

File No. 220058

Committee Item No. 6

Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date February 16, 2022

Board of Supervisors Meeting Date March 1, 2022

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Contract/Agreement
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Airport Commission Resolution No. 21-0235 - 1/27/2021</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Original Lease - 5/15/2007</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Modification No. 1 - 9/9/2014</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Airport Commission Resolution No. 07-0106 - 5/15/2007</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Airport Commission Resolution No. 14-0176 - 9/9/2014</u>
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Completed by: Brent Jalipa Date February 11, 2022

Completed by: Brent Jalipa Date February 25, 2022

1 [Fixed Base Operator Lease and Operating Agreement Modification No. 2 - Signature Flight
2 Support LLC - \$16,246,762 Estimated Minimum Annual Guarantee]

3 **Resolution approving Modification No. 2 to Fixed Base Operator Lease and Operating**
4 **Agreement No. 07-0106 between Signature Flight Support LLC and the City and County**
5 **of San Francisco, acting by and through its Airport Commission, to extend the term by**
6 **an additional three years, for a term to commence from October 1, 2022, through**
7 **September 30, 2025, for an estimated Minimum Annual Guarantee of \$16,246,762 during**
8 **the first year of the additional term extension.**

9
10 WHEREAS, On May 15, 2007, by Resolution No. 07-0106, the Airport Commission
11 (“Commission”) awarded the Fixed Base Operator Lease and Operating Agreement
12 No. 07-0106 (the “Operating Agreement”) to Signature Flight Support LLC (“Signature”) with a
13 term of 10 years and a base rent equal to the higher of (“Base Rent”) (i) the Minimum Annual
14 Guarantee (“MAG”) or (ii) percentage rent equal to the sum of 100% of aircraft landing fees
15 collected, 27% of all fuel sales, 55% of all aircraft parking fees, 40% of all advertising gross
16 revenues, 26% of other gross revenues, and 1% of the gross sale prices received from the
17 sale of any general aviation aircraft (collectively, “Percentage Rent”); on July 31, 2007, by
18 Resolution No. 436-07, the San Francisco Board of Supervisors (the “Board”) finally approved
19 the Operating Agreement; and

20 WHEREAS, On September 9, 2014, by Resolution No. 14-0176, the Commission
21 approved Modification No. 1 to the Operating Agreement (“Modification No. 1”), extending the
22 lease for five years through September 30, 2022 (the “Term Extension”), and requiring
23 Signature to complete construction of a new Hangar C by November 2014 and renovate the
24 existing Executive Air Terminal by April 2018; on November 25, 2014, by Resolution No. 436-
25 14, the Board finally approved Modification No. 1; and

1 WHEREAS, In advance of the upcoming expiration date of the Term Extension, Airport
2 Staff conducted market research to evaluate the financial implications of conducting a
3 competitive selection process for a new fixed base operator agreement, which research
4 demonstrated that Signature's current MAG is above-market because of the significant
5 decline in general aviation operations due to the COVID-19 global pandemic; and

6 WHEREAS, In order to retain the above-market MAG value of the Operating
7 Agreement, Airport Staff believes it is in the best interest of the Airport to delay conducting a
8 competitive process for a new operating agreement and enter into Modification No. 2 to the
9 Operating Agreement ("Modification No. 2") which extends the term of the current Operating
10 Agreement for an additional period of three years which will commence on October 1, 2022
11 and expire on September 30, 2025 (the "Second Extension Term") at the current Base Rent
12 (with the current MAG being adjusted on October 1, 2022 and annually thereafter by the CPI
13 under the Operating Agreement, for an estimated MAG of \$16,246,762 during the first year of
14 the Second Extension Term), and requires Signature to (i) make certain infrastructure
15 improvements in the customer parking lot adjacent to the Executive Air Terminal and (ii)
16 comply with certain additional sustainability requirements; and

17 WHEREAS, A copy of the form of Modification No. 2 is on file with the Clerk of the
18 Board of Supervisors in File No. 220058, which is hereby declared to be part of this resolution
19 as if set forth fully herein; now, therefore, be it

20 RESOLVED, That the Board of Supervisors hereby approves and authorizes the
21 execution of Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No.
22 07-0106 between Signature Flight Support LLC and the City and County of San Francisco,
23 acting by and through its Airport Commission; and, be it

1 FURTHER RESOLVED, That within thirty (30) days of Modification No. 2 being fully
2 executed by all parties, the Commission shall provide a copy of the final Modification No. 2 to
3 the Clerk of the Board for inclusion into the official file.

Item 6 File 22-0058	Department: San Francisco International Airport (Airport)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> The proposed resolution would approve Modification No. 2 to the Fixed Base Operator Lease and Operating Agreement (lease) between the San Francisco International Airport (Airport) and Signature Flight Support, LLC, extending the term by three years through September 2025, with an estimated Minimum Annually Guaranteed (MAG) rent of \$16,246,762 for the first year of the additional term extension. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> In 2007, after the Airport conducted a Request for Proposals (RFP), the Board of Supervisors approved a lease with Signature for a term of 10 years and initial minimum rent of \$11,000,000. In 2021, Airport staff conducted a survey to evaluate the financial implications of issuing an RFP to award a new Fixed Base Operator lease. Airport staff determined that Signature's minimum guaranteed rent was above market-rate and that it would be in the Airport's best interest to extend Signature's lease for an additional three years. In December 2021, the Airport Commission approved Modification No. 2, extending the term by three years through September 2025. Services under the Fixed Base Operator lease include retail fuel sales for general aviation aircraft; aircraft marshalling, parking, and chocking; on-Airport transportation for passengers and crew; aircraft maintenance and repair services; management of the Executive Terminal for passengers and crews; and management of hangar facilities. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> Under the lease, Signature pays the greater of minimum annual guaranteed rent, adjusted annually based on the regional CPI, or percentage rent based on revenues. Over the three-year term of the proposed lease extension, Signature would pay at least \$48,740,286 in MAG rent, not including annual adjustments based on the regional CPI. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> The Airport's determination that Signature's rent is above market-rate is based on a survey of six leases at other airports, but did not account differences in flight volumes or services. Neither the Airport nor Signature track enplanements. Because the Budget and Legislative Analyst is unable to verify that MAG rent is above market-rate, and the agreement is eight years beyond the 10-year term originally contemplated by the 2006 RFP, approval of the proposed resolution is a policy matter for the Board of Supervisors. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> Approval of the proposed resolution is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, or having anticipated revenues to the City of \$1,000,000, or (2) the modification, amendment, or termination of these leases is subject to Board of Supervisors approval.

BACKGROUND

In 2006, the San Francisco International Airport (Airport) issued a Request for Proposals (RFP) to award a Fixed Base Operator Lease and Operating Agreement (lease) to provide aviation services to charter and private aviation customers. The services include retail fuel sales, aircraft maintenance, and management of the Executive Air Terminal Building and Hangars A and B.¹ Signature Flight Support (Signature) was deemed the highest scoring responsive and responsible proposer and was awarded a lease.

In July 2007, the Board of Supervisors approved a lease with Signature for a term of 10 years, from October 2007 through September 2017, with initial Minimum Annually Guaranteed (MAG) rent of \$11,000,000 (File 07-0762).² Under the lease, Signature was required to make tenant improvements to the Executive Air Terminal Building and Hangars A and B, with a minimum investment of \$2,222,750, and also construct a new hangar (Hangar C), which was estimated to cost \$7,500,000.³ In November 2014, the Board of Supervisors approved Modification No. 1 to the lease, extending the term by five years through September 2022, and requiring Signature to make additional improvements to the Executive Air Terminal Building (File 14-1079).⁴

In 2021, Airport staff conducted market research to evaluate the financial implications of issuing an RFP to award a new Fixed Base Operator lease. Airport staff determined that Signature's MAG rent was above market-rate because of the decline in general aviation operations due to the COVID-19 pandemic and that it would be in the Airport's best interest to extend Signature's lease for an additional three years. In December 2021, the Airport Commission approved Modification No. 2, extending the term by three years through September 2025.

¹ The Executive Air Terminal Building provides services for charter and private aviation travelers and crews. Hangars A, B, and C provide storage for private aircraft.

² The 2006 RFP included minimum acceptable MAG of \$3.5 million.

³ The original lease required Signature to complete construction of Hangar C within one year. However, citing a decline in demand for hangar storage, Signature requested deferrals to construct Hangar C, which were approved by the Airport until 2013. Construction began on Hangar C in November 2013 and was completed in October 2014.

⁴ The additional improvements included: (1) roof restorations for the Executive Air Terminal Building and Hangars A and B; (2) upgrading the camera monitoring system; (3) upgrades to HVAC systems; (4) replacement of existing signage with an LED sign; and (5) updated paint, carpeting, and furniture. According to Diana Chow, Airport Senior Property Manager, the improvements were completed on time.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 2 to the Airport's lease with Signature, extending the term by three years through September 2025, with an estimated initial MAG rent of \$16,246,762. Other material terms of the lease would not change.

The proposed Modification No. 2 would require Signature to install at least 55 solar powered covered parking stalls and at least four electric vehicle charging stations in the parking lot adjacent to the Executive Air Terminal. Signature would be required to offer industry standard sustainable aviation fuel, and all fuel trucks would be replaced by low emission models. Modification No. 2 would also update the lease to comply with all applicable local, state, and federal laws.

The lease requires Signature to perform the following services: retail fuel sales for general aviation aircraft; aircraft marshalling, parking, and chocking;⁵ on-Airport transportation for passengers and crew; aircraft maintenance and repair services; management of the Executive Terminal for passengers and crews; and management of hangar facilities for aircraft storage, maintenance, and other services. Optional services include retail fuel sales for aircraft outside of the Fixed Base Operator (FBO) facilities; services for commercial itinerant aircraft; dispensing contract aviation fuels and oils from the FBO facilities and other areas; selling aircraft or aircraft parts; sale of food, beverages, and retail concessions; acting as an agent for car rental organizations or other passenger services; and repair and service vehicles such as tugs, tractors, motorized ramps, baggage handling equipment, ground power units, and space heaters, and sales of fuel, lubricants, and accessories to service such vehicles.⁶

Under the lease, Signature pays the greater of MAG rent, adjusted annually based on the Consumer Price Index (CPI), or percentage rent based on various revenues. The percentage rent structure is as follows:

- 100 percent of aircraft Landing Fees collected;
- 27 percent of all fuel sales;
- 55 percent of aircraft parking fees;
- 40 percent of advertising gross revenues;
- 26 percent of other gross revenues; and
- 1 percent of the gross sales prices received from the sale of any general aviation aircraft.

Term Extension

The extended lease term of 18 years is longer than the maximum term of 10 years allowed by the 2006 RFP.⁷ In 2021, Airport staff conducted a survey of six other Fixed Base Operator leases,

⁵ Chocking is the placement of sturdy wedges around an aircraft's wheels to prevent accidental movement.

⁶ Optional services are performed at Signature's discretion and paid for by aircraft fees.

⁷ The previous five-year extension included in Modification No. 1, which was not authorized by the original terms of the RFP, was granted by the Airport and approved by the Board of Supervisors to help Signature amortize the construction costs of Hangar C.

including: Atlanta, Fort Lauderdale, Las Vegas (which has leases with both Signature and Atlantic Aviation), San Diego, and Washington Dulles.⁸ Only Washington Dulles had a higher MAG rent than the Airport's lease with Signature. According to Diana Chow, Airport Senior Property Manager, the Airport may have to reduce the MAG rent in a new RFP to generate interest from potential proposers. By extending the lease by three years, the Airport would likely continue to receive MAG rent from Signature, which has been higher than percentage rent since the beginning of the COVID-19 pandemic. The extension allows time for the aviation industry to recover towards a more favorable bidding environment for a new RFP in 2025. Senior Property Manager Chow does not anticipate further extensions to the lease.

FISCAL IMPACT

Under the lease, Signature pays the greater of MAG rent, adjusted annually based on the CPI, or percentage rent based on revenues. The Airport estimates that initial MAG rent for the first year of the proposed lease extension is approximately \$16,246,762. Over the three-year term of the proposed lease extension, Signature would pay at least \$48,740,286 in MAG rent, not including annual adjustments based on the regional CPI. Annual rents paid by Signature to date are shown in Exhibit 1 below.

Exhibit 1: Historical Annual Rent Paid by Signature

Year	Rent Paid	Rent Type
Year 1 (10/2007-9/2008)	\$11,396,404	Percentage Rent
Year 2 (10/2008-9/2009)	11,667,887	Percentage Rent
Year 3 (10/2009-9/2010)	11,486,362	MAG
Year 4 (10/2010-9/2011)	11,748,474	Percentage Rent
Year 5 (10/2011-9/2012)	12,022,187	Percentage Rent
Year 6 (10/2012-9/2013)	12,268,174	MAG
Year 7 (10/2013-9/2014)	12,517,536	MAG
Year 8 (10/2014-9/2015)	12,887,964	MAG
Year 9 (10/2015-9/2016)	13,858,624	Percentage Rent
Year 10 (10/2016-9/2017)	13,626,082	MAG
Year 11 (10/2017-9/2018)	15,943,610	Percentage Rent
Year 12 (10/2018-9/2019)	14,900,808	Percentage Rent
Year 13 (10/2019-9/2020)	15,031,400	MAG
Year 14 (10/2020-9/2021)	15,270,080	MAG
Year 15 (10/2021-9/2022) ⁹	15,828,880	MAG
Total	\$200,454,472	

Source: Airport

Unlike Airport concession leases, the Signature lease does not contain a provision to suspend MAG rent during periods of severe decline in enplanements, such as the COVID-19 pandemic.

⁸ According to Senior Property Manager Chow, other airports were contacted, but did not respond to the survey.

⁹ The amount shown for Year 15 is projected, as the Airport expects to receive the MAG rent.

According to Senior Property Manager Chow, the Airport anticipates receiving MAG rent, rather than percentage rent, over the three-year term of the lease extension.

POLICY CONSIDERATION

The Airport's determination that Signature's MAG rent is above market-rate is based on a survey of six Fixed Base Operator leases at other airports. However, the Budget and Legislative Analyst is unable to verify this determination because the other leases may have different flight volumes or provide different services. Neither the Airport nor Signature track enplanements of general aviation aircraft. According to Senior Property Manager Chow, Signature indicated that they would have offered a lower MAG rent if a new RFP were issued. Because the Budget and Legislative Analyst is unable to verify that MAG rent is above market-rate, and the proposed extension is eight years beyond the 10-year term originally contemplated by the 2006 RFP, approval of the proposed resolution is a policy matter for the Board of Supervisors.

RECOMMENDATION

Approval of the proposed resolution is a policy matter for the Board of Supervisors.

**MODIFICATION NO. 2 TO THE FIXED BASE OPERATOR (FBO)
LEASE AND OPERATING AGREEMENT NO. 07-0106
WITH SIGNATURE FLIGHT SUPPORT CORPORATION
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS MODIFICATION NO. 2 TO THE FIXED BASE OPERATOR (FBO) LEASE AND OPERATING AGREEMENT NO. 07-0106 AT THE SAN FRANCISCO INTERNATIONAL AIRPORT (this “**Modification**”), is dated as of the Effective Date (as defined and set forth below) is entered into by and between Signature Flight Support Corporation, as Operator (“**Operator**”) and the City and County of San Francisco, a municipal corporation (“**City**”), acting by and through its Airport Commission (“**Commission**”).

Recitals

A. The City owns San Francisco International Airport (“**Airport**”) located in San Mateo County, State of California, and which Airport is operated by and through the Commission, the chief executive officer of which is the Airport Director (“**Director**”).

B. Pursuant to the Lease (as defined below), Operator services and operates the Fixed Base Operation (“**FBO**”) at the Airport. City determined that such operation is desired for the accommodation, storage, and maintenance of general aviation aircraft.

C. Following a competitive proposal process, on May 15, 2007, by Resolution No. 07-1016, the Commission awarded Operator the Fixed Base Operator Lease and Operating Agreement (the “**Original Lease**”), and on July 31, 2007 by Resolution No. 436-07, the San Francisco Board of Supervisors (the “**BOS**”) finally approved the Original Lease. The Original Lease had a ten (10) year term commencing October 1, 2007 and expiring September 30, 2017 (“**Original Term**”).

D. Under the terms of the Original Lease, Signature was obligated to construct a new on-site general aviation hangar (“**Hangar C**”) at its own cost and expense no later than twelve months from the commencement date of the Original Lease. However due to an unprecedented decline in demand for hangar storage, a slowdown in business aviation travel and the difficult economic environment of general aviation, the Airport provided deferments of such obligation, and Operator completed Hangar C in 2014.

E. On September 9, 2014 by Resolution No. 14-0176, the Commission approved Modification No. 1 to the Original Lease (“**Modification No. 1**”), pursuant to which City agreed to extend the Original Term for a period of five (5) years through September 30, 2022 (the “**Extension Term**”) in order to provide Operator additional time to amortize its investment in Hangar C. On November 15, 2014, by Resolution No. 436-14, the BOS approved Modification No. 1

F. In advance of the expiration of the Extension Term, Airport Staff conducted market research to evaluate the financial feasibility of conducting a competitive process for a new FBO lease. Due to the significant decline in general aviation operations brought on by the COVID-19 global pandemic, Staff believes it is in the best interest of the City to not conduct a competitive process at this time and extend the term of the Lease for a period of three (3) years, from October 1, 2022 to September 30, 2025 (the “**Additional Extension Term**”). During the Additional Extension Term, Signature will continue to pay the Minimum Annual Guarantee (“**MAG**”), as the same is adjusted annual by the Consumer Price Index (“**CPI**”) formula set forth in the Original Lease.

G. As part of the consideration for the Additional Extension Term, Signature is obligated to make infrastructure improvements in the customer parking lot adjacent to the Executive Air Terminal within one hundred eighty (180) days from the Effective Date, and comply with certain additional sustainability requirements, as further set forth below.

H. On _____, by Resolution No. _____, the Commission approved this Modification, and on _____, by Resolution No. _____, the BOS approved this Modification.

