or transfer of stock or other equity interests in Lessee in connection with the acquisition, by purchase of equity interests or assets, merger or otherwise, of the principal business engaged in by Lessee and the other entities that control, are controlled by or are under common control with Lessee; (e) an assignment of the Lease for collateral purposes to a recognized lending institution in connection with the financing of King County-approved redevelopment of the Premises or the lending institution's subsequent realization on such collateral assignment; (f) an assignment of stock or other equity interests in Lessee for collateral purposes to a recognized lending institution in connection with the acquisition, by purchase of equity interests or assets, merger or otherwise, of the principal business engaged in by Lessee and the other entities that control, are controlled by or are under common control with Lessee or the lending institution's subsequent realization on such collateral assignment; or (g) a sublease or assignment by Lessee of any portion of the Premises to a public educational institution.
- 2) As used in this Section 20, "control" (and derivatives thereof) shall mean either or both of (a) the direct or indirect ownership of more than fifty percent (50%) of the issued and outstanding voting equity interests in an entity and/or (b) the right to direct the affairs of an entity, whether through contractual arrangements, being or, directly or indirectly owning one hundred percent (100%) of the outstanding equity interests of, the general partner or manager of such entity (if such entity is, respectively, a partnership or limited liability company), holding the right to appoint a majority of the board of directors (if such entity is a corporation) or otherwise.
- 3) If King County shall give its consent to any assignment or transfer, this paragraph shall nevertheless continue in full force and effect and no further assignment or transfer shall be made without the County's consent.

- B. If Lessee desires to assign or transfer, or grant an option for assignment or transfer, for the whole or part of the Premises, or any portion of this Lease or any interest herein, and such assignment or transfer requires King County's consent under Section 20.A above, Lessee shall notify King County in writing of said desire and the details of the proposed agreement at least sixty (60) days prior to the proposed date of assignment or transfer, or grant of an option therefor, to a third party. The notification shall include but not be limited to a financial statement of the third party, including but not limited to a full disclosure of the monetary payment or any other consideration involved, and an affidavit from the third party stating it has examined this Lease, and, understanding this Lease, agrees to assume and be bound by all of the Lessee's obligations and covenants under this Lease, the same as if it were the original Lessee hereunder, and the proposed date of assignment, transfer or grant of an option therefor. Lessee shall also provide any financial or other information regarding the proposed assignment or the assignee reasonably requested by King County.
- C. King County reserves the right of first refusal in the event Lessee attempts to assign or transfer this Lease or any interest herein, or grant an option therefor, in a transaction that, under Section 20.A above requires King County's consent. If King County exercises the right of first refusal, Lessee shall assign or transfer to King County, and King County shall acquire, the Lease or the interest therein, or the option therefor, on and subject to all of the terms and conditions of the proposed assignment or transfer or option therefor.
- D. If Lessee assigns or transfers its interest, other than in an Exempt Transfer, Lessee (Assignor) shall pay King County seventy-five percent (75%) of the Assignment Premium derived from that assignment or transfer. "**Assignment Premium**" shall mean (1) all rent, additional rent, and/or other moneys, property, and other consideration of every kind whatsoever received by Lessee (Assignor) from the assignee/transferee for, or by reason of, the assignment or transfer (including all amounts received by Lessee (Assignor) for any Included Property), less (2) the credits detailed in Section E of this Paragraph 20. "**Included Property**" means only the leasehold improvements and fixtures and all machinery, equipment, furniture, furnishings, supplies, inventory and other personal property, tangible and intangible, owned by the Lessee that are transferred to the assignee or transferee as part of the transaction. Lessee shall pay the Assignment Premium to King County as and when Lessee receives payment from such assignee or transferee.
- E. Credits. The following shall be subtracted from the consideration that otherwise would be included in the calculation of the Assignment Premium:
- 1) Any transactional costs, fees or commissions actually paid by Lessee (Assignor) to procure the assignment or transfer, including, without limitation, fees and commissions paid to attorneys, professionals and

other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County;

