

File No. 130777

Committee Item No. 2
Board Item No. 1D

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: 10/09/2013

Board of Supervisors Meeting

Date: OCTOBER 22, 2013

Cmte Board

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Completed by: Victor Young Date October 4, 2013

Completed by: Victor Young Date 10/16/13

1 [Lease - American Airlines, Inc. - \$4,355,869 Annually]

2
3 **Resolution approving and authorizing the execution of Lease No. L13-0071 for a**
4 **portion of the SuperBay Hangar and appurtenant land to be occupied by American**
5 **Airlines, Inc., at Plot 40 at the San Francisco International Airport for \$4,355,869**
6 **annually for a term of three-years, to commence following Board approval, with two**
7 **one-year options.**

8
9 WHEREAS, American Airlines, Inc. ("American") occupies a portion of the SuperBay
10 Hangar and appurtenant land at Plot 40 for aircraft maintenance, aircraft and employee
11 parking, ground service equipment ("GSE") maintenance and related activities pursuant to
12 Lease L04-0221, approved by Commission Resolution No. 04-0221, adopted on November 2,
13 2004, and Board of Supervisors' Resolution No. 57-05, adopted January 25, 2005; and,

14 WHEREAS, The aforementioned lease has a term a four and one-half years that
15 expired on June 30, 2009 and is currently on hold over status; and

16 WHEREAS, American wishes to enter into a new lease to continue its aircraft
17 maintenance, GSE maintenance and related activities; and

18 WHEREAS, Airport staff and American have negotiated a lease with a term of three-
19 years with two (2) one-year options for approximately one hundred sixty six thousand eight
20 hundred (166,800) square feet of hangar space and twenty three and fifty eight one
21 hundredths (23.58) acres of land, and eleven thousand five hundred (11,500) square feet of
22 GSE space at Plot 40 (the "Lease") at a rent of \$4,355,869.00 per annum; and

23 WHEREAS, On April 2, 2013, pursuant to Resolution No. 13-0071, the Airport
24 Commission approved the Lease with American. A copy of the form of the Lease is on file
25

1 with the Clerk of the Board of Supervisors in File No. 130777, which is hereby declared to be
2 a part of this resolution as is set forth fully herein; now, therefore, be it

3 RESOLVED, That this Board of Supervisors hereby approves the three (3) year Lease
4 with two one-year options for a portion of the SuperBay Hangar and appurtenant land at Plot
5 40 between American Airlines and the City and County of San Francisco, acting by and
6 through its Airport Commission, and, be it

7 FURTHER RESOLVED, That within thirty (30) days of the lease being fully executed
8 by all parties, the Director of the Airport shall provide the final lease to the Clerk of the Board
9 for inclusion into the official file.

Item 2
File 13-0777

Department:
San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a new property lease between the Airport and American Airlines, Inc. (American Airlines) for hangar and associated space.

Key Points

- The Airport and American Airlines had a prior four-year lease for hangar and associated space from January 2005 through June 2009. Rather than exercise the five-year lease extension provided under the prior lease, American Airlines continued occupying the property on a month-to-month holdover from July 2009 to date, pending American Airlines' assessment of their facility use nationwide in order to reduce costs prior to their bankruptcy proceedings in 2011. The prior lease provisions continued during the more than four-year holdover period, including annual rent increases based on the Consumer Price Index (CPI).
- The proposed new lease between the Airport and American Airlines is for exclusive use of: (a) 166,800 square feet of hangar space; (b) 11,500 square feet of shop space for ground support maintenance; (c) 17.4 acres for aircraft parking; and (d) 6.18 acres for employee vehicle parking. The proposed lease would be for three years from approximately November 1, 2013 through October 31, 2016, with two one-year options to extend the lease through October 31, 2018.

Fiscal Impact

- The first year rent to be paid by American Airlines to the Airport of \$4,355,869 is \$482,979 or 12.5 percent more than the rent of \$3,872,890 paid by American Airlines in FY 2012-13.
- Rent for the hangar, shop, and aircraft parking space is a blended rate, based on the City's Real Estate Division's fair-market valuation of the space.
- Rent of \$93,000 per acre for employee parking is \$4,574 or 4.7 percent less than the Real Estate Division's estimate of the fair-market value of \$97,574 per acre. According to the Airport, the Airport negotiated this rate: (a) in order to maintain a long-standing business relationship with American Airlines; (b) to be consistent with the rent per acre for employee parking in a separate agreement between the Airport and United Airlines; and (c) because the \$93,000 per acre rent is \$15,732 or 20.4 percent more than the existing rent of \$77,268.
- Under the proposed lease, rent is increased annually by the CPI.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

City Administrative Code Section 2A.173 authorizes the Airport to negotiate and execute leases of Airport land and space in Airport buildings without undergoing a competitive bid process for contracts where the original term does not exceed 50 years.

City Charter Section 9.118(c) states that any lease of real property for a period of ten years or more or that has revenue to the City of \$1 million or more is subject to Board of Supervisors approval.

Background

On January 25, 2005, the Board of Supervisors approved a four-year property lease (File No. 04-1564) between the Airport and American Airlines, Inc. (American Airlines) for exclusive use of:

- (1) 166,800 square feet of space in the Superbay Hangar;
- (2) 11,500 square feet of shop space;
- (3) Approximately 20 acres of land for aircraft maintenance and parking; and
- (4) Approximately 3.58 acres for 500 employee parking spaces.

The lease also provided for non-exclusive use of 1.27 acres by American Airlines and United Airlines as an equipment wash area.

The lease term was approved retroactively for the four-and-one-half years from January 1, 2005 through June 30, 2009 with one option to extend the term of the lease by an additional five years. According to Ms. Diane Artz, Airport Senior Property Manager, American Airlines did not exercise the option to extend the existing lease in 2009 because American Airlines was analyzing the airline's facility use nationwide to reduce costs prior to their bankruptcy proceedings in 2011. Ms. Artz advises that because the review took several years, American Airlines did not want to commit to any long-term facility agreements.

From July 1, 2009 to date, a period of over four years and three months, American Airlines has been operating under the holdover provisions of the lease, which converts the lease to a month-to-month agreement, under the same terms and conditions of the prior lease, including annual rent increases based on the Consumer Price Index (CPI). American Airlines paid \$3,872,890 in rent to the Airport in FY 2012-13.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new lease between the Airport and American Airlines for a term of three years. Table 1 below shows the major terms and provisions of the proposed lease.

Table 1: Summary of American Airlines Lease Provisions	
Term	Three years from approximately November 1, 2013 through October 31, 2016
Options to Extend	Two one-year options extending the lease through approximately October 31, 2018
Exclusive Use Premises	166,800 square feet in the Superbay Hangar
	11,500 square feet of shop space for ground support and equipment maintenance
	17.4 acres for aircraft parking and maintenance
	6.18 acres for employee vehicle parking
Non-Exclusive Use Premises	1.5 acres* of shared space for equipment wash rack and aircraft wash station
Rent	\$4,355,869 per year (\$362,989 per month)
Annual Rent Increase	Based on CPI

*This 1.5 acres of shared space reflects a more accurate measurement conducted by the Airport in 2012 of the same 1.27 acres of shared space under the existing lease,

American Airlines uses the first floor space in the Superbay Hangar, the shop space, and 17.4 acres of land for aircraft maintenance, aircraft parking, ground support and equipment maintenance, and storage. American Airlines uses the upper floor space of the Superbay Hangar for office space and related administrative activities.

FISCAL IMPACT

The proposed resolution would approve a new property lease between the Airport and American Airlines that will generate \$4,355,869 in revenue to the Airport in the first year of the lease, as summarized in Table 2 below.

Table 2: Annual Rent ¹			
	\$/FT2	FT2	Total
Hangar Space 1 st Floor	\$24.56	127,900	\$3,141,224
Hangar Space 2 nd and 4 th Floors	\$16.45	38,900	639,905
Subtotal, Hangar Space		166,800	3,781,129
	\$/Acre	Acres	Total
Employee Parking Space	\$93,000	6.18	574,740
Total Rent			\$4,355,869

¹ The rents per square foot for first, second and fourth floor hangar space, shown in Table 2, are blended rates, incorporating hangar space, shop space, and aircraft parking and maintenance space, based on the City's Real Estate Division's fair-market valuation of the space.

The first year rent paid by American Airlines to the Airport under the proposed lease of \$4,355,869 is \$482,979 or 12.5 percent more than the rent of \$3,872,890 paid by American Airlines to the Airport in FY 2012-13.¹

¹ The total leased space under the prior lease is the same as under the proposed new lease.

Rent of \$93,000 per acre for 6.18 acres of employee parking space, as shown in Table 2 above, is \$4,574 or 4.7 percent less than the Real Estate Division's estimate of the fair-market value of \$97,574 per acre. According to Ms. Artz, the Airport negotiated this rate because it is the same rate for employee parking space in the current exclusive-use agreement between the Airport and United Airlines (File 13-0324) at their Maintenance Operations Center, which was approved by the Board of Supervisors on July 24, 2013. Ms. Artz advises that the Airport and American Airlines negotiated the reduced rent per acre: (1) in order to maintain a long-standing business relationship with American Airlines; (2) to be consistent with the current rent per acre paid by United Airlines to the Airport for employee parking at the United Airlines' Maintenance Operations Center; and (3) because the \$93,000 per acre rent is \$15,732 or 20.4 percent more than the existing rent of \$77,268 per acre.

RECOMMENDATION

Approve the proposed resolution.



San Francisco International Airport

June 14, 2013

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 AUG - 1 PM 1:20
SFB

Subject: Approval of Lease (L13-0071) for a portion of the SuperBay Hangar at Plot 40 between American Airlines, Inc. and the City and County of San Francisco, acting by and through its Airport Commission

Dear Ms. Calvillo:

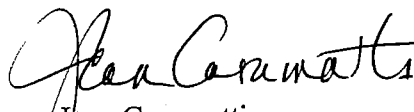
Pursuant to Section 9.118 of the City Charter, I am forwarding for the Board of Supervisors' approval Lease No. L13-0071 (the "Lease") between the City and County of San Francisco, acting by and through its Airport Commission ("Airport"), and American Airlines, Inc. ("American") for approximately 166,800 square feet of the SuperBay Hangar, 23.58 acres of land and 11,500 square feet of ground service equipment maintenance shop (the "Premises"). The Lease provides for a twelve percent (12%) increase of rent to \$4,355,869.00 per year and a term of three (3) years with two (2) one-year options to extend. The Lease was approved pursuant to Airport Commission Resolution No. 13-0071, adopted April 2, 2013.

The following is a list of accompanying documents (five sets):

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 13-0071;
- Commission Memorandum;
- Lease No. L13-0071; and
- Two (2) Forms SFEC-126: Notification of Contract Approval.

You may contact Cathy Widener, Governmental Affairs Manager, at (650) 821-5023 regarding this matter.

Very truly yours,


Jean Caramatti
Commission Secretary

Enclosures

cc: Cathy Widener

130777

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

ELEANOR JOHNS

RICHARD J. GUGGENHIME

PETER A. STERN

JOHN L. MARTIN
AIRPORT DIRECTOR

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 13 0071

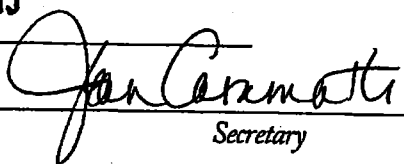
RESOLUTION TO (1) APPROVE A NEW FACILITY LEASE WITH AMERICAN AIRLINES, INC. FOR THE SOUTHEAST HALF OF THE SUPERBAY HANGAR AND APPURTENANT LAND ON PLOT 40, AND (2) DIRECT THE COMMISSION SECRETARY TO FORWARD THE LEASE TO THE BOARD OF SUPERVISORS FOR APPROVAL

- WHEREAS, pursuant to Lease L04-0221, American Airlines, Inc. ("American") leases approximately 166,800 square feet of hangar space, situated on approximately 20 acres of land at Plot 40, and 3.58 acres of additional land for various aviation related functions including aircraft maintenance, aircraft parking, ground service equipment ("GSE") activities, employee parking, and support operations at a current rent of \$3,872,890 per year; and
- WHEREAS, Lease L04-0221 expired on June 30, 2009 and reverted to hold over status; American wishes to continue occupancy of the SuperBay facilities at Plot 40 for uses substantially the same as current uses pursuant to a new lease; and
- WHEREAS, on November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing. American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the new lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American; and
- WHEREAS, Airport staff has negotiated a lease for the SuperBay Hangar at Plot 40 (the "Lease"), to be effective the later of July 1, 2013 or upon full City approval, which provides for: 1) use and occupancy for aviation related purposes, including aircraft maintenance and parking, GSE related activities, employee parking and ancillary uses, 2) a demised premises comprised of approximately 127,900 square feet of first floor hangar space and 38,900 square feet of upper floor hangar space situated on 17.4 acres of land, and an additional 6.18 acres of land for employee parking, 3) a term of three (3) years with two (2) one-year options at American's discretion, and 4) an annual rent of \$4,355,869; now, therefore be it,
- RESOLVED, that the Airport Commission hereby approves and authorizes the Airport Director to execute the Lease with American Airlines commencing the later of July 1, 2013 or upon full City approval which provides for : 1) use and occupancy for aviation related purposes including aircraft maintenance and parking, GSE related activities, employee parking and ancillary uses, 2) a demised premises comprised of approximately 127,900 square feet of first floor hangar space and 38,900 square feet of upper floor hangar space situated on 17.4 acres of land, and an additional 6.18 acres of land for employee parking, 3) a term of three (3) years with two (2) one-year options at American's discretion, and 4) an annual rent of \$4,355,869; and on the terms and conditions set forth in the Director's Memorandum; and be it further
- RESOLVED, that the Airport Commission hereby directs the Commission Secretary to forward the Lease to the Board of Supervisors for approval pursuant to Section 9.118 of the City Charter.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of*

APR 02 2013

293


Secretary



San Francisco International Airport

MEMORANDUM

April 2, 2013

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Peter A. Stern

FROM: Airport Director

SUBJECT: Lease with American Airlines, Inc. for the Southeast Half of the SuperBay Hangar at Plot 40

DIRECTOR'S RECOMMENDATION: ADOPT THE ACCOMPANYING RESOLUTION TO: 1) APPROVE A NEW FACILITY LEASE WITH AMERICAN AIRLINES, INC. FOR THE SOUTHEAST HALF OF THE SUPERBAY HANGAR AND APPURTENANT LAND ON PLOT 40, AND 2) DIRECT THE COMMISSION SECRETARY TO FORWARD THE LEASE TO THE BOARD OF SUPERVISORS FOR APPROVAL.

Executive Summary

Pursuant to Lease No. L04-0221, between the City and American Airlines, Inc. ("American"), American leases approximately 166,800 square feet of hangar space in the SuperBay Hangar ("SuperBay") situated on approximately 20 acres of land at Plot 40. This site is also used for aircraft parking and vehicle parking for employees working at the SuperBay. There is another 3.58 acres of land for non-SuperBay employee parking; and 11,500 square feet of ground service equipment ("GSE") maintenance shop space. American is also granted the non-exclusive right to utilize an aircraft and equipment wash rack situated on approximately 1.50 acres of land. The Lease expired on June 30, 2009 and reverted to hold over status. The current rent is \$3,872,890 per year.

American wishes to continue occupancy of the SuperBay facilities and land for American's aircraft maintenance, aircraft parking, GSE related activities, and employee parking pursuant to a new lease (the "Lease") with a term of three (3) years with two (2) one-year options to extend, to be effective the later of July 1, 2013 or upon full approval by the City. The annual rent will be \$4,355,869 based on a negotiated fair market value, in conjunction with a reappraisal by the City's Real Estate Department, which reflects an increase of approximately twelve percent (12%).

THIS PRINT COVERS CALENDAR ITEM NO. 2

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE LARRY MAZZOLA LINDA S. CRAYTON ELEANOR JOHNS RICHARD J. GUGGENHIME PETER A. STERN JOHN L. MARTIN
MAYOR PRESIDENT VICE PRESIDENT AIRPORT DIRECTOR

On November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing. Staff has been advised that American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the Lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American. American has indicated they wish to continue operations at the Airport.

Background

Pursuant to Lease No. L04-0221, between the City and American, American occupies the southeastern half of the SuperBay and appurtenant land at Plot 40 as follows (Note: all units are approximate):

- 127,900 square feet of first floor hangar space;
- 38,900 square feet of upper floor hangar space;
- 20 acres of appurtenant land for aircraft parking and employee vehicle parking;
- 3.58 acres of land for non-SuperBay employee vehicle parking; and
- 11,500 square feet of GSE maintenance shop space.

American also utilizes an aircraft and equipment wash rack, situated on approximately 1.5 acres of land, on a non-exclusive basis.

The approved uses include various aviation related functions including aircraft maintenance, aircraft parking, GSE related activities, support offices, and employee parking for employees working at the SuperBay and employees working at terminal locations. The lease had a term of approximately 4.5 years, commencing January 1, 2005, with one (1) five-year option to extend. American failed to exercise the option due to a corporate review of its nationwide facility needs that was in progress and, in lieu, requested continued occupancy on a hold over basis effective July 1, 2009, which request was approved. The current rent is \$3,872,890 per year.

American wishes to continue occupancy of the SuperBay facilities and land for aircraft maintenance, aircraft parking, GSE related activities, and employee parking pursuant to a Lease with a term of three (3) years with two (2) one-year options to extend the term, to be effective the later of July 1, 2013 or upon full approval by City. The annual rent will be \$4,355,869, which reflects an increase of approximately twelve percent (12%) and based on a negotiated fair market value, in conjunction with a reappraisal by the City's Real Estate Department.

There are no substantive changes to American's proposed use and occupancy of the SuperBay. For the purposes of rate setting, however, the parties have agreed to consolidate the two parcels of land used for employee vehicle parking, which are segregated in the current lease.

On November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing and has paid all post-bankruptcy

invoices in a timely manner. Staff has been advised that American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the Lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American. American has indicated they wish to continue operations at the Airport.

