

AMENDMENT TO LEASE

THIS AGREEMENT made this 7th day of February, 2014, between Metropolitan Airports Commission, a public corporation of the State of Minnesota herein called *Lessor/MAC*, and the *United States of America by the Internal Revenue Service, successor in interest to Blackrock Aviation, LLC*, herein called Tenant.

Recitals:

WHEREAS, *Lessor/MAC and Blackrock Aviation, LLC* entered into a Lease Agreement dated the 1st day of May, 2009, a copy of which is attached as Exhibit A, under which a certain parcel of land situated on Flying Cloud Airport, County of Hennepin, and designated as Lot 44A5, was leased by *Lessor/MAC to Blackrock Aviation, LLC*; and,

WHEREAS, the United States of America by the Internal Revenue Service obtained Blackrock Aviation, LLC's tenant's interest in said Lease Agreement pursuant a final court order in a civil forfeiture and continues to exercise the rights and fulfill the obligations as the Tenant in said Lease Agreement; and,

WHEREAS, Tenant has requested that *Lessor/MAC* add 63 square feet to the existing leasehold and to further identify said parcel of land by a legal description created by a duly licensed and certified Land Surveyor, which is attached as Exhibit B, and to identify the *United States of American by the Internal Revenue Service as the Tenant*; and,

WHEREAS, said Lease Agreement was amended by Amendment to Lease dated November 1, 2013, a copy of which is attached as Exhibit C, and Lessor/MAC and Tenant desire to rescind, delete, cancel and nullify in its entirety that Amendment to Lease dated November 1, 2013.

WHEREAS, *Lessor/MAC* and Tenant desire to amend said Lease Agreement as hereinafter provided.

NOW, THEREFORE, in consideration of the covenants and considerations in said Lease Agreement, it is agreed:

Section 1. Amendments to Lease Agreement

1.1 Section 2.a. of said Lease Agreement is deleted in its entirety and replaced with the following:

a. Premises

Commission leases to Tenant and Tenant leases from Commission that portion of the Airport commonly referred to as Lot 44A5, consisting of 126 feet x 42.5 feet equaling 5,355 square feet as shown on attached Exhibit A ("Premises"). The term Premises shall also include the Access Area described in Section 2.b. and the Sewer and Water Easement described in Section 2.c. The Access Area and the Sewer and Water Easement shall not be taken into consideration in determining storage tenant ground rent in Section 5.a. During the term of this Lease, title to any improvements or fixtures located on the Premises is vested in Tenant subject to the Commission's rights in such improvements and fixtures pursuant to Sections 15. and 16. below.

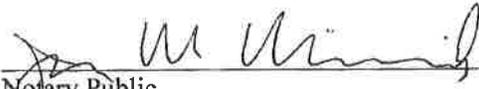
This instrument was acknowledged before me on the _____ day of _____, 2014, by Roy Fuhrmann as Vice President, Management & Operations as the authorized representative of the Metropolitan Airports Commission.

Notary Public

TENANT NOTARY

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

This instrument was acknowledged before me on the 7th day of February, 2014, by Kelly Jackson, the SAC of IRS-CID as the authorized representative of the United States of America.



Notary Public

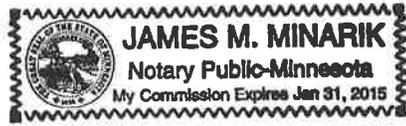


EXHIBIT "A"
LEGAL DESCRIPTION

**That part of the Northwest Quarter of the Northwest Quarter of Section 27,
Township 116, Range 22, Hennepin County, Minnesota, described as follows:**

Commencing at the Northwest corner of said Northwest Quarter of the Northwest Quarter, thence South 00 degrees 10 minutes 19 seconds West assumed bearing along the West line of said Northwest Quarter of the Northwest Quarter a distance of 909.19 feet; thence South 78 degrees 56 minutes 00 seconds East a distance of 337.68 feet, to the point of beginning of the lease property to be described; thence South 78 degrees 56 minutes 00 seconds East a distance of 42.50 feet; thence North 11 degrees 04 minutes 00 seconds East a distance of 126.00 feet; thence North 78 degrees 56 minutes 00 seconds West a distance of 42.50 feet; thence South 11 degrees 04 minutes 00 seconds West a distance of 126.00 feet; to the point of beginning.

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE No. 114

RELIEVER AIRPORTS RATES AND CHARGES ORDINANCE



Adopted by Commission: August 27, 2012
Effective Date: January 1, 2013

1300576

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE NO. 114

RELIEVER RATES AND CHARGES ORDINANCE

An ordinance of the Metropolitan Airports Commission ("Commission") amending the rental rates and other charges for property at the Commission's minor and intermediate use airports ("Reliever Airports") as provided by Minn. Stat. § 473.651; by amending and restating Ordinance No. 107, which amended and restated Ordinance No. 101; which amended and restated Ordinance No. 87 to modify the reverse sliding scale and the formula for calculating percentage rent, modify the formula for calculating a ground rent surcharge or credit, incorporate other fees, and amend various other provisions and prescribe the penalty for violation thereof.

WHEREAS, some of the amendments are being made in accordance with the recommendations contained in the "Recommendations Regarding Operational Practices and Capital Funding for General Aviation in the MAC System", which was prepared by Team Reliever and accepted by the Commission in July 2011; and

WHEREAS, consistent with federal policy, the rental rates and fees are intended to assist the Commission in attaining its long-term goal of making the Reliever Airports as financially self-sustaining as possible; and

WHEREAS, having received and considered extensive public input and having fully considered the state and federal legal requirements concerning the rates that may be charged to users of these Reliever Airports; and

WHEREAS, this Ordinance No. 114 ("Ordinance") will interchangeably be referred to as "Ordinance No. 114," as "Ordinance No. 107 as amended," as "Ordinance No. 101 as amended," and as "Ordinance No. 87 as amended";

NOW THEREFORE, the Commission does ordain:

SECTION 1 – DEFINITIONS

- 1.1 **Based Aircraft.** An aircraft that is registered in the State of Minnesota with the Department of Aeronautics as being based at one of the Reliever Airports.
- 1.2 **Based Tenant.** A Storage Tenant or Commercial Tenant. This does not include subtenants.
- 1.3 **Commercial Tenant.** A Tenant that has entered into a commercial lease with the Commission at a Reliever Airport and that is authorized to do one or more of the following: sale, repair or storage of aircraft; sale of parts and accessories; sale of flight or ground instruction; flying for charter or hire; providing fueling and lubrication services; aircraft rental; or other activities deemed commercial and approved by the Commission.

- 1.4 Commission. The Metropolitan Airports Commission, a public corporation organized and operating pursuant to Chapter 500, Laws of Minnesota 1943 and amendments thereto.
- 1.5 CPI. The consumer price index identified as the All Urban Consumers – Midwest Region.
- 1.6 Director of Reliever Airports. The Commission's administrative officer responsible for the Reliever Airports.
- 1.7 Executive Director. The Commission's chief executive officer or a designated representative.
- 1.8 Flying Club. An entity defined by Minnesota Statutes § 360.013, subd. 18 or Minnesota Rules § 8800.4100, subd. 2, or as either are amended.
- 1.9 Fuel. Aviation gasoline and any other gasoline, petroleum product, fuel, or other substance used in the propulsion of aircraft, automobiles, trucks and other ground vehicles.
- 1.10 Full Service Commercial Operation or Fixed Base Operator ("FBO"). An aeronautical commercial operation that is authorized to engage in the sale of products, services, and facilities to aircraft operators including at a minimum, the following aeronautical activities at the airport: aircraft refueling to include jet fuel, AvGas, and aircraft lubricants; aircraft line services; airframe and power plant maintenance; aircraft storage/hangars rentals and tiedowns; passenger, crew, and aircraft ground services, support and amenities. FBOs may also provide optional services as approved by the Commission, which may include: flight training, aircraft rental, aircraft charter or air taxi, avionics sales and service.
- 1.11 Gross Sales Thresholds. Those amounts of annual Reportable Year Net Gross Revenue set forth in Section 2.2.a. that establish when the rates in Chart B apply to a Commercial Tenant.
- 1.12 Immediate Family Member. A spouse, parent, child, brother or sister (including half-relations and step-relations, but excluding in-law relations) of the Tenant.
- 1.13 Jet-A Fuel. A kerosene based fuel designed for use in turbine engine aircraft, regulated by the American Society for Testing and Materials ("ASTM"). For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org.
- 1.14 Leased Area. That area defined in the description of Premises section in the Tenant's lease.
- 1.15 Military Aircraft. Aircraft owned and/or operated by components of the military forces of the United States of America or of the State of Minnesota.
- 1.16 Military Tenant. A Storage Tenant that is any component or branch of the military forces of the United States of America or of the State of Minnesota.