I. All capitalized terms not otherwise defined in this Modification shall have the meaning provided in the Original Lease or Modification No. 1, as the context may so require.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do mutually agree as follows:

1. Effective Date; Revised Expiration Date.

(a) Effective Date. This Modification will become effective on the date that each of the following shall occurred (the “**Effective Date**”): (1) this Modification is approved by the Commission and the BOS, each acting in their sole and absolute discretion (the “**Final City Approvals**”), and (2) this Modification is executed by both parties (the “**Effective Date**”). Operator shall submit a fully executed copy of this Modification to City in order for City to obtain the Final City Approvals. Upon the receipt of the Final City Approvals, City shall enter the Effective Date below where indicated and deliver a fully executed original copy of this Modification to Operator:

Effective Date: _____ (to be inserted by City only)

(b) Revised Expiration Date. Upon the Effective Date, the Term shall be extended for the Additional Extension Term, commencing on October 1, 2022 (the “**Additional Extension Term Commencement Date**”) and expiring at 11:59 pm on September 30, 2025 (the “**Revised Expiration Date**”).

2. **Required Additional Improvements.** No later than 180 days from the Additional Extension Term Commencement Date, or such later date as may be approved by the Director, acting in his sole and absolute discretion, Operator shall make the following infrastructure improvements in the customer parking lot adjacent to the Executive Air Terminal: (1) installation of at least fifty-five (55) solar powered covered parking stalls; and (2) installation of at least four (4) new level two electrical vehicle charging stations (collectively, the “**Required Additional Improvements**”). Operator shall give notice to Director of its intended plan with respect to such Required Additional Improvements, and covenants and agrees that all such improvements shall be considered “Alterations” and shall be subject to all applicable terms and conditions of the Original Lease, including, without limitation, the provisions of Article 7 [Investments; Alterations] including all approval rights of City and Director.

3. **Additional Sustainability Requirements.** For the duration of the Additional Extension Term, Operator agrees that it shall at all times offer industry standard sustainable aviation fuel, as reasonably determined by City, for turbine engine fuel sales, subject to availability using all commercially reasonable efforts to procure the same. In addition, no later than December 31, 2021, Operator shall replace all fuel trucks in operation at the Premises with low emission models featuring Tier 4/Stage IV engines.

4. **Updates to City and Other Governmental Provisions.**

(a) The provisions of Section 18.25 are hereby deleted and replaced with the following:

“Notification of Limitation on Campaign Contributions. By executing this Agreement, Operator acknowledges its obligations under section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Operator’s board of directors; Operator’s chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Operator; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Operator. Operator certifies

that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.”

(b) The following provisions are added as new sections to Article 18 of the Agreement:

“18.27 Prohibition of Tobacco Advertising. Operator 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, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

18.28 Prohibition of Alcoholic Beverage Advertising. Operator acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this Section, “alcoholic beverage” shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

18.29 Vending Machines; Nutritional Standards and Calorie Labeling Requirements. Operator may not install or permit any vending machine on the Premises without the prior written consent of the Director. Any permitted vending machine will comply with applicable food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the “**Nutritional Standards Requirements**”). Operator will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 1821 will be a material breach of

this Agreement. Without limiting City's other rights and remedies under this Agreement, City will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

18.30 Local Hire. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). All Alterations under this Agreement are subject to the Local Hiring Requirements unless the cost for such work is (a) estimated to be less than \$750,000 per building permit or (b) meets any of the other exemptions in the Local Hiring Requirements. Unless subject to an exemption, Operator agrees that it shall comply with the Local Hiring Requirements to the extent applicable only for all Covered Projects. Before starting any Alteration, Operator shall contact City's Office of Economic Workforce and Development ("**OEWD**") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "**Covered Project**"). Unless subject to an exemption or if the construction work is not a Covered Project, Operator shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third-party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Operator shall cooperate, and require its subtenants to cooperate, with City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Operator's failure to comply with its obligations under this Section shall constitute a material breach of this Agreement. A contractor's or subcontractor's failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party. So long as Operator requires compliance with this Section in the construction contract for the Covered Project and reasonably cooperates with the City in any enforcement action, then it shall not be in breach of this Agreement due to a Contractor's or Subcontractor's failure to comply or to meet the mandatory participation levels.

18.31 Resource-Efficient City Buildings. Operator acknowledges that City has enacted San Francisco Environment Code Chapter 7 ("**Env. Code Chapter 7**") relating to green building requirements. Operator hereby agrees that it shall comply with all provisions of Env. Code Chapter 7 applicable to construction work performed by or on behalf of Operator in the Premises.

18.32 All-Gender Toilet Facilities. If applicable, Operator will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Premises in any building where extensive renovations are made by Operator. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code Section 4.1-3. If Operator has any question about applicability or compliance, Operator should contact Building Inspection and Code Enforcement (**BICE**) for guidance.

18.33 List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Operator, for itself, its assignees, and successors-in-interest (hereinafter referred to as the “contractor” in this Section 18.33) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC §4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR §27;
- The Age Discrimination Act of 1975, as amended (42 USC §6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of

public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 - 12189) as implemented by Department of Transportation regulations at 49 CFR §37 and 38 and the Department of Justice regulations at 28 CFR, parts 35 and 36;

- The Federal Aviation Administration's Non-discrimination statute (49 USC §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.)

5. Board of Supervisors' Approval. Notwithstanding anything to the contrary contained in this Modification, Operator acknowledges and agrees that no City officer or employee has authority to commit City to this Modification unless and until the BOS has duly adopted a resolution approving this Modification and authorizing the transactions contemplated hereby. Therefore, any City obligations or liabilities under this Modification are contingent on adoption of a resolution, and this Modification will be null and void if City's mayor and the BOS do not approve this Modification, in their respective sole discretion. Approval of this Modification by any city department, commission, or agency will not be deemed to imply that a BOS resolution will be adopted, and no approval will create any binding City obligations.

6. Full Force and Effect. Except as modified hereby, each and every one of the terms, conditions, and covenants in the Original Lease and Modification No. 1 shall remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Modification by their duly authorized officers as of the Effective Date.

OPERATOR: Signature Flight Support Corporation,
a Delaware limited liability company

APPROVED AS TO FORM:

PKR 09-29-2021
LEGAL DEPARTMENT

By 

Name Tony Lefebvre

Title Chief Executive Officer

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. _____
Adopted: _____

By _____
Ivar C. Satero
Airport Director

Attest: _____
Secretary
Airport Commission

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

By _____
Christopher W. Stuart
Deputy City Attorney

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 21-0235

**APPROVAL OF MODIFICATION NO. 2 TO FIXED BASE OPERATOR LEASE AND
OPERATING AGREEMENT NO. 07-0106 WITH SIGNATURE FLIGHT SUPPORT
LLC, FOR AN ADDITIONAL THREE-YEAR TERM EXTENSION**

- WHEREAS, on May 15, 2007, by Resolution No. 07-0106, the Airport Commission (Commission) awarded the Fixed Base Operator Lease and Operating Agreement (Operating Agreement) to Signature Flight Support LLC (Signature) to operate the sole fixed base operation (FBO) at the Airport for an initial term of ten years expiring September 30, 2017 (Term); and
- WHEREAS, on July 31, 2007, by Resolution No. 426-07, the Board of Supervisors approved the Operating Agreement; and
- WHEREAS, on September 9, 2014, by Resolution No. 14-0176, the Commission approved Modification No. 1, which (i) extended the Operating Agreement for five years, through September 30, 2022 (the Term Extension); (ii) required completion of a new Hangar C by November 2014; and (iii) required the renovation of the Executive Air Terminal by April 2018 (Modification No. 1); and
- WHEREAS, on November 25, 2014, by Resolution No. 436-14, the Board of Supervisors approved Modification No. 1; and
- WHEREAS, in advance of the upcoming expiration date of the Term Extension, Staff conducted market research to evaluate the financial implications of conducting a competitive selection process for a new fixed base operator agreement, which research demonstrated that Signature's current minimum annual guarantee (MAG) is above-market because of the significant decline in general aviation operations due to the COVID-19 global pandemic; and
- WHEREAS, in order to retain the above-market MAG value of the Operating Agreement, Staff believes it is in the best interest of the Airport to delay conducting a competitive process for a new operating agreement and to extend the term of the current Operating Agreement with Signature for an additional period of three years at the current value of MAG (as adjusted annually by the CPI under the Operating Agreement), which will commence on October 1, 2022 and expire on September 30, 2025 (Additional Term Extension); and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 21-0235

WHEREAS, Staff and Signature have negotiated the terms of Modification No. 2 to the Operating Agreement to (i) extend the Term for the Additional Term Extension, (ii) require Signature to make infrastructure improvements in the customer parking lot adjacent to the Executive Air Terminal, (iii) require Signature to comply with certain additional sustainability requirements, and (iv) update certain legal provisions required by applicable local, state, and federal laws (Modification No. 2); and

WHEREAS, all other terms and conditions of the Operating Agreement will remain unmodified and in full force and effect; now, therefore, be it

RESOLVED, that this Commission hereby approves Modification No. 2, as summarized above and in the Director's memorandum accompanying this resolution; and, be it further

RESOLVED, that this Commission directs the Commission Secretary to submit Modification No. 2 to the Board of Supervisors for approval in accordance with Section 9.118 of the Charter of the City and County of San Francisco.

Page 2 of 2

I hereby certify that the foregoing resolution was adopted by the Airport Commission

at its meeting of DEC 7 2021


Secretary



San Francisco International Airport

MEMORANDUM

December 7, 2021

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Everett A. Hewlett, Jr.
Hon. Jane Natoli
Hon. Malcolm Yeung

21-0235

DEC 7 2021

FROM: Airport Director

SUBJECT: Approval of Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No. 07-0106 with Signature Flight Support LLC, for an Additional Three-Year Term Extension

DIRECTOR'S RECOMMENDATION: APPROVE MODIFICATION NO. 2 TO FIXED BASE OPERATOR LEASE AND OPERATING AGREEMENT NO. 07-0106 WITH SIGNATURE FLIGHT SUPPORT LLC, FOR AN ADDITIONAL THREE-YEAR TERM EXTENSION, AND DIRECT THE COMMISSION SECRETARY TO SEEK APPROVAL OF THE LEASE MODIFICATION FROM THE BOARD OF SUPERVISORS UNDER SECTION 9.118 OF THE CHARTER OF THE CITY AND COUNTY OF SAN FRANCISCO.

Executive Summary

Signature Flight Support LLC (Signature) operates the current and sole fixed based operation (FBO) at San Francisco International Airport, which is located on Plot 42 on the north side of the airfield, for the accommodation, storage, and maintenance of general aviation aircraft. The FBO is used for general aviation, corporate, and other non-scheduled aircraft. Signature was originally awarded the Fixed Base Operator Lease and Operating Agreement (Operating Agreement) for a term of ten (10) years, from October 1, 2007 through September 30, 2017 (Term). The Term was extended by five years, for a new expiration date of September 30, 2022, through Modification No. 1 to the Agreement.

In order to retain the above-market value of the Operating Agreement, Staff seeks the approval of the Airport Commission (Commission) to Modification No. 2 to the Agreement, which grants an additional three-year Term extension, for a new expiration date of September 30, 2025 (Modification No. 2). Modification No. 2 also requires Signature to undertake certain infrastructure improvements and satisfy sustainability requirements. Payments of the Minimum Annual Guarantee (MAG) will remain in effect and continue to adjust annually based on the Consumer Price Index (CPI) adjustments.

THIS PRINT COVERS CALENDAR ITEM NO. 8

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
PRESIDENT

ELEANOR JOHNS
VICE PRESIDENT

EVERETT A. HEWLETT, JR.

JANE NATOLI

MALCOLM YEUNG

IVAR C. SATERO
AIRPORT DIRECTOR

Background

On May 15, 2007, by Resolution No. 07-0106, the Commission awarded the Operating Agreement to Signature for a 10-year Term, commencing October 1, 2007 and expiring September 30, 2017. On July 31, 2007, by Resolution No. 436-07, the Board of Supervisors (the Board) approved the award of the Operating Agreement to Signature.

On September 9, 2014, by Resolution No. 14-0176, the Commission approved Modification No. 1, which (i) extended the Operating Agreement for five (5) years (the Term Extension); (ii) required completion of a new Hangar C by November 2014, and (iii) required the renovation of the Executive Air Terminal by April 2018 (collectively, Modification No. 1). On November 25, 2014, by Resolution No. 436-14, the Board approved Modification No. 1.

The Operating Agreement is in the last year of the Term Extension. Currently, the MAG payable under the Operating Agreement is \$15,828,879.95. Earlier this year in advance of the upcoming expiration date of the Term Extension, Staff conducted market research to evaluate the financial implications of conducting a competitive process for a new fixed base operator agreement. This research shows Signature's MAG is above-market because of the significant decline in general aviation operations due to the COVID-19 global pandemic. The average MAG or annual rent structure for a similar FBO among comparable airports surveyed is \$6,757,063.00, as detailed in Attachment B. The only airport surveyed with a higher MAG is Washington Dulles International Airport.

Accordingly, Staff believes it is in the best interest of the Airport to delay conducting a competitive process and to extend the term of the Operating Agreement for an additional period of three years, which will commence on October 1, 2022 and expire on September 30, 2025 (Additional Term Extension). During the Additional Term Extension, Signature will continue to pay the MAG, preserving the above-market rate, which will continue to be adjusted annually by the CPI formula set forth in the Operating Agreement.

Staff is otherwise satisfied with Signature's operation of the FBO and recommends granting the Additional Term Extension, along with requiring Signature to make the infrastructure improvements and satisfy the sustainability requirements set forth in the Proposal below.

Proposal

Staff and Signature have negotiated the terms of Modification No. 2 to the Operating Agreement, summarized as follows:

- (i) **Additional Term Extension:** One three-year extension, for a new expiration date of September 30, 2025.
- (ii) **Required Improvements:** Signature will make infrastructure improvements in the customer parking lot adjacent to the Executive Air Terminal within 180 days from the Effective Date of Modification No. 2.

- (iii) **Additional Sustainability Requirements:** For the duration of the Additional Term Extension, Signature will offer industry standard sustainable aviation fuel, as reasonably determined by City, for turbine engine fuel sales, subject to availability, using all commercially reasonable efforts to procure the same. In addition, no later than December 31, 2021, Signature will replace all fuel trucks in operation at the Premises with low emission models featuring Tier 4/Stage IV engines.
- (iv) **City and Other Governmental Provisions:** Modification No. 2 will update the Operating Agreement to comply with all applicable local, state, and federal laws.

Recommendation

I recommend adoption of the attached resolution (1) approving Modification No. 2 to Fixed Based Operator Lease and Operating Agreement No. 07-0106 with Signature Flight Support LLC, which grants an Additional Term Extension of three years, for a new expiration date of September 30, 2025, obligates Signature to make certain infrastructure improvements and satisfy certain additional sustainability requirements, and updates certain legal provisions required by applicable local, state, and federal laws; and (2) directing the Commission Secretary to request the Board of Supervisors' approval of Modification No. 2 pursuant to Section 9.118 of the Charter of the City and County of San Francisco.



Ivar C. Satero
Airport Director

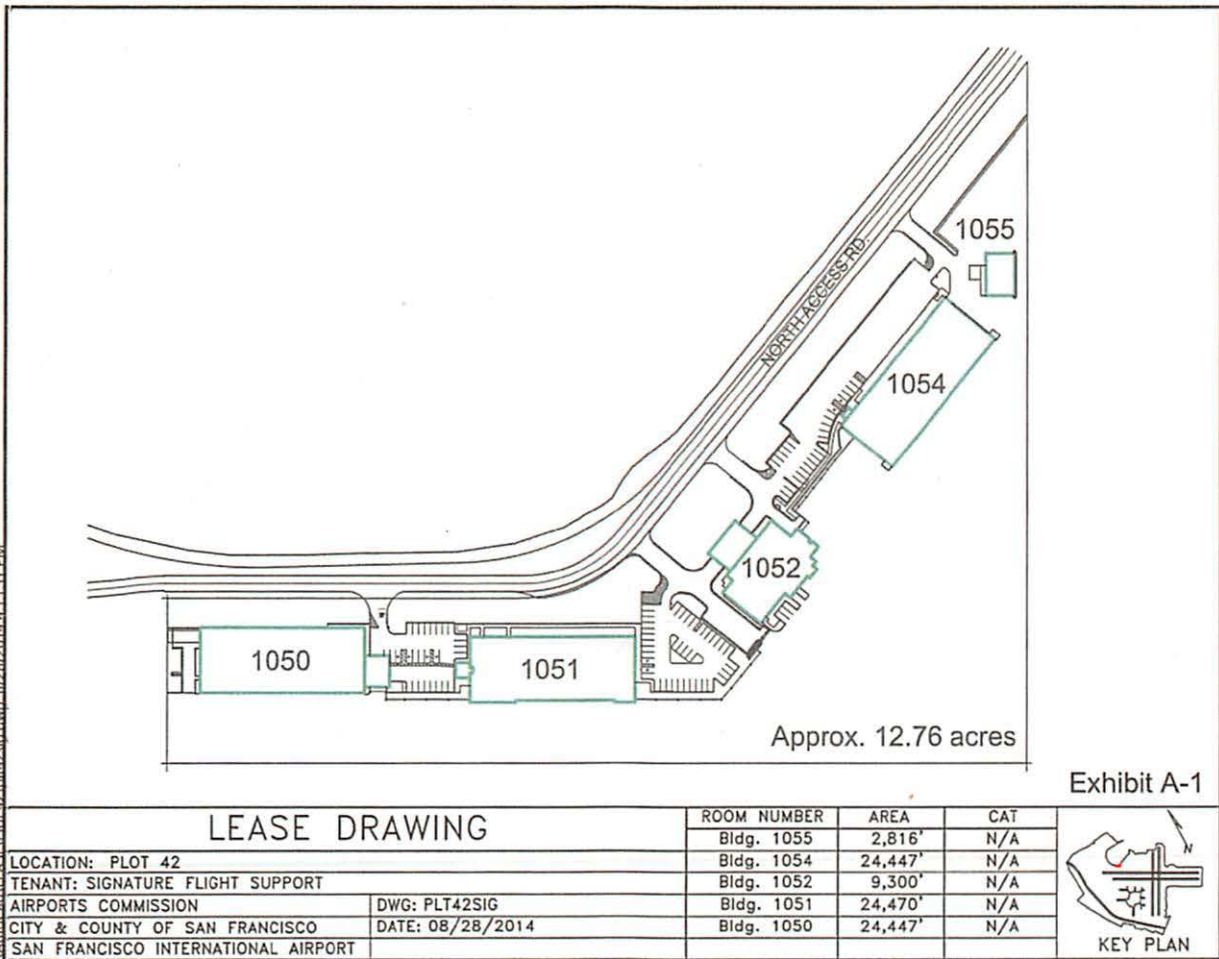
Prepared by: Kevin Bumen
Chief Commercial Officer