Proposal

Staff has negotiated the Lease with proposed business terms as follows:

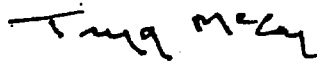
1. **Approved Use:** Aircraft maintenance, aircraft parking and movement, GSE related activities, storage, related support operations, and employee vehicle parking.
2. **Premises:** Comprised of approximately:
 - 127,900 square feet of first floor hangar space;
 - 38,900 square feet of upper floor hangar space;
 - 17.4 acres of appurtenant land for aircraft parking and movement;
 - 6.18 acres of land for employee vehicle parking; and
 - 11,500 square feet of GSE maintenance shop space.
3. **Non-Exclusive Space:** Use of an aircraft and equipment wash rack situated on 1.5 acres of land.
4. **Term:** Three (3) years
5. **Option Term:** Tenant is granted two (2) one-year options to extend the term conditioned upon six months prior written notice.
6. **Commencement Date:** The later of July 1, 2013 or upon full approval by City.
7. **Expiration Date:** The last day of the thirty sixth (36th) month following the Commencement Date.
8. **Annual Rent:** Four Million Three Hundred Fifty Five Thousand Eight Hundred Sixty Nine Dollars (\$4,355,869).
9. **Rental Rate:** Based on a negotiated fair market value as follows:

First Floor Hangar Space	127,900 square feet @ \$24.56 per square foot per year
Upper Floor Hangar Space	38,900 square feet @ \$16.45 per square foot per year
Note: The first floor rate includes the value of the 17.4 acres of appurtenant land.	
Employee Vehicle Parking	6.18 acres of land @ \$93,000 per acre per year
10. **Rent Adjustment:** Annual CPI adjustments.
11. **Deposit:** Equal to three months' rent; initially \$1,088,967.
12. **Maintenance:** The City is responsible for structural maintenance. The lessee is responsible for non-structural maintenance and equipment within and surrounding the SuperBay.

American will be fully compliant with all City Regulations, including the City's Equal Benefits Ordinance, Minimum Compensation Ordinance, and the Health Care Accountability Ordinance.

Recommendation

I recommend adoption of the attached resolution that: 1) approves a Lease with American Airlines, Inc. for the southeast half of the SuperBay Hangar at Plot 40 and appurtenant land, commencing the later of July 1, 2013 or upon full City approval, for aviation related functions, with a term of three (3) years with two (2) one-year options and at an annual rent of \$4,355,869; and 2) directs the Commission Secretary to forward the Lease to the Board of Supervisors for approval.


John L. Martin *For*
Airport Director

Prepared by: Leo Fermin
Deputy Airport Director
Business and Finance

Attachment

**LEASE AGREEMENT
OF
PORTION OF THE PLOT 40 SUPERBAY HANGAR AND SUPPORT AREAS
AT
SAN FRANCISCO INTERNATIONAL AIRPORT**

by and between

AMERICAN AIRLINES, INC.
as Tenant

and

**CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH ITS AIRPORT COMMISSION,
as Landlord**

Mayor Edwin M. Lee

AIRPORT COMMISSION

Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Peter A. Stern

April 8, 2013

Lease No. L13-0071

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LEASE AGREEMENT

AMERICAN AIRLINES, INC. FOR PORTION OF PLOT 40 – SUPERBAY HANGAR AND SUPPORT AREAS AT SAN FRANCISCO INTERNATIONAL AIRPORT

MAJOR LEASE TERM SUMMARY

For the convenience of Tenant and City (as such terms are defined below), this Major Lease Term Summary (this “**Summary**”) summarizes certain terms of this Lease (as defined below). This Summary is not intended to be a detailed or complete description of this Lease, and reference must be made to the other Sections below for the particulars of this Lease. In the event of any inconsistency between the terms of this Summary and any other provision of this Lease, such other provision shall prevail. Capitalized terms used elsewhere in this Lease and not defined elsewhere shall have the meanings given them in this Summary.

Reference Date: April 8, 2013

Tenant: American Airlines, Inc.,
a Delaware corporation

**Tenant’s Notice
Address:** American Airlines, Inc.
4333 Amon Carter Blvd., MD 5317
Fort Worth, Texas 76115
Attention: Vice President, Corporate Real Estate

Fax No.: (817) 967-3111
Tel. No.: (817) 931-0208
Email:

**Tenant’s Property
Manager Address:** American Airlines, Inc.
4333 Amon Carter Blvd., MD 5317
Fort Worth, Texas 76115
Attention: Amanda Zhang
Title: Senior Principal
Corporate Real Estate

Fax No.: (817) 967-3111
Tel. No.: (817) 931-6415
Email: amanda.zhang@aa.com

City: The City and County of San Francisco, a municipal corporation,
acting by and through its Airport Commission

City's Notice Address:
(§ 19.1)

San Francisco International Airport
Administrative Offices
Building 100, International Terminal
North Shoulder Building, 5th Floor
P.O. Box 8097
San Francisco, CA 94128
Att'n: Airport Director

Fax No.: (650) 821-5005
Tel. No.: (650) 821-5000

Premises:
(§ 1)

Exclusive Use:

A portion of that certain parcel of real property commonly known as Plot 40, situated in the County of San Mateo, State of California ("**Plot 40**"), consisting of approximately 17.4 acres for aircraft parking; and the acreage may be adjusted pursuant to field verification within ninety (90) days after the Commencement Date, provided that such adjustment shall have no effect on the Annual Rent.

A portion of the hangar facilities commonly known as the Superbay Hangar ("**Hangar**"), comprising approximately 127,900 square feet of first floor space, including Bay 1 and Bay 2, and approximately 38,900 square feet of upper floor space on the second and fourth floors; and

A portion of Plot 40 comprised of approximately 6.18 acres of land for employee vehicle parking spaces for American Airlines' employees ("**Employee Parking**"); and

A Ground Support Equipment Maintenance Shop ("**GSE Shop**"), comprising approximately 11,500 square feet of shop space, all as identified on Airport Drawing No. APlot40, dated March 28, 2013, and Drawing No. Plot 4002 and No. Plot 4003, both of which are dated February 5, 2013, attached hereto and incorporated herein as *Exhibits A-1, A-2 and A-3*, respectively.

Non-Exclusive Space:

Equipment washrack area comprising approximately 1.50 acres of land located on the northwest side of the Hangar, as identified on *Exhibit A-1*, attached hereto and incorporated herein.

FAA Rights-of-Way

Tenant acknowledges the existence of a Federal Aviation Administration ("FAA") navigational aid situated on approximately 2,500 square feet of land at the southeast corner of the Hangar facility, comprised of an ADSE-3 Tower and ancillary pole lines, telecommunication lines, water lines, and a subsurface power vault (collectively, the "Tower"), as shown on *Exhibit A-1*. The placement of such Tower is pursuant to a Memorandum of Agreement Consolidating No Cost Land Leases (MOA L-00041), between the City and the FAA, dated September 1, 2009, as amended from time to time. Tenant's use of the Premises is conditioned upon granting the FAA a rights-of-way for ingress and egress to the Tower for the purposes of maintaining and operating the Tower in support of air traffic operations at the Airport.

Term:
(§ 2)

Three (3) years, commencing on the Commencement Date and continuing through the Expiration Date.

Option:
(§ 2.2)

Tenant shall have two (2) options to extend the Term for an additional one (1) year period under the same terms and conditions.

Option Notice Date:
(§ 2.2)

Six (6) months prior to the then current Expiration Date.

Commencement Date:
(§ 2)

The later of July 1, 2013 and full City approval.

Expiration Date:
(§ 2)

To be inserted upon determination.

Permitted Use:
(§ 3)

Aircraft maintenance, and related operations and support offices, aircraft parking and movement, ground service equipment activities and storage, vehicle parking for employees working at the Premises and at other Airport locations, and related functions; Non-exclusive use of the washrack.

Annual Rent:
(§ 4)

Three Million Seven Hundred Eighty One Thousand, One Hundred Twenty Nine Dollars (\$3,781,129.00) ("Initial Annual Facility Rent") (\$315,094.08 per month), as adjusted pursuant to Section 4 (as adjusted, the "Annual Facility Rent"). Initial Annual Facility Rent is based on a rate of \$24.56 per square foot per year for first floor Hangar space and a rate of \$16.45 per square foot per year for upper floor Hangar space,

plus:

Five Hundred Seventy Four Thousand Seven Hundred Forty Dollars (\$574,740.00) ("Initial Annual Parking Rent") (\$47,895.00 per month) for Employee Parking as adjusted pursuant to Section 4 (as adjusted, the "Annual Parking Rent"). Initial Annual Parking Rent is based on a rate of \$93,000 per acre per year.

As used herein, the term "Annual Rent" shall mean the sum of the Annual Facility Rent and the Annual Parking Rent.

Rent:
(§ 4)

Annual Rent, Additional Rent (as defined in Section 4.4 hereof), and all other amounts owing by Tenant to City hereunder.

Deposit Amount:
(§ 12)

A sum equal to three (3) times the monthly installment of Annual Rent, as adjusted.

Initial Deposit Amount: \$1,088,967.00

Resolution:

Number 13-0071, approved by the Airport Commission on April 2, 2013

Initial Tenant Representative:
(§ 3.6)

Sailesh Narain
Manager, Facility and Ground Equipment Maintenance
Tel: (650) 877-6222

Other Agreements:
(§ 12.3)

Lease and Use Agreement No. L10-0078
Permit No. 3762
Permit No. 3575
Permit No. 3549
Environmental Settlement Agreement

Exhibits:

- A-1 Premises, Hangar First Floor and Land
- A-2 Premises, Hangar Second Floor
- A-3 Premises, Hangar Fourth Floor
- B Maintenance Responsibilities

Initials of Authorized Representative of City _____

Initials of Authorized Representative of Tenant _____

**LEASE AGREEMENT
OF AMERICAN AIRLINES, INC. FOR PORTION OF PLOT 40 – SUPERBAY
HANGAR AND SUPPORT AREAS
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS LEASE AGREEMENT (this “Lease”), dated as of the Reference Date, is entered into by and between the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Airport Commission (“Commission”), and American Airlines, Inc. (“Tenant”).

This Lease is made with reference to the following facts and objectives:

A. City owns the San Francisco International Airport (the “Airport”) located in the County of San Mateo, State of California, which Airport is operated by and through the Commission, the chief executive officer of which is the Airport Director (“Director”). The Airport is currently comprised of Terminal 1, Terminal 2, Terminal 3, and an International Terminal Building, together with connecting concourses, boarding areas and extensions thereof (the “Terminal Building Complex”), and satellite, cargo, or support buildings now or hereafter constructed. Tenant acknowledges that, from time to time, the Airport undergoes certain construction and renovation projects. Unless otherwise specified, the term “Airport” or “Terminal Building Complex” as used herein shall mean the Airport, or the Terminal Building Complex, respectively, as the same may be expanded, contracted, improved, modified, renovated, or changed in any way. Unless otherwise specified below, references to “City” shall mean City, acting by and through its Airport Commission.

B. Tenant desires to lease certain real property at the Airport for the Permitted Use.

C. Pursuant to the Resolution, Commission has authorized the execution of this Lease by City.

Accordingly, Tenant and City agree as follows:

1. PREMISES

1.1 Extent of Leasehold. On the terms, conditions, and covenants in this Lease, City hereby leases to Tenant and Tenant hereby leases from City, the Premises.

1.2 Rights of Ingress and Egress. Tenant shall have the non-exclusive rights of ingress and egress across Airport property to conduct its permitted operations hereunder provided that such ingress and egress activity: (a) shall not impede or interfere unduly with the operation of Airport by City or the use of the Airport by its tenants, passengers, or employees; (b) shall be subject to Airport Rules and Regulations, as amended from time to time (as amended, the “Airport Rules”), including those pertaining to badge, permitting, and other security requirements, and the requirements of this Lease; and (c) shall be in or on hallways, roads, and other areas designated by Director from time to time. Said rights of ingress and egress shall likewise apply to Tenant’s employees, guests, patrons and suppliers, including the right of transport of equipment, material, cargo, machinery and other property, *provided however*, that Director may impose a reasonable and non-discriminatory charge upon Tenant’s suppliers or furnishers of service in an amount sufficient to compensate City for the out-of-pocket costs reasonably and directly incurred by City in the reasonable regulation by City of such suppliers or furnishers of service in the exercise by such suppliers or furnishers of the foregoing right of ingress and egress, and *provided further*,

that such right of ingress and egress shall not alter or affect whatever contractual arrangements which may now or hereafter exist between City and Tenant's suppliers or furnishers of service.

1.3 Changes to Airport. Tenant acknowledges and agrees that (a) City shall have the right at all times to change, alter, expand, and contract the Airport, including the Terminal Building Complex, (b) City has made no representations, warranties, or covenants to Tenant regarding the design, construction, pedestrian traffic, or views of the Airport or the Premises. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that the Airport (i) is currently undergoing, and may from time to time hereafter undergo, renovation, construction, and other Airport modifications; and (ii) may from time to time adopt rules and regulations relating to security and other operational concerns that may affect Tenant's business. Although City will use reasonable efforts to minimize the effect of such renovation, construction and other Airport changes on Tenant's business, Tenant acknowledges that such activity may have some effect on its aircraft maintenance operations occurring at the Airport. To the extent such changes are reasonably likely to have a material effect on Tenant's business on the Premises, City will provide Tenant reasonable advance notice of such changes. Notwithstanding the foregoing, City shall not eliminate Tenant's access to the Premises.

2. TERM

2.1 Commencement and Expiration. The Term shall commence on the Commencement Date and expire on the Expiration Date, unless terminated prior thereto as provided herein.

2.2 Option to Extend Term. City hereby grants to Tenant two (2) options to extend the Term by an additional one (1) year period (the "**Option Terms**"), on the same terms and conditions of this Lease, except that the Annual Rent shall be adjusted as provided in Section 4.3 [Adjustment to Annual Rent]. In the event Tenant properly exercises the first option, then the Term shall be extended to an additional year. To exercise the first or second option, as the case may be, Tenant must give notice of such exercise to City no later than six (6) month prior to the then current Expiration Date (the "**Option Notice Dates**").

2.3 Holding Over. If, without objection by City, Tenant holds possession of the Premises after the Expiration Date, Tenant shall become a tenant from month to month, upon the terms of this Lease except that, at City's sole discretion, Annual Rent shall be double the then prevailing Annual Rent. No such holdover shall be deemed to operate as a renewal or extension of the Term. Such month-to-month tenancy may be terminated by City or Tenant by giving thirty (30) days' notice of termination to the other at any time.

3. USE AND OPERATION

3.1 Permitted Use. Tenant shall use the Premises for the Permitted Use, and for no other purpose. In the event Tenant desires to use the Premises for any purpose other than the Permitted Use, Tenant may submit a request to Director. Director may, in his/her sole and absolute discretion approve or deny such request.

3.2 No Exclusivity. Tenant acknowledges and agrees that Tenant has no exclusive rights to conduct the business of the Permitted Use and that City may arrange with others for similar activities at the Airport.

3.3 References to Airport. Tenant shall not, without the prior written consent of Director, reference City or the Airport for any purpose other than the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit anything in connection with Tenant's business or

advertising which in the judgment of City may reflect unfavorably on City or the Airport, or confuse or mislead the public as to the relationship between City and Tenant.

3.4 Prohibited Activities. Without limiting any other provision herein, Tenant shall not, without the prior written consent of Director: (a) cause or permit anything to be done, in or about the Premises, or bring or keep anything thereon which might (i) increase in any way the rate of fire insurance on the Hangar or the Airport or any of its contents by way of increased risk of fire or explosion; (ii) create a nuisance; (iii) in any way obstruct or interfere with the rights of others in the Hangar or injure or annoy them; (b) commit or suffer to be committed any waste upon the Premises; (c) use, or allow the Premises to be used, for any improper, immoral, unlawful or objectionable purpose; (d) place any loads upon the floor, walls or ceiling which endanger the structure or obstruct the sidewalk, passageways, stairways or escalators, in front of, within, or adjacent to the Hangar; or (e) do or permit to be done anything in any way tending to injure the reputation of City or appearance of the Airport;

3.5 Inspections. Director may cause the Premises and Tenant's operations hereunder to be inspected at any time. Such inspections shall not unreasonably interfere with Tenant's operations and use of the Premises.

3.6 Representative of Tenant; Access. Tenant shall at all reasonable times retain on the Airport at least one qualified representative authorized to represent and act for it in matters pertaining to its operation, and shall keep Director informed in writing of the identity of each such person. The initial person so designated is the "**Initial Tenant Representative.**" Tenant shall assure City of emergency access to the Premises by providing a list of current emergency telephone numbers at which Initial Tenant Representative may be reached on a 24-hour basis.

3.7 Compliance with Laws. Tenant shall promptly, at its sole expense, cause Tenant's use of the Premises and operations therein, to comply at all times with all present and future federal, California and local laws, as the same may be amended from time to time, whether foreseen or unforeseen, ordinary as well as extraordinary, including all laws relating to (a) health and safety; (b) disabled access, including the Americans with Disabilities Act, 42 U.S.C.S. Sections 12101 et. seq. and Title 24 of the California Code of Regulations (collectively "**ADA**"); (c) Hazardous Materials (as defined below); and (d) fire, fire sprinkler, seismic retrofit, and other building code requirements, including all Airport Operation Bulletins and Airport Directives (collectively "**Laws**"), the Airport's Tenant Improvement Guide, as amended from time to time (as amended, the "**Airport's TI Guide**"), and the Airport Rules. Tenant shall also promptly, at its sole expense, cause the Premises and related equipment, to comply with all applicable Laws and the Airport's TI Guide, to the extent such portions(s) of the Premises and/or equipment are deemed an Airline responsibility pursuant to **Exhibit B** attached hereto, except as this Section may be modified by the provisions of Section 9.4. The parties acknowledge and agree that such obligations are a material part of the bargained for consideration under this Lease. Any work or installations made or performed by or on behalf of Tenant or any person or entity claiming through or under Tenant on the Premises shall be subject to and performed in compliance with the provisions of this Lease, including this Section 3.7. Tenant shall keep current all licenses and permits, whether municipal, county, Airport, state or federal, required for conduct of its operations at Airport, and pay all fees promptly when due. Tenant shall promptly upon request provide City with evidence of its compliance with any of the obligations required under this Section.