- 1.17 Net Gross Revenue. Gross Receipts or Gross Sales, as defined in a Commercial Tenant's lease, less exclusions, as allowed by the Commercial Tenant's lease.
- 1.18 Non-Aviation/Complementary Business License Agreement. A license agreement granted by the Commission for the purpose of conducting a business on the airport that is non-aviation, yet provides a complementary product or service to airport users. Examples of complementary products/services include aviation insurance companies, restaurants, aviation legal services, auto rental and limousine services, travel agencies, delivery/courier services, flight physicals, and aviation museums.
- 1.19 Related Entity. An entity within which a Storage Tenant can prove, via written documentation, that he or she holds an equity interest.
- 1.20 Reliever Airport. Any intermediate use or minor use Reliever Airport now or in the future owned and/or operated by the Commission, including: St. Paul Downtown, Flying Cloud, Anoka County-Blaine, Crystal, Airlake and Lake Elmo.
- 1.21 Reportable Year. The time period from October 1 through September 30, which is used to determine which Gross Sales Thresholds apply.
- 1.22 Repositioning Flight. An outbound flight from a Reliever Airport with an intermediate stop at another Reliever Airport in order to pick up passenger(s) or cargo prior to continuing with the flight to the final destination; or an inbound flight to a Reliever Airport as an intermediate stop in order to drop off passenger(s) or cargo prior to continuing with the flight to another Reliever Airport, provided a landing fee is paid for the landing at the other Reliever Airport.
- 1.23 Signatory Airline. Operator of aircraft that pays for use of Minneapolis-St. Paul International Airport pursuant to a use fee agreement and, where applicable, a Commission ordinance.
- 1.24 Special Rent Assessment. Fees charged by the Commission and paid by Tenants to offset the costs of Reliever Airport projects or services which benefit the Tenant, including, but not limited to sewer, water, other utilities, pavement installation or rehabilitation.
- 1.25 Storage Tenant. A Reliever Airport Tenant that has entered into an aircraft storage lease with the Commission.
- 1.26 Tenant. Any person, partnership, corporation or other entity that leases property from the Commission at a Reliever Airport. This definition and the rents and fees in this Ordinance apply even if the lease has expired and the property continues to be occupied by a holdover Tenant.

SECTION 2 – RENTS

2.1 Storage Tenant Per-Square-Foot Ground Rent

Storage Tenants shall pay the rate per square foot of Leased Area per year stated on the attached Chart A.

2.2 Commercial Tenant Rent

Commercial Tenants shall pay ground rent and percentage rents as specified below, by paying the applicable amount in Section 2.2.a. or 2.2.b., whichever is greater. However, if a Commercial Tenant has less than one hundred fourteen thousand dollars (\$114,000) of Net Gross Revenue in the preceding Reportable Year, then a Commercial Tenant shall pay ground rent as stated on the attached Chart A and zero percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater, as determined on a monthly basis, during the calendar year following the Reportable Year.

a. Ground Rent and Gross Sales Thresholds

If a Commercial Tenant that is authorized to conduct a Full Service Commercial Operation has one hundred fourteen thousand dollars (\$114,000.00) or more but less than four hundred fifty-four thousand dollars (\$454,000.00) of Net Gross Revenue in the preceding Reportable Year, or one hundred fourteen thousand dollars (\$114,000.00) or more but less than two hundred twenty-seven thousand (\$227,000.00) dollars if such Commercial Tenant is at Airlake, Lake Elmo, or Crystal, then the Commercial Tenant shall pay ground rent at the rate per square foot of Leased Area per year stated on the attached Chart B and no percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater, as determined on a monthly basis, during the calendar year following the Reportable Year.

If a Commercial Tenant, at any Reliever Airport, that is authorized to conduct less than a Full Service Commercial Operation has one hundred fourteen thousand dollars (\$114,000.00) or more but less than two hundred eighty-four thousand dollars (\$284,000.00) of Net Gross Revenue in the preceding Reportable Year, then the Commercial Tenant shall pay ground rent at the rate per square foot of Leased Area per year stated on the attached Chart B and no percentage rent, or the amount in Section 2.2.b. (see also Chart C), whichever is greater as determined on a monthly basis, during the calendar year following the Reportable Year.

If a Commercial Tenant fails to submit a monthly report of Net Gross Revenue as required by Section 2.3.b.3. for the purpose of determining the applicable Gross Sales Thresholds, that Gross Sales Threshold will be determined based upon the lowest three (3) months of reported Net Gross Revenue during the current Reportable Year.

Beginning January 1, 2013, the Gross Sales Thresholds will be adjusted annually according to the CPI.

b. Percentage Rent

A Commercial Tenant shall pay to the Commission 1.5% of its annual calendar year Net Gross Revenue, plus the rate per square foot of Leased Area per year as stated on attached Chart C.

2.3 Rent Payments

a. Storage Tenant Per-Square-Foot Ground Rent

Storage Tenants shall pay Per-Square-Foot Ground Rent, pursuant to Section 2.1, annually in advance on or before the effective date of their lease, unless otherwise notified by the Commission in writing of different payment dates. Rent is calculated as the total of the rate stated in Chart A multiplied by the square footage of Leased Area, rounded to the nearest penny.

b. Commercial Tenants

1. Ground Rent

Commercial Tenants shall pay ground rent in advance by the last day of the calendar month for the upcoming calendar month, unless otherwise notified by the Commission in writing of different payment dates. Monthly rent is one-twelfth of the annual rent, which is calculated as the total of the appropriate rate stated in the attached Rent and Fee Schedule multiplied by the Commercial Tenant's square footage of Leased Area, rounded to the nearest penny.

2. Percentage Rent

Commercial Tenants shall simultaneously pay percentage rent and submit percentage reports by the last day of the calendar month for the previous calendar month, unless otherwise notified by the Commission in writing of different payment dates.

3. Monthly Report

Each Commercial Tenant shall submit a report of Net Gross Revenue by the last day of each calendar month for the previous calendar month, unless otherwise notified by the Commission in writing of different reporting dates. Commercial Tenants shall submit this report no matter which rate chart is applicable or how much, if any, Net Gross Revenue occurred.

4. Year End Reconciliation

As soon as practical after the end of each calendar year, the Commission shall reconcile the total rent paid against the total rent due. The total rent due shall be the sum of payments due under the applicable provisions of Section 2.2 on an annualized basis, whichever is greater. If insufficient

rent was paid, the Commercial Tenant shall pay the amount due within thirty (30) days of invoice.

2.4 Applicability of Rates

Unless otherwise specified by the terms of Tenant's lease, the rental rates in this Ordinance replace the rent provisions in the Tenant's lease with the Commission.

If the lease is expired or terminated or if the Tenant abandons the property prior to expiration or termination of the lease, the Tenant is not released from responsibility for ground rents, percentage rents and corresponding reports, or any other payments due to the Commission.

SECTION 3 – FUEL FLOWAGE FEES

3.1 Fueling

a. Authorization

Tenants shall not dispense Fuel unless fueling is specifically authorized by the Commission in writing.

b. Compliance

Fueling shall be conducted in compliance with all applicable codes and regulations. Fueling is prohibited in areas that pose a hazard to public safety as determined by the Commission.

3.2 Fuel Flowage Fees

Tenants who are authorized to dispense Fuel, shall pay the applicable Fuel flowage fees as described in this Section 3.2 and in Charts D1 and D2 for every gallon of Fuel purchased from all suppliers that is delivered to the Reliever Airport, including Fuel purchased by subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, and dispensed under the Tenant's authority to dispense Fuel. Military Tenants are not required to pay the Fuel flowage fees required by this Section 3.2. Tenants who are authorized to dispense Fuel shall not pay Fuel flowage fees applicable to Fuel purchased by operators of Military Aircraft.

a. Jet A Fuel

Tenants at St. Paul Downtown Airport, at Flying Cloud Airport, and at Anoka County-Blaine Airport who dispense Jet A fuel shall pay Fuel flowage fees at the rate per gallon as set forth in Chart D1.

Tenants at Crystal Airport, Lake Elmo Airport, and Airlake Airport who dispense Jet A fuel shall pay Fuel flowage fees at the rate per gallon as set forth in Chart D2.

b. 100 Low Lead Fuel

Tenants at the Reliever Airports who dispense 100 low lead fuel shall pay the applicable Fuel flowage fees at the rate per gallon as set forth in Chart D2.

3.3 Payments and Reports

Tenants who are authorized to dispense Fuel shall simultaneously pay Fuel flowage fees and provide reports to the Commission by the last day of each calendar month for Fuel supplied to the Tenant, subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, during the previous calendar month, unless otherwise notified by the Commission in writing of different payment dates. The reports shall state fueling activity for the calendar month, including the number of gallons of Fuel supplied to the Tenant, subtenants, licensees or subsidiaries of Tenant or subsidiaries, licensees or subtenants of a subtenant, broken down by Fuel type; the dates on which the Fuel was supplied, the number of gallons dispensed, broken down by Fuel type; the meter readings on the pumps for the beginning and end of the calendar month, and any other information relating to the fueling activity requested in writing by the Commission. Tenants who are authorized to dispense Fuel shall report all fueling activity, whether or not a landing fee was due.

The Tenant shall attach to the report copies of invoices from the Fuel supplier that are signed and dated by the person who supplied or delivered the Fuel to the Tenant.

If the lease is expired or terminated or if the Tenant abandons the property prior to the expiration or termination of the lease, the Tenant is not released from the responsibility for payments and reports of Fuel flowage fees due to the Commission.