Attachments

ATTACHMENT A

FIXED BASE OPERATOR LEASE AND OPERATING AGREEMENT NO. 07-0106

Premises



ATTACHMENT B

Comparison of Minimum Annual Guarantee (MAG)/Annual Rent at Other Airports

Airport	Fixed Based Operator	Minimum Annual Guarantee (MAG)/Annual Rent 2020-2021
Atlanta (ATL)	Signature	\$3,985,233
Ft. Lauderdale (FLL)	Signature	\$1,865,333
Las Vegas (LAS)	Signature	\$5,708,816
Las Vegas (LAS)	Atlantic Aviation	\$3,410,277
San Diego (SAN)	Signature	\$6,214,716
Washington Dulles (IAD)	Signature	\$19,358,000

Note: Lease structures vary at each airport

LEASE AND OPERATING AGREEMENT
FOR
THE FIXED BASE OPERATOR (FBO)
AT SAN FRANCISCO INTERNATIONAL AIRPORT

by and between

SIGNATURE FLIGHT SUPPORT CORPORATION,
as Operator

and

CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH ITS AIRPORT COMMISSION

Gavin Newsom, Mayor

AIRPORT COMMISSION

Hon. Larry Mazzola, President
Hon. Linda S. Crayton Vice President
Hon. Caryl Ito
Hon. Eleanor Johns
Hon. Richard J. Guggenhime

John L. Martin
Airport Director

May 15, 2007

Agreement No. 07-0106

TABLE OF CONTENTS

MAJOR LEASE TERM SUMMARY	i
1. PREMISES	
1.1 Extent of Leasehold	1
1.2 FBO Facilities	2
1.3 Relocation, Expansion, Contraction, Surrender.....	2
1.4 Re-measurement of Premises	4
1.5 Changes to Airport.....	4
2. TERM	
2.1 Commencement and Expiration.....	4
2.2 Operator Improvements and Required Commencement of Service.....	5
2.3 Holding Over	5
3. USE AND OPERATION	
3.1 Permitted Use	5
3.2 No Exclusivity	6
3.3 Operation of Business	6
3.4 Operation and Use of Premises	6
3.5 Hours of Operation	7
3.6 Prices	7
3.7 References to Airport.....	9
3.8 Other Operational Requirements	9
3.9 Prohibited Activities	10
3.10 Audit of Operations	10
3.11 Representative of Operator	10
3.12 Investigation Reports.....	10
3.13 Compliance with Laws	11
4. RENT	
4.1 Definitions	11
4.2 Payment to the Airport.....	13
4.3 Adjustments to Minimum Annual Guarantee	14
4.4 Monthly Rent Payments	14
4.5 Sales Reports	15
4.6 Annual Report and Adjustment	15
4.7 Books and Records; Audit Rights.....	15
4.8 Other Reports and Submissions	16
4.9 Additional Rent.....	16
4.10 Prepay Rent	16
4.11 Nature of Lease.....	17
5. ASSIGNMENT OR SUBLETTING	
5.1 No Assignment	17
5.2 Changes in Operator	17
5.3 No Release	18
5.4 Subleasing	18
5.5 Acceptance of Rent.....	18
5.6 Waiver	19
6. TAXES, ASSESSMENTS AND LIENS	
6.1 Taxes.....	19
6.2 Other Liens	19

7. INVESTMENTS; ALTERATIONS	
7.1 Minimum Investment	19
7.2 City’s Approval Rights	20
7.3 Required Improvements.....	20
7.4 Notice and Permits.....	22
7.5 Title to Alterations.....	22
7.6 Effect of Alterations on Airport.....	23
7.7 Labor Harmony.....	23
8. UTILITIES	
8.1 Services Provided	24
8.2 Utility Costs.....	24
8.3 Shared Telecommunications Services	24
8.4 WiFi Services	24
8.5 Waiver of Damages	24
9. MAINTENANCE AND REPAIR	
9.1 “As-Is” Condition	24
9.2 Operator’s Maintenance Obligations	25
10. SIGNS AND ADVERTISING	26
11. WAIVER; INDEMNITY; INSURANCE	
11.1 Waiver	26
11.2 Indemnity.....	26
11.3 Losses	26
11.4 Immediate Obligation to Defend	26
11.5 Notice	27
11.6 Insurance.....	27
11.7 Form of Policies.....	28
11.8 Delivery of Policies or Certificates.....	28
11.9 Subrogation.....	28
12. DEPOSIT	
12.1 Form of Deposit.....	28
12.2 Maintenance of Deposit.....	29
12.3 Alternative Forms of Deposit	29
12.4 Use of Deposit	29
12.5 Other Agreements	30
13. DAMAGE OR DESTRUCTION	
13.1 Partial Destruction of Premises.....	30
13.2 Total Destruction of Premises	31
13.3 Partial Destruction of Terminal Building	31
13.4 Damage Near End of Term.....	31
13.5 No Abatement of Rent; Operator’s Remedies	31
14. DEFAULT; REMEDIES	
14.1 Events of Default	32
14.2 Statutory Notices	33
14.3 Remedies	33
14.4 City’s Right to Perform	35
14.5 Rights Related to Termination.....	35
14.6 Cumulative Rights	35
14.7 Prepayment	36
14.8 Fines	36
14.9 City Lien	36
14.10 Commencement of Legal Actions	36
14.11 Waiver of Notice	37
15. SURRENDER	37

16. HAZARDOUS MATERIALS	
16.1	Definitions37
16.2	Operator’s Covenants38
16.3	Environmental Indemnity38
16.4	Environmental Audit39
16.5	Closure Permit39
17. EMINENT DOMAIN	
17.1	Definitions39
17.2	General39
17.3	Total Taking; Automatic Termination40
17.4	Partial Taking; Election to Terminate40
17.5	Operator Monetary Obligations; Award40
17.6	Partial Taking; Continuation of Lease40
17.7	Temporary Takings.....41
18. CITY AND OTHER GOVERNMENTAL PROVISIONS	
18.1	MacBride Principles – Northern Ireland41
18.2	Charter41
18.3	Tropical Hardwood and Virgin Redwood Ban41
18.4	No Representations41
18.5	Effect of City Approvals.....41
18.6	Limitation on Damages.....42
18.7	Sponsor’s Assurance Agreement42
18.8	Federal Nondiscrimination Regulations42
18.9	Federal Affirmative Action Regulations.....42
18.10	City’s Nondiscrimination Ordinance43
18.11	Conflict of Interest.....44
18.12	Prevailing Rates of Wage44
18.13	Declaration Regarding Airport Private Roads44
18.14	No Relocation Assistance; Waiver of Claims.....44
18.15	Drug-Free Workplace44
18.16	Compliance with Americans With Disabilities Act44
18.17	Sunshine Ordinance45
18.18	Pesticide Prohibition45
18.19	First Source Hiring Ordinance.....45
18.20	Labor Peace/Card Check Rule.....45
18.21	Quality Standards Program.....46
18.22	Requiring Minimum Compensation46
18.23	Airport Intellectual Property.....49
18.24	Requiring Health Benefits for Covered Employees.....49
18.25	Notification of Limitations on Contributions50
18.26	Food Service Waste Reduction Requirements.....51
19. GENERAL PROVISIONS	
19.1	Notices51
19.2	No Implied Waiver51
19.3	Entire Agreement.....51
19.4	Amendments52
19.5	Interpretation of Lease52
19.6	Successors and Assigns52
19.7	No Third-Party Beneficiaries.....52
19.8	No Joint Venture.....52
19.9	Brokers52
19.10	Severability53
19.11	Governing Law53
19.12	Attorney’s Fees.....53
19.13	Cumulative Remedies53

19.14	Time of Essence.....	53
19.15	Reservations by City.....	53
19.16	Survival of Indemnities.....	54
19.17	Quiet Enjoyment and Title.....	54
19.18	No Right of Redemption.....	54
19.19	Accord and Satisfaction.....	54
19.20	Joint and Several Liability.....	54
19.21	Estoppel Statements.....	55
19.22	Authority.....	55
19.23	Consents.....	55
19.24	Options Personal.....	55
19.25	Counterparts.....	55
	Signature Page	56
	List of Exhibits	
	Exhibit A – Description of Premises	
	Exhibit B – Use and Operational Requirements	
	Exhibit C-1 – Form of Performance Bond	
	Exhibit C-2 – Form of Letter of Credit	
	Exhibit D – Agreement For Temporary Use	
	Exhibit E – Minimum Standard	
	Exhibit F – Quality Standard Program	

**LEASE AND OPERATING AGREEMENT
FOR
The Fixed Base Operator (FBO)
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

MAJOR LEASE AND AGREEMENT SUMMARY

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

Reference Date: September 4, 2007.

Operator: **Signature Flight Support Corporation,
a Delaware/USA Corporation.**

Operator’s Notice **201 South Orange Avenue**

Address: **Suite 1425**

Orlando, FL 32801

Attn: Bruce Van Allen - President

Fax No. 407-206-8493

Tel. No. 407-648-7386

Email bruce.vanallen@bba-aviation.com

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

City’s Notice **San Francisco International Airport**

Address: **International Terminal, North Shoulder Bldg., 5th Floor**

P. O. Box 8097

San Francisco, CA 94128

Attn: Airport Director

Fax No. (650) 821-5005

Tel. No. (650) 821-5000

City’s Rent **San Francisco International Airport**
Payment Address: **Terminal 2, 4th Floor**
P. O. Box 7743
San Francisco, CA 94120
Attn: Accounting

City's Insurance/ San Francisco International Airport
Deposit Notice Terminal 2,4th Floor
Address: P. O. Box 8097
San Francisco, CA 94128
Attn: Aviation Management
Fax No. (650) 821-4535
Tel. No. (650) 821-4525

Premises: Approximately 12.76 acre site located on Plot 42 at the San Francisco
(§ 1) International Airport, as described on the attached ***Exhibit A***, broken
down as follows:

	<u>Approx. Square Feet</u>
Executive Air Terminal	9,300
Two Air Craft Hangars	Hangar A – 24,447 Hangar B – 24,447
Automotive Maintenance Shop	2,816
Customer Vehicle Parking	69,428
Aircraft Parking and Circulation	11 acres

Term: Ten (10) years, commencing on the Commencement Date.
(§ 2)

Commencement October 1, 2007
Date:
(§ 2.1)

Expiration Date: 11:59 pm on September 30, 2017
(§ 2)

Required Use: The Operator shall provide a full range of services to general aviation
(§ 3) customers and aircraft at San Francisco International Airport as
described more fully on ***Exhibit B***.

Base Rent: The greater of:
(§ 4) (1) Minimum Annual Guarantee (MAG) or
(2) The sum of Percentage Rent Proposed in the following categories:

- (a) 100% of Aircraft Landing Fees collected
- (b) 27% of all Fuel Sales
- (c) 55% of all Aircraft Parking Fees
- (d) 40% of all Advertising Gross Revenues
- (e) 26% of all Other Gross Revenues
- (f) 1% (Fixed Fee) of the gross sales prices received from the
sale of any general aviation aircraft

Agreement Year: The period commencing on the Commencement Date and terminating on the day before the first MAG Adjustment Date (as defined below), and each subsequent 12-month period, commencing on each MAG Adjustment Date and expiring on the day before the subsequent MAG Adjustment Date, or expiring on the Expiration Date, as the case may be.
(§ 4)

Minimum Annual Guarantee: Eleven Million dollars (**\$11,000,000**) (the “**Initial MAG**”), per annum; (**\$916,667.00** dollars per month), subject to (a) adjustments upward as described below
(§ 4)

MAG Adjustment Date: On each anniversary of the Commencement Date.
(§ 4)

Rent: Base Rent, together with all other amounts owing by Operator to City hereunder.
(§ 4)

Deposit Amount: The greater of one-half (1/2) of the then current MAG (subject to adjustment) or six months’ payment paid during the previous year including landing fees. Initial Deposit Amount; \$5,500,000.
(§ 13)

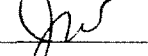

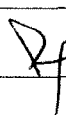
Minimum Investment Amount: One Hundred Fifty Dollars (**\$100**) per square foot for the Executive Air Terminal. which equals Nine Hundred and Thirty Thousand dollars (**\$930,000**)
(§ 7.1) Twenty-Five Dollars (**\$25**) per square foot for the existing hangar structure and other facilities, which equals One Million Two Hundred Ninety-Two Thousand Seven Hundred and Fifty dollars (**\$1,292,750**).

Resolution: Number 07-0106, approved by the Airport Commission on May 15, 2007

Initial Operator Representative: Steve Lee – Vice President of Operations
(§ 3.9) Tel. No. **407-648-7386**
Email: steve.lee@signatureflight.com

Other Agreements: None
(§ 14.1)

Exhibits: A – Premises
B – Use and Operational Requirements
C-1 – Form of Performance Bond
C-2 – Form of Letter of Credit
D – Agreement For Temporary Use
E – Minimum Standard
F – Quality Standards Program
All such exhibits are incorporated into this Lease and made a part hereof.

Initial of Authorized Representative of City  
Initial of Authorized Representative of Operator 

LEASE AND OPERATING AGREEMENT
FOR
THE FIXED BASE OPERATOR (FBO) AT
SAN FRANCISCO INTERNATIONAL AIRPORT

THIS LEASE AND OPERATING AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is entered into by and between Operator, and the City and County of San Francisco, a municipal corporation (“**City**”), acting by and through its Airport Commission (“**Commission**”). This Agreement is made with reference to the following facts:

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 Airport Commission (the “**Commission**”), the chief executive officer of which is the Airport Director (“**Director**”). Operator acknowledges that, from time to time, the Airport undergoes certain construction and renovation projects. Unless otherwise specified, the term “**Airport**” as used herein shall mean the Airport and all its other facilities, respectively, as the same may be expanded, contracted, improved, modified, renovated, or changed in any way. Unless otherwise specified below, references to the “**City**” shall mean the City, acting by and through its Airport Commission.

B. Operator desires to provide and operate a Fixed Base Operation (hereinafter referred to as “**FBO**”) at the Airport, and City has determined that such service would be a desired service for the accommodation, storage, and maintenance, of general aviation aircraft.

C. Following a competitive process, pursuant to Section 2A.173 of the San Francisco Administrative Code, the Commission has determined that Operator is the best responsible and responsive proposer. Pursuant to the Resolution, Commission has awarded this Agreement to Operator. The Agreement was approved by the Board of Supervisors on July 31, 2007.

Accordingly, Operator and City agree as follows:

1. OPERATING RIGHTS AND PREMISES

1.1 Extent of Agreement. On the terms, conditions, and covenants in this Agreement, City hereby grants to Operator operating rights to the Airport-owned FBO Facilities as further described in Exhibit A. In addition, Operator shall possess the right of ingress and egress to and from the FBO Facilities, as defined below, as may be necessary on areas designated by Director, subject to Airport Rules and Regulations, as amended from time to time (as amended, the “**Airport Rules**”), provided that Operator’s exercise of such right shall not impede or interfere unduly with the operation of the Airport by City, its Operators, customers, and other authorized occupants. In no event will Operator engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business. For purposes of this Agreement relating to Operator’s responsibilities, the “**Premises**” shall mean the area(s) shown on ***Exhibit A***.

1.2 Premises.

(a) City Leases to Operator those certain premises (the FBO Facilities) consisting of hangar(s), and executive terminal, an automotive maintenance shop, customer vehicle parking and aircraft parking (ramp area) located on Plot 42, and as more particularly described on Exhibit A. The use of said property shall be limited solely to the purposes set forth in this Agreement. No structure of any kind except those expressly allowed to Operator shall be erected or placed thereon or therein. (b) The City and Operator acknowledge and agree that the description of the Premises as set forth in Exhibit A may be expanded by up to not more than 25,000 square feet without a formal amendment to this Agreement, if the Airport Commission approves Operator's proposal to design, build and erect a new hangar structure. Following the completion of such improvements, Exhibit A shall be revised, subject to the approval of the Airport Director and revised Exhibit A shall be incorporated into the Lease and Operating Agreement.

1.3 Relocation, Expansion, Contraction, Surrender.

(a) At any time during the Term, City may require that (i) Operator relocate and surrender all or part of the Premises (such change to the Premises referred to as a “**Required Relocation**”), and/or (ii) the Premises be contracted or expanded (such change to the Premises referred to as a “**Premises Change**”) on the terms set forth in this Section 1.3. City shall give notice (the “**Change Notice**”) setting forth a description of the Required Relocation or the Premises Change, as applicable, the approximate effective date thereof (the “**Target Effective Date**”), and with respect to a Required Relocation, the location of comparable on-Airport replacement premises. The Change Notice shall be given no less than six (6) months prior to the Target Effective Date.