3.8 Fuel System. Tenant acknowledges that City has granted to a third-party the sole and exclusive right to operate a fuel system on the Airport. Tenant acknowledges and agrees that, to the extent it desires to receive distribution of jet fuel on Airport premises, it must receive such distribution from such party, on the terms and conditions established by such party. In no event will Tenant have the right to operate a competing fuel system on the Airport.

3.9 Prevention of Trespass. Tenant shall use reasonable precautions to prevent unauthorized persons from gaining access to restricted flight and public aircraft operational areas and all other nonpublic areas around the Premises.

3.10 Antennae and Telecommunications Dishes. No antennae, telecommunications dish, wireless telecommunications system, or other similar facilities may be installed on the Premises without the prior written approval of Director, which approval shall not be unreasonably withheld, conditioned or delayed. No such antennae shall interfere with City's emergency and non-emergency communications facilities or the transmission facilities of City. Tenant agrees, at the request of City, to permit City to install on the exterior of the Hangar, at City's sole cost, telecommunications or transmission equipment reasonably required or desired for City's, including use by Airport customers, and Tenant shall give City reasonable access to such exterior areas.

4. RENT

4.1 Definitions. For purposes of this Lease, the following capitalized terms shall have the following meanings:

(a) **"Consumer Price Index"** means that index published by the United States Department of Labor, Bureau of Labor Statistics known as "All Urban Consumers - All Items for the San Francisco-Oakland-San Jose Area (1982-84 = 100)." In the event such index is discontinued, then "Consumer Price Index" shall mean an index chosen by Director which is, in Director's reasonable judgment, comparable to the index specified above.

(b) **"Rent Adjustment Date"** means the first anniversary of the Commencement Date, or the first day of the first calendar month following such anniversary if the Commencement Date does not fall on the first calendar day of a month, and each anniversary of such adjustment date thereafter.

(c) **"Base Index"** means the most recent Consumer Price Index published three (3) months prior to the Commencement Date if the Commencement Date falls on the first calendar day of a month, or two (2) months prior to the Commencement Date if the Commencement Date does not fall on the first calendar day of a month.

(d) **"Comparison Index"** means the most recent Consumer Price Index published three (3) months prior to each Rent Adjustment Date.

(e) **"Lease Year"** means the period commencing on the Commencement Date and expiring on the day before the first Rent Adjustment Date, and each subsequent 12-month period thereafter, commencing on each Rent Adjustment Date and expiring on the day before the subsequent Rent Adjustment Date, or expiring on the Expiration Date, as the case may be.

4.2 Monthly Rent Payments. Tenant shall pay, as rent for the Premises, the monthly installment of the Annual Rent in advance on or before the first (1st) day of each calendar month of the Term.

(a) On or before the Commencement Date and the first (1st) day of each calendar month thereafter, Tenant shall pay the monthly installment of the current Annual Rent. If the Commencement Date occurs on a date other than the first day of a calendar month, then the monthly Rent for such first month (the **"First Month"**) shall be prorated based on a 30-day month.

(b) All payments hereunder shall be paid at the office of Director, or at such other place as City may from time to time designate in writing. All Rent shall be paid in lawful money of the United States, free from all claims, demands, setoffs, or counterclaims of any kind. Any Rent not paid when due shall be subject to a service charge equal to the lesser of the rate of one and one-half percent (1 ½%) per month, and the maximum rate permitted by law. Acceptance of any service charge shall not constitute a waiver of Tenant's default on the overdue amount or prevent City from exercising any of the other rights and remedies available to City.

4.3 Adjustments to Annual Rent. On each Rent Adjustment Date the Annual Rent will be adjusted as follows: if the Comparison Index shall exceed the Base Index, then the Annual Rent with respect to the upcoming Lease Year shall be increased to equal the following amount:

$$\text{Initial Annual Rent} \quad \times \quad \frac{\text{Comparison Index}}{\text{Base Index}}$$

Notwithstanding anything to the contrary herein, in no event will the Annual Rent for any Lease Year of the Term be lower than the Annual Rent with respect to the prior Lease Year, unless Tenant and City shall subsequently agree otherwise in writing.

4.4 Additional Rent. Tenant shall pay to City any and all charges and other amounts under this Lease as additional rent, at the same place where Annual Rent is payable. City shall have the same remedies for a default in the payment of any such additional charges as for a default in the payment of Annual Rent.

4.5 Prepay Rent. Notwithstanding anything to the contrary herein, at any time Tenant shall fail to pay any Rent when due hereunder, Director shall have the right to require Tenant to pay Rent (including Annual Rent, utility charges, and all other amounts) one (1) month in advance of when such payment would otherwise be due. If this right is exercised and Tenant pays Rent when due for twelve consecutive months thereafter, the timing of such Rent payments will revert to that set forth in Section 4.2 of this Lease, except that at any subsequent time that Tenant should fail to pay any Rent when due hereunder, Director may again exercise the right to required prepayment as described above. Such right shall be exercised by a notice from Director to Tenant, which notice may be given any time after such default by Tenant, regardless of whether the same is cured by Tenant.

4.6 Nature of Lease. The Annual Rent and other Rent due City hereunder shall be absolutely net to City and shall be paid without assertion of any counterclaim, setoff, deduction or defense and without abatement, suspension, deferment or reduction. Under no circumstances or conditions, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the parties, shall City be expected or required to make any payment of any kind whatsoever with respect to the Premises or be under any obligation or liability hereunder except as expressly set forth in this Lease. Except as otherwise expressly provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Premises or any portion thereof or any improvements thereon, or any taking thereof in eminent domain; (b) any restriction or prevention of or interference with any use of the Premises or the improvements or any part thereof; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to City, Tenant or any constituent partner of Tenant or any sublessee, licensee or concessionaire or any action taken with respect to this Lease by a trustee or receiver, or by any court, in any proceeding; (d) any claim that Tenant or any other person has or might have against City (e) any failure on the part of City to perform or comply with any of the terms hereof or of any other agreement with Tenant or any other person; (f) any failure on the part of any sublessee, licensee, concessionaire, or other person to perform or comply with any of the

terms of any sublease or other agreement between Tenant and any such person; (g) any termination of any sublease, license or concession, whether voluntary or by operation of law; or (h) any other occurrence whatsoever, whether similar or dissimilar to the foregoing in each case whether or not Tenant shall have notice or knowledge of any of the foregoing. The obligations of Tenant hereunder shall be separate and independent covenants and agreements. Tenant hereby waives to the full extent permitted by applicable law, all rights now or hereafter conferred by statute, including without limitation the provisions of Civil Code Sections 1932 and 1933, to quit, terminate or surrender this Lease or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of any rent hereunder. The foregoing waiver is not intended to, and shall not, dilute any rights Tenant may have by express provision of this Lease with respect to rights to quit, terminate, or surrender this Lease or the Premises, or to any abatement, suspension, deferment, diminution, or reduction of rent.

5. ASSIGNMENT OR SUBLETTING

5.1 No Assignment. Tenant shall not assign, sublet, encumber, or otherwise transfer, whether voluntary or involuntary or by operation of law, the Premises or any part thereof, or any interest herein, without City's prior written consent, which consent may be granted or denied in City's sole and absolute discretion (the term "Transfer" shall mean any such assignment, subletting, encumbrance, or transfer). City's consent to one Transfer shall not be deemed a consent to subsequent Transfers. Any Transfer made without City's consent shall constitute a default hereunder and shall be voidable at City's election. Notwithstanding the foregoing, any occupancy of Premises by a vendor or contractor of Tenant, or a party that has entered into a joint venture or partnership with Tenant for the purpose of repairing or maintaining aircraft or ground service equipment for Tenant, shall not be deemed a Transfer.

5.2 No Bonus Value. It is the intent of the parties hereto that the Lease shall confer upon Tenant only the right to use and occupy the Premises and to exercise such other rights as are conferred upon Tenant by Lease. The parties agree that this Lease is not intended to have and thus shall have no Bonus Value (as defined below) nor serve as a vehicle whereby Tenant may profit by a future Transfer of this Lease or by the right to use or occupy the Premises as a result of any favorable terms contained herein or any future changes in the market for leased space. As used herein, the term "Bonus Value" shall mean consideration or compensation paid or payable under or by virtue of any Transfer, immediately or over the aggregate of the Term, directly or indirectly exceeding that paid or payable by Tenant under the Lease (less expenses for verifiable and reasonable costs for tenant improvements, lease concessions, value of Tenant's trade fixtures and special equipment conveyed in connection with the Transfer). If Tenant receives any Bonus Value during the Term or in case of the sublease of a portion of the Premises in excess of such rent that is fairly allocable to such portion, Tenant shall pay City one hundred percent (100%) of the difference between each such payment of sublease rent or other consideration and the Rent required hereunder. Accordingly, all such Bonus Value shall belong exclusively to and be paid or payable to City as additional rent hereunder. Such additional amounts shall not affect or reduce any other obligation of Tenant to pay Rent under this Lease. Notwithstanding anything to the contrary herein, Tenant shall be entitled to charge an approved subtenant an administration fee equal to no more than 15% of the Rent payable by Tenant hereunder, and such administration fee shall not be deemed "Bonus Value."

5.3 Changes in Tenant. The merger of Tenant with any other entity or the transfer of any controlling ownership interest in Tenant, or the assignment or transfer of a substantial portion of the assets of Tenant, whether or not located on the Premises, shall constitute a Transfer. Without limiting the generality of the foregoing, if Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law of the partner or partners owning fifty-one percent (51%) or more of the partnership, or the dissolution of the partnership, shall be deemed a Transfer. If Tenant is a corporation or limited

liability company, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock or membership interests of Tenant, or the sale of at least fifty-one percent (51%) of the value of the assets of Tenant, shall be deemed a Transfer. The phrase "**controlling percentage**" means the ownership of, and the right to vote, stock or interests possessing at least fifty-one percent (51%) of the total combined voting power of all classes of Tenant's capital stock or interests issued, outstanding and entitled to vote for the election of directors. This paragraph shall not apply to corporations or limited liability companies the stock or interests of which is traded through an exchange or over the counter.

5.4 No Release. In no event will City's consent to a Transfer be deemed to be a release of Tenant as primary obligor hereunder.

6. TAXES, ASSESSMENTS AND LIENS

6.1 Taxes. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any Transfer permitted under this Lease and any exercise of any option to renew or other extension of this Lease, if applicable, may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant shall pay all taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises, all of which shall be paid when the same become due and payable and before delinquency. Tenant shall report any Transfer, or any renewal or extension hereof, to the County of San Mateo Assessor within sixty (60) days after such Transfer transaction, or renewal or extension. Tenant further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements under applicable law with respect to possessory interests.

6.2 Other Liens. Tenant shall not permit or suffer any liens to be imposed upon the Premises, the Hangar, the Terminal Building Complex, other Airport property, or any part thereof, or this Lease, including mechanics', materialmen's and tax liens, as a result of its activities without promptly discharging the same. Notwithstanding the foregoing, Tenant may in good faith contest any such lien if Tenant provides a bond in an amount and form acceptable to City in order to clear the record of any such liens. Tenant shall assume the defense of and indemnify and hold harmless City against any and all liens and charges of any and every nature and kind which may at any time be established against said premises and improvements, or any part thereof, or this Lease, as a consequence of any act or omission of Tenant or as a consequence of the existence of Tenant's interest under this Lease.

7. TENANT IMPROVEMENTS; ALTERATIONS

7.1 Improvements. Subject to the provisions of Section 7.2 [City's Approval Rights] below, Tenant at its own expense may construct, place or erect on the Premises any improvements which it may consider necessary or useful in connection with or related to Tenant's business, including Tenant's trade fixtures, specialty equipment, furnishings, finishes, or other necessary improvements to Premises and thereafter, to alter, modify or enlarge the same.

7.2 City's Approval Rights. Tenant shall not make or suffer to be made any alterations, additions, or improvements to the Premises or any part thereof or attach any fixtures or equipment thereto (collectively, "**Alterations**") without Director's prior written consent. Tenant shall cause all such Alterations to be performed in a workmanlike manner, in compliance with the requirements of the Airport's TI Guide and all applicable Laws. Without limiting the generality of the foregoing, all Exterior

Alterations (as defined below), may require the approval of the Airport's Design Review Committee. As used herein, the term "**Exterior Alterations**" means Alterations to be installed on the exterior of the Hangar. Prior to the construction of any Alterations, Tenant shall submit detailed plans and specifications to the Director for approval. Tenant shall include with its plans and specifications schematic renderings, materials, and a color board(s). Director's approval rights will extend to and include architectural and aesthetic matters and City reserves the right to reject any designs submitted and to require Tenant to resubmit designs until they meet Director's approval. The Commencement Date shall not be extended if Director rejects any designs submitted. In the event of disapproval by Director of any portion of the plans and specifications, Tenant will promptly submit necessary modifications and revisions thereof. No changes or alterations will be made in said plans or specifications after approval by Director. City agrees to act within a reasonable period of time upon such plans and specifications and upon requests for approval of changes or alterations in said plans or specifications. One copy of plans for all proposed Alterations will, within fifteen (15) days after approval thereof by Director, be signed by Tenant and deposited with City as an official record thereof. All Alterations shall be effected through the use of contractors approved by Director who shall furnish to Director upon demand such completion bonds and labor and material bonds as Director may require so as to assure completion of the Alterations on a lien-free basis.

7.3 Notice and Permits. Tenant shall give written notice to Director not less than seven (7) days prior to the commencement of any Alterations work in order that City may post appropriate notices of non-responsibility, and agrees that such notices may remain posted until the acceptance of such work by City. Tenant shall obtain, and pay all fees for all permits required by the City or other legal jurisdictions, for improvements that it is required to construct or install, and it shall furnish copies of all such permits to City prior to the commencement of any work.

7.4 Title to Alterations. Title to all Alterations of such a nature as cannot be removed without damage to the Premises including all carpeting, decorations, finishes, slat walls, and counters, shall vest in City on the Expiration Date. All other equipment of such nature as to constitute specialty equipment or trade fixtures shall remain the property of Tenant. On the Expiration Date, Tenant may remove said specialty equipment or trade fixtures or Director may require that Tenant remove same at Tenant's expense. Tenant agrees and understands that "specialty equipment and trade fixtures" are defined as objects, either affixed or unaffixed, to the realty by Tenant to aid it in carrying on its business on the Premises in accordance with the Permitted Use. On the Expiration Date, all fixtures and equipment, other than those deemed specialty equipment or trade fixtures by City, shall become the property of City. Tenant shall be liable to City for City's costs for storing, removing and disposing of Tenant's personal property, and of restoration of the Premises resulting from such removal.

7.5 Effect of Alterations on Airport. If and to the extent that Tenant's activities or proposed Alterations trigger an obligation or requirement on the part of City to make changes to other Airport premises (including ADA requirements), Tenant shall indemnify, defend, and hold harmless City from and against any and all Losses (as defined below) arising out of such activities or Alterations.

7.6 Removal of Pipelines. In the event that any City-owned pipeline(s) located on the Premises that are in use solely by Tenant, or pipelines and appurtenances installed by Tenant be so located that it shall be necessary to change, alter, remove or reconstruct same in order to allow City to install a sewer or drain line, or if a change of Airport buildings or aircraft apron boundaries is required by City, Tenant at its own and sole expense, shall make such change, alteration, removal or reconstruction of said pipeline as is requested by City, necessitated by such change, even though said pipelines are owned by City; provided, however, that (i) any such relocation shall occur only after all other alternatives have been considered and deemed unreasonable by City, and (ii) if the need for such relocation results from a

project or improvement that is initiated by a party other than City or Tenant for the primary benefit of such initiating party, then Tenant shall not be responsible for the costs.

8. UTILITIES

8.1 Services.

(a) Tenant shall have the right to obtain service from City's water, sewerage, storm water drainage and electric power facilities, but shall acquire no title thereto. Tenant shall have the right to request and receive telephone and communications services and illuminating or industrial gas service, subject to the customary rules and regulations of these utility companies, from the utility companies furnishing such services, whether the companies deliver such services directly through their own conduits or pipes or through conduits or pipes owned by City. Tenant agrees to pay all charges legally exacted for said utility services. Tenant may alter, relocate, or add to said existing facilities and utilities, provided written approval by City of plans for such alteration or relocation is first obtained. Tenant shall not cross connect water supplies from sources other than City's supply pipes. City shall have the right, upon reasonable notice to Tenant and without unreasonably or unduly interfering with Tenant's use of the Premises to enter upon the Premises and install, construct, maintain, operate and remove water pipes, drainage pipes, electric power supply lines, telephone and communication conduits, sewerage lines for general airport use, provided that such entry, installation, construction, maintenance, operation, or removal shall not reduce the useable square footage of the Premises (except to a *de minimis* extent). ~~Unless due to the fault of Tenant, the expense of any said operation shall be borne by City.~~ In the event of any excavation by City upon the Premises for any of said purposes, said Premises shall be restored to the immediately prior condition at City's expense, unless due to the fault of Tenant.

(b) Prior to the beginning of any construction by Tenant that involves excavation or otherwise might affect underground utilities, Tenant shall locate all existing underground utilities belonging to City or its tenants in order to avoid damage to said utilities. Any damage to existing pavement, underground facilities or other improvements belonging to City caused by Tenant's operations shall be repaired to the satisfaction of City by Tenant at its expense. Tenant shall promptly backfill any trench made by it on the Premises so as to leave the surface of the ground thereover, as nearly normal as practical, and restore pavement and landscaping to its original condition. This shall include Tenant's restoration of landscaping, fencing, gates, roadways, traffic signs, driveways, parking lots, guardrails or any other improvements.

(c) Drains or other facilities provided by Tenant for the purpose of disposing of storm or other waters shall in no case be connected to sanitary sewers. In the event that Tenant's facilities (either storm or sanitary) are below an elevation that will permit gravity flow into facilities provided by City, then Tenant shall provide and maintain such pumping facilities as may be necessary to deliver storm water or sanitary sewage to the proper drainage system facilities or sanitary sewers provided by City for the disposal of same. Tenant must provide adequate separations to prevent flow into the sanitary sewer system of petroleum products or chemicals or any foreign matter. Tenant shall take all reasonable precautions to prevent material going into the drainage system which would create interference with the flow therein, or which would cause undue hazards or unlawful contamination of the waters of the San Francisco Bay into which the drainage flow may be deposited.