Military Tenants are not subject to the requirements of this Section 3.3.

SECTION 4 – ST. PAUL DOWNTOWN AIRPORT, FLYING CLOUD AIRPORT, AND ANOKA COUNTY-BLAINE AIRPORT LANDING FEE

4.1 Landing Fee

a. Payment of Landing Fee

The operators of all fixed-wing aircraft that use Jet-A Fuel, including those that are Based Aircraft, other than operators of Military Aircraft, shall pay a landing fee for each landing of such aircraft at St. Paul Downtown Airport in an amount equal to one hundred percent (100%) of the then current estimated compensatory field and runway use fee charged to Signatory Airlines at Minneapolis-St. Paul International Airport; provided that the landing fee shall be no less than the amount set forth in the attached Rent and Fee Schedule.

The operators of all fixed-wing aircraft that use Jet-A Fuel, including those that are Based Aircraft, other than operators of Military Aircraft, shall pay a landing fee for each landing of such aircraft at Flying Cloud Airport and Anoka County-Blaine Airport in an amount equal to ninety percent (90%) of the then current

estimated compensatory field and runway use fee charged to Signatory Airlines at Minneapolis-St. Paul International Airport; provided that the landing fee shall be no less than the amount set forth in the attached Rent and Fee Schedule.

Operators of fixed wing aircraft that use Jet-A Fuel shall not be required to pay this landing fee when conducting pilot check flights or maintenance flights required by the federal government; other operations conducted as a requirement of the federal government; flight training touch-and-go operations; operations conducted by those providing medical services, such as transportation of organs or patients in the course of business; Lifeguard flights; Repositioning Flights; or other similar operations approved by the Executive Director.

b. Collection

All landing fees shall be paid to an FBO at the respective Reliever Airport prior to release and clearance of such aircraft for departure from the respective Reliever Airport or paid on a monthly basis to such FBO if pre-arranged with the FBO, except a Based Tenant may pay the Commission directly if approved by the Director of Reliever Airports.

c. Late Fees

Any landing fee payment not received from the FBO or Based Tenant within thirty (30) days of the due date shall accrue interest at the rate of one and a half percent (1.5%) per month, measured from the due date until paid in full.

4.2 Reports and Payments

a. Reports

FBOs at the St. Paul Downtown Airport, Flying Cloud Airport, and Anoka County-Blaine Airport shall, by the last day of each calendar month, report to the Commission the number of all aircraft using Jet-A Fuel that have landed at the respective Reliever Airport the previous calendar month and that have parked at apron areas assigned to and under the control of such FBO or reported their landing to such FBO. Based Tenants approved by the Director of Reliever Airports shall, by the last day of each calendar month, report to the Commission the number of all aircraft, operated by the Based Tenant and using Jet-A Fuel, that have landed at the St. Paul Downtown Airport, Flying Cloud Airport, and Anoka County-Blaine Airport the previous calendar month. Reports shall include the type of aircraft by Federal Aviation Administration approved gross certificated maximum landing weights, the number of landings and take-offs made by such aircraft during the month of reporting, and the landing fee charge due and owing in respect to such aircraft.

b. Payments

Together with such report, the FBO and any Based Tenant approved by the Director of Reliever Airports shall remit to the Commission payment of all landing fees reported and to be paid pursuant to this Ordinance, whether or not collected from the aircraft operator.

SECTION 5 – SUBLEASE FEE

5.1 Applicability

Storage Tenants, other than Military Tenants, who have entered into a sublease license agreement with the Commission and who sublease space within a hangar shall pay an applicable Sublease Fee, as set forth in Chart E of the attached Rent and Fee Schedule, for each aircraft for which the Storage Tenant subleases space.

5.2 Exemptions

Storage Tenants are not required to pay a Sublease Fee for aircraft registered with the Federal Aviation Administration in the respective Storage Tenant's name, or in the name of a Related Entity or Immediate Family Member, and that are stored within the particular hangar. Storage Tenants shall provide written documentation, satisfactory to the Commission, to justify any such exemptions.

5.3 Payments

Storage Tenants shall pay the annual Sublease Fees on a quarterly basis, with payment for January, February, and March due by May 1 of that calendar year; April, May, and June due by August 1 of that calendar year; July, August, and September due by November 1 of that calendar year; and October, November, and December due by February 1 of the following calendar year.

The Storage Tenant will be required to pay a pro-rata portion of the annual Sublease Fee for each quarter during which any sublease activity occurs and for each aircraft for which the Storage Tenant subleases space during that quarter, regardless of whether the sublease activity continues for the entire quarter.

SECTION 6 – NON-AVIATION/COMPLEMENTARY BUSINESS LICENSE FEE

Commercial Tenants who have entered into a Non-Aviation/Complementary Business License Agreement with the Commission shall pay a Non-Aviation/Complementary Business License Fee as set forth in Chart F of the attached Rent and Fee Schedule.

SECTION 7 – FACILITY ACQUISITION FEE

7.1 Applicability

Tenants, other than Military Tenants, who acquire an existing facility on a Reliever Airport shall pay a Facility Acquisition Fee, at the time of lease transfer, at the rate per square foot as set forth in Chart G of the attached Rent and Fee Schedule. Storage

Tenants shall pay the lesser of the rate per square foot of total leased area or 125% of the building footprint. Commercial Tenants shall pay the rate per square foot of building footprint area.

The Facility Acquisition Fee will apply to a lease transfer under the "Transfer" section, as amended, of lease forms entered into after January 1, 2008, and will apply to any assignment of the lease, for any reason, with or without consideration, including:

- A change of ownership or voting control, including a change in the name(s) on the lease, where there is a change of 50% or more (e.g., if only one name is on the lease, and that party wishes to add an additional name, a 50% change would occur, and the fee would apply);
- A transfer for estate-planning purposes (e.g., into a trust), or as a result of death;
- A change in name(s) (e.g., as a result of divorce), where the disposition change is a result of a court order, and there is a change of 50% or more;
- A transfer as part of a bankruptcy; or
- A transfer through a contract for deed.

7.2 Exception

The Facility Acquisition Fee will not apply in the following situation:

- A transfer to an Immediate Family Member, including a transfer to an Immediate Family Member for estate-planning purposes (e.g., into a family trust), or a transfer to an Immediate Family Member as a result of death.

SECTION 8 – ADMINISTRATION FEE

8.1 Applicability

An Administration Fee, as set forth in Chart H of the attached Rent and Fee Schedule, shall be paid by a Tenant or prospective Tenant, other than Military Tenants, for costs associated with the review and processing of lease requests and transactions.

An Administration Fee is applicable to all requests and transactions that require Commission authorization or consent, with the exception of the following: the generation of a new lease executed at the time of construction in a new building area; the renewal of an existing lease; the execution of a sewer and water amendment; a lease amendment to correct a discrepancy in the lease; or the execution of a lease transfer or new lease if a Facility Acquisition Fee, as described in Section 7, applies. Commission staff shall determine the type of lease request or transaction and the corresponding Administration Fee.

8.2 Additional Amounts

Commission staff may charge an additional amount, sufficient to cover its costs, if the costs associated with the review and processing of a lease request or transaction exceed the amount of the Administration Fee, such as for a transaction involving significant legal work. If the Commission assumes the responsibility for issuing building permits in the future, the Commission reserves the right to charge an additional amount, sufficient to cover the costs of the permitting process.

SECTION 9 – WAITING LIST FEE

9.1 Applicability

Any prospective Tenant, other than a prospective Military Tenant, wishing to have a name held on a list for future hangar space that has been identified to be completed within three (3) years in the Commission's capital improvement program shall pay a Waiting List Fee as set forth in the attached Rent and Fee Schedule.

9.2 Fee Administration and Refundability

The Waiting List Fee amount paid will bear simple interest at the Commission's average annual percentage rate of return for the period during which the Waiting List Fee remains with the Commission. The Waiting List Fee will remain with the Commission until a lease is offered to the prospective Tenant, or until the Tenant or prospective Tenant requests the name be removed from the list. The Waiting List Fee, plus any interest, will apply toward the first year building area assessment, if the area is developed by the Commission and the prospective Tenant signs a lease with the Commission, or refunded fully, with interest, to the prospective Tenant, if the area is developed by a developer and the prospective Tenant enters into a lease with that developer.

If the prospective Tenant is offered a lease and rejects the offer, but wishes to remain on the list, the prospective Tenant will be placed at the bottom of the list, and the Waiting List Fee will remain with the Commission until another lease is offered to the prospective Tenant. The Waiting List Fee is fully refundable, with any interest, under the following circumstances: (1) the prospective Tenant dies, the decedent's name is removed from the list, and the decedent's estate requests a refund of the Waiting List Fee; (2) the prospective Tenant has not been offered a lease, has not rejected an offer, requests the name be removed from the list, and the Waiting List Fee has been paid in full for more than three (3) years; or (3) the prospective Tenant has lost an airman's medical certificate, and requests the name be removed from the list. The Waiting List Fee is refundable at 50%, without interest, within the first three (3) years, if the Waiting List Fee has been paid in full and the prospective Tenant requests the name be removed from the list.