- 2) The actual cost of alterations and leasehold improvements undertaken by Lessee, or undertaken by the transferee or assignee to the extent paid for or reimbursed by Lessee, solely to prepare the space for the assignee or transferee, including, without limitation, costs of planning, design, permitting and construction, including labor, materials and Washington state sales and use taxes, (amortized, if the consideration for the assignment or transfer is to be paid in installments, over the period of payment, commencing with the date on which the assignment or transfer commences);
- 3) The greater of either: a) the unamortized cost of the Included Property determined on a straight-line basis over the original term of the Lease as certified to King County by Lessee's independent certified public accountant; or b) the fair market value of the Included Property as determined by an appraisal conducted by an independent and certified appraiser. Lessee shall pay the cost of such certification or appraisal and may deduct such costs from the Assignment Premium. If King County disputes the unamortized cost or fair market value of the Included Property as determined by the certified public accountant or appraiser, the procedures set forth in Section 2.C., Arbitration, of these General Terms and Conditions, shall be followed to determine the appropriate cost or fair market value;
- 4) The unamortized transactional costs, fees or commissions, determined on a straight-line basis over the original term of the Lease, actually paid by Lessee (Assignor) to procure the Lease itself (or, if only an interest in the Lease is being assigned or transferred, a ratable portion of such costs, fees and commissions), including, without limitation and without duplicating any of the costs included in Paragraph 20.E(1) above, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided

by a certified public accountant in form and substance reasonably satisfactory to King County; and

5) The "Goodwill Value" or Going Concern Value" of any business being sold or transferred as a part of the assignment. Unless otherwise agreed to by Lessee and King County, "Goodwill Value" or "Going Concern Value" shall be determined by a qualified valuation expert employing standard and generally recognized methods of business valuation. Lessee shall pay the cost of such valuation and may deduct such costs from the Assignment Premium.

F. Once King County has received all necessary information and documentation pursuant to this Section 20 of this Lease, King County will review the request and respond with either an approval or disapproval of the request (or, if King County so elects, King County's exercise of the right of first refusal provided for in Paragraph 20.C above) not later than ten (10) days prior to the proposed date of the assignment or transfer. Disapproval of any such request shall be final and binding on the Lessee and not subject to any arbitration, provided that any approval will not be unreasonably withheld and Lessee may in good faith dispute the reasonableness of King County's disapproval of a request. King County shall charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any requests for assignment or transfer pursuant to this section, not to exceed, however, \$1500.00.

21. SUBLEASES.

A. Unless the sublease sought to be entered into is to an entity that controls, is controlled by or is under common control with Lessee, or is to a public educational institution (an "Exempt Sublease"), Lessee shall not sublet the whole or any part of the Premises, nor grant an option for sublease for the whole or any part of the Premises without the prior written consent of King County, which consent shall not be unreasonably withheld, conditioned or delayed. King County shall not withhold its consent to a proposed sublease or grant of an option for sublease on the ground of the subtenant's proposed use if such use is identified as a permitted use in Sections 7 and 15 of the Master Lease. If King County shall give its consent to any sublease, this paragraph shall nevertheless continue in full force and effect and no further sublease shall be made without the County's consent.

B. Except with respect to an Exempt Sublease, if Lessee desires to sublease, or grant an option for sublease, for the whole or part of the Premises, or any portion of this Lease or any interest therein, Lessee shall notify King County in writing of said desire and the details of the proposed agreement at least sixty (60) days prior to the proposed date of sublease, or grant of an option therefor, to a third party. The notification shall include but not be limited to a financial statement of the third party, including but not limited to a full

disclosure of the monetary payment or any other considerations involved, the proposed date of the sublease, and a copy of the sublease agreement between the Lessee and new tenant. Lessee shall also provide any financial or other information regarding the proposed sublease or the sublessee reasonably requested by King County.