(b) (i) With respect to a Required Relocation, if the replacement premises are deemed unsatisfactory to Operator, then Operator may terminate this Agreement by giving notice thereof to City within thirty (30) days after the Change Notice is given. In the event Operator gives such notice of termination, then this Agreement shall terminate on the Target Effective Date, and on such date, Operator shall surrender the Premises in the condition required by this Agreement. (ii) Provided Operator does not terminate this Agreement pursuant to the foregoing, Agreement shall surrender the Premises and relocate to the replacement premises on a date (the “**Surrender Date**”) determined by City (which shall be no earlier than the Target Effective Date). On the Surrender Date, Operator shall surrender the Premises in the condition required below. In the event of a relocation pursuant to this Section 1.3(b), Operator shall refurbish, redecorate, and modernize the interiors and exteriors of the replacement premises, such that the replacement premises are of at least the same quality as the original premises. As part of City's approval of Operator's plans and specifications and Operator's budget for it's remodeling, City may specify a “Maximum Reimbursement Amount.” Once the remodeling of the replacement premises is completed, and City has approved the work, Operator must submit to City (i) a certificate from Operator's architect certifying that the remodeling was completed in strict compliance with the plans and specifications approved by City, (ii) copies of paid invoices showing the costs actually paid by Operator for the remodeling of the replacement premises and Operator's out-of-pocket moving costs, and (iii) lien releases from all contractors, subcontractors, and material men entitled to payment in connection with the remodeling of the replacement premises. Following its review and approval of those submissions, City will

reimburse Operator for all reasonable costs of remodeling the replacement premises and moving its merchandise and other personal property to the replacement premises from the original Premises; provided that in no event will City be required to reimburse Operator for more than the Maximum Reimbursement Amount and further provided that City may, in City's sole discretion, make such reimbursement by issuing Operator a rent credit. In no event will City be obligated to pay or reimburse Operator for any other costs or expenses, including business interruption costs.

(c) (i) With respect to a Premises Change where the square footage of the original Premises will be expanded or contracted by more than ten percent (10%), Operator may terminate this Agreement by giving notice thereof to City within thirty (30) days after the Change Notice is given. In the event Operator gives such notice of termination, then this Agreement shall terminate on the Target Effective Date and on such date, Operator shall surrender the Agreement pursuant to the foregoing, Operator shall cause the Premises to be expanded or contracted as described in the Change Notice on or before the date described therein. As part of City's approval of Operator's plans and specifications and Operator's budget for its expansion/contraction work, City may specify a "Maximum Reimbursement Amount." Once the expansion/contraction work is completed, and City has approved the work, Operator must submit to City (i) a certificate from Operator's architect certifying that the expansion/contraction work was completed in strict compliance with the plans and specifications approved by City, (ii) copies of paid invoices showing the costs actually paid by Operator for the remodeling and Operator's out-of-pocket moving costs, and (iii) lien releases from all contractors, subcontractors, and materialmen entitled to payment in connection with the expansion/contraction work. Following its review and approval of those submissions, City will reimburse Operator for all reasonable costs of the expansion/contraction work; provided that in no event will City be required to reimburse Operator for more than the Maximum Reimbursement Amount and further provided that City may, in City's sole discretion, make such reimbursement by issuing Operator a rent credit. In no event will City be obligated to pay or reimburse Operator for any other costs or expenses, including business interruption costs.

(d) Any Required Relocation or Premises Change described herein can be effected on the terms and conditions set forth above without need for a formal amendment of this Lease.

(e) Notwithstanding anything to the contrary herein, City shall not require a Required Relocation or a Premises Change unless City shall have considered other reasonable alternatives and rejected them.

(f) In the event of a multiple casualty incident with fatalities at the Airport, the Airport may require that the Operator surrender part of the Premises consisting of one of the hangars, ramp and parking areas to the San Mateo County Coroner's Office as a temporary morgue and autopsy laboratory. Operator shall be required to enter into an agreement substantially in the form set forth in Exhibit D.

1.4 Re-measurement of Premises. At any time and from time to time, Director may cause City to conduct a space audit pursuant to which City re-measures the Premises using the Airport's then-current measurement specifications, and in such event, the Agreement terms based on square footage shall be deemed automatically adjusted to reflect such re-measurement.

1.5 Changes to Airport. Operator acknowledges and agrees that (a) City shall have the right at all times to change, alter, expand, and contract the Airport, including the Executive Air Terminal, hangar, automotive maintenance shop, customer vehicle parking and aircraft parking (ramp area); (b) City has made no representations, warranties, or covenants to Operator regarding the design, construction, pedestrian traffic, views of the Airport or the Premises. Without limiting the generality of the foregoing, Operator 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 Operator's business. Although City will use reasonable efforts to minimize the effect of such changes on Operator's business, Operator acknowledges that such activity may have some effect on operations located at the Airport. Such construction and renovation programs might involve barricading, materials storage, noise, the presence of workers and equipment, rearrangement, utility interruptions, and other inconveniences normally associated with construction and renovation. Although City will use reasonable efforts to minimize the effect of the such changes on Operator's business, Operator acknowledges that such activity may have some effect on operations located at the Airport, and Operator shall not be entitled to any rent credit or other compensation therefore. At any time and from time to time, City may, without the consent of Operator, and without affecting Operator's obligations under this Agreement, at City's sole discretion, (a) change the shape, size, location, number and extent of the improvements in any portion of the Airport (b) build additional stories above or below the Airport buildings, including of the Terminal Building, (c) eliminate or relocate public entrances to the Premises so long as there is at all times one public entrance to the Premises, (d) construct multi-level, elevated or subterranean parking facilities, and (e) expand or contract the Airport, including redefining the Airport boundaries so as to include additional lands within the Airport or exclude lands from the Airport or both. Without limiting waivers set forth elsewhere in this Agreement, Operator hereby waives all claims against City and releases City from all Losses (as defined below) that Operator suffers or incurs arising out of or in connection with any changes to the Airport or any portion of the Airport and Operator further agrees that Operator will not be entitled to any rent abatement or any other rent relief in connection with any changes to the Airport or any portion of the Airport.

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. If for any reason (including, without limitation, the existing Operator's failure to vacate timely the Premises) City cannot deliver possession of the Premises to Operator on the Commencement Date, this Agreement shall remain in effect, City shall not be subject to any liability, and such failure shall not extend the Term hereof. In such event, and provided such delay is not caused by the act or omission of Operator, or Operator's principal, affiliate,

contractor, employee, agent, licensee or invitee (a “**Operator Entity**”), the Commencement Date shall be extended day for day to reflect such delay. If for any reason City is unable to deliver possession of the Premises to Operator on the date that is one hundred eighty (180) days after the Commencement Date, each of City and Operator shall have the right to terminate this Agreement by notice to the other. After the Commencement Date has occurred, upon Director’s request, Operator will execute a written acknowledgment of the Commencement Date. In the event Operator fails to execute and return promptly such acknowledgment to City, the dates described therein shall be deemed conclusive.

2.2 Operator Improvements and Required Commencement of Services. Operator shall (a) take possession of the Premises on the Commencement Date, (b) to commence operations in the Premises and (c) shall complete Required Improvements as set forth in Section 7.3. In the event the Premises are not open for business on or before the Commencement Date, City will incur substantial damages, the exact amount of which are extremely difficult to fix. Accordingly, for each day after the Commencement Date until the day on which Operator opens the Premises for business, Operator shall pay to City **Ten Thousand Dollars (\$10,000)** (in addition to Rent as provided below), as liquidated damages. The parties have agreed that this amount represents a reasonable approximation of the damages likely to be suffered by City in the event Operator shall fail to open on the Commencement Date. City shall have the option to terminate this Agreement, exercisable by notice to Operator.

2.3 Holding Over. If, without objection by City, Operator holds possession of the Premises after the Expiration Date, Operator shall become an Operator from month to month, upon the terms of this Agreement. 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 Operator by giving sixty (60) days’ notice of termination to the other at any time. Operator shall have no rights to renew or extend the Term of this Agreement.

3. **USE AND OPERATION**

3.1 Permitted Use.

3.1.1 Required Services. Upon the commencement date of this Agreement and subject to all applicable laws and regulations, Operator shall use the Premises to provide the following Required Services on a non-exclusive basis, 24 hours a day and 7 days a week including holidays as set forth on *Exhibit B* (a) provide retail fuel sales to and into-plane for general aviation aircraft; (b) provide aircraft marshalling and parking, chocking service within the areas specified by the Director for this purpose; (c) provide on-Airport transportation for passengers and crew; (d) provide aircraft maintenance and repair services by a licensed mechanics (e) towing and related assistance to disabled general aviation aircraft, including large aircraft used for general aviation application; (f) management of the executive Terminal for the use of passengers and crew; and (g) management of hangar facilities for aircraft storage, maintenance and other services required of the operator.

3.1.2 Optional Services. Subject to the Director's approval, Operator shall have the rights to provide the following Optional Uses, on a non-exclusive basis as set forth in *Exhibit B* (a) provide retail fuel sales to and into-plane fueling for aircraft at an area designated by Director outside of the FBO facilities; (b) provide retail fuel sales to and into-plane fueling for aircraft for commercial itinerant aircraft; (c) dispenses contract aviation fuels and oil from the FBO facilities and any other area designated by the Director; (d) sell aircraft or aircraft parts, including aircraft radios, auxiliary supplies, and equipment relating to aircraft; (e) provide for sale of food, confections, soft drinks, tobacco products, or other like commodities only if permitted in writing by the Director; (f) Act as an agent for car rental organizations having authority to operate on the Airport, and for other related passenger services; and (g) As an activity incidental to other services herein permitted repair and service vehicles such as tugs, tractors, motorized ramps, baggage handling equipment, ground power units, space heaters, etc., and sell store, dispense and deliver automotive fuel, lubricants and accessories to service such vehicles. In the event Operator desires to use the Premises for any purposes other than the Permitted Use as set forth in Exhibit B, Operator may submit a request to Director. Director may, in his/her sole and absolute discretion approve or deny such request. Any such decision shall be binding on Operator.

3.2 No Exclusivity. Operator acknowledges and agrees that Operator 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 Operation of Business. Subject to the terms of this Agreement, Operator will operate business in the Premises so as to maximize Gross Revenues (as defined below) and in accordance with the requirements set forth on *Exhibit B* relating to, among other things, services and price requirements. Without limiting the generality of the foregoing, Operator shall (a) conduct the business in a first-class, businesslike, safe, efficient, courteous and accommodating manner; (b) provide a wide-range of service that reflects a world-class FBO facility; and (c) employ sufficient and experienced staff. In the event Director shall give notice to Operator that any of the foregoing covenants (a) - (c) are not being satisfied, Operator shall immediately discontinue or remedy the objectionable practice. In addition, Operator shall render the following public services: make reasonable change, give directions, and assist the public generally. Operator shall take all reasonable measures in every proper manner to maintain, develop, and increase the business conducted by it. Operator will not divert or cause to be diverted any business from the Airport.

3.4 Operation and Use of Premises. Operator shall use the Premises to provide service for the accommodation, storage, and maintenance, of general aviation aircraft. Specifically Operator shall; (a) provide customer automobile parking; (b) provide a world-class lounge area for passengers; (c) provide an area for flight planning, the area will be equipped with flight service center phone, weather bureau phone and means to display all current Notice to Airmen ("NOTAMS") applicable to the airport and related airspace; (d) furnish sufficient trained personnel to provide services required under this Agreement and shall retrain, remove or

replace any personnel who do not perform the services stipulated in this Agreement in a satisfactory manner; (e) ensure that all of its employees and its subcontractors meet all the applicable security requirements and are uniformed in a manner acceptable to the Director; (f) assume full responsibility for and control over maintenance of security of the FBO Facilities in accordance with the Federal Aviation Administration ('FAA'), Transportation Security Administration ('TSA') and airport rules and regulations and (g) report monthly statistics and other data concerning all of Operator's activities at the Airport, as required by the Director. Operator shall provide, at its sole cost and expense, all equipment and vehicles necessary to perform the Required Services under this Lease and Operating Agreement. Operator shall ensure that all equipment and vehicles required to operate the FBO Facilities meet the required applicable Airport Rules and state and federal law. Within twelve (12) months after the Commencement Date Operator shall provide energy efficient Ground Service Equipment ('GSE') such as but not limited to tugs, and towbars. All such equipment shall be maintained in world-class operating condition. Operator understands and agrees that its operation under this Agreement is a service to general aviation and itinerant airline passengers and the users of airport, and that Operator shall conduct its operation in a world-class, businesslike, efficient, and accommodating manner.

3.5 Hours of Operation. Operator will carry on its business diligently and continuously in the Premises and will keep the Premises open for business twenty-four (24) consecutive hours each day, seven (7) days per week, including holidays. Director may, from time to time, change such required hours of operation, in which event, Operator will remain open during such revised hours. Operator may not vacate or abandon the Premises at any time.

3.6 Prices.

(a) Approval of Price Schedule. No later than 30 days prior to the Commencement Date, Operator shall provide to the Director its proposed schedule of standard rates and charges for all services to be provided hereunder, excepting fuel pricing which shall be subject to Section 3.6(b) below. Director reserves the right to approve or disapprove all the charges. There shall be no changes to the approved schedule of rates and charges without prior written consent of the Director, which consent may be granted or withheld at Director's sole discretion.

(b) Fuel Pricing. Operator shall set its maximum retail fuel price (Maximum Fuel Price) on a quarterly basis. During the Term of the Agreement, Operator's retail fuel price shall not exceed the average price of five (5) fixed base operations which the Director deems comparable in terms of services and amenities, each at a different airport in the United States (FBO Comparables), as determined below:

(i) No less than 15 days prior to the Commencement Date, the Director shall, in consultation with the Operator, select the FBO Comparables to be surveyed quarterly to determine the Maximum Fuel Price. The Director reserves the right to change the FBO Comparables and to require Operator to conduct the fuel survey on a more frequent basis than quarterly, and, if necessary, to require Operator to adjust the maximum retail fuel price accordingly.

(ii) No more than seven (7) days before the Commencement Date Operator shall survey the fuel pricing at the FBO Comparables and submit to Director the Maximum Fuel Price for the first quarter of operation, which shall not exceed the average retail fuel price charged at the FBO Comparables on the date surveyed. Operator shall perform a similar survey no more than seven (7) days before the first day of each subsequent quarter of operation. The Maximum Fuel Price for the ensuing quarter shall be set at an amount not to exceed the average retail fuel price among the FBO Comparables as surveyed, except as the Maximum Fuel Price may be modified pursuant to subsections (iii) and (iv) below.

(iii) Operator may increase its retail fuel price to an amount not to exceed 5% of the Maximum Fuel Price set for that quarter to reflect any corresponding increase in the wholesale price of jet fuel as reported on the Oil Price Information Service Jet Fuel Price Report – Los Angeles Spot (Price Report). In the event the Price Report is discontinued, the Director shall identify a comparable report. Any such increase in the Maximum Fuel Price shall be no more than the percentage increase in the wholesale price of jet fuel since the beginning of the quarter, as determined by the Price Report. Operator will provide written notice to the Director of all such increases in its monthly Sales Report to be submitted to the Airport as required by Section 4.5 of this Agreement. As part of this Report, Operator shall specify the date(s) of any price increase; the amount of each increase; and (3) the reason for the increase. At his discretion, Director may require Operator to provide additional documentation in support of the price increase.

(iv) If during the quarter there is an increase in the wholesale price of fuel in excess of 5%, as reported on the Price Report, and Operator deems it necessary to increase the Maximum Fuel Price in excess of 5% during the quarter to reflect such increase, Operator may submit a request to Director to implement such increase. Such increase shall be no greater than the percentage increase in the wholesale price of jet fuel since the beginning of the quarter, as determined by the Price Report. Operator's written request shall set forth with specificity the reason for the increase, the requested amount of the increase, and documentation from the Price Report that demonstrates the increase to the wholesale fuel price upon which the request is based. At his discretion, Director may also require Operator to submit a pricing survey from the FBO Comparables. Upon receipt of Operator's request and the documentation required under this section, Director shall approve, disapprove, or modify the amount of increase requested, within three (3) business day(s) of receipt of a complete request.

3.7 References to City or Airport. Operator 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 Operator in the Premises, nor will Operator do or permit anything in connection with Operator'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 Operator.

3.8 Other Operational Requirements.

(a) Operator must keep the Premises suitably illuminated at all times.

(b) Operator must dispose of all trash and debris in areas and in containers designated by Director. If City provides common trash areas, Operator may request a permit to use the same for a charge determined by Director from time to time. Operator may not place or leave or permit to be placed or left in or upon any part of the common areas or corridors adjacent to the Premises any garbage, debris or refuse.

(c) Operator acknowledges that the operational requirements of the Airport as an airport facility, including without limitation security requirements, are of paramount importance. Operator acknowledges and agrees that it must conduct its business in a manner that does not conflict with the operational requirements of the Airport as an airport facility and that fully accommodates those requirements. Without limiting other waivers herein, Operator waives all claims for any Losses arising out of or connected to the operation of the Airport as an airport facility. Without limitation on the foregoing, Operator must:

(i) Comply with all Airport Rules and Regulation;

(ii) Comply with the Federal Aviation Administration Rules;

(iii) Comply with the Transportation Administration and Security Administration Rules

(iv) Comply with the Airport's requirement to install additional security requirements such as passenger screening, baggage screening, and any such requirements as determined by the Director. Operator will be required to submit to Director, design layouts, operational requirements and equipment requirements. Such installation cost will be at the sole cost of the Operator.

(v) Comply with the Airport's Minimum Standards for the FBO, attached as Exhibit E.

(vi) Cause all deliveries and dispatches of merchandise, supplies, fixtures, equipment and furniture to be made and conveyed to or from the Premises by means and during hours established by Director in Director's sole discretion. City has no responsibility regarding the delivery or dispatch of Operator's merchandise, supplies, fixtures, equipment and furniture. Operator may not at any time park its trucks or other delivery vehicles in common areas; and

(vii) Not park within the parking areas of the Airport except in those areas, if any, designated by City pursuant to permits obtained from the Airport's Permit Bureau. Nothing herein shall imply that Operator shall be able to secure any on-Airport parking privileges.