SECTION 10 – FLYING CLUBS

10.1 Flying Club Activities

Flying Clubs shall be responsible for the activities of their members. Flying Clubs shall comply with all applicable federal, state and local requirements for Flying Clubs and aeronautical activity.

10.2 Flying Club Records

The Commission shall have access to all Flying Club records, including but not limited to the Flying Club's financial records, any tax statements, records relating to membership and any flight instruction conducted in club aircraft. The Commission shall also have access to the logbooks of all Flying Club members.

10.3 Flying Club Reports

Flying Clubs shall submit to the Commission a copy of all reports other than taxes, required by the state or federal government for Flying Clubs within thirty (30) days of the due date to the state or federal government. Failure to provide the reports to the state or federal government, whether or not waived by the governmental entity, does not release the Tenant from the obligation to provide the reports to the Commission as required under this Ordinance.

SECTION 11 – AUDITS

11.1 Subleasing

The Commission has the right, upon reasonable request, to inspect the Tenant's hangar and audit the number of aircraft using space within the hangar, to determine the number of aircraft, if any, for which the Tenant subleases space. This provision does not apply to Military Tenants.

11.2 Fuel Flowage Fees

The Commission has the right at any time during the business day, upon reasonable request, to inspect the Tenant's Fuel pumps, Fuel supplier invoices and business records to ascertain the veracity of Tenant's reports.

The Commission may at any time require an inventory and audit of the Tenant's dealings in Fuel to be made by an auditor designated by the Commission. If, as a result of such inventory and audit, a deficiency of five percent (5%) or more is disclosed in the Tenant's Fuel flowage reports or payments, the cost of such audit shall be borne by the Tenant. The Tenant shall remit payment to the Commission for any amounts underreported, plus interest according to Section 12.2.

11.3 Landing Fees

The Commission has the right at any time during the business day, upon reasonable request, to inspect the records of FBOs as to operations from the apron area assigned to and under the control of each such operator or the records of a Based Tenant, to ascertain the veracity of the landing fee reports. Such records shall be organized in date order and shall include itemized transactions and operations that document landing fees, including aircraft registration numbers. Upon the Commission's request, the FBO or Based Tenant shall provide the logbooks that document any exception to landing fees due. If, as a result of such inspection and audit, a deficiency of five percent (5%) or more is disclosed, the cost of such audit shall be borne by the FBO or Based Tenant. The FBO or Based Tenant shall remit payment to the Commission for any amounts underreported, plus interest according to Section 12.2.

11.4 Other Records

The Commission has the right, upon reasonable request, to audit Tenant's books and records as authorized by Tenant's lease.

SECTION 12 – PENALTIES

12.1 Sublease Violation

If the Commission determines that a Tenant is subleasing space within a hangar in violation of the Tenant's lease or sublease license agreement, the Tenant shall pay a penalty of two (2) times the current rate set forth in Chart E of the attached Rent and Fee Schedule, retroactive to January 1 of the current calendar year, for each aircraft for which the Tenant is subleasing space in violation of the Tenant's lease or sublease license agreement.

12.2 Interest on Late Payments

For any rents or fees due under this Ordinance, a Tenant shall pay a penalty for late or delinquent payments of twelve percent (12%) per annum on any past due balance calculated from the date the amount is due until the close of the business day upon which the delinquent payment is received by the Commission.

12.3 Misdemeanor

Any person violating any of the provisions of this Ordinance shall upon conviction be punished by sentence within the parameters of the maximum penalty for misdemeanors set forth in Minn. Stat. § 609.03, or as may be amended.

12.4 Other Actions Not Precluded

The penalties prescribed under this Ordinance in no way preclude the Commission from taking any other civil action authorized under the Tenant's lease or by law.

SECTION 13 – RENTS AND FEES ADJUSTMENT

13.1 Annual Rate Adjustments

a. **Storage Tenant Per-Square-Foot Ground Rent**

Storage Tenant per-square-foot ground rent will be adjusted on the anniversary date of the Storage Tenant's lease during each applicable year, according to the attached Rent and Fee Schedule.

b. **Commercial Tenant Rent**

Commercial Tenant rents in the Rent and Fee Schedule will be adjusted on January 1 of each year, according to the attached Schedule.

c. **Fuel Flowage Fees**

Fuel flowage fees will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

d. **Sublease Fees**

The Sublease Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

e. **Non-Aviation/Complementary Business License Fee**

The Non-Aviation/Complementary Business License Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

f. **Facility Acquisition Fee**

The Facility Acquisition Fee will be adjusted on January 1 of each year, according to the attached Rent and Fee Schedule.

13.2 Post 2017 Adjustments

If the rents and fees in Charts A, B, C, D, E, F, G and H of the attached Rent and Fee Schedule are not modified by the Commission before December 31, 2017, the rents and fees shall be increased in the same manner and at the same percentage rates per year until the Commission determines other rates and fees. This means that the operations and maintenance component of the ground rent rates in Charts A, B, and C shall be increased at three percent (3%) per year, and the preservation component of the ground rent rates in Charts A, B, and C shall be increased at five percent (5%) per year; the Fuel Flowage Fees and the Sublease Fee shall be increased at four percent (4%) per year; and the Non-Aviation/Complementary Business License Fee, the Facility Acquisition Fee, and the Administration Fee shall be increased at three percent (3%) per year.

13.3 Commission Action

The Commission may reevaluate and adjust the rates and fees set forth in the attached Rent and Fee Schedule by Commission action. In making a decision to adjust rates, the Commission shall consider state and federal mandates and policy (e.g., in light of security mandates or extraordinary environmental costs), as well as the requirements of this Ordinance. Written notice will be provided to Tenants of public meetings to address rents and fees and of any new rents and fees adopted by the Commission.

SECTION 14 – GENERAL PROVISIONS

14.1 Additional Tenant Charges

a. Assessments and Other Fees

This Ordinance has no applicability to assessments or other fees that the Tenant is required to pay on the date this Ordinance takes effect. All such assessments and fees remain in effect.

b. Special Rent Assessment

The Commission is authorized to charge Special Rent Assessments to Tenants consistent with Minn. Stat. § 473.651 for Reliever Airport projects or services, over and above those contemplated by a Tenant's lease, which benefit the Tenant, charged on a basis uniform and consistent with those of other Tenants at the Reliever Airports. The Commission's Executive Director is authorized to create procedures to implement Special Rent Assessments. Such procedures shall include notice to affected Tenants and opportunity to comment prior to imposition of any such assessment.

14.2 Provisions Severable

If any part or parts of this Ordinance is declared unconstitutional or invalid, this does not affect the validity of the remaining parts of this Ordinance. The Commission declares it would have passed the remaining parts of this Ordinance without the unenforceable provisions.

14.3 Notice

Any notice required by this Ordinance is sufficient if delivered in person, sent by U.S. mail to the last address on file with the Commission, or transmitted by facsimile to the last facsimile number on file with the Commission.

14.4 Amendment

Ordinance No. 107 is amended and restated on the date this Ordinance takes effect.

14.5 Effective Date

This Ordinance is effective January 1, 2013.

RENT AND FEE SCHEDULE

Chart A – Per-Square Foot Ground Rent (annual rate per square foot)

	2012	2013	2014	2015	2016	2017
St. Paul	0.623	0.643	0.664	0.685	0.708	0.731
Flying Cloud	0.531	0.548	0.566	0.585	0.604	0.624
Anoka County	0.531	0.548	0.566	0.585	0.604	0.624
Crystal	0.465	0.480	0.496	0.513	0.530	0.547
Airlake	0.399	0.413	0.427	0.441	0.456	0.471
Lake Elmo	0.399	0.413	0.427	0.441	0.456	0.471

Chart B – Commercial Ground Rent without percentage (annual rate per square foot)

	2012	2013	2014	2015	2016	2017
St. Paul	0.457	0.472	0.488	0.504	0.521	0.538
Flying Cloud	0.393	0.406	0.420	0.434	0.448	0.464
Anoka County	0.393	0.406	0.420	0.434	0.448	0.464
Crystal	0.347	0.359	0.371	0.383	0.397	0.410
Airlake	0.235	0.243	0.252	0.261	0.271	0.280
Lake Elmo	0.235	0.243	0.252	0.261	0.271	0.280

Chart C – Commercial Ground Rent with percentage * (annual rate per square foot)

	2012	2013	2014	2015	2016	2017
St. Paul	0.307	0.318	0.329	0.340	0.352	0.364
Flying Cloud	0.294	0.304	0.315	0.326	0.337	0.349
Anoka County	0.202	0.209	0.217	0.225	0.234	0.242
Crystal	0.202	0.209	0.217	0.225	0.234	0.242
Airlake	0.176	0.182	0.189	0.196	0.204	0.212
Lake Elmo	0.176	0.182	0.189	0.196	0.204	0.212

Chart D1 – Fuel Flowage Fees for Jet A at STP, FCM, and ANE (rate per gallon)

	2012	2013	2014	2015	2016	2017
St. Paul	0.132	0.100	0.104	0.108	0.112	0.117
Flying Cloud	0.132	0.100	0.104	0.108	0.112	0.117
Anoka County	0.132	0.100	0.104	0.108	0.112	0.117

Chart D2 – Fuel Flowage Fees for 100 Low Lead; and for Jet A at LVN, MIC, and 21D (rate per gallon)

	2012	2013	2014	2015	2016	2017
St. Paul	0.132	0.137	0.142	0.148	0.154	0.160
Flying Cloud	0.132	0.137	0.142	0.148	0.154	0.160
Anoka County	0.132	0.137	0.142	0.148	0.154	0.160
Crystal	0.105	0.109	0.114	0.118	0.123	0.128
Airlake	0.105	0.109	0.114	0.118	0.123	0.128
Lake Elmo	0.105	0.109	0.114	0.118	0.123	0.128

* Plus applicable percentage rate on annual calendar year Net Gross Revenue per Section 2.2.b.