- C. Anything in Paragraphs 21.A or 21.B to the contrary notwithstanding, if King County shall consent to a sublease to a subtenant that engages in the business of letting office space, hangar space and/or tiedown spaces to third parties, no further notice to or consent from King County shall be required in connection with any such lettings, but Lessee shall provide or cause such subtenant to provide King County upon request with the names and addresses of the third parties to which such subtenant is then letting office space, hangar space and/or tiedown space.
- D. King County reserves the right of first refusal in the event Lessee attempts to sublease, or grant an option therefor, any unimproved portion of the Premises to any party other than in an Exempt Sublease. A sublease of an unimproved portion of the Premises that is not an Exempt Sublease is hereinafter referred to as a "Ground Sublease."
- E. If lessee subleases all or any portion of the Premises in a Ground Sublease (other than in an Exempt Sublease), Lessee shall pay King County seventy-five percent (75%) of the Sublease Premium derived from that sublease. "Sublease Premium" shall mean (1) all rent, additional rent, and/or other moneys, property, and other consideration of every kind whatsoever received by Lessee from the sublessee for, or by reason of, the sublease (including all amounts received by Lessee for any Included Property) less (2) the credits detailed in Section 21.F below. Lessee shall pay the Sublease Premium to King County as and when Lessee receives payment from such sublessee.
- F. Credits. The allocable portion of the credits set forth in ¶20.E(2), (3) and (5) above, as applicable, and without duplicating any such allocable portion, the following shall be subtracted from what otherwise would be included in the consideration used to calculate the Sublease Premium:
- 1) Any costs, fees or commissions actually paid by Lessee (Sublessor) to procure the sublease, including, without limitation, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to procuring the sublease in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public

accountant in form and substance reasonably satisfactory to King County;

- 2) An allocable portion (based on the square footage subject to the proposed Ground Sublease as compared to the square footage of the entire Premises) of the unamortized transactional costs, fees or commissions, determined on a straight-line basis over the original term of the Lease, actually paid by Lessee (Assignor) to procure the Lease itself, including, without limitation, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County; and
 - 3) The Base Rent, other amounts payable under the Lease as rent and leasehold excise tax allocable to the space covered by such Ground Sublease (as reasonably determined by King County) and paid by Lessee to King County after the date of such Ground Sublease.
- G. Once King County has received all necessary information and documentation pursuant to this Section 20 of this Lease, King County will review the request and respond with either an approval or disapproval of the request not later than ten (10) days prior to the proposed date of the sublease. Disapproval of any such request shall be final and binding on the Lessee and not subject to any arbitration, provided that any approval will not be unreasonably withheld and Lessee may in good faith dispute the reasonableness of King County's disapproval of a request. King County shall charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any sublease, or grant of an option therefor, not to exceed \$1500.00.

22. CONDEMNATION.

- A. King County and Lessee will immediately notify the other in writing of the receipt of notice of any proceedings with respect to a condemnation or intent of any authority to exercise the power of eminent domain.
- B. If all of the Premises are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, this Lease terminates as of the date condemnor takes possession, and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any

improvement taken by the condemnor made to the Premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.

- C. If part of the Premises is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, and such taking results in a material adverse effect on Lessee's use or enjoyment of the Premises, Lessee may choose to terminate this Lease as of the date the condemnor takes possession. If Lessee does not elect to terminate this Lease, the rent will be reduced in the same proportion that the value of the portion of the Premises to be taken bears to the value of the entire Premises as of the date condemnor takes possession. Lessee will have no claim or interest in or to any award of just compensation or damages except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the part taken by the condemnor of any improvements made to the Premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.
- D. If temporary use of all or a portion of the Premises is taken by any lawful authority for a period which would reduce the leasehold and, consequently, would cause the Premises to be untenable for the use by Lessee for the purposes set forth in the section of this Lease titled "Use," then, at Lessee's determination, Lessee may choose to terminate this Lease. If Lessee elects to terminate the Lease, the Lease will terminate the date the condemnor takes possession and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any improvements made to the Premises by the Lessee. If Lessee does not elect to terminate this Lease, the Lease will continue in full force and Lessee will be entitled to receive any award from the condemnor for the use of all or part of the Premises, EXCEPT that Lessee may elect to have the rents reduced by the amount proportionally attributable to any partial temporary taking, in which event Lessee shall not be entitled to any portion of the award attributable to said use.
- E. It is understood and agreed that Lessee shall not be party to any negotiation or proceedings at law wherein King County claims compensation other than that which is defined statutorily as constituting "just compensation."

23. **TERMINATION BY KING COUNTY.** King County reserves the right to terminate this Lease upon twelve (12) months notice in writing to the Lessee or the persons in possession of the Premises if the Premises are required by King County for the improvement or development of KCIA for public airport uses and purposes, and under such termination the Lessee or persons in possession of Premises shall be reimbursed by King County for the fair market value, as defined in Section 2A of this

document, of any improvements placed on the Premises by the Lessee in accordance with the terms of this Lease. In the event that King County and Lessee cannot agree upon the value of said improvements, King County and Lessee shall submit to have the fair market value adjusted by arbitration in the manner described in Section 2C.