8.2 Utility Costs. Tenant shall pay the whole cost for all utility services as invoiced to Tenant by City and for such other special services which it may require in the Premises, and Tenant hereby expressly waives the right to contest any utility rates.

8.3 Waiver of Damages. Tenant hereby expressly waives any and all claims for damages against the City arising or resulting from failures or interruptions of utility services to the Premises, including electricity, gas, water, plumbing, sewage, telephone, communications, heat, ventilation, air conditioning, or for the failure or interruption of any public or passenger conveniences; except if any such damages are caused solely by the active negligence or intentional wrongdoing of City, its employees, or agents. Without limiting the generality of the foregoing, Tenant shall have no rights to abate Rent or terminate this Lease in the event of any interruption or failure of utility services.

8.4 Telecommunications. In no event will Tenant have any rights to license, lease, or sublease to a telecommunications provider the right to install or operate on the Premises telecommunications equipment, including antennas, unless such equipment is to service exclusively Tenant's operations. City reserves the right to license, permit, or lease to a telecommunication provider the right to install and operate such equipment on the Premises and the facilities thereon, with right of access thereof.

9. MAINTENANCE AND REPAIR

9.1 "As-Is" Condition. EXCEPT WITH RESPECT TO THAT CERTAIN ASBESTOS WORK ("CITY'S WORK") DESCRIBED IN SAN FRANCISCO INTERNATIONAL AIRPORT CONTRACT NO. 8291, TENANT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS LEASING THE PREMISES TO TENANT ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT TENANT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THE PREMISES INCLUDING THE NON-EXCLUSIVE AREAS, INCLUDING: (i) the quality, nature, adequacy and physical condition and aspects of the Premises including landscaping, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises, (iv) the development potential of the Premises, and the Premises use, habitability, merchantability, or fitness, suitability, value or adequacy of the Premises for any particular purpose, (v) the zoning or other legal status of the Premises or any other public or private restrictions on use of the Premises (vi) the compliance of the Premises or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the real property, (ix) the condition of title to the Premises, and (x) any agreements affecting the Premises. In performing City's Work, City shall coordinate with Tenant to ensure that disruption in operations is minimal.

9.2 Tenant's Maintenance Obligations. Tenant shall at all times, at its sole cost and expense, assure that those Premises and equipment deemed an Airline Responsibility on *Exhibit B* are in good condition and repair, and, except as otherwise provided in this Section 9.2 and in Section 9.4 below, renew or replace the same as necessary. Tenant shall, and shall cause its Tenant Entities to, maintain and keep the ramp and parking areas in a neat, clean and orderly condition, free from litter, debris, refuse, petroleum products or grease that may accumulate thereon as a result of Tenant's operations hereunder. Tenant shall maintain and keep the GSE Shop in a safe and habitable condition and in compliance with all Laws that are applicable to Tenant's use of this facility. Should a licensed structural engineer determine that the GSE Shop is no longer safe for activities related to, or supportive of, automotive or aircraft repair, Tenant shall remove this building and restore the Premises. Such restoration shall include the removal of all personal property, fixtures, equipment, building products and structural elements and the patching and repair of the skin of the Hangar as necessary to repair any damage caused by the construction or demolition of the GSE Shop; however, Tenant shall not be required to restore the concrete apron on

which the GSE Shop was constructed. Except in the aforementioned instance, Tenant is not obligated to replace or repair the GSE Shop; provided, however, that if Tenant chooses to repair or replace the facility, the provisions of Section 9.4 shall apply. Tenant hereby waives all right to make repairs at the expense of City or in lieu thereof to vacate the Premises as provided by California Civil Code Section 1941 and 1942 or any other law, statute or ordinance now or hereafter in effect. As provided below in Section 14.3 [City's Right to Perform], in the event Tenant fails to perform its maintenance and repair obligations hereunder, City shall have the right to do so, at Tenant's expense.

9.3 City's Maintenance Obligations. City shall at all times, at its sole cost and expense, assure that those Premises and equipment deemed a City Responsibility on *Exhibit B* are in good condition and repair, and replace the same as necessary; *provided however*, if damage to such Premises and/or equipment is caused by Tenant or a Tenant Entity, and is not the result of normal wear and tear, then the cost to repair or replace the same shall be borne by Tenant. As used herein, the term "**Tenant Entity**" shall mean any officer, employee, affiliate, contractor, agent, licensee, or invitee of Tenant.

9.4 Replacement or Renewal of Systems or Equipment. City and Tenant acknowledge that some of the systems and equipment identified on *Exhibit B* may be approaching the end of their economic life and may require renewal and replacement during the Term. The parties agree that the responsibility to maintain and repair equipment or systems identified on *Exhibit B* may not extend to replacement in kind of any such systems or equipment that have reached the end of their economic life (*i.e.*, when it is no longer cost effective to maintain the system or equipment). On or about July 1 of each year, City and Tenant will meet to identify what, if any, of the building systems or equipment identified on *Exhibit B* may require replacement or renewal and confer (Meet and Confer) regarding allocation of costs and funding sources for such replacement or renewal. If as a result of such Meet and Confer process Tenant funds the replacement or renewal of any of the systems or equipment for which City is responsible under *Exhibit B*, City shall reimburse Tenant through credit against Rent in such amounts agreed upon by the parties through the Meet and Confer process. In the event City funds the replacement or renewal of any of the systems or equipment for which Tenant is responsible under *Exhibit B*, Tenant shall reimburse City through rental equipment surcharge or other means agreed upon and in such amounts agreed upon by the parties through the Meet and Confer process. If after completing the Meet and Confer process City and Tenant are unable to agree on the proper remedy and financing for replacement or renewal of a system and Tenant is able to demonstrate that the financial effect of continuing its use of the premises without the replacement or renewal of a system will be impaired by at least 50%, Tenant may terminate this agreement on 60 days notice. As an example: if Tenant were to lose the use of one wide-body parking position, it would reduce the economic value of the lease by more than 50%, thereby triggering Tenant's right to terminate pursuant to this Section 9.4. Similarly, if the expense of an improvement identified as a City responsibility would cause the City to incur costs that would exceed its required economic return on the property, City may terminate this Lease on 60 days notice.

10. SIGNS AND ADVERTISING

10.1 Advertising. Tenant may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of Director, including the approval of the number, size, height, location, color and general type and design. Such approval shall be subject to revocation by Director at any time. Without express written consent of Director, Tenant shall not display any advertising or promotional materials.

10.2 Removal of Signage. Upon the expiration or the sooner termination of this Lease, Tenant, if requested by Director, shall remove, obliterate, or paint out any and all signs, and similar devices placed by Tenant on the Premises. In the event of the failure on the part of Tenant to so remove,

obliterate, or paint out each and every sign so requested by Director, City may perform such work and Tenant shall pay the cost thereof to City within thirty (30) days after City's demand.

11. WAIVER; INDEMNITY; INSURANCE

11.1 Waiver. Tenant, on behalf of itself and its successors and assigns, waives its rights to recover from and forever releases and discharges City and all City Entities and their respective heirs, successors, personal representatives and assigns, from any and all Losses whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (a) the physical and environmental condition of the Premises or any law or regulation applicable thereto, including all Environmental Laws; (b) any damage suffered or sustained by Tenant or any person whatsoever may at any time be using or occupying or visiting the Premises or the Airport, or (c) any act or omission (whether negligent, non-negligent, or otherwise) of Tenant or any Tenant Entity, whether or not such Losses shall be caused in part by any act, omission, or negligence of any of City, Commission, its members, or any officers, agents, and employees of each of them, and their successors and assigns (each, a "City Entity"), except as expressly otherwise set forth herein or if caused by the sole gross negligence or willful misconduct of City. In connection with the foregoing waiver, Tenant expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR."

11.2 Indemnity. In addition to, and not in limitation of the foregoing, Tenant shall forever indemnify, defend, hold and save City and each City Entity free and harmless of, from and against any and all Losses caused in whole or in part by or arising out of (a) any act or omission of Tenant or any Tenant Entity, (b) Tenant's use of the Premises or operations at the Airport, or (c) any representation or warranty of Tenant hereunder being untrue, or (d) any default by Tenant or any Tenant Entity hereunder, whether or not Losses shall be caused in part by any act, omission or negligence of City or any City Entity. The foregoing indemnity shall not extend to any loss caused solely by the sole gross negligence or willful misconduct of City.

11.3 "Losses." For purposes hereof "Losses" shall mean any and all losses, liabilities, judgments, suits, claims, damages, costs and expenses (including reasonable attorneys' fees, investigation costs, remediation costs, and court costs), of any kind or nature.

11.4 Notice/Defense Costs. Without limiting the foregoing waiver and indemnity, each party hereto shall give to the other prompt and timely written notice of any Loss coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest except as set forth below. City shall submit to Tenant, within a reasonable time, at Tenant's expense, such additional information in City's possession, custody or control as Tenant shall reasonably request to substantiate any request to Tenant from City for payment of a Loss to City. Subject to the rights of insurers under policies of insurance maintained by Tenant, Tenant shall have the right, at its sole cost and expense, to investigate, and the right in its sole discretion to defend or compromise, any Loss or claim for which indemnification is sought under this Lease by City (provided that in no event shall the right of Tenant under this Lease be adversely affected hereby), and, at Tenant's request, City shall cooperate with all reasonable requests of Tenant in connection therewith. City shall not enter into a settlement or other compromise with respect to any such Loss or claim without the prior written consent of Tenant, which consent shall not be unreasonably withheld or delayed. In the event City proceeds with such a settlement without Tenant's consent, and such consent is not being unreasonably withheld or delayed, then City shall be deemed to

have waived its right to be indemnified with respect to such loss or claim under this Lease. If in the written opinion of qualified counsel to City that an actual or potential material conflict of interest exists where it is advisable for City to be represented by separate counsel, then the reasonable fees and expenses of any such separate counsel shall be borne by Tenant. Subject to the requirements of any policy of insurance, City may participate at its own expense in any judicial proceeding controlled by Tenant pursuant to the preceding provisions. Such participation shall not constitute a waiver of the indemnification provided in this Lease. Notwithstanding anything to the contrary contained herein, Tenant shall not under any circumstance be liable for fees and expenses of more than one counsel for City.

11.5 Public Liability and Property Damage Insurance.

(a) Tenant, at its sole cost and expense, and for the full Term of this Agreement or any renewal thereof, shall obtain and maintain all of the following minimum insurance:

(i) An Aircraft Liability policy, with coverage of at least \$500 million combined single limit for bodily injury and property damage, which shall include but not necessarily be limited to all of the following coverages: Aircraft Liability, including General Liability, Aircraft Products and Completed Operations, Liquor Liability, Premises Liability, Products & Completed Operations, Contractual Liability, Hangarkeepers Liability, Motor Vehicle Liability within the secured side of the Airport, Cargo Legal Liability and Fueling and Refueling, if such operations are conducted by Tenant.

(ii) At least \$100 million War and Named Perils coverage for bodily injury and property damage, each occurrence and annual aggregate, or the U.S. Government equivalent.

(iii) A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State providing coverage for any and all employees of Tenant and providing coverage as follows:

- a. Workers' Compensation (Coverage A);
- b. \$2 million in Employers' Liability (Coverage B);
- c. Broad Form All States Endorsement;
- d. Voluntary Compensation Endorsement; and
- e. Waiver of Subrogation in favor of City.

(iv) A Commercial Business Auto policy with a minimum limit of not less than \$2 million combined single limit for bodily injury and property damage providing that coverages shall be applicable to any and all leased, owned, hired or non-owned vehicles used in pursuit of any of the activities associated with this Agreement. Any and all mobile equipment, including cranes, which is not covered under the Comprehensive Business Auto policy, shall have said coverage provided for under the Comprehensive General Liability policy required above.

(v) Property Insurance in an amount equal to "Value of Tenant Improvements and Betterments" during the course of construction and after completion. Coverage shall include Replacement Value, covering Tenant improvements and betterments, for Fire & Extended Coverage, including Sprinkler Leakage, Vandalism & Malicious Mischief, and Debris Removal.

(b) Any deductibles or self-insured retentions must be disclosed to the City.

(c) Except for U.S. government equivalent War and Named Perils coverage, Workers Compensation/Employer's Liability Insurance and Property Coverage, the insurance policies shall contain, or be endorsed to contain, the following provisions:

(i) City and its officials, employees, agents and contractors shall be covered as additional insureds to the extent of Tenant's indemnity obligations under this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City, its officials, employees, agents and contractors.

(ii) Tenant's insurance coverage shall be primary insurance with respect to City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officials, employees, agents or contractors, shall be excess of Tenant's insurance and shall not contribute with it.

(d) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officials, employees, agents or contractors.

(e) Coverage shall state that Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except at the limits of the insurer's liability.

(f) City shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of City, the insurance provisions in this Agreement do not provide adequate protection for City and/or for members of the public, City may require Tenant to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. City's requirements shall be commercially reasonable but shall be designed to assure protection from and against the kind and extent of risk which exists at the time a change in insurance is required (provided such protection is available on commercially reasonable terms), and Tenant agrees to provide same within thirty (30) days of receiving notice from City.

(g) Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Tenant may be held responsible for the payment of damages to persons or property resulting from its activities or of any person or persons for which it is otherwise responsible.

(h) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days prior written notice has been given to City (notwithstanding the foregoing, the notice period for War Risks and Named Allied Perils insurance may be seven (7) days or such lesser period as may be customarily available, and the notice period for cancellations due to non-payment of premium for the Property, Worker's Compensation/Employers Liability, and Commercial Business Auto policies shall be five (5) days).

(i) Insurance is to be placed with insurers reasonably acceptable to City's Risk Manager.

(j) Tenant shall furnish City with certificates of insurance, and "Additional Insured" endorsements where appropriate, as required by this clause. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

(k) Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Airport Risk Manager, with a copy to Tenant's Property Manager at the address set forth in the Summary:

Airport Risk Manager
San Francisco International Airport
PO Box 8097
San Francisco, CA 94128
Fax: 650-821-5554

(l) Tenant shall either self-insure (by establishing reserves in accordance with accepted accounting practices) or procure and keep in force fire and extended coverage insurance upon its leasehold improvements located at the Airport, to the full replacement cost, insurable value thereof and shall furnish City, upon execution of this Agreement, with evidence that such self-insurance reserves have been established or such coverage has been procured and is being maintained in full force and effect. Said evidence of insurance shall be endorsed to require thirty (30) days written notice to City of cancellation or material change and to provide that any insurance carried by City be excess insurance only.

(m) City and Tenant agree to have all property insurance carried with respect to the Airport, the Demised Premises or any property therein endorsed with a clause that waives all rights of subrogation that the insurer of one party may have against the other party hereto. To that effect, City and Tenant will respectively employ diligent efforts to cause their insurance companies to endorse the affected property insurance policies with a waiver of subrogation clause as required herein.

12. DEPOSIT

12.1 Form of Deposit. On or before the Commencement Date, Tenant will deliver to Director a security deposit (the "Deposit") in the Deposit Amount. Such Deposit shall be in the form of (a) a surety bond payable to City, naming City as obligee, and otherwise in form satisfactory to City's City Attorney, and issued by a surety company satisfactory to Director, or (b) a letter of credit naming City as beneficiary, and otherwise in form satisfactory to City's City Attorney, issued by a bank satisfactory to Director. Such bond or letter of credit shall be renewed annually and increased annually such that at all times, the Deposit is equal to three (3) times the monthly installment of the then current Annual Rent, all at Tenant's cost. Such bond or letter of credit shall be kept in full force and effect at all times to ensure the faithful performance by Tenant of all covenants, terms, and conditions of this Lease, including payment of Rent. Tenant shall cause the surety company or bank issuing such bond or letter of credit to give Director notice in writing by registered mail at least forty-five (45) days prior to the expiration date of such bond or letter of credit of its intention not to renew said bond or letter of credit.

12.2 Use of Deposit. If Tenant fails to pay Rent or otherwise defaults with respect to any provision of this Lease, City may use, apply or retain all or any portion of the Deposit for the payment of Rent or other charge in default or for the payment of any other sum to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. If City so uses or applies all or any portion of the Deposit, Tenant, within ten (10) days after demand therefore, shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof. In the event the bonding company or bank declines to renew or elects to cancel the bond or letter of credit comprising the Deposit, Tenant shall, at least fifteen (15) days prior to the expiration or cancellation date, replace such bond or letter of credit with another bond or letter of credit. If Tenant fails to do so, City may, without notice to Tenant, draw on the entirety of the Deposit and hold the proceeds thereof as security hereunder. City shall not be required to keep the

Deposit separate from its general accounts. Notwithstanding anything to the contrary herein, Tenant shall have no interest in the Deposit proceeds. If and when Tenant provides to City a replacement Deposit meeting all of the requirements hereof, City shall promptly (and in all events within fifteen (15) days) return the cash proceeds of the previously-drawn Deposit, together with interest accrued thereon. If Tenant performs all of Tenant's obligations hereunder, the Deposit, or so much thereof as has not theretofore been applied by City, shall be returned, without payment of interest (other than interest accrued on the cash proceeds of the Deposit, if any) or other increment for its use, to Tenant (or, at City's option, to the last assignee, if any, of Tenant's interest hereunder) at the expiration of the Term, and after Tenant has vacated the Premises. No trust relationship is created herein between City and Tenant with respect to the Deposit.

12.3 Other Agreements. If Tenant defaults with respect to any provision of any other agreement between City and Tenant, including the Other Agreements, City may use, apply or retain all or any portion of the Deposit for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. Likewise, if Tenant defaults with respect to any provision under this Lease, City may use, apply, or retain all or any portion of any deposit provided under any other agreement between City and Tenant, including the Other Agreements, for payment of any sum owing to City or to which City may become obligated by reason of Tenant's default or to compensate City for any loss or damage which City may suffer thereby. In the event the Deposit or any other deposit is so used, Tenant shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof.