3.9 Prohibited Activities. Without limiting any other provision herein, Operator shall not, without the prior written consent of Director: (a) use or permit the use of the Premises for the conduct in or on the Premises as an outlet store or a second-hand store; (b) advertise any distress, fire, bankruptcy, liquidation, relocation, closing, or going-out-of-business sales; (c) 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 for the Airport or City or any of its contents; (ii) create a nuisance; (iii) in any way obstruct or interfere with the rights of others at the Airport or injure or annoy them; (e) commit or suffer to be committed any waste upon the Premises; (f) use, or allow the Premises to be used, for any improper, immoral, unlawful or objectionable purpose; (g) place any loads upon the floor, walls or ceiling which endanger the structure or obstruct the sidewalk, passageways, stairways, in front of, within, or adjacent to the FBO Facilities; (h) use any advertising or promotional medium that may be seen, heard, or otherwise experienced outside the Premises (such as searchlights, barkers or loudspeakers); (i) distribute handbills or circulars to Airport patrons or to cars in the parking lots; (j) engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business; or (k) do or permit to be done anything in any way tending to injure the reputation of City or appearance of the Airport.

3.10 Audit of Operations. At any time and from time to time, City may conduct an audit of Operator's operations at the Airport (in addition to City's right to audit pursuant to Section 4.7 [Books and Records; Audit Rights] hereof) to confirm that such operations comply with the requirements set forth herein. Operator shall cooperate with such audit. In the event such audit shows that Operator is not complying with such requirements, without limiting City's ability to call a default hereunder, City may require that Operator reimburse City for the costs of such audit. Operator shall promptly remedy any noncompliance shown in any such audit.

3.11 Representative of Operator. Operator shall at all reasonable times retain in 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 Operator Representative.

3.12 Investigation Reports. Operator shall, if required by Director, employ, at its own cost and expense, an investigative organization approved by Director for the purpose of making investigations and observations and preparing a written report of the carrying out of any pricing policies, revenue control, and operational techniques being used on the Premises. Operator shall cause such investigation and observation to be made at such reasonable times and in the manner directed by Director, and the investigator shall deliver forthwith to Director a true and complete written copy of any such reports made to Operator.

3.13 Compliance with Laws. Operator shall promptly, at its sole expense, cause the Premises (including any permitted Alterations (as defined below)), and Operator's and any Operator Entity's use of the Premises and operations therein, to comply at all times with all Laws (as defined below). Notwithstanding the foregoing, this Section 3.13 shall not impose on Operator any liability to make any structural alterations to the FBO Facilities' roof, foundation, bearing and exterior walls and sub flooring; fire protection, life safety, security and other mechanical, electrical and communications systems of the FBO Facilities (collectively "**Building Systems**"), except to the extent the same is (x) installed by Operator or Operator Entity, or (y) necessitated by Operator's Alterations or by any act or omission of Operator or any Operator Entity. As used herein, the term "Laws" shall mean all present and future laws, ordinances, rules, judgments, decrees, injunctions, regulations, permits, authorizations, orders and requirements, to the extent applicable to Operator or the Premises or any portion of any of them whether or not in the contemplation of the parties, including, without limitation, all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of the Site or any portion thereof, including the Occupational Safety and Health Act and all other applicable laws relating to workplace safety or toxic materials, substances or wastes, Title XV (commencing with Section 3082) of the California Civil Code relating to works of improvement and all other applicable laws relating to construction projects, the provisions of the American with Disabilities Act, 42 U.S.C. Section 12101 et. seq. and any governmental regulations with respect thereto (the "**ADA**") (including, without limitation, the requirements under the ADA for the purposes of "public accommodations", as that term is used in the ADA), Title 24 of the California Administrative Code, all Environmental Laws, the Airport Rules, the Tenant Improvement Guide (including any design criteria) as the same may be amended from time to time (the "**TI Guide**"), and the requirements referenced in Section 19 [City and Other Governmental Provisions] hereof.

4. RENT

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

(a) "Landing Fees" means:

Fee payable for each aircraft landing at the FBO Facilities. (Landings Fees are subject to Rates and Charges as set by the Airport)

(b) "Aircraft Parking and Storage Fees" means:

Total amount of money received by or accrued to Operator for all outdoor aircraft parking and storage regardless of when or in what form payment is made, or whether or not payment is made.

(c) "Retail Aviation Fuel" means:

Fuel sold and dispensed into aircraft by Operator or its subcontractor(s)

(d) “Advertising Revenues” means:

Revenues received for advertising at the FBO facility regardless of when or in what form payment is made, or whether or not payment is made.

(e) “Fixed Fee” means:

The gross sales price received from a sale, initiated or completed at the Airport, of new and used general aviation aircraft, or when any part of the transaction, including the showing of an aircraft to a subsequent purchaser has taken place at the Airport. Fixed Fees shall apply to all aircraft for which the tenant has held title. In those cases in which the tenant acts as a broker, never actually takes title to the aircraft, and only receives a brokerage fee, then the total brokerage fee for such sales shall be the Fixed Fee. “**Gross Revenues**” means:

(i) Landing Fees:

Fee payable for each aircraft landing at the FBO Facilities. (Landing Fees are subject to Rates and Charges as set by the Airport)

(ii) Fuel Gross Revenues:

Total amount of money received or realized by Operator or its subcontractors from all sales of retail aviation fuel and all dispensing of retail fuel regardless or when or in what form payment is made.

(iii) Aircraft Parking Fees:

Total amount of money received by or accrued to Operator for all outdoor aircraft parking and storage regardless of when or in what form payment is made, or whether or not payment is made. (Aircraft Parking Fees are subject to Rates and Charges as set by the Airport)

(iv) Advertising Revenues:

Revenues received for advertising at the FBO facility regardless or when or in what form payment is made, or whether or not payment is made.

(v) Other Gross Revenues:

Total amount of money received or realized by Operator or its subcontractors from provision of any and all services and sales of all products except Fuel, Aircraft Parking and Storage, Advertising and sales of aircraft regardless or when or in what form payment is made.

The full amount of all orders for goods or services accepted by Operator if, on, about or from the Premises, whether or not to be filled or performed at any other place, and the full amount of all orders accepted by Operator elsewhere, but to be filled or performed in, on, about or from the Premises.

(vi) Fixed Fee of the gross sales prices received from the sale of any general aviation aircraft.

The following shall not be included in “**Gross Revenues**”:

(I) Excluded from gross revenues are any federal, state or municipal sales or similar taxes imposed by law which are separately stated and paid by the customer, and which are directly payable to the taxing authority by Operator.

(II) Cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Revenues.

(f) “**Consumer Price Index**” means that index published by the United States Department of Labor, Bureau of Labor Statistics known as “All Urban Consumers San Francisco – Oakland – San Jose, California, All Items Index.” 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.

(g) “**MAG Adjustment Date**” has the meaning given it in the Summary.

(h) “**Base Index**” means the most recent Consumer Price Index published immediately prior to the Commencement Date.

(i) “**Comparison Index**” means the most recent Consumer Price Index published immediately prior to each MAG Adjustment Date.

4.2 Payment to the Airport shall be the higher of the Minimum Annual Guarantee or the following tiered percentage rent:

100% of Aircraft Landing Fees

27% of Fuel Gross Revenues;

55 % of all Aircraft Parking Fees;

40% of Advertising Gross Revenues;

26% of Other Gross Revenues

1 % (Fixed Fee) of the gross sales for aircraft sales

4.3 Adjustments to Minimum Annual Guarantee. On each MAG Adjustment Date, the Minimum Annual Guarantee will be adjusted, as follows: if (a) the Comparison Index shall exceed the Base Index, then the Minimum Annual Guarantee with respect to the upcoming Operating Year shall be increased to equal the following amount:

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

Notwithstanding anything to the contrary herein, in no event will the Minimum Annual Guarantee for any Operating Year of the Term be lower than the Minimum Annual Guarantee with respect to the prior Operating Year.

4.4 Monthly Rent Payments. Operator shall pay, as rent for the Premises, monthly Base Rent in advance on or before the first (1st) day of each calendar month of the Term as set forth below:

(a) On the Commencement Date and the first (1st) day of each calendar month thereafter, Operator shall pay the current monthly Minimum Annual Guarantee to the City's Rent Payment Address. If the Commencement Date occurs on a date other than the first day of a calendar month, then the monthly Minimum Annual Guarantee for such first month shall be prorated based on a 30-day month.

(b) On or before the twentieth (20th) day of each calendar month after the First Month, concurrently with its submission of the Sales Reports described below covering the prior calendar month, Operator shall pay to City the deficiency, if any, between the Base Rent payable by Operator with respect to such prior calendar month (based on the Gross Revenues achieved with respect to such prior month), and the amount actually paid by Operator pursuant to the foregoing subsection (a) with respect to such month.

(c) All payments hereunder shall be paid to City's Rent Payment Address, or at such other place as City may from time to time designate in writing.

(d) The Minimum Annual Guarantee with respect to the first and last Operating Years of the Term will be prorated, based on a 365-day year. Without limiting the generality of the foregoing, as the Initial MAG is an annual amount, the Minimum Annual Guarantee with respect to the first Operating Year shall be prorated, based on a 365-day year, to reflect the fact that the first Operating Year shall be less than a full 12-month period.

(e) All Rent shall be paid in lawful money of the United States, free from all claims, demands, setoffs, or counterclaims of any kind.

(f) 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 (1½%) per month, and the maximum rate permitted by law. Acceptance of any service charge shall not constitute a waiver of Operator's default on the overdue amount or prevent City from exercising any of the other rights and remedies available to City.

4.5 Sales Reports. On or before the twentieth (20th) day of each calendar month after the First Month, Operator shall submit to City a report (the “**Sales Report**”) showing all Gross Revenues achieved with respect to the prior month by location, segregated by each source or general type of article sold or service rendered. Such report shall be certified as being true and correct by Operator and shall otherwise be in form and substance satisfactory to Director. As described below, City shall have the right, in addition to all other rights herein, to impose a fine in the event Operator shall fail to submit such Sales Report timely.

4.6 Annual Report and Adjustment. Within ninety, (90) days after the end of each Operating Year, Operator shall submit to Director an unqualified year-end financial report certified by a Certified Public Accountant showing Gross Revenues achieved with respect to the prior Operating Year. If such report shows that the total Rent actually paid by Operator with respect to the prior calendar year was less than the Rent payable with respect to such year, then Operator shall immediately pay to City such deficiency. If such report shows that the Rent actually paid by Operator with respect to such prior Operating Year exceeded the Rent payable with respect to such year, then such excess shall be applied as a rent credit to amounts next coming due. Notwithstanding anything to the contrary herein, in no event will the Rent payable to City be less than the Minimum Annual Guarantee. In addition, Operator shall submit to City such other financial or other reports as Director may reasonably require.

4.7 Books and Records; Audit Rights.

(a) Operator shall maintain for a period of five (5) years after the Expiration Date, or, in the event of a claim by City, until such claim of City for payments hereunder shall have been fully ascertained, fixed and paid, separate and accurate daily records of Gross Revenues, whether for cash, credit, or otherwise. Operator must require each sub-Operator, concessionaire, licensee, and assignee to maintain the same records. All such books and records shall be kept in accordance with “generally accepted accounting principles”, consistently applied, showing in detail all business done or transacted in, on, about or from or pertaining to the Premises, and Operator shall enter all receipts arising from such business in regular books of account, and all entries in any such records or books shall be made at or about the time the transactions respectively occur. The books and source documents to be kept by Operator must include records of inventories and receipts of merchandise, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Premises by all persons or entities conducting business in or from the Premises. Pertinent original sales records include: (i) cash register tapes, including tapes from temporary registers, (ii) serially pre-numbered sales slips, (iii) the original records of all mail and telephone orders at and to the Premises, (iv) settlement report sheets of transactions with sub-Operators, concessionaires, licensees and assignees, (v) original records indicating that merchandise returned by customers was purchased at the Premises by such customers, (vi) memorandum receipts or other records of merchandise taken out on approval, (vii) detailed original records or any exclusions or deductions from Gross Revenues, (viii) sales tax records, and (ix) all other sales records, if any, that would normally be examined by an independent accountant pursuant to generally accepted auditing standards in performing an audit of Gross Revenues. Operator must keep the required books, source documents and records of Gross Revenues available for inspection by City and its agents and employees at the Premises or at another location within the continental United States at all times during regular business hours. In addition, Operator shall maintain monthly and

annual reports of Gross Revenues derived from its operation under this Agreement, using a form and method as is directed by Director. Such forms and methods shall be employed by Operator throughout the term of this Agreement. Upon Director's written request, Operator shall make available immediately to City and/or its auditors any and all books, records and accounts pertaining to its operations under this Agreement. The intent and purpose of the provisions of this section are that Operator shall keep and maintain records which will enable City and City's Controller to ascertain, determine and audit, if so desired by City, clearly and accurately, Gross Revenues achieved, and the adequacy of the form and method of Operator's reporting thereof.

(b) Should any examination, inspection, and audit of Operator's books and records by City disclose an underpayment by Operator of the total Base Rent due, Operator shall promptly pay to City such deficiency, and if such deficiency exceeds two percent (2%) of the total Base Rent due, Operator shall also promptly reimburse City for all costs incurred in the conduct of such examination, inspection, and audit. Further, should any examination, inspection, and audit of Operator's books and records by City disclose an underpayment by Operator of the total Base Rent due and such deficiency exceeds five percent (5%) of the total Base Rent due, City shall have the right to terminate this Agreement. In the event that City deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection, and audit, then Operator shall reimburse City for reasonable attorneys' fees and litigation expenses as part of the aforementioned costs incurred.

4.8 Other Reports and Submissions. Operator shall furnish City with such other financial or statistical reports as Director from time to time may reasonably require. Upon request by Director, Operator shall furnish to City copies of its quarterly California sales and use tax returns covering the Premises operations as well as that pertinent portion of both the California and Federal income tax returns and possessory interest tax returns on the Premises operations at the time of filing, and any amendments thereto. All copies of such returns must be certified as exact copies of the original documents by a Certified Public Accountant. Operator and all sub-operators (to the extent permitted) shall also promptly notify Director of and furnish to City copies of any audit reports covering this facility conducted by the California Franchise Tax Board or the Board of Equalization.

4.9 Additional Rent. Operator shall pay to City any and all charges and other amounts under this Agreement as additional rent, at the same place where Base 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 Base Rent.

4.10 Prepay Rent. Notwithstanding anything to the contrary herein, in the event Operator shall fail to pay any Rent when due hereunder, Director shall have the right to require Operator to pay estimated monthly Rent (including Base Rent, utility charges, and all other amounts) one (1) month in advance of when such payment would otherwise be due. Such prepayment would be based on the highest monthly Rent previously due from Operator. Such right shall be exercised by a notice from Director to Operator, which notice may be given any time after such default by Operator, regardless of whether the same is cured by Operator.

4.11 Nature of Agreement. Under no circumstances will City be expected or required to make any payment of any kind with respect to Operator's use or occupancy of the Premises, except as may be otherwise expressly set forth herein. Except as may be specifically and expressly provided otherwise in this Agreement, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, shall relieve Operator from its liability to pay all of the sums required by this Agreement, or relieve Operator from any of its other obligations under this Agreement, or give Operator the right to terminate this Agreement in whole or in part. Operator waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Agreement or to receive any abatement, diminution, reduction, or suspension of payment of such sums, on account of such occurrence or situation. Except as otherwise expressly provided herein, this Agreement shall continue in full force and effect, and the obligations of Operator 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, Operator or any constituent partner of Operator or any sub-lessee, sub-operator, licensee or concessionaire or any action taken with respect to this Agreement by a trustee or receiver, or by any court, in any proceeding; (d) any claim that Operator 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 Operator or any other person; (f) any failure on the part of any sub-operator, licensee, concessionaire, or other person to perform or comply with any of the terms of any sublease or other agreement between Operator and any such person; (g) any termination of any sub-agreement, 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 Operator shall have notice or knowledge of any of the foregoing. The obligations of Operator hereunder shall be separate and independent covenants and agreements. Operator 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 Agreement or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of any rent hereunder.

5. ASSIGNMENT OR SUBLETTING

5.1 No Assignment. Operator 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.

5.2 Changes in Operator. The merger of Operator with any other entity or the transfer of any controlling ownership interest in Operator, or the assignment or transfer of a substantial portion of the assets of Operator, whether or not located on the Premises, shall constitute a Transfer. Without limiting the generality of the foregoing, if Operator is a partnership, a

withdrawal or change, voluntary, involuntary or by operation of law of the partner or partners owning twenty-five percent (25%) or more of the partnership, or the dissolution of the partnership, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Operator, shall be deemed a Transfer. If Operator is a corporation or limited liability company, any dissolution, merger, consolidation or other reorganization of Operator, or the sale or other transfer of a controlling percentage of the capital stock or membership interests of Operator, or the sale or transfer of at least twenty-five percent (25%) of the value of the assets of Operator, shall be deemed a Transfer. The phrase “**controlling percentage**” means the ownership of, and the right to vote, stock or interests possessing at least twenty-five percent (25%) of the total combined voting power of all classes of Operator’s capital stock or interests issued, outstanding and entitled to vote for the election of directors. Without limiting the restrictions on asset transfers, this paragraph shall not apply to stock or limited liability company interest transfers of corporations or limited liability companies the stock or interests of which is traded through an exchange or over the counter.

5.3 No Release. In no event will City’s consent to a Transfer be deemed to be a release of Operator as primary obligor hereunder.

5.4 Subleasing. Without limiting City’s discretion in approving or disapproving a proposed Transfer, if and to the extent City permits Operator to sublease the Premises, the following shall apply: (a) Prior to negotiating a sublease agreement, Operator must submit to City a sublease proposal for City’s approval, which approval may be granted or withheld in City’s absolute and sole discretion; (b) Every sublease must be on a Standard Sublease Agreement form approved by Director, and the actual sublease must be approved by Director; (c) Each and every covenant, condition or obligation imposed upon Operator by this Agreement and each and every right, remedy or benefit afforded City by this Agreement will not be impaired or diminished as a result of any sublease agreement; (e) Operator assigns to City all rent and other payments due from all sub Operators under any sublease agreements; ***provided however***, Operator is hereby granted a license to collect rents and other payments due from sub Operators under their sublease agreements until the occurrence of an Event of Default, regardless of whether a notice of that default has been given by City. At any time, at Director’s option, City may notify a sub Operator of this assignment and upon such notice the sub Operator will pay its rent other payments directly to City. City will credit Operator with any rent received by City under such assignment, but the acceptance of any payment on account of rent from any sub Operators as a result of an Event of Default will in no manner whatsoever serve to release Operator from any liability under this Agreement. No payment of rent or any other payment by a sub Operator directly to City or other acceptance of such payments by City, regardless of the circumstances or reasons therefore, will in any manner whatsoever be deemed an attornment by the sub Operators to City in the absence of either a specific written agreement signed by City to such an effect.