24. **NON-DISCRIMINATION.**

- A. Lessee shall not discriminate against any person on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits. The Lessee shall comply fully with all applicable federal, state, and local laws, ordinances, executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 of the Revised Code of Washington, and Titles VI and VII of the Civil Rights Act of 1964.
- B. The Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a U.S. Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- C. The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, creed, color, sex or national origin shall 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 thereof, no person on the grounds of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- D. The Lessee assures that in its use of the Premises it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or

handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the Lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

- E. In addition, this Lease is subject to certain grant assurances resulting from King County's receipt of funding from the federal government. In accordance with those grant assurances, in furnishing services to the public at the Airport, the Lessee shall furnish said services on a reasonable and not unjustly discriminatory basis to all users of the Airport and shall charge reasonable and not unjustly discriminatory prices for each unit or service; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- F. Lessee will include the provisions of this Section 24, Non-Discrimination, in all subleases of all or part of the Premises, and in all agreements at any tier for the use of all or part of the Premises.
- G. Any violation of this Section 24, Non-Discrimination, shall be considered a default of this Lease and, in addition to any other remedies available to the County, shall be grounds for termination of this Lease by the County, and may result in ineligibility for further County agreements.
25. **HEIRS, AGENTS, AND ASSIGNS.** Without limiting any provisions of this Lease pertaining to assignment, transfer and subletting, the provisions of this Lease bind the heirs, successors, agents and assigns of the parties to this Lease.
26. **CAPTIONS.** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
27. **TIME IS OF THE ESSENCE.** Time is of the essence of this Lease, and in the event of the failure of Lessee to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, the Lessee shall be in default.
28. **CUMULATIVE REMEDIES.** No provision of this Lease precludes King County from pursuing any other remedies for Lessee's failure to perform his obligations.

29. **ATTORNEY'S FEES/DEFAULT CHARGE.** In the event legal action is brought by either party to enforce any of the terms, conditions, or provisions of this Lease, the prevailing party shall recover against the other party in addition to the costs allowed by law, its litigation expenses and such sum as the court may adjudge to be a reasonable attorney's fee. In addition to all other charges, Lessee shall pay a charge of \$150.00 to King County for preparation of a notice of default.
30. **HOLDING OVER.** If the Lessee holds over after the expiration or earlier termination of this Lease, Lessee shall become a tenant from month-to-month at a rental rate equal to one hundred-fifty percent (150%) of the rent in effect upon the date of such expiration or termination, and otherwise subject to the terms, covenants, and conditions of this Lease, except those clearly inapplicable to the month-to-month tenancy. Acceptance by King County of rent after such expiration or earlier termination shall not result in a renewal of this Lease, nor affect King County's right of re-entry or any rights of King County hereunder or as otherwise provided by law. If Lessee fails to surrender the Premises upon the expiration of this Lease despite demand to do so by King County, Lessee shall indemnify and hold King County harmless from all loss or liability including, without limitation, any claim made by any succeeding Lessee founded on or resulting from such failure to surrender, together with interest, reasonable attorney's fees, costs, and expenses.
31. **HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.**
- A. **Definitions.** "Hazardous Materials" as used herein shall mean:
- 1) Any toxic substances or waste, sewage, petroleum products, radioactive substances, heavy metals, medical, corrosive, noxious, acidic, bacteriological or disease-producing substances; or
 - 2) Any dangerous waste or hazardous waste as defined in:
 - a. Washington Hazardous Waste Management Act as now existing or hereafter amended (RCW Ch. 70.105); or
 - b. Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or
 - c. Resource Conservation and Recovery Act as now existing or hereafter amended (42 U.S.C. Sec. 6901 et seq.); or
 - 3) Any hazardous substance as defined in:
 - a. Comprehensive Environmental Response, Compensation and Liability Act as now existing or hereafter amended (42 U.S.C. Sec. 9601 et seq.); or

- b. Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or
- 4) Any pollutants, contaminants, or substances posing a danger or threat to public health, safety or welfare, or the environment, which are regulated or controlled as such by any applicable federal, state or local laws, ordinances or regulations as now existing or hereafter amended.