Chart E – Sublease Fee (annual rate per aircraft)

	2012	2013	2014	2015	2016	2017
Single Engine / Turbo Prop / Reciprocating	182.50	189.80	197.39	205.29	213.50	222.04
Twin Engine / Turbo Prop / Reciprocating	365.00	379.60	394.78	410.58	427.00	444.08
Turbo Jet Engine	730.00	759.20	789.57	821.15	854.00	888.16

Chart F – Non-Aviation/Complementary Business License Fee (monthly rate)

	2012	2013	2014	2015	2016	2017
All Reliever Airports	173.89	179.11	184.48	190.01	195.71	201.59

Chart G – Facility Acquisition Fee (rate per square foot)

	2012	2013	2014	2015	2016	2017
All Reliever Airports	1.15	1.18	1.22	1.26	1.29	1.33

Chart H – Administration Fee ** (rate per request or transaction)

	2012	2013	2014	2015	2016	2017
Approval of Tenant Modification to Leased Area	105.00	108.15	111.39	114.74	118.18	121.72
Consent to Leasehold Mortgage and Subordination Agreement	115.00	118.45	122.00	125.66	129.43	133.32
Consent to Sublease – Commercial Lease	243.00	250.29	257.80	265.53	273.50	281.70
Standard Amendment	185.00	190.55	196.27	202.15	208.22	214.47
Standard Assignment	185.00	190.55	196.27	202.15	208.22	214.47
Standard Termination	105.00	108.15	111.39	114.74	118.18	121.72

** Plus additional amount, if applicable, per Section 8.2.

Other Fees

Minimum Landing Fee at STP, FCM & ANE	\$20.00
Waiting List Fee	\$500.00

METROPOLITAN AIRPORTS COMMISSION
RELIEVER AIRPORTS AIRCRAFT STORAGE LEASE AGREEMENT

THIS AIRCRAFT STORAGE LEASE AGREEMENT ("Lease") is made between the Metropolitan Airports Commission, a public corporation of the State of Minnesota, at 6040 28th Avenue South, Minneapolis, Minnesota 55450 ("Commission") and Blackrock Aviation, LLC, 574 Prairie Center Drive 135-112, Eden Prairie, MN 55344 ("Tenant").

WHEREAS, Commission owns and/or controls the real property at Flying Cloud Airport ("Airport") located in the County of Hennepin, State of Minnesota; and

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

WHEREAS, Commission is willing to lease certain property to Tenant upon the terms and conditions of this Lease, which has been approved by the Commission on February 17, 2009 conditioned upon Tenant meeting the lease renewal requirements of the Reliever Lease Policies, Rules and Regulations at the time of execution.

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

1. Definitions

a. Ordinance 58

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

b. Ordinance 78

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

c. Ordinance 107

"Ordinance 107" means Metropolitan Airports Commission Ordinance 107, which establishes rental rates, fees and other charges to be paid at the Reliever Airports, as amended from time to time.

d. Policies

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

e. Sewer and Water Policy

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

2. Description of Premises

a. Premises

Commission leases to Tenant and Tenant leases from Commission that portion of the Airport commonly referred to as Lot 44A5, consisting of 126' x 42' = 5,292 square feet as shown on attached Exhibit A ("Premises"). The term Premises shall also include the Access Area described in Section 2.b. and the Sewer and Water Easement described in Section 2.c. The Access Area and the Sewer and Water Easement shall not be taken into consideration in determining storage tenant ground rent in Section 5.a. During the term of this Lease, title to any improvements or fixtures located on the Premises is vested in Tenant subject to the Commission's rights in such improvements and fixtures pursuant to Sections 15. and 16. below.

b. Access Right

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

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

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

c. Sewer and Water Easement

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

3. Use of Premises

a. Use

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

b. Flying Clubs

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

- (1) Obtain Commission's prior written consent to operate a flying club and comply with all conditions of such consent and with all applicable rules, regulations and ordinances of Commission, including Ordinance 107; and
- (2) Obtain the appropriate license(s) to operate a flying club from all applicable governing authorities, comply with all requirements of such governing authorities, and provide evidence of compliance to Commission upon the Commission's request.

4. Term

a. Initial Term

The term of this Lease shall be ten (10) years ("Term"), commencing on May 1, 2009 ("Commencement Date") and expiring, unless earlier terminated, on May 1, 2019.

b. Holding Over

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

c. New Lease

- (1) At the end of the initial Term or before the Commission terminates a month to month tenancy arising upon the expiration of the initial Term, the Commission will offer Tenant a new lease for the Premises as set forth below. The new lease will be for a term of one (1) year, under standard lease terms and conditions in effect at that time, if all of the following conditions are met at the time of expiration of the initial Term and during any subsequent month to month tenancy:
 - (a) Any improvements proposed by Tenant and any proposed change in use of the Premises must be compatible with the present and anticipated development of the Reliever Airports;
 - (b) Tenant must not be in default of this Lease or any other lease(s) with Commission and must be in compliance with Commission's rules, regulations and policies; including, for example:
 - (i) Tenant must not have abandoned the Premises; and
 - (ii) The improvements on the Premises must be in physical condition acceptable to Commission, of sufficient structural integrity, able to safely function

imposed by any other governmental authority during the Term of this Lease upon the Premises, buildings, improvements or property located thereon, or upon Tenant's use or occupancy, for whatever term deemed applicable to Tenant by that governmental authority. Tenant shall pay these amounts without deduction or set-off against Rent to be paid under this Lease. Examples of fees to be paid by Tenant include storm water permit fees, hazardous waste generator fees and aircraft registration fees.

- (2) In the event that any governmental authority imposes an assessment upon the Airport for improvements the Tenant requested from the governmental authority, then Commission shall have the option to charge Tenant for the cost of such assessment. Tenant shall pay that cost in installments as specified by Commission.

7. **Compliance with Laws**

a. **Compliance with Laws**

Tenant shall comply with all applicable local, municipal, county, state and federal laws, regulations, rules and ordinances, now or hereafter in force, including those of Commission, including, without limitation, Ordinance 58, Ordinance 78 and Ordinance 107. Tenant may obtain a copy of Commission's ordinances, rules and regulations by contacting Commission. In the event of a conflict between this Lease and a Commission ordinance, the ordinance governs.

b. **Reliever Lease Policies, Rules and Regulations**

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

c. **Aircraft Registration**

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

d. Sewer and Water Policy

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

8. Quiet Enjoyment

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

9. Inspection

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

10. Construction and Improvements

a. Commitment to Construct

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

The hangar must be constructed to the full depth of the Lease lot (as shown on Exhibit A) and sized in width to be within three (3) feet of the Lease lot boundary (except that the southerly wall may be built on the Lease lot boundary). The hangar may not be located any closer to the airfield than the previous hangar that occupied this Lease lot. No ramp or auto parking may be constructed on the Lease lot.

The design, finish, height, and roof line of the hangar shall be consistent with the design, finish, height, and roof lines of the hangars on Lots 44A2, 44A3, 44A4, and 44A5, and are subject to the prior written approval of Commission staff. The exterior of the hangar shall be in light colors and is subject to the prior written approval of Commission staff.

b. Utilities Installation

Tenant shall install underground extensions of natural gas lines and electrical lines from the service disconnects to the Premises. Prior to commencing the installation of any natural gas and electric extensions, the tenant shall submit to Commission staff a layout and construction plan ("Utilities Plan") for the natural gas and electric extension installations. The Utilities Plan must be prepared at the tenant's sole cost and expense. Commission has no duty to determine whether the Utilities Plan or utility installation complies with applicable laws, ordinances, rules and regulations. The Utilities Plan is subject to Commission staff's written consent and any conditions as set forth in a construction permit, and the conditions in this Lease; and shall be subject to Commission's Airport Manager and Airport Development staff review, approval and/or rejection for design and construction quality. When the utility extensions are fully installed, an as-built plan for the utilities installation shall be submitted to Commission.

c. Approval

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

Plans from a responsible contractor for the Work must be submitted to Commission's staff for approval prior to the commencement of the Work. Commission has no duty to determine whether Tenant's plans or

construction comply with applicable laws, ordinances, rules and regulations.