5.5 Acceptance of Rent. The acceptance of rent by City from any person or entity does not constitute a waiver by City of any provision of this Agreement or consent to any Transfer. City’s consent to one Transfer will not be deemed to be consent to any subsequent Transfer. If Operator defaults in the performance of any of the terms of this Agreement, City may proceed directly against the transferor (or if there has been more than one Transfer, then each transferor) without necessity of exhausting remedies against Operator. City may consent to

subsequent Transfers or amendments or modifications to this Agreement with transferees, without notifying transferor (or if there has been more than one Transfer, then each transferor) and without obtaining its or their consent thereto and such action shall not relieve any transferor of liability under this Agreement as amended.

5.6 Waiver. Operator waives the provisions of Civil Code Section 1995.310 with respect to remedies available to Operator should City fail to consent to a Transfer.

6. TAXES, ASSESSMENTS AND LIENS

6.1 Taxes.

(a) Operator recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Operator may be subject to the payment of property taxes levied on such interest. Operator further recognizes and understands that any Transfer permitted under this Agreement and any exercise of any option to renew or other extension of this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Operator 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 Operator's usage of the Premises, all of which shall be paid when the same become due and payable and before delinquency.

(b) Operator 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. Operator 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. Operator shall not permit or suffer any liens to be imposed upon the limitation, mechanics, materialmen and tax liens, as a result of its activities without promptly discharging the same. Notwithstanding the foregoing, Operator may in good faith contest any such lien if Operator provides a bond in an amount and form acceptable to City in order to clear the record of any such liens. Operator 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, as a consequence of any act or omission of Operator or as a consequence of the existence of Operator's interest under this Lease.

7. INVESTMENTS; ALTERATIONS

7.1 Minimum Investment. Subject to all applicable approvals and other requirements of this Article 7, Operator shall (a) refurbish, redecorate and modernize the interiors and exteriors of the Executive Air Terminal and Hangars A and B, (b) if approved by City construct a new hangar as described in Section 7.3 below, and (c) otherwise complete the Required Improvements (as defined in Section 7.3 below), at a minimum cost of the Minimum Investment Amount. Operator is responsible for obtaining at its own cost all required permits, approvals, or

environmental review for the Minimum Investment. Title to any new hangar shall vest in the City upon completion and acceptance of the hangar by the City. Upon completion of construction of the Minimum Investment, Operator shall provide to Director a statement certified by its architect of the Minimum Investment, setting forth the total construction costs, with appropriate detail showing the costs of elements of decoration, furnishings, fixtures, and equipment. Operator shall make available to Director, at Director's request, receipted invoices for labor and materials covering all construction and trade fixtures, including furniture, fixtures and equipment and architectural and engineering fees. The Minimum Investment may not include financial costs, interest, inventory, pre-opening expenses or inter-company charges related to construction. If the said actual investment cost is less than the Minimum Investment Amount, the deficiency will be paid to City within sixty (60) days after completion of construction. If Director disputes the amount of investment claimed by Operator, Director may, at City's expense, hire an independent appraiser to determine the cost of the investment. If the independent appraiser determines that the investment is less than the Minimum Investment amount, the deficiency, as well as city's costs of hiring such independent appraiser, will be paid to city by Operator within sixty (60) days after the appraiser's determination.

7.2 City's Approval Rights. Operator 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, including the Initial Improvements (collectively, "**Alterations**") without City's prior written consent. Without limiting the generality of the foregoing, the initial layout and design of all Alterations shall conform to the provisions of Airport's TI Guide. Prior to the construction of any Alterations (including the Initial Improvements), Operator shall submit detailed plans and specifications to the Airport for approval. Operator shall include with its plans and specifications schematic renderings of the customer service area, materials, a color board(s) and a detailed layout of the overall facilities. City'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 Operator to resubmit designs and layout proposals until they meet City's approval. In the event of disapproval by City of any portion of the plans and specifications, Operator will promptly submit necessary modifications and revisions thereof. No changes or alterations will be made in said plans or specifications after approval by City. 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 improvements or subsequent changes therein or alterations thereof will, within fifteen (15) days after approval thereof by City, be signed by Operator and deposited with City as an official record thereof. All Alterations shall be effected through the use of contractors approved by City who shall furnish to City upon demand such completion bonds and labor and material bonds as City may require so as to assure completion of the Alterations on a lien-free basis. Without limiting the requirements set forth above, Operator acknowledges and agrees that Operator may be required to obtain approvals for any desired Alterations from the Airport.

7.3 Required Improvements. Operator shall, at its sole cost and expense, design, erect, construct and install all fixtures, furnishings, carpeting, decorations, finishings, equipment, counters, or other necessary Alterations for its operation under this Agreement. Operator shall:

(a) _renovate the Executive Air Terminal Facility, including the addition of a new passenger lounge, security and special events area, as more fully described in Operator's

Proposal in response to the FBO RFP dated April 20, 2007 and incorporated herein by reference, within one-hundred twenty (120) days of the Commencement Date, or a later date as may be approved by the Director;

(b) renovate the existing Hangars A and B to improve appearance, operation and environmental efficiency and responsibility, as more fully described in Operator's Proposal in response to the FBO RFP dated April 20, 2007 and incorporated herein by reference, within one-hundred twenty (120) days of the Commencement Date, or a later date as may be approved by the Director; and

(c) subject to Airport Commission approval of Operator's proposal to erect a new hangar and subject to obtaining all required permits, approvals and environmental reviews, design, build and erect a new hangar and associated office and maintenance space incorporating environmentally-friendly building products, energy efficient, and environmentally-sensitive construction practices, as more fully described in Operator's Proposal in response to the FBO RFP dated April 20, 2007 and incorporated herein by reference.

(i) Within thirty (30) days after the Commencement Date, Operator shall present a proposal to Airport staff for the design and construction of a new hangar. The proposal shall include sufficient detailed information consistent with Operator's proposal, and shall include a site plan at the appropriate scale showing new structure and its relationship with existing roadways, aprons, taxiways and structures, and identify relationships between existing elements and proposed development; floor plans and exterior elevations of the structure depicting the architectural character and function; schematic tenant improvement layouts; building cross-sections developed sufficiently to depict the building envelope and methods of structural support; outline specifications for materials, finishes and methods of construction; a color rendering sufficient to illustrate the new hangar; a construction cost estimate; and a preliminary schedule for environmental review, permitting, design and construction. Airport staff shall review and comment on Operator's proposal, and Operator shall revise proposal in accordance with Airport staff comments.

(ii) If after completion of the environmental review process and consideration of the information in any environmental document that is required to be prepared, the Commission determines to approve Operator's proposal for a new hangar, Operator shall use best efforts to proceed diligently to obtain all other required permits and approvals for construction of the hangar. To the extent approvals are required from any agency other than the Airport, Operator shall not seek such approval without first notifying the City. Throughout the permit process, Operator shall consult and coordinate with City in Operator's efforts to obtain such permits. Operator shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain such permit from any regulatory agency if City is required to be a co-permittee under such permit, the conditions or restrictions could create any obligations on the part of City whether on or off of the Premises, or the conditions or restrictions could otherwise encumber, restrict or change the use of the Premises, unless in each instance City has previously approved such conditions in writing and in City's sole discretion. No such approval by City shall limit Operator's obligation to pay all the costs of complying with such condition under this section.

(iii) Operator may not under any circumstance engage in any financing or other transaction creating any mortgage, lien or other encumbrance on City's fee interest in the Premises. City's fee interest in the Premises shall not be subordinated under any circumstance whatsoever.

(iv) Operator shall complete the new hangar twelve (12) months from the Commencement Date or a later date as may be approved by the Director.

(v) In the event the Commission determines not to approve the construction of a new hangar, or in the event, through no fault of its own, Operator is unable to obtain permits required to build the hangar after using best efforts to proceed diligently to obtain such permits, Operator shall have no obligation to construct a new hangar provided that the Minimum Investment requirement is satisfied through Operator's performance of the Alterations described in subsections (a) and (b) above.

(vi) All construction shall be in conformity with the latest edition of the Airport TI Guide, and in conformity with the approved plans and specifications submitted by Operator, and shall meet all applicable local building codes and ordinances as well as all other Laws. Operator shall submit complete plans and specifications to Director, and prior to the commencing any construction work, obtain Director's written approval of said plans and specifications. Operator shall make no change or alteration in the plans and specifications without prior written approval of Director. In the event that Operator fails to submit plans and specifications which meet the approval of City within thirty (30) days after the Effective Date, City may terminate this Agreement. Nothing herein contained shall be construed to delay or otherwise affect the Commencement Date or the Rent Commencement Date.

7.4 Notice and Permits. Operator shall give written notice to Director not less than seven (7) days prior to the commencement of any work in construction, alteration or repairs of the Premises, 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. Operator 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.

7.5 Title to Alterations. Title to all Alterations of such a nature as cannot be removed without damage to the Terminal, including all carpeting, decorations, finishings, and counters, shall vest in City on the Expiration Date. All other equipment of such nature as to constitute trade fixtures shall remain the property of Operator. On the Expiration Date, Operator may remove said trade fixtures or Director may require that Operator remove same at Operator's expense. Operator agrees and understands that "**fixture**" is defined as a thing affixed to premises that is bolted, nailed, screwed, cemented and/or plastered. For the purpose of this Agreement, fixtures shall include slat wall, counters and the like, attached to the physical structure of the premises in any matter whatsoever. On the Expiration Date, all fixtures, other than those deemed trade fixtures by City, shall become the property of City. Operator shall be liable to City for City's costs for storing, removing and disposing of any alterations of Operator's personal property, and of restoration of the Premises.

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

7.7 Labor Harmony. The parties acknowledge that it is of the utmost importance to City, Operator, and all those occupying or to occupy space in the Airport that there be no interruption in the progress of the construction work. Accordingly, City and Operator agree as follows:

(a) In any contract or undertaking which Operator may make with a contractor for work in the Premises, provision shall be made for the dismissal from the job of workmen whose work is unskilled or otherwise objectionable, in the Director's (and, for this purpose, "the Director" shall include a reference to the Airport's Architect) reasonable judgment. Operator shall cause any such workmen to be discharged from the project within twenty-four (24) hours after Director shall give notice to Operator requiring such discharge.

(b) Operator shall use, and Operator shall require its contractor and subcontractors to use, their respective best efforts to prevent work stoppages on the Premises, and/or elsewhere on the Airport, to the extent attributable to work being performed on the Premises, irrespective of the reason of any such stoppage. In the event that the conduct or presence of any employee(s) of Operator or Operator's contractor(s) or subcontractor(s) causes a labor dispute or work stoppage, Operator shall have such employee(s) immediately removed from the Airport upon Director's request.

(c) Operator shall include, and shall cause its contractor to include, the following clause in all contracts with its general contractors and subcontractors:

Harmony Clause

There shall be no manifestations on the project of any dispute between any labor organization and any Operator contractor or subcontractor, including but not limited to, any area standards picketing against said contractor or subcontractor. Should there be any manifestation of a labor dispute between any Operator contractor or subcontractor and any union, which results in a stoppage of work on the part of said contractor or subcontractor's employees or the employees of any other employer or supplier on the project or at the Airport, which in the sole judgment of the Director will cause, or is likely to cause, unreasonable delay in the progress of construction or operation of any business at the Airport, then upon written notice from Director, Operator shall declare the contractor or subcontractor in default of its contract, and upon such notice, Operator shall have the right to take such steps as are necessary to finish the uncompleted portion of the work to be performed by the contractor or subcontractor.

(d) Without limiting the generality of indemnities elsewhere in this Agreement, Operator shall indemnify, defend, and hold harmless City and each City Entity for any and all Losses which arise from the actions taken pursuant to this Section 7.9.

8. UTILITIES

8.1 Services Provided. City shall provide in the Terminal Building Complex the following utility services: reasonable amounts of water, electricity, telephone, sewage outlets, heating, ventilation, and air conditioning, to a point determined by the Director. All extensions of the facilities requested by Operator for said utility services from said points shall be at the sole cost and expense of Operator. In the event of any change desired by Operator as to said points of supply by City, the expense of making such changes or alterations shall be at the sole cost of Operator.

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

8.3 Shared Telecommunications Services. Operator acknowledges that City has implemented or may in the future implement a shared telecommunications service program (“**STS Program**”) to provide telecommunications services. The STS Program may involve City’s provision of telephone, telefacsimile, local access, long distance service, internet, intranet, and other computer and telecommunications services. In such event, at City’s option, Operator shall participate in the STS Program by engaging City or its agent to provide such services at Operator’s expense, provided that the charges for such services are generally competitive. All payments for STS services shall be due and payable when invoiced by City.

8.4 Wi-Fi Services. Operator shall provide Wi-Fi utilities for use by patrons of the facility. The Airport reserves the right to require Operator to install W-Fi infrastructure facility consistent with that provided throughout the Airport and to utilize its provider

8.5 Waiver of Damages. Operator hereby expressly waives any and all claims for damages 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. Without limiting the generality of the foregoing, Operator shall have no rights to abate Rent or terminate this Agreement in the event of any interruption or failure of utility services.

9. MAINTENANCE AND REPAIR

9.1 “As-Is” Condition. OPERATOR SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS PROVIDING THE PREMISES TO OPERATOR ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT OPERATOR 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: (i) the quality, nature, adequacy and physical condition and aspects

of the Premises, including, but not limited to, landscaping, utility systems, (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 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) the agreements affecting the Premises, including covenants, conditions, restrictions, ground leases, and other matters or documents of record or of which Operator has knowledge.

9.2 Operator's Maintenance Obligations. Operator, at all times during the Term and at Operator's sole cost and expense, shall keep the Premises, including landscaping located around the buildings and every part thereof in good condition and repair, and in compliance with applicable Laws, including the replacement of any facility of City used by Operator which requires replacement by reason of Operator's use thereof, excepting (a) ordinary wear and tear, and (b) damage due to casualty with respect to which the provisions of Section 14 [Damage or Destruction] shall apply. Operator hereby waives all rights 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. In addition, if it becomes reasonably necessary during the term of this Agreement, as determined by Director, Operator will, at its own expense, redecorate and paint fixtures and the interior of the Premises and improvements, and replace fixtures, worn carpeting, curtains, blinds, drapes, or other furnishings. Without limiting the generality of the foregoing, at all times. As provided below in Section 14.4 [City's Right to Perform], in the event Operator fails to perform its maintenance and repair obligations hereunder, City shall have the right to do so, at Operator's expense. The parties acknowledge and agree that Operator's obligations under this Section are a material part of the bargained-for consideration under this Agreement. Operator's compliance obligations shall include, without limitation, the obligation to make substantial or structural repairs and alterations to the Premises (including the Initial Improvements), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Agreement, the length of the then remaining Term hereof, the relative benefit of the repairs to Operator or City, the degree to which curative action may interfere with Operator's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular requirement involved, or the relationship between the requirement involved and Operator's particular use of the Premises. No occurrence or situation arising during the Term, nor any present or future requirement, whether foreseen or unforeseen, and however extraordinary, shall relieve Operator of its obligations hereunder, nor give Operator any right to terminate this Agreement in whole or in part or to otherwise seek redress against City. Operator waives any rights now or hereafter conferred upon it by any existing or future requirement to terminate this Agreement, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel City to make any repairs to comply with any such requirement, on account of any such occurrence or situation.

10. SIGNS AND ADVERTISING

Operator may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of Director and the requirements of the TI Guide, including but not limited to, 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. Operator may, at its own expense install advertising in the Executive Air Terminal, subject to the approval of Director and the Airport Advertising Standards.

11. WAIVER; INDEMNITY; INSURANCE

11.1 Waiver. Operator, on behalf of itself and its assigns, waives its rights to recover from and 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 connected with (a) the physical or environmental condition of the Premises or any law or regulation applicable thereto, (b) any damage that may be suffered or sustained by Operator or any person whosoever may at any time be using or occupying or visiting the Premises, or in or about the Airport, or (c) any act or omission (whether negligent, non-negligent or otherwise) of Operator or any Operator 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 if caused by the sole gross negligence or willful misconduct of City. In connection with the foregoing waiver, Operator expressly waives the benefit 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, Operator 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 Operator or any Operator Entity, (b) Operator’s use of the Premises or operations at the Airport, or (c) any default by Operator or any Operator 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 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 Immediate Obligation to Defend. Operator specifically acknowledges that it has an immediate and independent obligation to defend City or the City Entity from any claim which is actually or potentially within the scope of the indemnity provision of this Section 12 or any other indemnity provision under this Lease, even if such allegation is or may be groundless,

fraudulent or false, and such obligation arises at the time such claim is tendered to Operator and continues at all times thereafter.

11.5 Notice. 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.

11.6 Insurance. Throughout the term of this Operating Agreement, Operator shall maintain in force at its own expense, insurance with insurers having an AM Best rating of at least A-, Class VIII, and under forms of policy satisfactory to the City and in compliance with the following:

(a) To the extent operator has employees as defined in the California State Labor Code, workers' compensation insurance at statutory requirements and Employer's Liability insurance with limits not less than \$1 million per accident, illness, injury or disease.

(b) Commercial General Liability insurance with limits not less than \$50,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, Contractual Liability and Personal Injury, including coverage for Independent Contractors, Explosion, Collapse and Underground, Broad Form Property, and Products and Completed Operations coverages.

(c) Hangar Keepers' Liability Hangar Keeper's Liability of \$50,000,000 to include property damage for all non-owned Aircraft under the care, custody and control of the FBO.

(d) Commercial Automobile Liability insurance with limits not less than \$50,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, hired or non-owned vehicles, as applicable.