B. Environmental Compliance.

- 1) In the conduct of its business at the Airport, and in its use and occupancy of the Premises and the areas of the Airport outside the Premises that are available for use by the Lessee and others ("the Public Areas"), the Lessee shall, at the Lessee's own expense, comply with all federal, state and local laws, ordinances and regulations now or hereafter in effect related to Hazardous Materials and the environment, including, but not limited to, laws and regulations pertaining to stormwater discharges as set by the U.S. Environmental Protection Agency and the Washington Department of Ecology, as well as such rules concerning environmental matters as may be promulgated by the Airport Manager ("the Environmental Laws"). The Lessee warrants that its business and all its activities to be conducted or performed in, on, or about the Premises and the Public Areas shall comply with all of the Environmental Laws. The Lessee agrees to change, reduce, or stop any non-complying activity, or install necessary equipment, safety devices, pollution control systems, or other installations as may be necessary at any time during the term of this Lease to comply with the Environmental Laws.
- 2) The Lessee shall not without first obtaining the County's prior written approval use, generate, release, handle, spill, store, treat, deposit, transport, sell or dispose of any Hazardous Materials in, on, or about the Premises or the Public Areas. In the event, and only in the event, that the County approves any of the foregoing, the Lessee agrees that such activity shall occur safely and in compliance with the Environmental Laws. King County hereby approves the use by Lessee at the Premises of the Hazardous Materials identified on Exhibit D hereto.
- 3) The Lessee shall not cause or permit to occur any violation of the Environmental Laws on, under, or about the Premises and the Public Areas, or arising from the Lessee's use or occupancy of the Premises and the Public Areas.
- 4) The Lessee shall, in a timely manner and at the Lessee's own expense, make all submissions to, provide all information required by, and

comply with all requirements of all governmental or regulatory authorities ("the Authorities" or "Authority") with jurisdiction under the Environmental Laws. If the Lessee fails to fulfill any duty imposed under this paragraph within the time specified by applicable law, or if no time is specified within a reasonable time, the County may take action; and in such case, the Lessee shall cooperate with the County in order to prepare all documents the County deems necessary or appropriate to determine the applicability of the Environmental Laws to the Premises and/or the Public Areas and the Lessee's use thereof, and for compliance with the Environmental Laws, and the Lessee shall execute all documents promptly upon the County's request. No such action by the County and no attempt made by the County to mitigate damages shall constitute a waiver of any of the Lessee's obligations under this Section 31, Hazardous Materials and Environmental Compliance.

- 5) Should any Authority demand that a cleanup or remediation plan be prepared and that a cleanup or remediation be undertaken because of any deposit, spill, discharge or other release of Hazardous Materials that occurs during the term of this Lease and arises from the Lessee's use or occupancy of the Premises, or which arises at any time from the Lessee's use or occupancy of the Premises and/or the Public Areas, then the Lessee shall, in a timely manner and at the Lessee's own expense, prepare and submit the required plans and all related bonds and other financial assurances; and the Lessee shall carry out all such cleanup or remediation plans. Any such cleanup or remediation plans are subject to the County's prior written approval. Although the County reserves the right to review and approve such cleanup or remediation plans, the County assumes no responsibility for such plans or their compliance with the Environmental Laws.

- 6) If King County determines in its sole discretion that an emergency exists (i) because of the deposit, spill, discharge or other release of Hazardous Materials at or from the Premises or (ii) which arises from the Lessee's use or occupancy of the Premises and/or the Public Areas, King County will take such action as King County, in its sole discretion, considers reasonable to contact the Lessee and advise it of the emergency situation. If the Lessee is unreachable, or is unwilling to take immediate action, King County may, but is not required to, take immediate action to address the emergency situation, and Lessee will reimburse the County for all of its costs and expenses related thereto, provided, with respect clause (i) above, that the deposit, spill, discharge or other release of Hazardous Materials arises from the Lessee's use or occupancy of the Premises. The fact that King County takes immediate action shall not relieve Lessee of any of its responsibilities under this Lease and the Environmental Laws

including, without limitation, Lessee's responsibility for complying with reporting requirements.