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

Tenant shall only proceed with the Work after approval from Commission's staff and after obtaining all necessary government building permits (including any necessary building permits from the City of Eden Prairie) and approvals and providing copies to Commission, if requested.

d. Completion

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

- (1) Do or cause all work to be done in a good and workmanlike manner, within a reasonable time and in compliance with the Policies and applicable insurance requirements, building codes, zoning ordinances, laws and regulations;
- (2) Keep the Premises, this Lease and every building, structure and improvement on the Premises free and clear from all liens for labor performed and materials furnished; and
- (3) Defend, at Tenant's cost, each and every lien asserted or filed against the land, or any part thereof, or against this Lease or any building, structure or improvement on the Premises and pay each and every judgment resulting from such lien; and
- (4) Not use any property outside the Premises for staging construction materials or parking any construction vehicles or any personal vehicles without Commission's Airport Manager's prior written consent, which consent Commission may grant or withhold in its sole and absolute discretion. Tenant and its contractor(s) must keep all taxiway and taxiway pavement areas clean and free of construction debris at all times. Access to the Premises must

be maintained at all times for use by Commission. Notifications regarding construction start/schedule and any required taxiway closures shall be coordinated with Commission's Airport Manager prior to construction start. Construction areas shall be adequately fenced/barricaded, signed, and lighted as necessary to prevent unauthorized access, including aircraft or vehicles, from entering the construction site.

e. Insurance Requirements for Construction

(1) Contractors' and Subcontractors' Insurance

The contractor shall not commence work under this contract nor shall contractor allow any subcontractor to commence work until all insurance hereinafter required has been procured and such insurance is approved by MAC. Insurance shall be placed with companies rated A- or higher by A.M. Best and licensed to do business in Minnesota. Insurance as hereinafter provided shall be kept intact and in force throughout the term of this construction contract. The insurance shall be in a form satisfactory to MAC and copies of policies or certificates evidencing such coverage shall be furnished upon MAC's request during the duration of the construction contract.

The contractor shall furnish four (4) copies of an insurance certificate to MAC or its designated representative before any work is commenced and using the most current standard ACORD form as evidence of the required insurance. The certificate shall indicate that at least fifteen (15) days' prior written notice will be given to MAC in the event of cancellation, nonrenewal or any material change in the policies. The insurance certificate must be signed and dated by an authorized representative of the insurance company.

The contractor agrees to obtain, maintain, and pay for all insurance, as set forth below, that will insure for contractual liability and liability for all damages or injury to any person or any property in any manner connected with or resulting from the work provided for in this construction contract or resulting from the use by the contractor, subcontractors, or any of their agents and employees, of materials, equipment, or other property whether owned by MAC, the contractor, subcontractors, or third parties. All of contractor's insurance shall be primary by endorsement to the policy or policies, and MAC shall have all the same rights and coverages as the contractor under the insurance policies.

The contractor agrees to provide the insurance, as set forth below, for the benefit of MAC, including all liabilities, losses, suits,

claims, judgments, fines or demands against MAC (hereinafter "the Claim"), regardless of MAC's fault. The insurance policies shall not limit or delete MAC's coverage in any way based upon MAC's acts or omissions. The insurance shall include coverage for MAC's legal fees and costs for investigation and defense of the Claim and any legal fees and costs incurred by MAC. The contractor shall be responsible for all deductibles.

The contractor shall submit insurance renewals to a MAC contract administrator or its designated representative. Renewals must include project name and project location. Renewals submitted without this information will be returned.

The contractor waives any subrogation rights against MAC on all claims and insurance policies.

Failure to provide insurance as required herein shall be a material breach of this construction contract, which may result in termination of this construction contract for cause.

(2) Workers' Compensation Insurance

The contractor shall produce and shall maintain during the life of this construction contract workers' compensation insurance for all employees working on this project as required by statute and shall also require that all subcontractors and sub-subcontractors maintain the same coverage and limits of workers' compensation insurance for their employees. Workers' compensation insurance policies shall also provide employer's liability insurance with a limit of at least \$100,000.00 each accident, \$500,000.00 Disease Policy Limit and \$100,000.00 Disease each employee. This may be adjusted up or down by MAC. The policy or policies shall contain a waiver of subrogation by endorsement against MAC.

The contractor shall be responsible for ensuring subcontractors and sub-subcontractors maintain the insurance requirements outlined herein. Upon request, the contractor will be required to provide evidence of such.

(3) Contractors' Comprehensive General Liability Insurance

The contractor shall procure and maintain, throughout the term of the construction contract, comprehensive general liability insurance covering contractual liability, personal injury including bodily injury and property damage liability with a combined single limit of \$1,000,000.00 for each occurrence and aggregate. The policy shall contain an endorsement for cross

liability and severability of interest coverage.

The comprehensive general liability insurance and umbrella liability insurance, if applicable, shall name the contractor as insured and shall also name MAC as additional insured by an endorsement to the policy or policies and shall provide contingent liability for operations of subcontractors and sub-subcontractors. The insurance shall cover completed operations and products liability as well as broad form contractual liability. Completed operations coverage shall be maintained for a minimum of five (5) years.

The property damage liability portion of the policy shall not contain any exclusions with reference to damage due to blasting, collapse, or underground facilities.

In lieu of MAC being named as additional insured on the contractor's comprehensive general liability insurance, the insurance may provide liability coverage for the benefit of MAC by means of MAC's protective liability policy subject to MAC's review and approval of such policy.

The contractor shall also require that all subcontractors and sub-subcontractors maintain the same coverage and limits of insurance outlined herein.

(4) Comprehensive Automobile Liability Insurance

The contractor shall provide comprehensive automobile liability insurance covering bodily injury and property damage with a combined single limit of \$1,000,000.00 for each occurrence.

Comprehensive automobile liability insurance shall provide coverage for all automobiles owned by the contractor and all hired and non-owned vehicles. The contractor shall also require that all subcontractors and sub-subcontractors maintain the same coverage and limits of insurance. The contractor shall also provide contingent automobile liability insurance for the operations of subcontractors and sub-subcontractors to ensure coverage as described in this paragraph. The policy or policies shall name MAC as an additional insured by endorsement.

The contractor shall be responsible for ensuring subcontractors and sub-subcontractors maintain insurance requirements outlined herein.

(5) Builders Risk Insurance

Contractor shall purchase and maintain property insurance upon the construction at the site in the amount of no less than the greater of (i) seventy-five percent (75%) of the contractor price for the construction or (ii) the amount required by laws and regulations. This insurance shall:

- (i) include the interests of the MAC, Tenant, contractor, and subcontractors, each of whom is deemed to have an insurable interest, shall list the contractor as the insured, and list the MAC, Tenant, and subcontractors as additional insureds by endorsement to the policy or policies;
- (ii) be written on a Builder's Risk "all risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the construction, temporary buildings, falsework, and construction in transit, and shall insure against at least the following perils: (i) fire; (ii) lightning; (iii) explosion; (iv) windstorm or hail; (v) smoke; (vi) aircraft or vehicles; (vii) riot or civil commotion; (viii) theft; (ix) vandalism and malicious mischief; (x) leakage from fire extinguishing equipment; (xi) earthquake; (xii) sinkhole collapse; (xiii) collapse; (xiv) breakage of building glass; (xv) falling objects; (xvi) debris removal; (xvii) demolition occasioned by enforcement of laws and regulations; (xviii) weight of snow, ice, or sleet; (xix) water-damage; (xx) hidden decay; (xxi) hidden insect or vermin damage; (xxii) weight of people or personal property; (xxiii) weight of rain that collects on a roof; and (xxiv) the use of defective material or methods in construction, remodeling, or renovation if the collapse occurs during the course of construction, remodeling, or renovation;
- (iii) include damages, losses, and loss of use expenses arising out of or resulting from any incurred loss, or incurred in the repair or replacement of any insured property;
- (iv) cover materials and equipment stored at the construction site or at another location that was agreed to in writing by the MAC and/or Tenant prior to being incorporated in the construction, provided that such materials and equipment have been included in an application for payment recommended by the MAC's and/or Tenant's

engineer(s)/architects(s); and

- (v) be maintained in effect until final payment is made unless otherwise agreed to in writing by MAC, Tenant, and contractor with thirty (30) days written notice to each other additional Insured to whom a certificate of insurance has been issued.

MAC and Tenant shall not be responsible for purchasing or maintaining any property insurance to protect the interests of the contractor, subcontractor, or others in the construction to the extent of any deductible amount. The risk of loss within such deductible amount, will be borne by contractor, subcontractor, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such deductible amounts, each may purchase and maintain it at the purchaser's own expense. The policy or policies shall contain a waiver of subrogation by endorsement against MAC.

(6) MAC's Right to Review

MAC, by and through its Insurance Risk Management Department, in cooperation with the contracting entity, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements herein from time to time throughout the life of this construction contract. MAC reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition, or failure to operate legally.