(e) Property Insurance on an all risk form for 100% of the replacement value on Operator improvements, fixtures, and equipment insuring against the perils of fire, lightning, extended coverage perils, vandalism, and malicious mischief in and on the assigned facilities. Operator improvements include improvements made by Operator at its sole cost and do not include any improvements made on behalf of or reimbursed by the City. Such coverage shall include Rental Interruption coverage insuring that RENT will be paid to the City for at least one (1) year if Operator is unable to operate its business at the Premises due to an insured risk.

(f) Business Income Insurance for a period of one (1) year if Operator is unable to operate its own business at the premises due to a risk required to be insured against by Operator hereunder. Said insurance shall also cover business interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion.

(g) Pollution Liability insurance with limits not less than \$25,000,000 each occurrence combined single limit for bodily injury, property damage and cleanup costs.

Insurance shall be maintained with evidence of insurance provided to the City for at least five (5) years after completion of work under the contract.

11.7 Form of Policies. All insurance required by Operator hereunder shall be pursuant to policies in form and substance and issued by companies satisfactory to City and City's City Attorney. City may, upon reasonable notice and reasonable grounds increase or change the required insurance hereunder, in which event Operator shall obtain such required insurance. Without limiting the generality of the foregoing, General Liability, Automotive Liability, Pollution Liability, and Property Insurance policies shall be endorsed to provide the following:

(a) Name as additional insured the City and County of San Francisco, its officers, agents, and employees and members of Commission (collectively, "**Additional Insureds**");

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

(c) That the insurance company shall give thirty (30) days prior written notice to City of cancellation, non-renewal or reduction in coverage or limits, delivered to City at City's Insurance/Deposit Notice Address.

11.8 Delivery of Policies or Certificates. Within five (5) days after Director's request, and in any event on or before the Commencement Date, Operator shall provide to City copies of its insurance policies or certificates thereof evidencing the above insurance, at City's Insurance/Deposit Notice Address.

11.9 Subrogation. Notwithstanding anything to the contrary herein, Operator waives any right of recovery against City for any loss or damage to the extent the same is required to be covered by Operator's insurance hereunder. Operator shall obtain from its insurer, if possible, a waiver of subrogation the insurer may have against City or any City Entity in connection with any Loss covered by Operator's property insurance policy.

12. DEPOSIT

12.1 Form of Deposit. On or before the date specified by the Director, Operator 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, in the form attached as **Exhibit C-1**, and otherwise in form satisfactory to City's City Attorney, and issued by a surety company satisfactory to Director, or a (b) letter of credit naming City as beneficiary, in the form attached as **Exhibit C-2**, and otherwise in form satisfactory to City's City Attorney, issued by a bank satisfactory to Director. Notwithstanding the foregoing, as may be provided in the Airport Commission Policy on Deposits (Resolution No. 04-0153, August 3, 2004) as the same may be amended from time to time, Operator shall be permitted to submit as the Deposit alternative forms of deposit as specified therein. Such Deposit shall be renewed annually and increased annually such that at all times, the Deposit is equal to the higher of one-half (1/2) the then current Minimum Annual Guarantee, or the greater of six months' rent payment paid to the Airport

during the previous year, including Landing Fees all at Operator's cost. Such Deposit shall be kept in full force and effect during the Term to ensure the faithful performance by Operator of all covenants, terms, and conditions of this Lease, including payment of Rent. The sum designated as the "Deposit" is and will remain the sole and separate property of City until actually repaid to Operator (or at City's option, the last assignee (if any) of Operator's interest hereunder), said sum not being earned by Operator until all provisions precedent for its payment to Operator have been fulfilled. For Deposits in the form of a bond or letter of credit, Operator 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 Maintenance of Deposit. Operator shall cause the Deposit to be increased from time to time such that at all times the Deposit is the greater of one-half (1/2) of the current Operating Agreement Year's Minimum Annual Guarantee or six months' payment paid during the previous year, including landing fees, all at Operator's cost. Operator shall cause the bond or letter of credit to be kept in full force and effect during the Term and any holdover period to ensure the faithful performance by Operator of all covenants, terms, and conditions of this Lease, including payment of Rent. If and to the extent City accepts a Deposit which has an expiration date or cancellation/termination provision, Operator 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 or to cancel or terminate said bond or letter of credit. Operator shall cause such bond or letter of credit to be renewed, extended, or replaced, at Operator's sole cost, at least thirty (30) days before the expiration date or cancellation date of the bond or letter of credit, with another bond or letter of credit that complies with the requirements herein. If Operator fails to do so, City may, without notice to Operator, draw on the entirety of the Deposit and hold the proceeds thereof as security hereunder. Operator shall cause all notices to be given to City under this Section 13 to be given to City at City's Insurance/Deposit Notice Address.

12.3 Alternative Forms of Deposit. Notwithstanding the foregoing, if and to the extent alternative form(s) of Deposit are permitted pursuant to the Airport Bid Deposit and Performance Guarantee Policy, as authorized by Commission Resolution No. 04-0153, as such Policy may be amended from time to time, then Operator may provide such alternative forms of Deposit. Operator shall cause such Deposit to be increased from time to time such that at all times the Deposit is equal to one-half (1/2) the then current Minimum Annual Guarantee, all at Operator's cost.

12.4 Use of Deposit. If Operator 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 Operator'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, Operator, within ten (10) days after request therefore, shall deposit other security acceptable to Director with City in an amount sufficient to restore the Deposit to the full amount thereof, and Operator's failure to do so shall be a breach of this Lease. City shall not be required to keep the Deposit or any proceeds thereof, as applicable, separate from its general accounts. Any proceeds of the Deposit is and will remain the sole and separate property of City until

actually repaid to Operator, said sum not being earned by Operator until all provisions precedent for its payment to Operator have been fulfilled. If Operator performs all of Operator's obligations hereunder, the Deposit, or the proceeds thereof, or so much thereof as has not theretofore been applied by City, shall be returned, without payment of interest or other increment for its use, to Operator (or, at City's option, to the last assignee, if any, of Operator's interest hereunder) within sixty (60) days after the expiration of the Term, and after Operator has vacated the Premises. No trust relationship is created herein between City and Operator with respect to the Deposit or any proceeds thereof.

12.5 Other Agreements. If Operator defaults with respect to any provision of any other agreement between City and Operator, 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 Operator's default or to compensate City for any loss or damage which City may suffer thereby. Likewise, if Operator 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 Operator, including the Other Agreements, for payment of any sum owing to City or to which City may become obligated by reason of Operator'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, Operator 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.

(a) In the event the improvements on the Premises are damaged by any casualty which is required to be insured against pursuant to this Agreement, then Operator shall repair such damage as soon as reasonably possible, at its own cost, and this Lease shall continue in full force and effect.

(b) In the event such improvements are damaged by any casualty not covered under an insurance policy required to be maintained pursuant to this Agreement, 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 Agreement shall continue in full force and effect, or (ii) give written notice to Operator 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.

(c) Notwithstanding the foregoing, if such damage is caused by an act or omission to act of Operator or an Operator Entity, then Operator shall repair such damage, promptly at its sole cost and expense.

(d) In the event City elects to terminate this Agreement pursuant to this Section 13.1, Operator shall have the right within ten (10) days after receipt of the required notice to notify City of Operator's intention to repair such damage at Operator's expense, without reimbursement from City, in which event this Lease shall continue in full force and effect and Operator shall proceed to make such repairs as soon as reasonably possible. If

Operator does not give such notice within the ten (10) day period, this Agreement shall be terminated as of the date specified in City's notice. 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 paneling, decorations, office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Operator or at the direct or indirect expense of Operator. Operator shall be required to restore or replace same in the event of damage.

13.2 Total Destruction of Premises. If the improvements on the Premises are totally destroyed during the Term from any cause whether or not covered by the insurance required herein (including any destruction required by any authorized public authority), this Agreement shall automatically terminate as of the date of such total destruction.

13.3 Partial Destruction of Terminal Building. If fifty percent (50%) or more of the Terminal Building shall be damaged or destroyed by an insured risk, or if fifteen percent (15%) or more of the Terminal Building shall be damaged or destroyed by an uninsured risk, notwithstanding that the Premises may be unaffected thereby, each of City and Operator may elect to terminate this Agreement by giving notice to the other within ninety (90) days from the date of occurrence of such damage or destruction, in which event the Term of this Agreement shall expire on a mutually agreed upon date and Operator shall thereupon surrender the Premises to City as required hereunder.

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

13.5 No Abatement of Rent; Operator's Remedies.

(a) If the Premises are partially destroyed or damaged, Operator shall have no claim against City for any damage suffered by reason of any such damage, destruction, repair or restoration. Operator waives California Civil Code Sections 1932(2) and 1933(4) providing for termination of hiring upon destruction of the thing hired.

(b) In no event will Operator be entitled to an abatement of Rent resulting from any damage, destruction, repair, or restoration described herein.

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 Agreement and an “**Event of Default**” hereunder:

(a) Operator 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 third (3rd) 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 the Term, thereafter Operator 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 Operator’s failure to duly and punctually pay Rent or other payment hereunder; or

(b) Operator 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 Operator 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 the City; or

(e) Operator shall voluntarily abandon, desert or vacate the Premises; or

(f) Any lien shall be filed against the Premises as a result of any act or omission of Operator, and shall not be discharged or contested by Operator in good faith by proper legal proceedings within twenty (20) days after receipt of notice thereof by Operator; or

(g) Operator shall fail to provide, maintain, increase, or replace, the Deposit as required herein; or

(h) Operator 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) Operator shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement, 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 Operator 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 one hundred twenty (120) days after the giving of the First Notice; or

(j) Operator shall use or give its permission to any person to use any portion of Airport or the Terminal Buildings used by Operator under this Agreement for any illegal purpose, or any purpose not approved by Director; or

(k) There shall occur a default under any other agreement between Operator 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 Operator 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 Statutory Notices. Notwithstanding anything to the contrary in this Section 14, any written notice, other than as specifically set forth in this Section 14, required by any statute or law now or hereafter in force is hereby waived by Operator to the fullest extent available under law. Any notice given by City pursuant to Section 15.1 may be the notice required or permitted pursuant to Section 1161 et seq. of the California Code of Civil Procedure or successor statutes, and the provisions of this Agreement will not require the giving of a notice in addition to the statutory notice to terminate this Agreement and Operator's right to possession of the Premises. The periods specified in Section 14.1 within which Operator is permitted to cure any default following notice from City will run concurrently with any cure period provided by applicable laws.

14.3 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 Operator's right to possession of the Premises. In the event this Agreement is so terminated, City may recover from Operator the following damages:

- (i) The "**worth at the time of the award**" of the unpaid Rent earned to the time of termination hereunder;
- (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 rental loss that Operator 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 rental loss that Operator proves could be reasonably avoided; and
- (iv) Any other amount necessary to compensate City for all the detriment proximately caused by Operator's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

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 Operator’s breach of this Agreement 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 12 [Waiver; Indemnity; Insurance] hereof. For purposes of calculating City’s damages comprising Base Rent based on Gross Revenues, that amount will be computed by determining the highest Base Rent accruing in any Agreement Year during the immediately preceding three Agreement Years or such shorter period if the Term prior to termination was less than three Agreement Years. Operator agrees that Operator’s obligations under this Agreement, including the payment of Base Rent, are independent covenants and are not conditioned on the covenants or warranties of City.

(b) City shall have the right and remedy described in California Civil Code Section 1951.4. City may elect not to terminate this Agreement and let this Agreement continue, in which case City may enforce all its rights and remedies under this Agreement, including the right to recover Rent as it becomes due under this Agreement. 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 Agreement shall not constitute a termination of Operator’s right to possession.

(c) City shall have the right and power, as attorney in fact for Operator, to enter and to sublet the Premises, to collect rents from all sub Operators and to provide or arrange for the provision of all services and fulfill all obligations of Operator (as permitted in accordance with the terms of this Agreement) and City is hereby authorized on behalf of Operator, 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. Operator 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 Operator, 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. Operator 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 Operator 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 Operator hereunder to the extent that such rent or other proceeds compensate City for the nonperformance of any obligation of Operator hereunder. Such payments by Operator shall be due at such times as are provided elsewhere in this Agreement, and City need not wait until the termination of this Agreement, by expiration of the Term hereof or otherwise, to recover them by legal action or in any other manner. City may execute any Agreement 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 Operator 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 Operator of the Premises or Operator's interest therein, or be deemed to have otherwise terminated this Agreement, or to have relieved Operator of any obligation hereunder, unless City shall have given Operator 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 14.3.

(e) City shall have the right to enjoin, and any other remedy or right now or hereafter available to a landlord against a defaulting Operator 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 Operator and City, including the Other Agreements, if any.

14.4 City's Right to Perform. All agreements and provisions to be performed by Operator under any of the terms of this Agreement shall be at its sole cost and expense and without any abatement of Rent. If Operator 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 Operator from any obligations of Operator, make any such payment or perform any such other act on Operator's part to be made or performed as provided in this Agreement. 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 Operator as in the case of default by Operator in the payment of Rent.

14.5 Rights Related to Termination. In the event of any termination based on any breach of the covenants, terms and conditions contained in this Agreement, City shall have the option at once and without further notice to Operator 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 Operator without City being liable to Operator for damage or loss thereby sustained by Operator. Upon such termination by City, all rights, powers and privileges of Operator hereunder shall cease, and Operator shall immediately vacate any space occupied by it under this Agreement, and Operator 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, Operator shall have no right to or claim upon any improvements or the value thereof, which may have been previously installed by Operator in or on the Premises.

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

14.7 Prepayment. As provided in Section 4.10 [Prepay Rent], if Operator 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.

14.8 Fines. If Operator defaults under any of the Agreement terms specified below, Director may elect to impose the fines described below on the basis of per violation, per day:

<u>Violation</u>	<u>Section</u>	<u>Fine</u>
Violation of Premises Clause	1	\$500
Violation of Use Section	3	\$1,000
Failure to cause operations or Premises to comply with Laws	3.13	\$1,000
Failure to submit required documents and reports, including Sales Reports	4.4, 4.5, and others	\$1,000
Construction or Alterations without City approval	7	\$500
Failure to make required repairs	9	\$500
Unauthorized advertising or signage	10	\$100
Failure to obtain/maintain insurance	11	\$500
Failure to obtain or maintain Deposit	12	\$500
Failure to abide by any other term in this Agreement		\$500

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 Operator to impose Fines on or otherwise take action against any other Operator at the Airport. Such Fines shall constitute "**Additional Rent.**"

14.9 City Lien. Operator hereby grants to City a lien upon and security interest in all fixtures, chattels and personal property of every kind now or hereafter to be placed or installed in or on the Premises, and agrees that in the event of any default on the part of Operator City has all the rights and remedies afforded the secured party by the chapter on "Default" of the Uniform Commercial Code in the state wherein the Premises are located on the date of this Agreement and may, in connection therewith, also (a) enter on the Premises to assemble and take possession of the collateral, (b) require Operator to assemble the collateral and make its possession available to the City at the Premises, (c) enter the Premises, render the collateral, if equipment, unusable and dispose of it in a manner provided by the Uniform Commercial Code on the Premises. Operator agrees to execute such instruments as City may request to perfect such lien, and designates also Director his attorney-in-fact for purposes of executing such documents.

14.10 Commencement of Legal Actions. Any legal action by City to enforce any obligation of Operator 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 14.10, whichever period expires later.

14.11 Waiver of Notice. Except as otherwise expressly provided in this Section 15, Operator 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 Operator, for and on behalf of itself and all persons claiming through or under Operator, 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 Operator is evicted or City takes possession of the Premises by reason of any default by Operator hereunder.

15. SURRENDER

Operator shall at the end of the Term surrender to City the Premises and all Alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear and damage by fire, earthquake, act of God, or the elements excepted. Subject to City's right to require removal pursuant to Section 7 [Investments; Alterations] hereof, all Alterations and improvements installed in the Premises by Operator (other than Operator's trade fixtures), shall, without compensation to Operator, then become City's property free and clear of all claims to or against them by Operator or any third person. In the event that Operator shall fail to remove its personal property, including 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 Operator 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, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted, including 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.

(b) "**Hazardous Material**" shall mean 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 environment. "**Hazardous Material**" includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to any Environmental Law; any asbestos and asbestos containing materials; petroleum, including crude

oil or any fraction thereof, natural gas or natural gas liquids; and any materials listed in the Airport's TI Guide.

(c) "**Release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under or about the Property.

(d) "**Pre-Existing Condition**" means the existence of any Hazardous Materials on the Premises immediately prior to the Commencement Date.

16.2 Operator's Covenants.

(a) Neither Operator nor any Operator Entity shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Airport, or transported to or from the Premises or the Airport; provided that Operator may use such substances as are customarily used in retail sales so long as such use is in compliance with all applicable Environmental Laws and the Airport's TI Guide.

(b) Operator shall handle Hazardous Materials discovered or introduced on the Premises during the Term in compliance with all Environmental Laws and the Airport's TI Guide. Operator shall protect its employees and the general public in accordance with all Environmental Laws.

(c) In the event Operator becomes aware of the actual or possible Release of Hazardous Materials on the Premises or elsewhere on the Airport, Operator shall promptly give notice of the same to City. Without limiting the generality of the foregoing, Operator shall give notice to City of any of the following: (i) notice of a Release of Hazardous Materials given by Operator, any sub Operator, or other occupant to any governmental or regulatory agency; (ii) notice of a violation or potential or alleged violation of any Environmental Law received by Operator, any sub Operator or other occupant on the Premises from any governmental or regulatory agency; (iii) any inquiry, investigation, enforcement, cleanup, removal, other action that is instituted or threatened by a government or regulatory agency; (iv) any claim that is instituted or threatened by a third party against Operator, any sub Operator, or other occupant on the Premises that relates to Hazardous Materials; and (v) any notice of termination, expiration, or material amendment to any environmental operating permit or license necessary for the use of the Premises.

(d) At Director's request, Operator shall provide information necessary for City to confirm that Operator is complying with the foregoing covenants.

16.3 Environmental Indemnity. Operator shall indemnify, defend, and hold harmless City from and against any and all Losses arising during or after the Term as a result of or arising from: (a) a breach by Operator of its obligations contained in the preceding Section 16.2 [Operator's Covenants], or (b) any Release of Hazardous Material from, in, on or about the Premises or the Airport caused by the act or omission of Operator or any Operator Entity, or (c) the existence of any Hazardous Materials on the Premises, except to the extent that Operator can demonstrate that such Hazardous Materials constitutes a Pre-Existing Condition.