C. Indemnification.

- 1) The Lessee shall be fully and completely liable to the County for any and all cleanup and/or remediation costs and expenses, and any and all other charges, expenses, fees, penalties (civil and criminal) imposed by any Authority arising out of the Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials in or about the Premises or the Public Areas during its occupancy of the Premises. The Lessee shall indemnify, defend, and hold the County harmless from any and all of the costs, expenses, fees, penalties, and charges assessed against or imposed upon the County (as well as the County's reasonable attorney's fees, costs and expenses) by any Authority as a result of the Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials in or about the Premises or the Public Areas during its occupancy of the Premises, or from the Lessee's failure to provide all information, make all submissions, and/or take all steps required as a result of Lessee's use of the Premises, by all Authorities under the Environmental Laws.
- 2) The Lessee shall indemnify and hold the County harmless from any and all claims, liabilities, lawsuits, damages, costs and expenses, including reasonable attorney's fees, for injuries to persons or death, property damage, loss or costs caused by or arising from: (a) the use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials by the Lessee or any of its agents, representatives or employees in, on, or about the Premises or the Public Areas, and (b) King County's immediate emergency action as described in Section 31.B(6) above.

D. Reporting Requirements. The Lessee shall comply with the Environmental Laws requiring the submission, reporting, or filing of information concerning Hazardous Materials with the Authorities, and shall provide to the County a full copy of any such submission, filing or report as submitted within 15 days of such submission.

E. Right to Check on the Lessee's Environmental Compliance. The County expressly reserves the right to conduct, and the Lessee shall fully cooperate in allowing, from time to time, such examinations, tests, inspections, and reviews of the Premises as the County, in its sole and absolute discretion, shall determine to be advisable in order to evaluate any potential environmental problems.

F. Remedies. Upon any default by the Lessee under this Section 31, Hazardous Materials and Environmental Compliance, and the expiration of the notice and cure period provided in Section 13 above, Default and Re-Entry, the County shall be entitled to the following rights and remedies in addition to any other rights and remedies that may be available to the County:

- 1) At the County's option, to terminate this Lease pursuant to Section 23, above, but effective immediately; and/or,
- 2) At the County's option, to perform such response, remediation and/or cleanup as is required to bring the Premises and any other areas of the Airport affected by the Lessee's default into compliance with the Environmental Laws and to recover from the Lessee all of the County's costs and expenses in connection therewith; and/or
- 3) To recover from the Lessee any and all damages associated with the default, including but not limited to, response, remediation and cleanup costs, expenses and charges, civil and criminal penalties and fees, adverse impacts on marketing the Premises or any other areas of the Airport, loss of business and sales by the County and other lessees of property at the Airport, diminution of value of the Premises and/or other areas of the Airport, the loss of or restriction of useful space in the Premises and/or other areas of the Airport, and any and all damages and claims asserted by third parties, and the County's reasonable attorneys' fees, costs and expenses.

G. Remediation on Termination of Lease. Upon the expiration or termination of this Lease, the Lessee shall remove, remediate or clean up any Hazardous Materials on, or emanating from, the Premises caused by Lessee as required by applicable laws ("Termination Cleanup"). The process for such Termination Cleanup is subject to the County's prior written approval. Although the County reserves the right to review and approve the Termination Cleanup process, the County assumes no responsibility for it or its compliance with the Environmental Laws.

If the Lessee fails or refuses to commence the Termination Cleanup process, or fails to reasonably proceed toward completion of such process, within the time specified by law or within a reasonable time if no time is specified, the County may elect to perform such Termination Cleanup after providing the Lessee with written notice of the County's intent to commence Termination Cleanup, and after providing the Lessee a reasonable opportunity, which shall not be less than ninety (90) days after such notice (unless the County is given notice by a government or regulatory agency with jurisdiction over such matter that Termination Cleanup must commence within a shorter time), to commence or resume the Termination Cleanup process. If the County

performs such Termination Cleanup after said notice and the Lessee's failure to perform same, the Lessee shall pay all of the County's costs and expenses.

H. Survival. The Lessee's obligations and liabilities under this Section 31, Hazardous Materials and Environmental Compliance, shall survive the expiration or termination of this Lease.