11. Maintenance

Tenant shall, at its own cost and expense, take good care of the Premises, and all improvements, buildings, structures or property located on the Premises and shall keep and maintain them in good order and repair and in a clean and neat condition. Tenant or any other individual or entity that acquires title to improvements or fixtures located on the Premises from Tenant, including, but not limited to, a leasehold mortgagee, judgment creditor or subtenant, may, without regard to the Commission's rights in the improvements and fixtures pursuant to Sections 15. and 16. but subject to the requirements set forth in this Section 11., remove improvements or fixtures from the Premises. An individual or entity intending to remove improvements or fixtures must give prior written notice to the Commission. If only fixtures are removed, the individual or entity removing the fixtures must repair any damage to the remaining improvements or fixtures and remove and properly dispose of any debris resulting from the removal of the fixtures. If improvements are removed, the individual or entity removing the improvements must: (i) remove and properly dispose of any debris

resulting from the removal of the improvements; (ii) return the Premises to a buildable condition; (iii) remediate, to the reasonable satisfaction of the Commission, any environmental contamination existing on the Premises arising out of Tenant's past or present operations on the Premises or the Airport; and (iv) remove, seal or abandon in place, as reasonably required by Commission staff, any above ground or underground storage tanks, septic systems or wells located on the Premises. The obligations in the preceding sentence shall survive termination of this Lease. For purposes of this Section 11., any hangar located on the Premises is an "improvement" and not a "fixture". The Individual or entity removing the improvements or fixtures must provide the Commission with an escrow deposit at the time of notification of removal, in an amount the Commission staff reasonably determines, or other assurances acceptable to the Commission staff, in its discretion, to ensure the individual or entity's full performance of their obligations under this Section 11. Failure to comply with this Section shall be a Lease default under Section 18.a.(9).

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

12. Insurance and Indemnification

a. Required Insurance

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

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

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

- (2) Commercial general liability insurance, with a minimum limit of \$500,000.00 per occurrence for property damage, bodily injuries,

or deaths of persons occurring in or about the Premises, or in or about the Airport if caused by the act or omission of Tenant or those for whom Tenant is responsible.

- (3) Worker's compensation insurance with no less than the minimum limits required by law if Tenant has employees located at the Premises.

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

b. Form of Insurance/Commission's Rights

The liability policies required above shall name Commission as an additional insured and shall provide insurance with respect to Tenant's full indemnification and defense responsibilities contained in this Section. All required insurance policies shall insure on an occurrence and not a claims-made basis, shall be issued by insurance companies which are reasonably acceptable to Commission's insurance staff, and shall not be cancelable, reduced or materially changed unless thirty (30) days prior written notice shall have been given to Commission. Any policy issued to Commission providing duplicate or similar coverage shall be deemed excess over Tenant's policies.

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

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

c. Indemnity

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

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

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

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

d. Appropriate Use

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

13. Damage or Destruction

a. Commission's Termination Right

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

b. Rent Abatement

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

c. Tenant's Termination Right

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

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

(2) If Tenant elects to restore the improvements, Tenant must: (i) remove any debris and eliminate any environmental contamination caused by the damage; (ii) return the Premises to buildable condition; and (iii) rebuild the improvements, to the

c. Award

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

15. Airport Development or Redevelopment

a. Termination or Non-Removal

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

b. Payment of Compensation for Improvements

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

Commission will not purchase the Improvements if this Lease is not renewed or is terminated for any other reason.

(1) Improvements

"Improvements" for the purposes of this Section 15. shall mean all existing buildings and associated ramps located on the Premises, and all immovable fixtures attached to the Premises, but not any trade fixtures, equipment, inventory or other personal property owned by Tenant. Furthermore, Improvements shall include those items of improvement to the Premises, which are not practical to remove by Tenant upon termination of this Lease, such as landscaping, lighting, paving, utility service improvements and similar permanent improvements to the Premises. Improvements shall not include any of the above-referenced items which are removed by Tenant from the Premises or which were constructed or placed on the Premises without the Commission's or Commission's staff's written approval. In addition, Improvements shall not include fuel tanks, wells and septic systems, which will remain the property of Tenant and must be at the sole cost and expense of Tenant removed, or properly abandoned by Tenant in compliance with all applicable laws.

(2) Compensation

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

Commission will not pay for any claims other than Compensation with respect to the Improvements. In no event will Compensation be greater than replacement cost of the Improvements as if they were new, less physical depreciation. Under no circumstances will Commission be responsible for any other claims, such as value attributable to the location of the Improvements, the difference between the rent paid pursuant to this Lease and that

paid for any other lease entered into by Tenant, loss of going concern, loss of rental income or loss of business opportunity arising out of the termination of this Lease or an interest in any property, leasehold or otherwise, other than the Improvements.

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

c. Appraisal Method

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

d. Appraisal Reconciliation

In the event that Commission's appraisal and Tenant's appraisal are more than ten percent (10%) apart, Commission may elect to commence this appraisal reconciliation procedure. Commission must notify Tenant

approved by Commission. Commission's approval of such a transfer will not be unreasonably withheld. If Tenant does not accomplish this within ninety (90) days of the termination or expiration of this Lease, or within a reasonable extension of time if more than ninety (90) days is needed, Commission becomes the owner of the improvements, except as stated below. Commission will then use commercially reasonable efforts to sell the improvements; however, Commission shall not be required to make any upgrades or repairs for purposes of selling the improvements. Commission is entitled to determine the terms of the sale in its sole and absolute discretion. In the event Commission is unable to sell the improvements within 180 days of acquiring ownership, Commission shall have the option to discontinue marketing the improvements and may thereafter demolish the improvements. Commission may, after demolition of the improvements, lease the Premises to another tenant. The foregoing notwithstanding, if below average market conditions have attributed to the inability of Commission to sell the improvements, and the improvements are not hazardous to public health or safety, the 180 day period shall be extended an additional 180 days or such longer period as is reasonably determined by Commission prior to demolition thereof.

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

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

17. Transfers

a. General Prohibition

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

Commission is required to deliver to Tenant under the terms of this Lease to the leasehold mortgagee at the address the leasehold mortgagee had provided.

- (6) Commission agrees that if Tenant defaults in the performance of one or more of Tenant's obligations under this Lease and Commission gives a notice of default as contemplated by Section 18., the leasehold mortgagee has the right, as far as Commission is concerned, to cure the default but nothing herein constitutes Commission's assurance that Tenant will grant the mortgagee access to the Premises to cure any non-monetary default and the mortgagee should address this issue through the inclusion of appropriate provisions in the mortgage.
- (7) Tenant must also grant the leasehold mortgagee a mortgage on Tenant's right, title, and interests, if any, in and to any improvements located on the Premises.
- (8) In the leasehold mortgage, the mortgagee must expressly acknowledge and agree that, notwithstanding any other provisions of the mortgage or any related loan documents, the mortgagee will permit the Tenant to retain sufficient insurance proceeds available as a result of any damage to or destruction of the improvements and fixtures located on the Premises to permit Tenant to fully perform its obligations under either Section 13.(c)(1) or Section 13.(c)(2).

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

e. Change in Control of Entity

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

violation of this Lease within thirty (30) days following written notice from Commission to Tenant that any such lien or encumbrance is filed against the Premises and/or Improvements.

- (8) Tenant (a) makes a general assignment for the benefit of creditors; (b) commences any case, proceeding or other action seeking to have an order for relief entered or to adjudicate Tenant bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or (c) involuntarily becomes the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry.
- (9) Tenant fails to comply with any other term or condition of this Lease and such default continues for more than thirty (30) days after written notice from Commission to Tenant, or for a longer period of time as may be reasonably necessary to cure the default, but only if: (i) Tenant is reasonably capable of curing the default, and (ii) is working diligently as determined by Commission to cure the default.

b. Commission Remedies

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

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

to indemnify Commission against all loss of rents and expenses during the remainder of the Term; and

- (4) Exercise all other rights and remedies including injunctive relief, ejectment or summary proceedings such as an eviction action and any other lawful remedies, actions or proceedings.

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

c. Cumulative Default

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

d. Default of Other Agreements

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

19. Environmental Responsibilities

a. Definitions

- (1) "Environmentally Regulated Substances" means any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, regulated pursuant to any Environmental Law, including but not limited to

products that might otherwise be considered of commercial value, such as asbestos, polychlorinated biphenyls, petroleum products and byproducts, glycol and other materials used in de-icing operations.

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

b. Indemnification

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

If any Indemnified Claim or action shall be brought against any Indemnitee, then after such Indemnitee notifies Tenant thereof, Tenant shall be entitled to participate therein as a party, and shall assume the defense thereof at the expense of Tenant with counsel reasonably satisfactory to such Indemnitee. Tenant shall be entitled to settle and compromise any such Claim or action, provided, however, that such Indemnitee may elect to be represented by separate counsel, at such

Indemnitee's sole expense, and if such Indemnitee so elects, such settlement or compromise shall be effected only with the consent of such Indemnitee. Such Indemnitee's consent shall not be unreasonably withheld and shall be granted if such settlement or compromise provides for a complete release of such Indemnitees. This indemnification and Tenant's obligations hereunder, shall survive after the cancellation, termination or expiration of the Term of this Lease, with respect to matters arising prior thereto.

c. Compliance with Environmental Laws

Tenant shall keep and maintain and shall conduct its operations on the Premises and Airport in full compliance with all applicable Environmental Laws. Tenant shall further ensure that its employees, agents, contractors and subcontractors occupying or present on the Premises and Airport and any other persons conducting any activities on the Premises and Airport comply with all applicable Environmental Laws. By virtue of its operational control of the Premises, Tenant shall be fully responsible for obtaining all control of the Premises, Tenant shall be fully responsible for obtaining all necessary permits or other approvals under the Environmental Laws and shall have full responsibility for signing and submitting any necessary applications, forms, documentation, notifications, certifications, or other governmental submittals relating thereto. Upon the request of Commission, Tenant shall provide copies to Commission of any such applications, forms, documentation, notifications or certifications.