13. DAMAGE OR DESTRUCTION

13.1 Partial Destruction of the Premises. In the event the improvements on the Premises are damaged by any casualty which is required to be insured against pursuant to this Lease, then Tenant shall repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. In the event such improvements are damaged by any casualty not covered under an insurance policy required to be maintained pursuant to this Lease, then City may, at City's option, either (i) repair such damage as soon as reasonably possible at City's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within sixty (60) days after the date of occurrence of such damage of City's intention to terminate this Lease. Such termination shall be effective as of the date specified in such notice. Notwithstanding the foregoing, if such damage is caused by an act or omission to act of Tenant or a Tenant Entity, then Tenant shall repair such damage, promptly at its sole cost and expense. In the event City elects to terminate this Lease pursuant to this Section 13.1, Tenant shall have the right within ten (10) days after receipt of the required notice to notify City of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within the ten (10) day period, this Lease shall be terminated as of the date specified in City's notice. Except to the extent that injury or damage is the result of the sole gross negligence or willful misconduct of City or its employees or agents, City shall not be required to repair any injury or damage by fire or other cause, or to make any restoration or replacement of any office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Tenant or at the direct or indirect expense of Tenant. Tenant shall be required to restore or replace same in the event of damage.

13.2 Total Destruction of Premises. If the Hangar is totally destroyed during the Term from any cause whether or not covered by the insurance required herein, this Lease shall automatically terminate as of the date of such total destruction.

13.3 Partial Destruction. If fifty percent (50%) or more of the Hanger or the space routinely used for aircraft parking is damaged or destroyed, each of City and Tenant may elect to terminate this Lease by giving notice to the other within thirty (30) days from the date of occurrence of such damage or destruction, in which event the Term shall expire on a mutually agreed upon date and Tenant shall thereupon surrender the Premises to City as required hereunder.

13.4 Damage Near End of the Term. Without limiting Section 13.3, if during the last year of the Term the improvements on the Premises are partially destroyed or damaged, either party may at its option terminate this Lease as of the date of occurrence of such damage by giving written notice to the other party of its election to do so within thirty (30) days after the date of occurrence of such damage. In the event either party elects to terminate this Lease pursuant hereto, the other party shall have the right within ten (10) days after receipt of the required notice to notify the terminating party in writing of its intention to repair such damage at its expense, without reimbursement from the terminating party, in which event this Lease shall continue in full force and effect and the non-terminating party shall proceed to make such repairs as soon as reasonably possible.

13.5 No Abatement of Rent; Tenant's Remedies. If the Premises are partially destroyed or damaged, Tenant shall have no claim against City for any damage suffered by reason of any such damage, destruction, repair or restoration. Tenant waives California Civil Code Sections 1932(2) and 1933(4) providing for termination of hiring upon destruction of the thing hired. In no event will Tenant be entitled to an abatement of Rent resulting from any damage, destruction, repair, or restoration described herein; provided, however, that if such destruction of, or damage to, the Premises is the result of the sole negligence or willful misconduct of the City, and results in a material impairment of Tenant's Permitted Use of the Premises, rent may be abated pro rata to extent of such impairment.

14. **DEFAULT; REMEDIES**

14.1 Event of Default. The occurrence of any one or more of the following events shall constitute a breach of this Lease and an "Event of Default" hereunder:

(a) Tenant shall fail duly and punctually to pay Rent, or to make any other payment required hereunder, when due to City, and such failure shall continue beyond the date specified in a written notice of such default from Director, which date shall be no earlier than the tenth (10th) day after the effective date of such notice. Notwithstanding the foregoing, in the event there occurs two (2) defaults in the payment of Rent or other payment during any twelve (12)-consecutive month period of the Term, thereafter Tenant shall not be entitled to, and City shall have no obligation to give, notice of any further defaults in the payment of Rent or other payment. In such event, there shall be deemed to occur an "Event of Default" immediately upon Tenant's failure to duly and punctually pay Rent or other payment hereunder; or

(b) Tenant shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof, or consent to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or

(c) A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Tenant and shall not be dismissed within thirty (30) days after the filing thereof; or

- (d) There shall occur a Transfer without the prior approval of City; or
- (e) Tenant shall voluntarily abandon, desert or vacate the Premises; or
- (f) Any lien shall be filed against the Premises or this Lease as a result of any act or omission of Tenant, and shall not be discharged or contested by Tenant in good faith by proper legal proceedings thirty (30) days after receipt of notice thereof by Tenant; or
- (g) Tenant shall fail to provide the Deposit within ten (10) days after the Commencement Date or shall fail to maintain in full such Deposit at all times during the Term; or
- (h) Tenant shall fail to obtain and maintain the insurance required hereunder, or provide copies of the policies or certificates to City as required herein; or
- (i) Tenant shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Lease, and such failure shall continue for a period of more than three (3) days after delivery by Director of a written notice of such failure (the "First Notice"); or if satisfaction of such obligation requires activity over a period of time, if Tenant fails to commence the cure of such failure within three (3) days after receipt of the First Notice, or thereafter fails to diligently prosecute such cure, or fails to actually cause such cure within ninety (90) days after the giving of the First Notice; or
- (j) Tenant shall use or give its permission to any person to use any portion of Airport or the Premises for any illegal purpose, or any purpose not approved by Director.
- (k) There shall occur a default under any other agreement between Tenant and City, including the Other Agreements, if any, and such default is not cured as may be provided in such agreement; provided, however, that nothing herein shall be deemed to imply that Tenant shall be entitled to additional notice or cure rights with respect to such default other than as may be provided in such other agreement.

14.2 **Remedies.** Upon the occurrence and during the continuance of an Event of Default, City shall have the following rights and remedies in addition to all other rights and remedies available to City at law or in equity:

- (a) City shall have the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises. In the event this Lease is so terminated, City may recover from Tenant the following damages:
 - (i) The "worth at the time of the award" of the unpaid Rent earned to the time of termination hereunder; and
 - (ii) The "worth at the time of the award" of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rent loss that Tenant proves could be reasonably avoided; and
 - (iii) The "worth at the time of the award" of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rent loss that Tenant proves could be reasonably avoided; and

(iv) Any other amount necessary to compensate City for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result there from.

For purposes of the foregoing, the "worth at the time of award" of the amounts referred to in clauses (i) and (ii) above is computed by allowing interest at the lower of 18% per annum and the highest rate legally permitted under applicable law. The "worth at the time of award" of the amount referred to in clause (iii) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1% (one percent). Notwithstanding any other provisions hereof, any efforts by City to mitigate damages caused by Tenant's breach of this Lease shall not constitute a waiver of City's right to recover damages hereunder and shall not affect the right of City to indemnification pursuant to the provisions of Section 11 [Waiver; Indemnity; Insurance] hereof.

(b) City shall have the right and remedy described in California Civil Code Section 1951.4. City may elect not to terminate this Lease and let this Lease continue, in which case City may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon the initiative of City to protect City's interest under this Lease shall not constitute a termination of Tenant's right to possession.

(c) City shall have the right and power, as attorney in fact for Tenant, to enter and to sublet the Premises, to collect rents from all subtenants and to provide or arrange for the provision of all services and fulfill all obligations of Tenant (as permitted in accordance with the terms of this Lease) and City is hereby authorized on behalf of Tenant, but shall have absolutely no obligation, to provide such services and fulfill such obligations and to incur all such expenses and costs as City deems necessary in connection therewith. Tenant shall be liable immediately to City for all costs and expenses City incurs in collecting such rents and arranging for or providing such services or fulfilling such obligations. City is hereby authorized, but not obligated, to relet the Premises or any part thereof on behalf of Tenant, to incur such expenses as may be necessary to effect a relet and make said relet for such term or terms, upon such conditions and at such rental as City in its sole discretion may deem proper. Tenant shall be liable immediately to City for all reasonable costs City incurs in reletting the Premises required by the reletting, and other costs. If City relets the Premises or any portion thereof, such reletting shall not relieve Tenant of any obligation hereunder, except that City shall apply the rent or other proceeds actually collected by it as a result of such reletting against any amounts due from Tenant hereunder to the extent that such rent or other proceeds compensate City for the nonperformance of any obligation of Tenant hereunder. Such payments by Tenant shall be due at such times as are provided elsewhere in this Lease, and City need not wait until the termination of this Lease, by expiration of the Term hereof or otherwise, to recover them by legal action or in any other manner. City may execute any lease made pursuant hereto in its own name, and the lessee thereunder shall be under no obligation to see to the application by City of any rent or other proceeds, nor shall Tenant have any right to collect any such rent or other proceeds. City shall not by any reentry or other act be deemed to have accepted any surrender by Tenant of the Premises or Tenant's interest therein, or be deemed to have otherwise terminated this Lease, or to have relieved Tenant of any obligation hereunder, unless City shall have given Tenant express written notice of City's election to do so as set forth herein.

(d) City shall have the right to have a receiver appointed upon application by City to take possession of the Premises and to collect the rents or profits therefrom and to exercise all other rights and remedies pursuant to this Section 14.2.

(e) City shall have the right to enjoin, and any other remedy or right now or hereafter available to a landlord against a defaulting tenant under the laws of the State of California or the equitable powers of its courts, and not otherwise specifically reserved herein.

(f) City may elect to terminate any other agreement between Tenant and City, including the Other Agreements, if any.

14.3 City's Right to Perform. All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without any abatement of Rent. If Tenant shall fail to make any payment or perform any act on its part to be performed hereunder and such failure shall continue for ten (10) days after notice thereof by City, City may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by City and all necessary incidental costs shall be deemed additional rent hereunder and shall be payable to City on demand, and City shall have (in addition to any other right or remedy of City) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of Rent.

14.4 Rights Related to Termination. In the event of any termination based on any breach of the covenants, terms and conditions contained in this Lease, City shall have the option at once and without further notice to Tenant to enter upon the Premises and take exclusive possession of same. City may remove or store any personal property located therein, at the sole cost and expense of Tenant without City being liable to Tenant for damage or loss thereby sustained by Tenant. Upon such termination by City, all rights, powers and privileges of Tenant hereunder shall cease, and Tenant shall immediately vacate any space occupied by it under this Lease, and Tenant shall have no claim of any kind whatsoever against City or any City Entity by reason of such termination, or by reason of any act by City or any City Entity incidental or related thereto. In the event of the exercise by City of such option to terminate, Tenant shall have no right to or claim upon any improvements or the value thereof, which may have been previously installed by Tenant in or on the Premises.

14.5 Cumulative Rights. The exercise by City of any remedy provided in this Lease shall be cumulative and shall in no way affect any other remedy available to City under law or equity.

14.6 Prepayment. As provided in Section 4.6 [Prepay Rent], if Tenant defaults in the payment of Rent, City may require prepayment of Rent. Such right shall be in addition to and not in lieu of any and all other rights hereunder, or at law or in equity.

14.7 Special Liquidated Damages. If Tenant defaults under any of the Lease terms specified below, after notice by City that such a default has occurred, and affording Tenant three (3) days to cure such a default, Director may elect to impose the special liquidated damages ("fines") described below on the basis of per violation per day:

<u>Violation</u>	<u>Section</u>	<u>Fine</u>
Violation of Premises Section	1	\$300
Violation of Use Section	3	\$300
Failure to cause operations or Premises to comply with Laws	3.7	\$300

<u>Violation</u>	<u>Section</u>	<u>Fine</u>
Construction or Alterations without City approval	7.2	\$300
Failure to make repairs	9	\$300
Failure to obtain or maintain insurance	11	\$100
Failure to obtain or maintain Deposit	12	\$100

Director's right to impose the foregoing fines shall be in addition to and not in lieu of any and all other rights hereunder, in the Airport Rules, or at law or in equity. City shall have no obligation to Tenant to impose fines on or otherwise take action against any other tenant at the Airport. THE PARTIES HAVE AGREED THAT A VIOLATION OF ANY OF THE ABOVE TERMS SHALL RESULT IN CITY INCURRING DAMAGES, WHICH ARE IMPRACTICAL OR IMPOSSIBLE TO DETERMINE. THE PARTIES HAVE AGREED THAT THE ABOVE FINES ARE A REASONABLE APPROXIMATION OF SUCH DAMAGES. Such fines shall constitute "Additional Rent."

14.8 Commencement of Legal Actions. Any legal action by City to enforce any obligation of Tenant or in the pursuit of any remedy hereunder shall be deemed timely filed if commenced at any time prior to one (1) year after the expiration or termination of the Term hereof or prior to the expiration of the statutory limitation period that would be applicable except for this Section 14.8, whichever period expires later.

14.9 Waiver of Notice. Except as otherwise expressly provided in this Section 14, Tenant hereby expressly waives, so far as permitted by law, the service of any notice of intention to enter or re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future law, if Tenant is evicted or City takes possession of the Premises by reason of any default by Tenant hereunder.

15. SURRENDER

Tenant shall at the end of the Term surrender to City the Premises and all improvements thereto that were in place at the commencement of this Lease in a condition equivalent to that existing upon the Commencement Date and all subsequent Alterations thereto in the same condition as when first installed, ordinary wear and tear and damage by fire, earthquake, act of God, the elements or changes occasioned by condemnation excepted. Subject to City's right to require removal pursuant to Section 7 [Tenant Improvements; Alterations] hereof, all Alterations and improvements installed in the Premises by Tenant, and all fixtures and equipment (other than Tenant's specialty equipment and trade fixtures), shall, without compensation to Tenant, then become City's property free and clear of all claims to or against them by Tenant or any third person. Except as City and Tenant may otherwise agree in writing, in the event that Tenant shall fail to remove its personal property, including specialty equipment and trade fixtures, on or before the Expiration Date, such personal property shall become City's property free and clear of all claims to or against them by Tenant or any third person. In such event, City shall not be responsible for any Losses related to such personal property, and City may sell or otherwise dispose of such personal property.

16. HAZARDOUS MATERIALS

16.1 Definitions. As used herein, the following terms shall have the meanings hereinafter set forth:

(a) **"Environmental Laws"** shall mean any federal, State, local or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, protection of human health and safety, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted or amended from time to time, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.); and applicable and controlling federal or state court decisions.

(b) **"Hazardous Materials"** shall mean (a) any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, State or local governmental authority to pose a present or potential hazard to human health or safety or to the air, water, soil or environment; and (b) any materials, substances, products, by products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by products, or waste may give rise to liability under any Environmental Laws or permits. "Hazardous Material" includes any material or substance identified, listed, or defined as a "hazardous waste" "hazardous substance," or "pollutant" or "contaminant" or term of similar import, or is otherwise regulated pursuant to Environmental Laws; any asbestos and asbestos-containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) **"Release"** when used for Hazardous Materials shall include any actual spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or on any property or the environment, and includes any threat of Release to the extent regulated under Environmental Laws.

(d) **"Pre-Existing Condition"** means the existence of any Hazardous Materials on the Demised Premises immediately prior to the Effective Date, including, without limitation, those conditions described in the reports listed in Exhibit M attached hereto that are applicable to the Demised Premises. A "Pre-Existing Condition" shall not include the existence of any Hazardous Materials caused or contributed to by the act or omission of Tenant or any Tenant Entity at any time.

16.2 Tenant's Covenants. Tenant covenants the following:

(a) Tenant and any Tenant Entity shall at all times and in all respects comply with all Environmental Laws and permits applicable to Tenant's operations on the Airport. The Release of Hazardous Materials is strictly prohibited, except in compliance with applicable Environmental Laws or permits issued pursuant to applicable Environmental Laws.

(b) Neither Tenant nor any Tenant Entity shall cause any Hazardous Material to be brought upon, kept, used, stored, generated, treated, managed, or disposed of in, on or about the Airport, or transported to or from or within the Airport, except to the extent that such Hazardous Material, in kind

and quantity, is normally necessary or useful to Tenant's conduct of the Permitted Uses under Section 202 and will be used, kept, and stored in a manner that complies with all applicable Environmental Laws, the Airport Rules, and all other applicable laws. At all times, Tenant shall ensure and certify that to the extent Tenant is required to decontaminate the Demised Premises and/or dispose of Hazardous Materials under this Agreement or applicable law, including Environmental Laws, that such decontamination of the Demised Premises and/or disposal of Hazardous Materials shall be performed in compliance with the foregoing and any relevant permits. Any reuse of contaminated soil by Tenant at the Airport shall be subject to: (a) this Section and considered a Release of Hazardous Materials caused by Tenant and not a Pre-Existing Condition, and (b) Director's approval in writing to the reuse of contaminated soil.

(c) Tenant, at Tenant's sole cost and expense, shall promptly investigate and remediate, in accordance with requirements of all applicable Environmental Laws and permits, any Release of Hazardous Materials on the Airport, including, but not limited to, any Release into soil or groundwater, which was caused or results in whole or in part from the activities of Tenant or any Tenant Entity, but excluding: (a) the disposal of Hazardous Materials through the Airport's sewage system so long as such disposal complies with all applicable Environmental Laws and any predischARGE treatment requirements issued by the Airport; or (b) the portions of said Release that the Tenant demonstrates to the reasonable satisfaction of the City was caused exclusively by the City or City Entity.

In addition to any remedy provided in this Agreement, City, in its discretion, may after reasonable written notice to Tenant (except that notice is not required for any Release that poses an imminent harm to the environment or other emergency situation), pay to have such Release investigated and remediated as required by applicable Environmental Laws, and Tenant shall reimburse City for its share of the documented costs within thirty (30) days of City's demand for payment if: (a) Tenant does not promptly commence investigation of any such Release; (b) Tenant does not diligently pursue appropriate remedial activities as required by applicable Environmental Laws and permits; or (c) City determines that its performance of the investigation and/or remediation is needed to achieve the City's operational needs or construction objectives. The failure to commence investigation and provide City with a preliminary schedule for diligent pursuit of any required remediation within thirty (30) business days after (a) Tenant's discovery of such Release or (b) notice of such Release shall constitute prima facie evidence of failure to promptly commence investigation and remediation.

(d) Tenant shall provide Director with a copy of any application for a permit, if required, for use or storage of Hazardous Materials on the Airport from any regulatory agency responsible for enforcement of applicable Environmental Laws and shall also provide a copy of any permit received from such agency.