32. PUBLIC USE AIRPORT. The Premises and KCIA are subject to the terms of certain sponsor's assurances made to guarantee the public use of the public airport area of KCIA as incidental to grant agreements between King County and the United States of America; provided, that in the event at any time during the term of this Lease the terms of such assurances should effectively prohibit Lessee's use of the Premises in the general manner contemplated by the parties to this Lease, then such effective prohibition shall be considered as taking by the public and the Lessee or person or persons in lawful possession of the Premises may, upon thirty (30) days prior written notice given to King County, terminate this Lease.
33. RIGHT OF FLIGHT. There is hereby reserved to King County, its successors and assigns, for the use and benefit of King County and the public a right of flight for the passage of aircraft in the air-space above the surface of the Premises herein leased, together with the right to cause in said air-space 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 said air-space or landing at, taking off from and operating aircraft on or over KCIA all in accordance with applicable safety and operating regulations of said Airport and the Federal Aviation Administration.
34. EMPLOYEE CONDUCT. Lessee shall require and be responsible for the full compliance by its officers, agents, employees, customers and guests with the rules and regulations of the Federal Aviation Administration and KCIA.
35. SEVERABILITY. If any term or provision of this Lease or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.
36. GOVERNING LAW/VENUE. This Lease shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Venue for any legal proceeding shall be exclusively in King County Superior Court, Seattle, Washington.

37. **QUIET ENJOYMENT.** So long as Lessee is not in default under this Lease, King County shall at all times during the term and subject to the provisions of this Lease ensure that Lessee shall peacefully and quietly have and enjoy the possession of the Premises without any encumbrance or hindrance.

END OF GENERAL TERMS AND CONDITIONS

EXHIBIT C

BASIC SITE CRITERIA

The Project is to be located on the west side of the runway at King County International Airport at 9010 East Marginal Way South. The site is approximately 4.83 acres (*see* Record of Survey attached as Exhibit A) and is owned by King County. Complete demolition of the existing building and site work will be required to complete the new construction and site development.

It is intended that the apron area of the site will be improved with new concrete pavement over crushed rock, which will accommodate an aircraft weighing approximately 100,000 pounds or a fully loaded Gulfstream G-V. If, in the future, Lessee elects to operate from the Premises aircraft with weights that exceed the foregoing specifications, Lessee shall, subject to and in compliance with all provisions of the Lease governing construction on the Premises, improve the apron area of the site as necessary to accommodate such greater weights.

Approximately 40 automobile parking stalls will be paved with asphalt and will be accessed via four gated entry-ways off of SE 90th and onto the hangar apron.

FUEL FARM

The Project may also include a "Fuel Farm" capable of storing at least 20,000 gallons of fuel in two separate fuel tanks that may be located on the south side of the property. Two horizontal UL-142 tanks are anticipated. One tank will be used as the receipt tank for fuel deliveries, and one tank will be used for active fueling of airplanes. After receipt, fuel will be allowed to settle before it is allowed into airplanes.

Daily tank sumping will be performed with sump separators. Fuel will be pumped back into the storage tank, and water will flow by gravity to an underground storage tank for later removal by tanker truck.

Tanks and equipment will be located in diked containment areas. All drainage from the area will pass through an oil-water separator. The water discharge will connect to the storm sewer.