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

d. Testing and Reports

Tenant shall provide to Commission, within ten (10) days of receipt, a copy of any notice regarding a violation of the Environmental Laws arising out of Tenant's past or present operations on the Premises and Airport, a copy of any report, whether in final or draft form, regarding compliance with Environmental Laws or with the presence, use, emission or release of any Environmentally Regulated Substances arising out of Tenant's past or present operations on the Premises and Airport, or a copy of any notice of the emission or release of Environmentally Regulated Substances in violation of the Environmental Laws arising out of Tenant's past or present operations on the Premises and Airport. If

Commission has a reasonable basis to believe that Tenant is not meeting the obligations of Section 19.c. hereof, Commission may require Tenant to perform reasonable environmental studies or assessments (for example, but not limited to, Phase I or Phase II reports as such terms are generally known on the date of execution of this Lease) on the Premises with the written results being delivered to the Commission within ten (10) days of their receipt, whether in draft or final form.

e. Notification

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

f. Right to Investigate

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

If any such claim shall be brought against Tenant, (or its officers, employees, agents and successors, collectively "Tenant" in this paragraph) then after such Tenant notifies Commission thereof, Commission shall be entitled to participate therein as a party, and shall assume the defense thereof at the expense of Commission with counsel reasonably satisfactory to such Tenant. Commission shall be entitled to

settle and compromise any such claim or action, provided, however, that such Tenant may elect to be represented by separate counsel, at such Tenant's sole expense, and if such Tenant so elects, such settlement or compromise shall be effected only with the consent of such Tenant. Such Tenant's consent shall not be unreasonably withheld and shall be granted if such settlement or compromise provides for a complete release of such Tenant. This indemnification and Commission's obligations hereunder, shall survive after the cancellation, termination or expiration of the Term of this Lease, with respect to matters arising prior thereto.

g. Right to Take Action

Commission shall have the right, but not the duty or obligation, to take whatever reasonable action it deems appropriate to protect the Premises and Airport from any material impairment to its value resulting from any escape, seepage, leakage, spillage, discharge, deposit, disposal, emission or release of Environmentally Regulated Substances from the Premises and Airport which violates any Environmental Law and arises out of Tenant's past or present operations on the Premises and Airport. Commission shall notify Tenant of its intention to take such action in writing thirty (30) days before proceeding under this section. Within such thirty (30) day period, Tenant shall have the opportunity to take whatever reasonable action is deemed appropriate by Commission to cure the matter of concern or provide Commission a binding commitment to do so within a reasonable time. If Tenant does not take such action or provide a binding commitment within the thirty (30) day period, Commission may proceed under the terms of this Section 19. All reasonable costs associated with any action by the Commission in connection with this provision, including but not limited to reasonable attorney's fees, shall be subject to Section 19.b. hereof.

h. Claims Relating to Environmentally Regulated Substances

Tenant represents and warrants that, since the time Tenant commenced operations on the Premises or took or assumed an interest in the Premises, to the best of Tenant's knowledge (except for matters that have been corrected in accordance with law) (i) no enforcement, investigation, cleanup, removal, re-mediation or response or other governmental or regulatory actions have, or could have at any time, been asserted or threatened with respect to Tenant's past or present operations conducted on the Premises or Airport, or the Premises itself, or against Tenant with respect to or in any way regarding the Premises, pursuant to any Environmental Laws, or relating to Environmentally Regulated Substances; (ii) no violation or noncompliance with Environmental Laws has occurred with respect to the Premises or Tenant's past or present operations thereon; (iii) no claims with respect to the Premises or Tenant's past or present operations thereon, or

against the Tenant with respect to the Premises or Airport or Tenant's past or present operations thereon relating to Environmental Laws or Environmentally Regulated Substances, have been made or been threatened by any third party, including any governmental entity, agency or representative. For purposes hereof, "the best of Tenant's knowledge" shall mean the actual knowledge (without any duty to inquire) of the person within the Tenant's operations that has the primary responsibility for ensuring compliance with Environmental Laws.

20. Non-Discrimination

a. General

Tenant, for itself, and its heirs, representatives, successors and assigns, as part of the consideration herein, hereby covenants and agrees, as a covenant running with the land, that (1) no person, on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that in the construction of any Improvements on, over, or under the Premises, and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, as amended from time to time.

b. Improvements

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

c. Economic

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

21. Civil Rights

Tenant agrees that it will comply with applicable laws, statutes, Executive Orders and rules that are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates Tenant or its transferee for the period during which federal assistance is extended to the Airport, except where federal assistance is to provide, or is in form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (1) the period during which the property is used by the sponsor or any transferee for a purpose for which federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (2) the period during which the Airport sponsor or any transferee retains ownership or possession of the property.

22. Commission's Operation of the Airport

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

23. Use Not Exclusive

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

h. Commitments to Federal and State Agencies

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

i. Successors

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

j. Relationship of Parties

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

k. Multiple Parties

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

l. Consent and Approvals

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

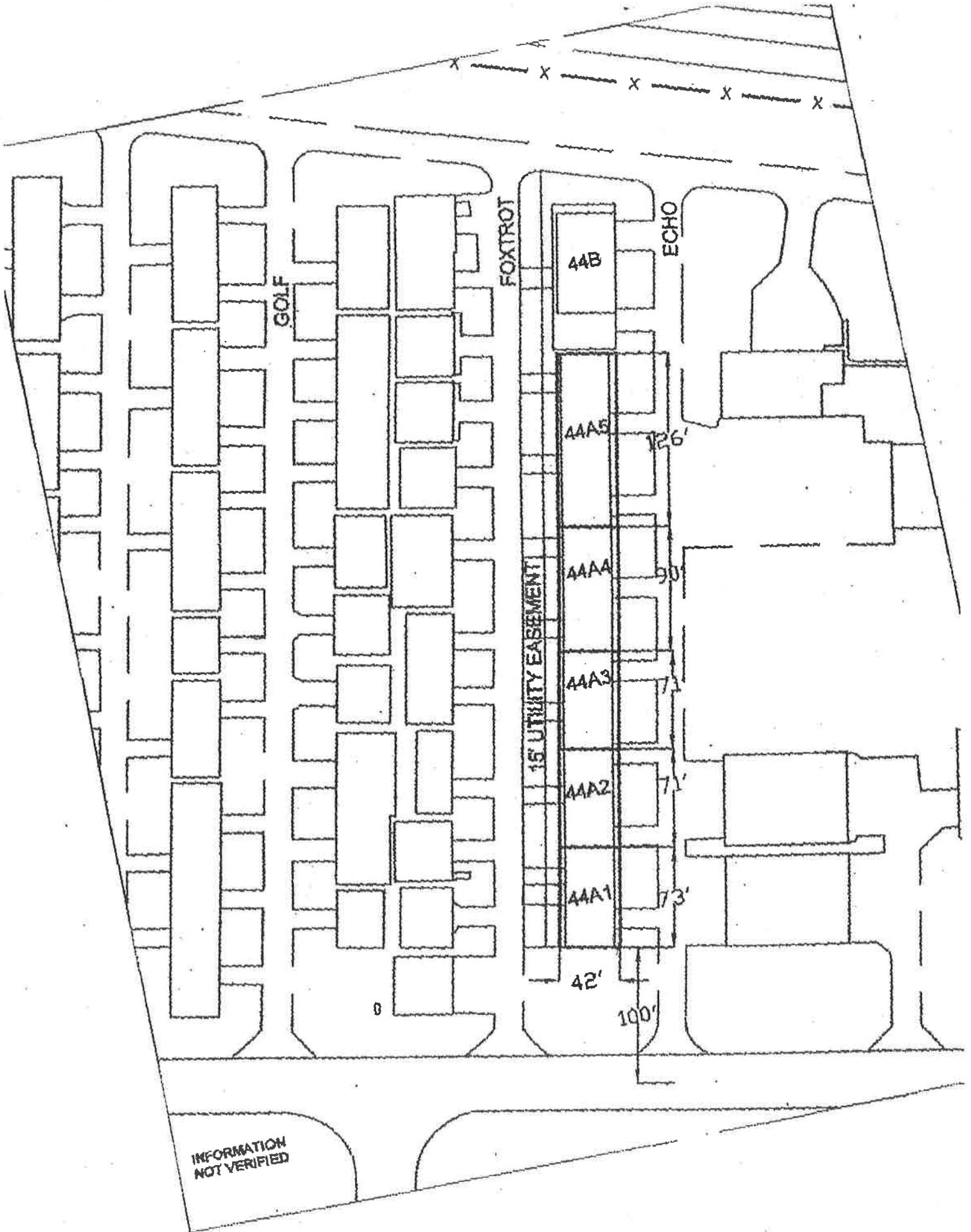
m. Notice

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

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

Tenant: The address in the first paragraph of this Lease

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



INFORMATION
NOT VERIFIED