16.3 Access for Environmental Inspection. City shall have reasonable access to the Demised Premises to inspect the same in order to confirm that Tenant is using the Demised Premises in accordance with all applicable Environmental Laws or permits. City will, where practical, give Tenant the opportunity to have a Tenant representative present during the inspection. Tenant shall cooperate fully with any such inspections provided that such inspections shall not unreasonably interfere with Tenant's operations.

16.4 Liability. In addition to any remedy provided in this Agreement, Tenant shall be solely and fully responsible and liable for costs, including without limitation costs of clean-up or other remedial activities, fines or penalties assessed directly against the Airport, attributable to (a) storage, use or disposal of Hazardous Materials on the Airport by Tenant or any Tenant Entity; or (b) any Hazardous Material release or discharge which is caused or results from the activities of Tenant or any Tenant Entity.

16.5 Environmental Indemnity. Tenant shall indemnify, defend, and hold harmless City from and against any and all losses resulting or arising from: (a) a breach by Tenant of its obligations contained in Section 16.2; (b) any Release of Hazardous Material from, in, on or about the Airport caused by the act or omission of Tenant or any Tenant Entity or otherwise arising from Tenant's operations hereunder; or (c) the existence of any Hazardous Materials on the Demised Premises, except to the extent that (i) Tenant can demonstrate to the reasonable satisfaction of City that such Hazardous Materials constitutes a Pre-Existing Condition and Tenant or Tenant Entity did not exacerbate such Pre-Existing Condition, or (ii) such Hazardous Material was exclusively caused by City or a third party other than an Tenant Entity. Nothing herein shall constitute a release of Tenant for any losses arising out of any Pre-Existing Conditions to the extent Tenant is responsible therefore pursuant to any other agreement or under applicable law.

16.6 Environmental Audit. Upon reasonable written notice, Director shall have the right but not the obligation to conduct or cause to be conducted by a firm acceptable to Director, an environmental audit of the Demised Premises and Tenant's operations, equipment and fixtures thereon for the purpose of assessing Tenant's compliance with Environmental Laws and permits. City will give Tenant an opportunity to have an Tenant representative present during the audit. Tenant shall pay all reasonable costs associated with said audit, but only to the extent City's actions are consistent with Section 16.2(C), in the event such audit shall disclose any Hazardous Materials contamination as to which Tenant is liable hereunder. Tenant shall be provided the opportunity to review and comment on the report of the audit results prior to finalization. Tenant will promptly correct any deficiencies associated with its compliance with this Lease or Environmental Laws or permits as identified in the final audit report.

16.7 Notice by Tenant. Tenant shall give City verbal and written notice of any unauthorized Release of any Hazardous Material, except for Releases considered to be de minimis under Environmental Laws, known to Tenant. Such report shall be made in conformance with those procedures established in the Airport Rules. In addition, to the extent known to Tenant, Tenant shall notify City in writing, to the extent related to the Airport, of: (a) a pre-existing condition of contamination other than such conditions previously disclosed to the Tenant by City; (b) any enforcement, clean-up, removal or other government or regulatory action instituted, completed or threatened against Tenant or the Airport pursuant to any Environmental Laws; (c) any claim made or threatened by any person against Tenant or the Airport relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claimed to result from any Hazardous Materials on or about the Demised Premises; and (d) any reports made by Tenant to any environmental agency arising out of or in connection with any Hazardous Materials or pursuant to any Environmental Laws or permits on or about the Demised Premises. Tenant shall also supply to City as promptly as possible, and in any event within ten (10) business days after Tenant first receives or sends the same, with copies of all claims, reports, complaints, notices or warnings of, and any other communications related to asserted violations of Environmental Laws or permits by Tenant relating in any way to the Demised Premises or Tenant's use thereof.

16.8 Stormwater. Notwithstanding any other provisions or terms of this Agreement, Tenant acknowledges that certain properties within the Airport are subject to federal and State stormwater rules and regulations. Tenant agrees to observe and abide by such stormwater rules and regulations as may be

applicable to City's property and Tenant's use thereof.

(a) City and Tenant both acknowledge that cooperation is necessary to ensure compliance with any stormwater discharge permit terms and conditions, as well as to ensure safety and to minimize cost of compliance. Tenant acknowledges further that it may be necessary to undertake such actions to minimize the exposure of stormwater to "significant materials" generated, stored, handled or otherwise used by Tenant, as such term may be defined by applicable stormwater rules and regulations, by implementing and maintaining "best management practices" as that term may be defined in applicable stormwater rules and regulations.

(b) City will provide Tenant with written notice of any stormwater discharge permit requirements applicable to Tenant and with which Tenant may be obligated to comply from time-to-time, including, but not limited to: certification of non-stormwater discharges; collection of stormwater samples if required by law; preparation of stormwater pollution prevention or similar plans; implementation of best management practices; and maintenance of necessary records. Such written notice shall include applicable deadlines. Tenant shall agree that within thirty (30) days of receipt of such written notice it shall notify City in writing if it disputes any of the stormwater permit requirements it is directed to undertake. If Tenant does not provide such timely notice, Tenant will be deemed to assent to undertake such stormwater permit requirements applicable to Tenant's operations. In that event, Tenant agrees to undertake, at its sole expense, unless otherwise agreed to in writing between City and Tenant, those stormwater permit requirements applicable to Tenant's operations for which it has received written notice from City, and Tenant agrees that it will hold harmless and indemnify City for any violations or non-compliance with any such permit requirements. Additionally, City will endeavor, where practical, to notify Tenant in advance of negotiations with federal or state regulators concerning new or revised stormwater permit conditions that directly affect the Tenant.

16.9 Tenant Obligations Upon Termination. Prior to vacating the Demised Premises, and in addition to all other requirements under this Agreement and without limiting Tenant's indemnification obligations herein, Tenant shall:

(a) Remove any Hazardous Materials on the Demised Premises except (i) to the extent Tenant demonstrates to the reasonable satisfaction of City that said Hazardous Material constitutes a Pre-Existing Condition and Tenant or Tenant Entity did not exacerbate said Pre-Existing Contamination; (ii) to the extent the Tenant can demonstrate to the reasonable satisfaction of City that said Hazardous Material was exclusively caused by City or a third party other than an Tenant Entity; or (iii) said Hazardous Material is addressed pursuant to Section 16.9(b). Moreover, Tenant shall demonstrate to City's reasonable satisfaction that such removal is in compliance with all applicable Environmental Laws and permits, including without limitation conducting any environmental audits and/or site investigations as may be reasonably required by City to demonstrate such removal has been completed according to the terms of this Agreement. This removal and demonstration shall be a condition precedent to City's return of the Deposit, if any, to Tenant upon termination or expiration of this Agreement.

(b) With respect to any Release of Hazardous Materials on the Demised Premises not removed pursuant to Section 16.9(a) above and not subject to the exceptions therein, Tenant shall promptly investigate and remediate it in accordance with the requirements of all applicable Environmental Laws and permits ("Tenant's remediation"). If Tenant's remediation will leave Hazardous Materials at the Airport (including but not limited to in the soil or groundwater), prior to completion of the remediation, the Tenant shall: (i) obtain the City's written determination that such Hazardous Materials will not interfere with any reuse of the Demised Premises reasonably contemplated or anticipated by the City; (ii) provide the City with a plan for long-term care and surveillance of any such Hazardous Material and (iii) provide the City with a written acknowledgement of responsibility and

indemnification for any and all losses or disruption associated with such contamination. The Tenant's full compliance with this Section 2009 shall be a condition precedent to the City's return of the Deposit, if any, to Tenant upon termination or expiration of this Agreement.

16.10 Cumulative Remedies. All remedies of the City as provided herein with regard to Hazardous Materials or any actual or threatened violations of any Environmental Laws and permits are deemed to be cumulative in nature. The City's right to indemnification as provided in this Section shall survive the expiration or early termination of this Agreement with respect to occurrences during the Term of this Agreement.

16.11 Prior Agreements. Notwithstanding any provisions in this Agreement, nothing herein shall affect the terms and conditions of any prior settlement agreements reached between City and Tenant relating to Hazardous Materials at the Airport, including the civil action captioned City and County of San Francisco v. Atlantic Richfield et al (N.D. Cal. Case No. C97-2965), and nothing herein shall be construed in any way to limit the releases granted by the parties in those prior agreements.

17. EMINENT DOMAIN

17.1 Definitions. For purposes of this Section 17, the following capitalized terms shall have the following meanings:

(a) **"Award"** means all compensation, sums or value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

(b) **"Date of Taking"** means the earlier of: (a) the date upon which title to the portion of the Premises taken passes to and vests in the condemnor, and (b) the date on which Tenant is dispossessed.

(c) **"Taking"** means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under applicable Laws. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance, in lieu of condemnation or in settlement of a condemnation action.

17.2 General. If during the Term or during the period between the execution of this Lease and the Commencement Date, any Taking of all or any part of the Premises or any interest in this Lease occurs, the rights and obligations of the parties hereunder shall be determined pursuant to this Section 17. City and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the Parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

17.3 Total Taking; Automatic Termination. If a total Taking of the Premises occurs, then this Lease shall terminate as of the Date of Taking.

17.4 Partial Taking; Election to Terminate. If a Taking of any portion (but less than all) of the Premises occurs, then this Lease shall terminate in its entirety if fifty percent (50%) or more of the Hanger or the space routinely used for aircraft parking is Taken and either party elects to terminate. Any election to terminate this Lease pursuant to this Section 17 shall be exercised by giving notice to the other party on or before the date that is one hundred twenty (120) days after the Date of Taking, and thereafter this Lease shall terminate upon on the thirtieth (30th) day after such notice is given.

17.5 Tenant Monetary Obligations; Award. Upon termination of this Lease pursuant to an election under Section 17.4 [Partial Taking; Election to Terminate] above, then: (a) Tenant's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, and (b) City shall be entitled to the entire Award in connection therewith (including any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against City for the value of any unexpired Term, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's personal property.

17.6 Partial Taking; Continuation of Lease. If a partial Taking of the Premises occurs and this Lease is not terminated in its entirety under Section 17.4 [Partial Taking; Election to Terminate] above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the Parties shall be as follows: (a) the Rent shall be adjusted by Director to reflect the Taking, and (b) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease). Tenant shall have no claim against City for the value of any unexpired Term, provided that Tenant may make a separate claim for compensation. Tenant shall retain any Award made specifically to Tenant for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's personal property.

17.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this Lease shall remain unaffected thereby, and Tenant shall continue to pay Rent, and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive any Award.

18. CITY AND OTHER GOVERNMENTAL PROVISIONS

18.1 MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

18.2 Charter. The terms of this Lease shall be governed by and subject to the budget and fiscal provisions of the Charter of the City and County of San Francisco.

18.3 Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environmental Code, Tenant shall not provide any items to the construction of Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environmental Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

18.4 No Representations. Tenant acknowledges and agrees that neither City nor any person on behalf of City has made, and City hereby disclaims, any representations or warranties, express or implied, regarding the business venture proposed by Tenant at the Airport, including any statements relating to the potential success or profitability of such venture. Tenant represents and warrants that it has made an independent investigation of all aspects of the business venture contemplated by this Lease and the Permitted Use.

18.5 Effect of City Approvals. Notwithstanding anything to the contrary herein, Tenant acknowledges and agrees that City is entering into this Lease as a landowner, and not as a regulatory agency with police powers. Accordingly, any construction, alterations, or operations contemplated or performed by Tenant hereunder may require further authorizations, approvals, or permits from governmental regulatory agencies. Nothing in this Lease shall limit Tenant's obligation to obtain such other authorizations, approvals, or permits. No inspection, review, or approval by City pursuant to this Lease shall constitute the assumption of, nor be construed to impose, responsibility for the legal or other sufficiency of the matter inspected, reviewed, or approved. In particular, but without limiting the generality of the foregoing, in approving plans and specifications for Alterations, City (a) is not warranting that the proposed plan or other action complies with applicable Laws, and (b) reserves its right to insist on full compliance in that regard even after its approval has been given or a permit has been issued.

18.6 Limitation on Damages. Notwithstanding anything to the contrary herein, in no event will City or any City Entity be liable to Tenant or any Tenant Entity for any consequential, incidental, or special damages, or any lost revenues or lost profits.

18.7 Sponsor's Assurance Agreement. This Lease shall be subordinate and subject to the terms of any "Sponsor's Assurance Agreement" or any like agreement heretofore or hereinafter entered into by City and any agency of the United States of America.

18.8 Federal Nondiscrimination Regulations. Tenant understands and acknowledges that City has given to the United States of America, acting by and through the Federal Aviation Administration, certain assurances with respect to nondiscrimination, which have been required by Title VI of the Civil Rights Act of 1964, as effectuated by Title 49 of the Code of Federal Regulations, Subtitle A - Office of the Secretary of Transportation, Part 21, as amended, as a condition precedent to the government making grants in aid to City for certain Airport programs and activities, and that City is required under said Regulations to include in every agreement or concession pursuant to which any person or persons other than City, operates or has the right to operate any facility on the Airport providing services to the public, the following covenant, to which Tenant agrees as follows: "Tenant in its operation at and use of San Francisco International Airport, covenants 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 said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the 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) that the grantee, licensee, permittee, etc., shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation Effectuations of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended."

18.9 Federal Affirmative Action Regulations. Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any

employment activities covered in 14 CFR Part 152, Subpart E. Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Tenant assures that it will require that its covered sub-organizations provide assurances to Tenant that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

18.10 City's Nondiscrimination Ordinance.

(a) **Covenant Not to Discriminate.** In the performance of this Lease, Tenant agrees not to discriminate against any employee, City and County employee working with Tenant, applicant for employment with Tenant, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) **Subleases and Other Contracts.** Tenant shall include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where work is being performed for the City elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **HRC Form.** Tenant hereby represents that prior to execution of this Lease (i) Tenant executed and submitted to the Human Rights Commission of the City and County of San Francisco (the "HRC") the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101)", with supporting documentation, and (ii) the HRC approved such form.

(e) **Penalties.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

18.11 Conflict of Interest. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq and sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term of this Lease it shall immediately notify City/Landlord.

18.12 Declaration Regarding Airport Private Roads. Tenant hereby acknowledges and agrees that all roads existing at the date of execution hereof within the boundaries of the Airport, as shown on the current official Airport plan and as it may be revised, are the private property and private roads of the City and County of San Francisco, with the exception of that portion of the old Bayshore Highway which runs through the southern limits of the City of South San Francisco and through the northern portion of the Airport to the intersection with the North Airport Road as shown on said Airport Plan, and with the exception of that portion of the North Airport Road which runs from the off and on ramps of the State Bayshore Freeway to the intersection with said old Bayshore Highway as shown on said Airport Plan. It further acknowledges that any and all roads hereafter constructed or opened by City within the Airport boundaries will be the private property and road of City, unless otherwise designated by appropriate action.

18.13 No Relocation Assistance; Waiver of Claims. Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully releases, waives, and discharges forever and all claims or other Losses, against and covenants not to sue City or any City Entity under any Laws, including any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws. Without limiting Section 5 [Assignment or Subletting], Tenant shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant shall indemnify, defend, and hold harmless City for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

18.14 Drug-Free Workplace. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§701 et. seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises.

18.15 Compliance with Americans With Disabilities Act. Tenant acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity, whether directly or through a contractor, must be accessible to the disabled public. Tenant shall provide the services specified in this Lease in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Tenant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Lease and further agrees that any violation of this prohibition on the part of Tenant, its employees, agents or assigns shall constitute a material breach of this Lease.

18.16 Sunshine Ordinance. In accordance with the San Francisco Administrative Code Section 67.24(e) of contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

18.17 Public Transit Information. Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Building and encouraging use of such facilities, all at Tenant's sole expense.

18.18 Pesticide Prohibition. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Tenant to submit to Airport an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

18.19 First Source Hiring Ordinance. Tenant shall comply with the San Francisco First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98 as amended from time to time) and related program and work, in cooperation with the Airport Commission Office of Employment and Community Partnerships pursuant to the First Source Hiring Agreement entered into between the Airport Commission and the Tenant concurrently herewith, and incorporated herein by reference.

18.20 Requiring Minimum Compensation.

(a) Tenant agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Airline's obligations under the MCO is set forth in this Section. Tenant is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires Tenant to pay Tenant's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Tenant is obligated to keep informed of the then-current requirements. Any sublease entered into by Tenant shall require the subtenant to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Tenant's obligation to ensure that any subtenants of any tier under this Agreement comply with the requirements of the MCO. If any subtenant under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Tenant.

(c) Tenant shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) Tenant shall maintain employee and payroll records as required by the MCO. If Tenant fails to do so, it shall be presumed that the Tenant paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect Tenant's job sites and conduct interviews with employees and conduct audits of Tenant.

(f) Tenant's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Tenant fails to comply with these requirements. Tenant agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Tenant's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) Tenant understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) If Tenant is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the Fiscal Year is less than \$25,000, but Tenant later enters into an agreement or agreements that cause contractor to exceed that amount in a Fiscal Year, Tenant shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and Commission to exceed \$25,000 in the Fiscal Year.

18.21 Airport Intellectual Property. Pursuant to Resolution No. 01-0118 adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Airport Director's prior consent.

18.22 Requiring Health Benefits for Covered Employees. Unless exempt, Tenant agrees to comply fully with and be bound by all provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the implementing regulations, as the same may be amended or updated from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease as though fully set forth herein. The text of the HCAO is currently available on the web at <http://www.amlegal.com/sanfran/viewcode.htm>. Capitalized terms used in this Section and not defined in this Lease shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee Tenant shall provide the applicable health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" as described in Section 12Q.3 of the HCAO, it shall have no obligation to comply with part (a) above.

(c) If, within 30 days after receiving written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the remedies set forth in Section 12Q.5(f). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify the Purchasing Department when it enters into such a Sublease or Contract and shall certify to the Purchasing Department that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO by each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, City may pursue the remedies set forth in this Section against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

(g) Tenant shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(h) Upon request, Tenant shall provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subtenants, Contractors, and Subcontractors.