BASIC FACILITY CRITERIA

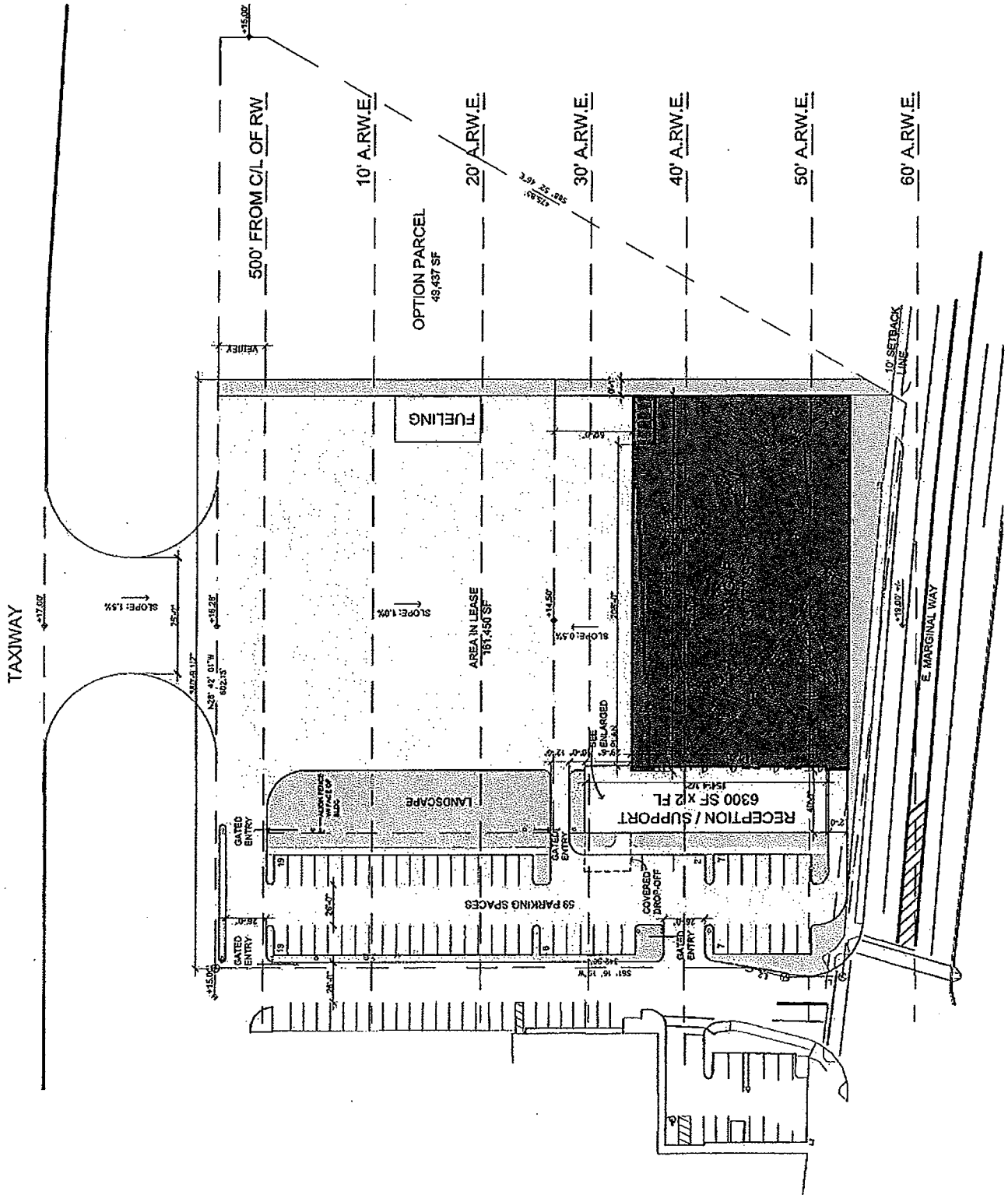
It is anticipated that the Project will include a new single hangar of approximately 34,000 square feet, attached to a two-story support building including offices, a shop, mechanical and electrical spaces and storage together totaling approximately 12,500 square feet. The project will be designed to comply with NFPA 409 requirements.

Panelized hangar doors will be electrically operated and will be approximately 28 feet high by 30 feet wide.

AIRFIELD ACCESS RAMP

An asphalt access ramp will be constructed from the site to the West Taxiway of sufficient width and load-bearing capacity to allow a Gulfstream G-V weighing 100,000 pounds to travel between the site and the West Taxiway. The access ramp shall be constructed by overlaying 10-inches of asphalt over 15-inches of crushed aggregate. If, in the future, Lessee elects to operate from the Premises aircraft with weights that exceed the foregoing specifications, Lessee shall, subject to and in compliance with all provisions of the Lease governing construction on the Premises, improve the access ramp as necessary to accommodate such greater weights.

A proposed site diagram follows.



CHARLES AIR EXHIBIT C - CONCEPT PLAN



EXHIBIT D**PREAPPROVED HAZARDOUS MATERIALS****A. General:**

1. Aviation fuel
2. Solvents, soaps, greases and lubricants typically used in routine line maintenance of aircraft.
3. Chemicals and solutions typically used in routine aircraft maintenance, not including strippers and paints.

B. Specific:

Material	Details
Formula 757	
Formula 727	
Honeybee 60	
Isopropyl Alcohol	
Jet Fuel	
LPS1	LPS 1 st Premium Lubricant
LPS 2	
LPS 3	
LPS Contact Cleaner	
MEK	
Nu-Shine IIS	
Nu-Shine IIC	
Nu-Power II	

Parts Washer Fluid	
Sealants	
Skydrol	
Turbine Oil	