(i) Within ten (10) business days after any request, Tenant shall provide City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than \$25,000.00 (or \$50,000.00 for nonprofits) in that fiscal year, but such

Contractor or Subcontractor later enters in to one or more agreements with the City or relating to City owned property that cause the payment of such Contractor or Subcontractor to equal or exceed \$75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that caused the cumulative amount of agreements to equal or exceed \$75,000.00 in the fiscal year.

18.23 Contributions from Contractors. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 1.126 prohibits any person who contracts with the City for selling or leasing any land or building to or from the City whenever such transaction would require the approval by a City elective officer or the board on which that City elective officer serves, from making a contribution to such an officer, or candidate for such an office, or committee controlled by such officer or candidate at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that if it becomes aware of any such fact during the term of this Lease it shall immediately notify Landlord.

18.24 Prohibition of Tobacco Sales and Advertising. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to (i) communicate the health hazards of cigarettes and tobacco products or (ii) to encourage people not to smoke or to stop smoking.

18.25 Food Service Waste Reduction Ordinance. If and to the extent applicable, the Tenant agrees to comply fully with and be bound by all of the applicable provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Permit as though fully set forth herein. Accordingly, Tenant acknowledges that City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease, and shall instead use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Permit. By entering into this Permit, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars (\$100.00) liquidated damages for the first breach, two hundred dollars (\$200.00) liquidated damages for the second breach in the same year, and five hundred dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Permit was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

18.26 Preservative-Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Permit unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

18.27 Resource-Efficient Facilities and Green Building Requirements. If applicable, Tenant agrees to comply with all applicable provisions of Environment Code Chapter 7 and San Francisco Building Code Chapter 13C relating to resource-efficiency and green building design requirements.

18.28 Labor Disputes. Tenant agrees to use commercially reasonable efforts to avoid disruption to City, other Air Carriers, Airport tenants, or members of the public arising from labor disputes involving Tenant, and in the event of a strike, picketing, demonstration or other labor difficulty involving Tenant, to use commercially reasonable efforts, including the utilization of available legal remedies, to minimize or eliminate any disruption to City, other Air Carriers, Airport tenants, or members of the public, arising from such strike, picketing, demonstration or other labor difficulty.

18.29 Notification of Limitations on Contributions. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 1.126 prohibits any person who contracts with the City for selling or leasing any land or building to or from the City whenever such transaction would require the approval by a City elective officer or the board on which that City elective officer serves, from making a contribution to such an officer, or candidate for such an office, or committee controlled by such officer or candidate at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective tenant first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective tenant or a City officer or employee. Negotiations are completed when a lease is finalized and signed by the City and the Tenant. Negotiations are terminated when the City and/or the prospective tenant end the negotiation process before a final decision is made to award the contract.

19. GENERAL PROVISIONS

19.1 Notices. Except as otherwise specifically provided in this Lease, any notice, consent, request, demand, or other correspondence given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or by overnight courier, return receipt requested, with postage prepaid, to: (a) Tenant at Tenant's Notice Address; or (b) City at City's Notice Address; or (c) such other address as either Tenant or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received and effective three (3) days after the date when it is mailed, if sent by first-class, certified mail, one day after the date when it is mailed if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by facsimile to the number set forth in the

Summary or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

19.2 No Implied Waiver. No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver.

19.3 Entire Agreement. The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

19.4 Amendments. Except as specifically provided herein, neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought.

19.5 Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days. Use of the word "including" shall mean "including, without limitation". References to statutes, sections, ordinances, or regulations are to be construed as including all statutory, ordinance, or regulatory provisions consolidating, amending, replacing, succeeding, or supplementing the statute, section, ordinance, or regulation.

19.6 Successors and Assigns. Subject to the provisions of Section 5 [Assignment or Subletting], the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Tenant and City and, except as otherwise provided herein, their personal representatives and successors and assigns.

19.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Lease.

19.8 No Joint Venture. It is expressly agreed that City is not, in any way or for any purpose, a partner of Tenant in the conduct of Tenant's business or a member of a joint enterprise with Tenant, and does not assume any responsibility for Tenant's conduct or performance of this Lease.

19.9 Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his/her claim shall be responsible for such commission or fee and shall indemnify, defend, and hold harmless the

other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination or expiration of this Lease.

19.10 Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

19.11 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California.

19.12 Attorneys' Fees. In the event that either City or Tenant fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment) including court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. This section shall survive expiration or earlier termination of this Lease.

19.13 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

19.14 Time of Essence. Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

19.15 Reservations by City. City may (a) at any time, upon reasonable advance written or oral notice, enter the Premises to show the Premises to prospective tenants or other interested parties (during the last year of the Term), to post notices of non-responsibility, to remeasure the Premises, to repair any part of the Premises or adjoining areas, to install equipment for adjoining areas, and for any other lawful purpose; (b) without advance notice, enter the Premises to conduct an environmental audit, operational audit, or general inspection, or in an emergency. City shall use reasonable efforts to minimize disruption in Tenant's business. Such entry shall not constitute a forcible or unlawful entry into or a detainer of the Premises, or an eviction, actual or constructive of Tenant from the Premises. City reserves the right to grant easements or crossings in, over, upon and under the Premises, and nothing herein contained shall be construed as limiting the powers of City to lease, convey or otherwise transfer or encumber during the Term the hereinbefore described lands for any purpose whatsoever not inconsistent or incompatible with the rights or privileges granted to Tenant by this Lease. City also reserves the right to construct, reconstruct, install, maintain, repair, remove, renew, operate and use from time to time, other pipelines, conduits, power lines, telephone lines, sewer drains, roads and roadways or other structures across, over or under the Premises and any rights of way or easements and/or pipelines used by Tenant, so long as Tenant's access to the Premises is not materially impaired, and so long as the useable square footage of the Premises is not materially diminished. Each of City and Tenant shall be responsible for sufficiently identifying, locating and ensuring protection of its respective appurtenances and connecting subsurface pipelines, telecommunications equipment, utility equipment and pipes, and any other subsurface items from damage caused by any such construction within the Premises and any rights of way or easements. Notwithstanding anything to the contrary in this Lease, City reserves and retains all of the following

rights relating to the Premises: (a) Any and all water and water rights, including (i) any and all surface water and surface water rights, including riparian rights and appropriative water rights to surface streams and the underflow of streams, and (ii) any and all groundwater and subterranean water rights, including, the right to export percolating groundwater for use by City or its water customers; and (b) Any and all minerals and mineral rights of every kind and character now known to exist or hereafter discovered in the Premises, including oil and gas and rights thereof, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to City or its successors and assigns, in such manner as not to damage permanently the surface of the Premises or to unreasonably interfere with the permitted use thereof by Tenant, without Tenant's prior written consent. In addition, City reserves all rights in and with respect to the Premises not inconsistent with the Permitted Use, including the right of City, at all reasonable times and, if reasonably practicable, following advance notice to Tenant, to enter and to permit the City, the County of San Mateo, the County Water District, other governmental bodies, public or private utilities and other persons to enter upon the Premises for the purposes of installing, using, operating, maintaining, renewing, relocating and replacing such underground wells and water, oil, gas, steam, storm sewer, sanitary sewer and other pipelines, and telephone, electric, power and other lines, conduits, and facilities, and flood access and maintenance rights of way and equipment, as City may deem desirable in connection with the development or use of, or remediation of Hazardous Materials in, on, or under, the Premises or any other property in the neighborhood of the Premises, where owned by City or not. No such wells, pipelines, lines conduits, facilities or right of way shall interfere with the use or stability of any building or improvement on the Premises, or materially interfere with Tenant's access to the Premises. Tenant hereby waives any claims for damages for any injury or inconvenience to or interference with Tenant's business on the Premises, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by City's exercise of its rights hereunder.

19.16 Survival of Indemnities. Expiration or termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it effect any provision of this Lease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee.

19.17 Quiet Enjoyment and Title. Tenant, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term as against all persons or entities claiming by and through City.

19.18 Joint and Several Liability. The liabilities hereunder of the entities and/or person(s) comprising Tenant shall be joint and several.

19.19 Estoppel Statements. Within fifteen (15) days after request therefor by City, Tenant shall deliver, in recordable form, a an estoppel statement certifying that this Lease is in full force and effect; the date of Tenant's most recent payment of Rent, and that Tenant has no defenses or offsets outstanding, or stating those claimed, and any other information reasonably requested. Failure to deliver said statement within the specified period shall be conclusive upon Tenant that: (i) this Lease is in full force and effect, without modification except as may be represented by City; (ii) there are no uncured defaults in City's performance and Tenant has no right of offset, counterclaim or deduction against Rent hereunder; and (iii) no more than one month's Rent has been paid in advance.

19.20 Subordination. This Lease is and shall be subordinate to any reciprocal easement agreement, ground lease, facilities lease or other underlying lease and the lien of any mortgage or deed of trust, that may now exist or hereafter be executed affecting the Premises, or any part thereof, or City's interest therein. Notwithstanding the foregoing, City or the holder shall have the right to subordinate any such interests to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall attorn to the successor-in-interest to City, at the option of such successor-in-interest, subject, however to the express grant by such successor to Tenant of a right of quiet enjoyment. The provisions of this Section shall be self-operative and no further instrument shall be required. Tenant agrees, however, to execute and deliver, within thirty (30) days after demand by City and in the form reasonably requested by City, any additional documents evidencing the priority or subordination of this Lease.

19.21 Representations and Warranties of Tenant Tenant represents, warrants and covenants to City as follows, as of the date hereof and as of the Commencement Date:

(a) Valid Existence; Good Standing. Tenant is a company duly organized and validly existing under the laws of the United States of America. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of California.

(b) Authority. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Tenant.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibits Tenant's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, regulatory body or other person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. Except as may otherwise have been disclosed to City in writing, there are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against Tenant before any court, governmental agency, or arbitrator, which might materially adversely affect the enforceability of this Lease or the business, operations, assets or condition of Tenant.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Tenant hereunder have been duly and validly authorized. When executed and delivered by City and Tenant, this Lease will be a legal, valid and binding obligation of Tenant.

(e) Defaults. The execution, delivery and performance of this Lease (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Tenant under (A) any agreement, document or instrument to which Tenant is a party or by which Tenant is bound, (B) any law, statute, ordinance, or regulation applicable to Tenant or its business, or (C) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(f) Financial Matters. Except to the extent disclosed to City in writing, (i) Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected Tenant's ability to meet its Lease

obligations hereunder, and (iv) to Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

The representations and warranties herein shall survive any termination or expiration of this Lease.

19.22 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

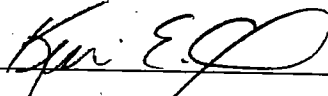
19.23 Force Majeure. Neither party shall be deemed to be in breach of this Lease by reason of a failure to perform any of its obligations hereunder to the extent that such failure is caused by strike or labor troubles, unavailability of materials or utilities, riots, rebellion, insurrection, invasion, war, action or interference of governmental authorities, acts of God, or any other cause whether similar or dissimilar to the foregoing which is reasonably beyond the control of the parties; provided, however, this clause shall not apply to Tenant's obligation to pay rent or other sums due hereunder, such obligation being absolute and unconditional.

////////////////////////////////////

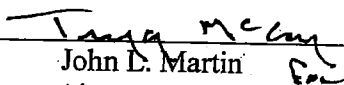
X:\TENANTS\AIRLINES\LEASES\AMERICAN SUPERBAY LEASE\SUPERBAY - AMERICAN LEASE 2013 FIANL 4-8-13.DOC

IN WITNESS WHEREOF, the parties have executed this Lease as of the Reference Date.

TENANT: American Airlines, Inc.,
[Signatory also to initial summary] a Delaware corporation

By: 
Name: **Kevin E. Cox**
Title: **Vice President - Real Estate**

CITY: CITY AND COUNTY OF SAN FRANCISCO,
[Signatory also to initial summary] a municipal corporation,
acting by and through its Airport Commission


John L. Martin
Airport Director
for LF

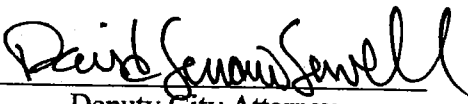
AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 13-0071

Adopted: April 2, 2013

Attest: _____
Secretary
Airport Commission

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By 
Deputy City Attorney

LIST OF EXHIBITS

EXHIBIT A-1	Premises – Land and First Floor
EXHIBIT A-2	Premises – Second Floor
EXHIBIT A-3	Premises – Fourth Floor
EXHIBIT B	Maintenance Responsibilities

6.18 ACRES
EMPLOYEE PARKING

17.4 ACRES

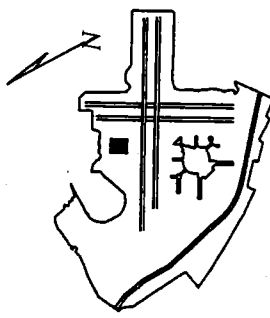
North Access Road
GATE 110



HANGAR
BAYS 1 AND 2
127,900 SQ FT

1.50 ACRES NON-
EXCLUSIVE WASH RACK

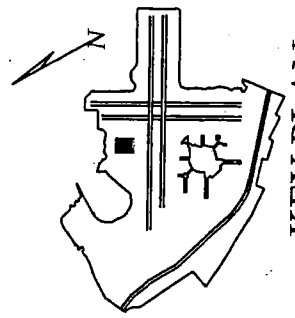
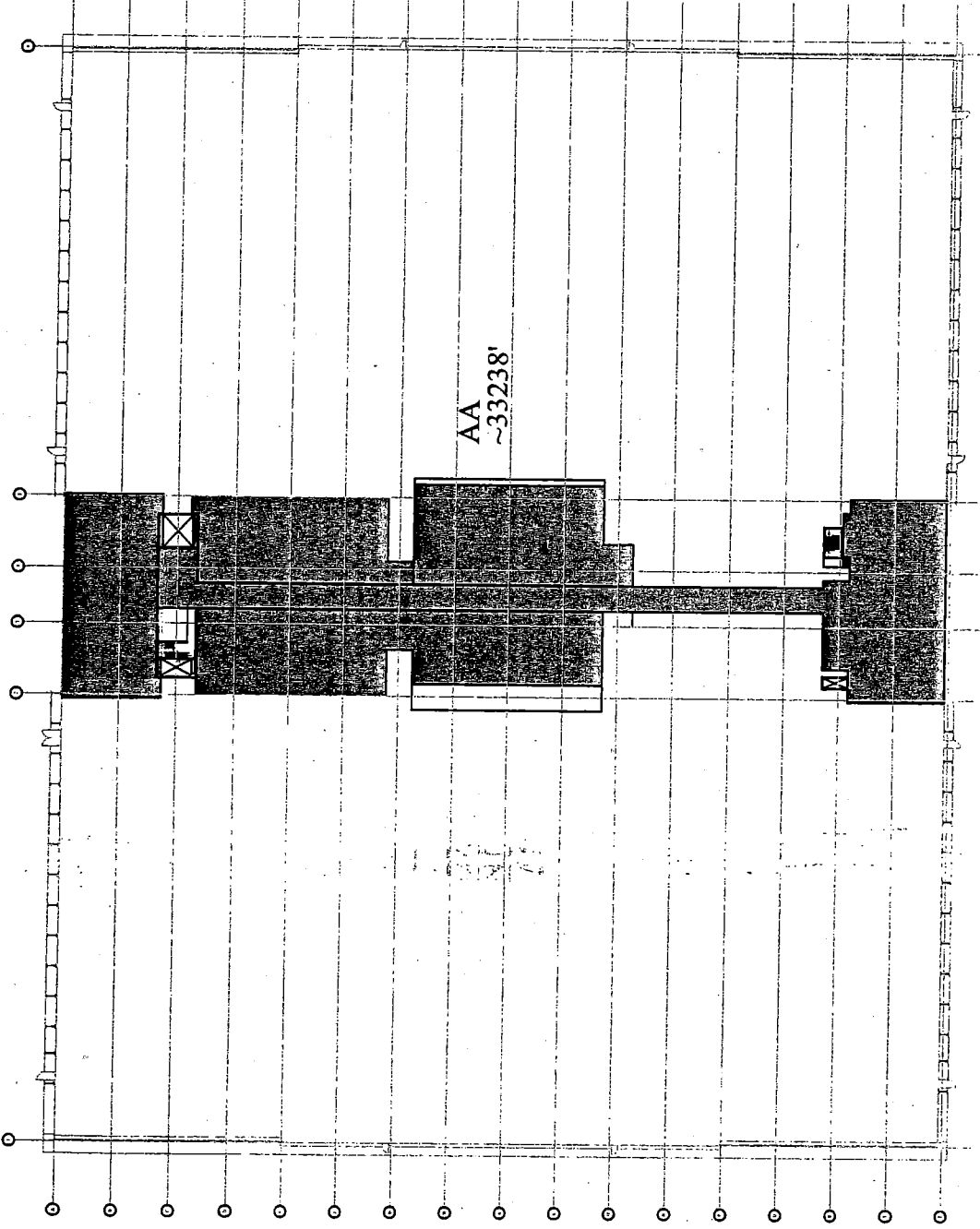
1064
FAA TOWER



KEY PLAN

TENANT LOCATION LEASE DRAWING				EXHIBIT A		
LOCATION	TENANT	CAT	AREA	CONTRACT	EFF DATE	
BAYS 1 & 2	AA		127,900'			
PART PLOT 40	AA		17.4 ACRE			
PARKING	AA		6.18 ACRE			
WASH RACK	AA		1.50 ACRE			

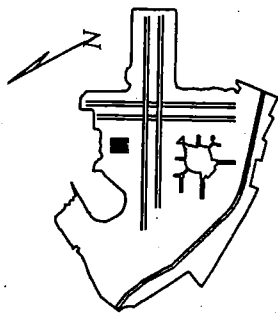
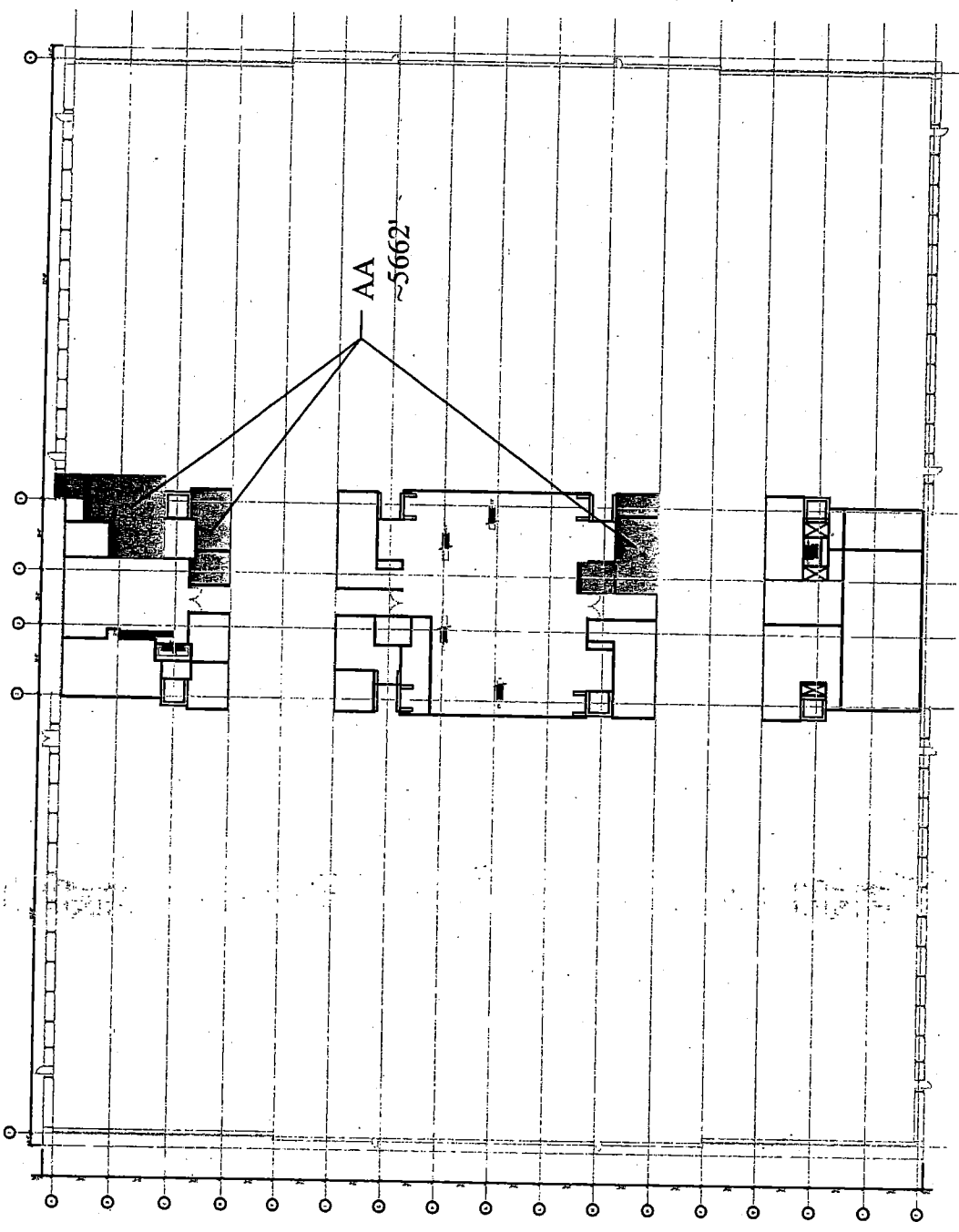
LOCATION: SUPERBAY PLOT 40 - BUILDING 1060	
AMERICAN AIRLINES	
CITY & COUNTY OF SAN FRANCISCO	DWG: AA/PLOT40
AIRPORTS COMMISSION	SCALE: IN 1/16" = 1' @ 50"
SAN FRANCISCO INTERNATIONAL AIRPORT	DATE: 03/28/2013



KEY PLAN

EXHIBIT A

TENANT LOCATION LEASE DRAWING		LOCATION	TENANT	CAT	AREA	CONTRACT	EFF DATE
LOCATION: SUPERBAY PLOT 40 - BUILDING 1060		4TH FLOOR	AA		~33238'		
AMERICAN AIRLINES							
CITY & COUNTY OF SAN FRANCISCO							
AIRPORTS COMMISSION							
SAN FRANCISCO INTERNATIONAL AIRPORT							
DWG: PLOT4003							
SCALE: 1/8"=1'-00.00"							
DATE: 02/05/2013							



KEY PLAN

EXHIBIT A

TENANT LOCATION LEASE DRAWING		LOCATION	TENANT	CAT	AREA	CONTRACT	EFF DATE
LOCATION: SUPERBAY PLOT 40 - BUILDING 1060		2ND FLOOR	AA		~5662'		
AMERICAN AIRLINES							
CITY & COUNTY OF SAN FRANCISCO							
AIRPORTS COMMISSION							
SAN FRANCISCO INTERNATIONAL AIRPORT							
DWG: PLOT4002							
SCALE: 1/8"=1'-0"							
DATE: 02/05/2013							

EXHIBIT B

MAINTENANCE RESPONSIBILITIES

Description	Responsible Party	
	City	Airline
400 Hz Synchronous Generator		X
Air Conditioners		X
Aircraft Wash Systems		X
Structural Related Hazardous Materials		
- Asbestos	X	
- Lead Base Paint	X	
- Light Fixture PCB	X	
Structural Maintenance - Hangar		
- Floors – Structural Substrata	X	
- Roof	X	
- Storm Drain Systems	X	
- Substructure	X	
- Doors	X	
- Structured Walls and Exterior Coverings	X	
Structural Maintenance – Ramp		
- Ramp Area	X	
- Substructure	X	
Non-Structural Maintenance and Repairs; Cleaning:		
- Floors		X
- Ramp Area		X
- Interior Walls And Partitions		X
Card Readers & Alarms For Personnel Doors	X	
Compressors – Penthouse Spare And Pump House		X
Diversion Valve – Washrack		X
Door Closers		X
Electric Power High Voltage Switch Gear		X
Electric Feed Rails & Trolleys		X
Elevators – Passengers & Freight		X
Emergency Lights		X
Equipment Fans		X
Exhaust Fans		X
Floor coverings		X
Fire Protection Systems:		
- Fire Alarm Bells	X	
- Fire Extinguishers		X
- Fire Prevention Inspection	X	
- Fire Protection Hose Cabinets	X	
- Fire Protection System & 4 Valve Rooms	X	
- Foam Pumps	X	
Fire Water Tanks (3), including Cathodic Protection	X	
Grimmer Schmidt Air Compressor – Penthouse		X

Description	Responsible Party	
	City	Airline
GSE Shop, including Structural Systems		X
Hangar Doors Electric		X
Hazmat Storage Area		X
Hypar Heaters		X
Industrial Waste Sump Pits		X
Jockey Pump		X
Lavatories – Group		X
Lift, Dock Loader		X
Light Poles – Ramp & Parking Lot		X
Monitor Panels		X
Pit Cover & Snubbers		X
Pole Lights & Roof Lights		X
Sanitary Waste System		X
Security Fencing	X	
Standby Generator – Supply		X
Steamcleaner		X
Storm Drain Systems – Ramp and 2 Lift Stations	X	
Sump Pumps	X	
Supply Fans		X
Taxiways Lights	X	
Underground Vaults	X	
Utility Pit Covers		X
Wall Heaters		X
Water Heaters		X
Water Traps		X

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Members, SF Board of Supervisors	City elective office(s) held: Members, SF Board of Supervisors
Contractor Information (Please print clearly.)	
Name of contractor: American Airlines, Inc.	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. See attached	
Contractor address: 4333 Amon Carter Boulevard, Fort Worth, TX 76155	
Date that contract was approved: Airport Commission Resolution No. 13-0071	Amount of contract: TBD each FY
Describe the nature of the contract that was approved: Lease Agreement No. 13-0071 for a Portion of the Plot 40 SuperBay Hangar and Support Areas	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information (Please print clearly.)	
Name of filer: Angela Calvillo, Clerk of the Board of Supervisors	Contact telephone number: (415) 554-5184
Address: 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

ATTACHMENT TO FORM SFEC-126 ON BEHALF OF AMERICAN AIRLINES, INC. TO
MEMBERS, SF BOARD OF SUPERVISORS

(1) Contractor's Board of Directors:

John W. Bachmann
Stephen M. Bennett
Armando M. Codina
Thomas W. Horton
Alberto Ibarguen
Ann M. Korologos
Michael A. Miles
Philip J. Purcell
Ray M. Robinson
Judith Rodin
Matthew K. Rose
Roger T. Staubach

- (2) Contractor's Chief Executive Officer, Thomas W. Horton
Contractor's Chief Financial Officer, Isabella D. Goren
Contractor's Chief Operating Officer – None

(3) Any person who has an ownership of 20 percent or more in the contractor – none

(4) Any subcontractor listed in the bid or contract – none

(5) Any political committee sponsored or controlled by the contractor - none

136777



San Francisco International Airport

MEMORANDUM

April 2, 2013

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Peter A. Stern

FROM: Airport Director

SUBJECT: Lease with American Airlines, Inc. for the Southeast Half of the SuperBay Hangar at Plot 40

DIRECTOR'S RECOMMENDATION: ADOPT THE ACCOMPANYING RESOLUTION TO:
1) APPROVE A NEW FACILITY LEASE WITH AMERICAN AIRLINES, INC. FOR THE SOUTHEAST HALF OF THE SUPERBAY HANGAR AND APPURTENANT LAND ON PLOT 40, AND 2) DIRECT THE COMMISSION SECRETARY TO FORWARD THE LEASE TO THE BOARD OF SUPERVISORS FOR APPROVAL.

Executive Summary

Pursuant to Lease No. L04-0221, between the City and American Airlines, Inc. ("American"), American leases approximately 166,800 square feet of hangar space in the SuperBay Hangar ("SuperBay") situated on approximately 20 acres of land at Plot 40. This site is also used for aircraft parking and vehicle parking for employees working at the SuperBay. There is another 3.58 acres of land for non-SuperBay employee parking; and 11,500 square feet of ground service equipment ("GSE") maintenance shop space. American is also granted the non-exclusive right to utilize an aircraft and equipment wash rack situated on approximately 1.50 acres of land. The Lease expired on June 30, 2009 and reverted to hold over status. The current rent is \$3,872,890 per year.

American wishes to continue occupancy of the SuperBay facilities and land for American's aircraft maintenance, aircraft parking, GSE related activities, and employee parking pursuant to a new lease (the "Lease") with a term of three (3) years with two (2) one-year options to extend, to be effective the later of July 1, 2013 or upon full approval by the City. The annual rent will be \$4,355,869 based on a negotiated fair market value, in conjunction with a reappraisal by the City's Real Estate Department, which reflects an increase of approximately twelve percent (12%).

THIS PRINT COVERS CALENDAR ITEM NO. 2

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE MAYOR LARRY MAZZOLA PRESIDENT LINDA S. CRAYTON VICE PRESIDENT ELEANOR JOHNS RICHARD J. GUGGENHIME PETER A. STERN JOHN L. MARTIN AIRPORT DIRECTOR

On November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing. Staff has been advised that American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the Lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American. American has indicated they wish to continue operations at the Airport.

Background

Pursuant to Lease No. L04-0221, between the City and American, American occupies the southeastern half of the SuperBay and appurtenant land at Plot 40 as follows (Note: all units are approximate):

- 127,900 square feet of first floor hangar space;
- 38,900 square feet of upper floor hangar space;
- 20 acres of appurtenant land for aircraft parking and employee vehicle parking;
- 3.58 acres of land for non-SuperBay employee vehicle parking; and
- 11,500 square feet of GSE maintenance shop space.

American also utilizes an aircraft and equipment wash rack, situated on approximately 1.5 acres of land, on a non-exclusive basis.

The approved uses include various aviation related functions including aircraft maintenance, aircraft parking, GSE related activities, support offices, and employee parking for employees working at the SuperBay and employees working at terminal locations. The lease had a term of approximately 4.5 years, commencing January 1, 2005, with one (1) five-year option to extend. American failed to exercise the option due to a corporate review of its nationwide facility needs that was in progress and, in lieu, requested continued occupancy on a hold over basis effective July 1, 2009, which request was approved. The current rent is \$3,872,890 per year.

American wishes to continue occupancy of the SuperBay facilities and land for aircraft maintenance, aircraft parking, GSE related activities, and employee parking pursuant to a Lease with a term of three (3) years with two (2) one-year options to extend the term, to be effective the later of July 1, 2013 or upon full approval by City. The annual rent will be \$4,355,869, which reflects an increase of approximately twelve percent (12%) and based on a negotiated fair market value, in conjunction with a reappraisal by the City's Real Estate Department.

There are no substantive changes to American's proposed use and occupancy of the SuperBay. For the purposes of rate setting, however, the parties have agreed to consolidate the two parcels of land used for employee vehicle parking, which are segregated in the current lease.

On November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing and has paid all post-bankruptcy

invoices in a timely manner. Staff has been advised that American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the Lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American. American has indicated they wish to continue operations at the Airport.

Proposal

Staff has negotiated the Lease with proposed business terms as follows:


1. **Approved Use:** Aircraft maintenance, aircraft parking and movement, GSE related activities, storage, related support operations, and employee vehicle parking.
2. **Premises:** Comprised of approximately:
 - 127,900 square feet of first floor hangar space;
 - 38,900 square feet of upper floor hangar space;
 - 17.4 acres of appurtenant land for aircraft parking and movement;
 - 6.18 acres of land for employee vehicle parking; and
 - 11,500 square feet of GSE maintenance shop space.
3. **Non-Exclusive Space:** Use of an aircraft and equipment wash rack situated on 1.5 acres of land.
4. **Term:** Three (3) years
5. **Option Term:** Tenant is granted two (2) one-year options to extend the term conditioned upon six months prior written notice.
6. **Commencement Date:** The later of July 1, 2013 or upon full approval by City.
7. **Expiration Date:** The last day of the thirty sixth (36th) month following the Commencement Date.
8. **Annual Rent:** Four Million Three Hundred Fifty Five Thousand Eight Hundred Sixty Nine Dollars (\$4,355,869).
9. **Rental Rate:** Based on a negotiated fair market value as follows:

First Floor Hangar Space	127,900 square feet @ \$24.56 per square foot per year
Upper Floor Hangar Space	38,900 square feet @ \$16.45 per square foot per year
Note: The first floor rate includes the value of the 17.4 acres of appurtenant land.	
Employee Vehicle Parking	6.18 acres of land @ \$93,000 per acre per year
10. **Rent Adjustment:** Annual CPI adjustments.
11. **Deposit:** Equal to three months' rent; initially \$1,088,967.
12. **Maintenance:** The City is responsible for structural maintenance. The lessee is responsible for non-structural maintenance and equipment within and surrounding the SuperBay.

American will be fully compliant with all City Regulations, including the City's Equal Benefits Ordinance, Minimum Compensation Ordinance, and the Health Care Accountability Ordinance.

Recommendation

I recommend adoption of the attached resolution that: 1) approves a Lease with American Airlines, Inc. for the southeast half of the SuperBay Hangar at Plot 40 and appurtenant land, commencing the later of July 1, 2013 or upon full City approval, for aviation related functions, with a term of three (3) years with two (2) one-year options and at an annual rent of \$4,355,869; and 2) directs the Commission Secretary to forward the Lease to the Board of Supervisors for approval.


John L. Martin *Fon*
Airport Director

Prepared by: Leo Fermin
Deputy Airport Director
Business and Finance

Attachment

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 13 0071

RESOLUTION TO (1) APPROVE A NEW FACILITY LEASE WITH AMERICAN AIRLINES, INC. FOR THE SOUTHEAST HALF OF THE SUPERBAY HANGAR AND APPURTENANT LAND ON PLOT 40, AND (2) DIRECT THE COMMISSION SECRETARY TO FORWARD THE LEASE TO THE BOARD OF SUPERVISORS FOR APPROVAL

- WHEREAS, pursuant to Lease L04-0221, American Airlines, Inc. ("American") leases approximately 166,800 square feet of hangar space, situated on approximately 20 acres of land at Plot 40, and 3.58 acres of additional land for various aviation related functions including aircraft maintenance, aircraft parking, ground service equipment ("GSE") activities, employee parking, and support operations at a current rent of \$3,872,890 per year; and
- WHEREAS, Lease L04-0221 expired on June 30, 2009 and reverted to hold over status; American wishes to continue occupancy of the SuperBay facilities at Plot 40 for uses substantially the same as current uses pursuant to a new lease; and
- WHEREAS, on November 29, 2011, American filed for Chapter 11 bankruptcy protection. Since then, American has maintained their account in good standing. American may enter into new leases in their normal course of business; therefore, staff is seeking Commission approval of the new lease which, by reference, will be included in the Cure Stipulation Agreement now under negotiation with American; and
- WHEREAS, Airport staff has negotiated a lease for the SuperBay Hangar at Plot 40 (the "Lease"), to be effective the later of July 1, 2013 or upon full City approval, which provides for: 1) use and occupancy for aviation related purposes, including aircraft maintenance and parking, GSE related activities, employee parking and ancillary uses, 2) a demised premises comprised of approximately 127,900 square feet of first floor hangar space and 38,900 square feet of upper floor hangar space situated on 17.4 acres of land, and an additional 6.18 acres of land for employee parking, 3) a term of three (3) years with two (2) one-year options at American's discretion, and 4) an annual rent of \$4,355,869; now, therefore be it,
- RESOLVED, that the Airport Commission hereby approves and authorizes the Airport Director to execute the Lease with American Airlines commencing the later of July 1, 2013 or upon full City approval which provides for : 1) use and occupancy for aviation related purposes including aircraft maintenance and parking, GSE related activities, employee parking and ancillary uses, 2) a demised premises comprised of approximately 127,900 square feet of first floor hangar space and 38,900 square feet of upper floor hangar space situated on 17.4 acres of land, and an additional 6.18 acres of land for employee parking, 3) a term of three (3) years with two (2) one-year options at American's discretion, and 4) an annual rent of \$4,355,869; and on the terms and conditions set forth in the Director's Memorandum; and be it further
- RESOLVED, that the Airport Commission hereby directs the Commission Secretary to forward the Lease to the Board of Supervisors for approval pursuant to Section 9.118 of the City Charter.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of*

APR 02 2013

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Secretary