16.4 Environmental Audit. Upon reasonable 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 or any other appropriate investigation of the Premises for possible environmental contamination. Such investigation may include environmental sampling and equipment and facility testing, including the testing of secondary contamination. No such testing or investigation shall limit Operator's obligations hereunder or constitute a release of Operator's obligations therefore. Operator shall pay all costs associated with said investigation in the event such investigation shall disclose any Hazardous Materials contamination as to which Operator is liable hereunder.

16.5 Closure Permit. Prior to the termination or expiration of this Agreement, Director shall have the right to require Operator to file with the City an application for a Closure Permit for decontamination of the site and investigation and removal of all Hazardous Materials in compliance with the Airport's TI Guide, the Airport Rules, and all Laws. The Closure Permit may require a plan for long-term care and surveillance of any contamination allowed to remain at the Premises or Airport property and an acknowledgment of responsibility and indemnification for any and all Losses associated with any such contamination. Without limiting the foregoing provision, City reserves the right to require Operator to, and in such event Operator shall, at Operator's sole cost and expense, decontaminate the Premises and remove any Hazardous Materials discovered during the Term, except those Hazardous Materials which constitute Pre-Existing Conditions. Such removal shall be performed to the Director's reasonable satisfaction.

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 Operator 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 Operator 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 Agreement shall terminate as of the Date of Taking.

17.4 Partial Taking; Election to Terminate.

(a) If a Taking of any portion (but less than all) of the Premises occurs, then this Agreement shall terminate in its entirety if all of the following exist: (a) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by Operator for the Permitted Use; (b) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but City is unwilling or unable to cure such condition; and (c) City elects to terminate.

(b) If a partial Taking of a material portion of the Terminal occurs, City shall have the right to terminate this Operator in its entirety.

(c) City's elections to terminate this Operator pursuant to this Section 17 shall be exercised by City's giving notice to Operator on or before the date that is one hundred twenty (120) days after the Date of Taking, and thereafter this Agreement shall terminate upon on the thirtieth (30th) day after such notice is given.

17.5 Operator Monetary Obligations; Award. Upon termination of this Agreement pursuant to an election under Section 17.4 [Partial Taking; Election to Terminate] above, then: (a) Operator's obligation to pay Base 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 Agreement), and Operator shall have no claim against City for the value of any unexpired term of this Agreement, provided that Operator may make a separate claim for compensation, and Operator shall receive any Award made specifically to Operator, for Operator's relocation expenses or the interruption of or damage to Operator's business or damage to Operator's personal property.

17.6 Partial Taking; Continuation of Agreement. If a partial Taking of the Premises occurs and this Agreement is not terminated in its entirety under Section 17.4 [Partial Taking; Election to Terminate] above, then this Agreement 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 Minimum Annual Guarantee 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 Agreement hold estate created by this Agreement). Operator shall have no claim against City for the value of any unexpired Term of this Agreement, provided that Operator may make a separate claim for compensation. Operator shall retain any Award made specifically to Operator for Operator's relocation expenses or the interruption of or damage to Operator's business or damage to Operator'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 Agreement shall remain unaffected thereby, and Operator shall continue to pay Rent, and to perform all of the terms, conditions and covenants of this Agreement. 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. Pursuant to San Francisco Administrative Code §12.F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Operator acknowledges that he or she has read and understood this section.

18.2 Charter. The terms of this Agreement 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, Operator shall not provide any items to the construction of Alterations, or otherwise in the performance of this Agreement which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Operator fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environmental Code, Operator shall be liable for liquidated damages for each violation in any amount equal to Operator'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. Operator 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 Operator at the Airport, including any statements relating to the potential success or profitability of such venture. Operator represents and warrants that it has made an independent investigation of all aspects of the business venture contemplated by this Agreement and the Permitted Use.

18.5 Effect of City Approvals. Notwithstanding anything to the contrary herein, Operator acknowledges and agrees that City is entering into this Agreement as a landowner, and not as a regulatory agency with police powers. Accordingly, any construction, alterations, or operations contemplated or performed by Operator hereunder may require further authorizations, approvals, or permits from governmental regulatory agencies, including the Airport's Quality Control Department. Nothing in this Agreement shall limit Operator's obligation to obtain such other authorizations, approvals, or permits. No inspection, review, or approval by City pursuant to this Agreement 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 Operator or any Operator Entity for any consequential, incidental, or special damages, or lost revenues or lost profits.

18.7 Sponsor's Assurance Agreement. This Agreement 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. Operator 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 Operator agrees as follows: "Operator 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. Operator 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. Operator 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. Operator assures that it will require that its covered sub-organizations provide assurances to Operator 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) In the performance of this agreement, Operator agrees not to discriminate against any employee, City and County employee working with Permittee, applicant for employment Operator, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Operator, 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) Operator shall include in all subleases and other subcontracts relating to the Premises hereunder a non-discrimination clause in substantially the form of subsection (a) above. In addition, Operator shall incorporate by reference in all subleases and other 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 sub Operators and other subcontractors to comply with such provisions. Operator's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Operator does not as of the date of this Agreement and will not during the Term, in any of its operations in San Francisco, where the work is being performed for the City, or 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 benefits 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) Operator hereby represents that prior to execution of this Agreement (i) Operator 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) The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the agreement of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Operator shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Operator 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 Operator and/or deducted from any payments due Operator.

18.11 Conflict of Interest. Through its execution of this Agreement, Operator 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 Agreement it shall immediately notify Landlord.

18.12 Prevailing Rates of Wage. Operator shall abide by Airport Commission Policy No. 80-0031, requiring that Operator pay generally prevailing rates of salaries, wages, and employee benefits, to its employees working at San Francisco International Airport pursuant to this Agreement.

18.13 Declaration Regarding Airport Private Roads. Operator 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.

18.14 No Relocation Assistance; Waiver of Claims. Operator acknowledges that it will not be a displaced person at the time this Agreement is terminated or expires by its own terms, and Operator fully releases, waives, and discharges forever any 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], Operator shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Agreement. Operator shall indemnify, defend, and hold harmless City for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

18.15 Drug-Free Workplace. Operator acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Any violation of this prohibition by Operator or any Operator Entity shall constitute a default hereunder.

18.16 Compliance with Americans With Disabilities Act. Operator 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. Operator shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Operator agrees not to discriminate against disabled persons in the provision of services, benefits or activities

provided under this Agreement and further agrees that any violation of this prohibition on the part of Operator, its employees, agents or assigns shall constitute a material breach of this Agreement.

18.17 Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, Agreements, 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.

18.18 Pesticide Prohibition. Operator 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 Operator to submit to the Airport an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Operator may need to apply to the Premises during the terms of this Agreement, (b) describes the steps Operator 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 Operator's primary IPM contact person with the City. In addition, Operator shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

18.19 First Source Hiring. Operator shall comply with the San Francisco First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98) 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 Operator concurrently herewith, and incorporated herein by reference.

18.20 Labor Peace/Card Check Rule. Without limiting the generality of other provisions herein requiring Operator to comply with all Airport Rules, Operator shall comply with the Airport's Labor Peace/Card Check Rule, adopted on February 1, 2000, pursuant to Airport Commission Resolution No. 00-0049 (the "**Labor Peace/Card Check Rule**"). Capitalized terms not defined in this provision are defined in the Labor Peace/Card Check Rule. To comply with the Labor Peace/Card Check Rule, Operator shall, among other actions: (a) Enter into a Labor Peace/Card Check Agreement with any Labor Organization which requests such an agreement and which has registered with the Airport Director or his/her designee, within thirty (30) days after the Labor Peace/Card Check Agreement has been requested; (b) Not less than thirty (30) days prior to the modification of this Agreement, Operator shall provide notice by mail to any Labor Organization or federation of labor organizations which have registered with the Director or his/her designee ("**registered labor organization**"), that Operator is seeking to modify or extend this Agreement; (c) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event not less than thirty (30) days prior to entering into any Subcontract, Operator shall provide notice to all registered labor

organizations that Operator is seeking to enter into such Subcontract; and (d) Operator shall include in any subcontract with a Subcontractor performing services pursuant to any Covered Contract, a provision requiring the Subcontractor to comply with the requirements of the Labor Peace/Card Check Rule. If Airport Director determines that Operator shall have violated the Labor Peace/Card Check Rule, Airport Director shall have the option to terminate this Agreement, in addition to exercising all other remedies available to him/her.

18.21 Quality Standards Program. Operator shall comply with the Airport's Quality Standards program pursuant to Section 1.7.1(M) of the Airport's Rules and Regulations. A copy of the Program is attached as Exhibit F.

18.22 Requiring Minimum Compensation. Operator 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.ci.sf.ca.us\MCO](http://www.ci.sf.ca.us/MCO). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Operator agrees to all of the following:

(a) For each hour worked by a Covered Employee during a Pay Period on the property covered by this Agreement, Operator shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. For the hourly gross compensation portion of the MCO, Operator shall pay a minimum of \$10.77 an hour beginning January 1, 2005 and for the remainder of the term of this Agreement.

(b) Operator shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to Operator's compliance or anticipated compliance with the requirements of the MCO, for opposing any practice proscribed by the MCO, for participating in proceedings related to the MCO, or for seeking to assert or enforce any rights under the MCO by any lawful means.

(c) Operator understands and agrees that the failure to comply with the requirements of the MCO shall constitute a material breach by Operator of the terms of this Agreement. The City, acting through the Contracting Department, shall determine whether such a breach has occurred.

(d) If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Operator fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Operator fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City, acting through the Contracting Department, shall have the right to pursue the following rights or remedies and any rights or remedies available under applicable law:

(1) The right to charge Operator an amount equal to the difference between the Minimum

Compensation and any compensation actually provided to a Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;

- (2) The right to set off all or any portion of the amount described in Subsection (d)(1) of this Section against amounts due to Operator under this Agreement;
- (3) The right to terminate this Agreement in whole or in part;
- (4) In the event of a breach by Operator of the covenant referred to in Subsection (b) of this Section, the right to seek reinstatement of the employee or to obtain other appropriate equitable relief; and
- (5) The right to bar Operator from entering into future contracts with the City for three (3) years.
- (6) Each of the rights provided in this Subsection (d) shall be exercisable individually or in combination with any other rights or remedies available to the City. Any amounts realized by the City pursuant to this subsection shall be paid to the Covered Employee who failed to receive the required Minimum Compensation.

(e) Operator 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.

(f) Operator shall keep itself informed of the current requirements of the MCO, including increases to the hourly gross compensation due Covered Employees under the MCO, and shall provide prompt written notice to all Covered Employees of any increases in compensation, as well as any written communications received by the Operator from the CITY, which communications are marked to indicate that they are to be distributed to Covered Employees.

(g) Operator shall provide reports to the City in accordance with any reporting standards promulgated by the City under the MCO, including reports on sub Operators.

(h) The Operator shall provide the City with access to pertinent records after receiving a written request from the City to do so and being provided at least five (5) business days to respond.

(i) The City may conduct random audits of Operator. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten (10) days of the written notice; and (iv) limited to one audit of Operator every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude the City from investigating any report of an alleged violation of the MCO.

(j) Any sublease entered into by Operator and another party shall require that party to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. Operator shall notify the Department of

Administrative Services when it enters into such a sublease and shall certify to the Department of Administrative Services that it has notified the sub-Operator of the obligations under the MCO and has imposed the requirements of the MCO on the sub-Operator through the provisions of the subcontract. It is Operator's obligation to ensure that any sub-Operators of any tier under this Agreement comply with the requirements of the MCO. If any sub-Operator under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Operator.

(k) Any contract entered into by Operator and another party to perform services on the property covered by this Lease shall require that party to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. Operator shall notify the Department of Administrative Services when it enters into such a contract and shall certify to the Department of Administrative Services that it has notified the contractor of the obligations under the MCO and has imposed the requirements of the MCO on the contractor through the provisions of the subcontract. It is Operator's obligation to ensure that any such contractors comply with the requirements of the MCO. If such a contractor fails to comply, City may pursue any of the remedies set forth in this Section against Operator.

(l) Each Covered Employee is a third-party beneficiary with respect to the requirements of subsections (a) and (b) of this Section, and may pursue the following remedies in the event of a breach by Operator of subsections (a) and (b), but only after the Covered Employee has provided the notice, participated in the administrative review hearing, and waited the 21-day period required by the MCO. Operator understands and agrees that if the Covered Employee prevails in such action, the Covered Employee may be awarded: (1) an amount equal to the difference between the Minimum Compensation and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; (2) in the event of a breach by Operator of subsections (a) or (b), the right to seek reinstatement or to obtain other appropriate equitable relief; and (3) in the event that the Covered Employee is the prevailing party in any legal action or proceeding against Operator arising from this Agreement, the right to obtain all costs and expenses, including reasonable attorney's fees and disbursements, incurred by the Covered Employee. Operator also understands that the MCO provides that if Operator prevails in any such action, Operator may be awarded costs and expenses, including reasonable attorney's fees and disbursements, from the Covered Employee if the court determines that the Covered Employee's action was frivolous, vexatious or otherwise an act of bad faith.

(m) If Operator 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 (\$50,000 for nonprofits), but Operator later enters into an agreement or agreements that cause Operator to exceed that amount in a fiscal year, Operator 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 the Operator and this department to exceed \$25,000 (\$50,000 for nonprofits) in the fiscal year.

18.23 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, Operators, permittees, and others doing business with or at the Airport (including subcontractors and sub Operators) 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.

18.24 Requiring Health Benefits for Covered Employees. Unless exempt, Operator agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q (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 Operator shall provide the applicable health benefit set forth in Section 12Q.3 of the HCAO. If Operator 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 Operator meets the requirements of a "small business" as described in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Operator's failure to comply with the requirements of the HCAO shall constitute a material breach by Operator of this Lease. If, within 30 days after receiving City's written notice of a breach of this Lease for violating the HCAO, Operator fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Operator 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)(1-5). 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 Operator shall require the Sub Operator 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. Operator 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 Sub Operator or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Sub Operator or Contractor through written agreement with such Sub Operator or Contractor. Operator shall be responsible for ensuring compliance with the HCAO by each Sub Operator, Contractor and Subcontractor performing services on the Premises. If any Sub Operator, Contractor or Subcontractor fails to comply, City may pursue the remedies set forth in this Section against

Operator based on the Sub Operator's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Operator with notice and an opportunity to cure the violation.

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

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

(i) Within five (5) business days after any request by City, Operator shall provide City with access to pertinent records relating to any Operator's compliance with the HCAO. In addition, City and its agents may conduct random audits of Operator at any time during the term of this Lease. Operator agrees to cooperate with City in connection with any such audit.

18.25 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 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 Agreement, Operator acknowledges that it is familiar with the provisions of 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 Agreement it shall immediately notify City.

18.26 Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

19. GENERAL PROVISIONS

19.1 Notices. Except as otherwise specifically provided in this Agreement, any notice, consent, request, demand, or other correspondence given under this Agreement 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 overnight courier, return receipt requested, with postage prepaid, to: (a) Operator at Operator's Notice Address; or (b) City at City's Notice Address; or (c) such other address as either Operator 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 two (2) 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 Agreement 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 Agreement (including all of the attached exhibits, which are made a part of this Agreement) 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 Agreement 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 Agreement.

19.4 Amendments. Except as specifically provided herein, neither this Agreement 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 Agreement. The captions preceding the articles and sections of this Agreement 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 Agreement. This Agreement 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 Agreement. Provisions in this Agreement 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. Whenever the singular number is used in this Agreement and when required by the context, the same includes the plural, the plural includes the singular, and the masculine gender includes the feminine and neuter genders, and the word “person” shall include corporation, partnership, firm, limited liability company, and association.

19.6 Successors and Assigns. Subject to the provisions of Section 5 [Assignment or Subletting], the terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of Operator 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 Agreement.

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

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 agreement 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 Agreement.

19.10 Severability. If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, 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 Agreement shall be valid and be enforceable to the full extent permitted by law.

19.11 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California and the Charter of the City and County of San Francisco.

19.12 Attorneys' Fees. In the event that either City or Operator fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, 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, without limitation, court costs and reasonable attorneys' fees. For purposes of this Agreement, 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. Without limiting the generality of the foregoing, Operator shall also pay all costs and expenses incurred by City related to City's participation in or monitoring of any Operator bankruptcy, insolvency, or similar proceeding involving creditors' rights generally and any proceeding ancillary thereto. This Section shall survive expiration or earlier termination of this Agreement.

19.13 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Agreement 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 Agreement 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 Operators or other interested parties, 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 Operator'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 Operator from the Premises. City reserves the exclusive right to use all areas of the Airport not comprising the Premises, and the exterior walls and roofs the Premises. City reserves the exclusive right to use such areas together with the right to install, maintain, use, repair, and replace pipes, ducts, conduits, wires, columns, and structural elements serving other parts of the Airport in and through the Premises. This reservation in no way affects maintenance obligations imposed in this Agreement.

19.16 Survival of Indemnities. Expiration or termination of this Agreement 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 Agreement, nor shall it effect any provision of this Agreement 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 Agreement, 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. Further, Operator's obligation to make payments to City in respect of accrued charges (including those which have not yet been billed) and to make repairs (including those relating to the return of the Premises to City) which are accrued at the expiration or earlier termination of this Agreement shall survive the expiration or earlier termination of this Agreement.

19.17 Quiet Enjoyment and Title. Operator, 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. Operator expressly acknowledges that Operator's right to quiet possession of the Premises does not preclude City's right to make changes and additions to the Airport, including the Premises, and to do work in the Premises as permitted by this Agreement.

19.18 No Right of Redemption. Operator waives any right of redemption or reinstatement of Operator under any present or future case law or statutory provision (including Code of Civil Procedure Sections 473 and 1179 and Civil Code Section 3275) in the event Operator is dispossessed from the Premises for any reason. This waiver applies to future statutes enacted in addition or in substitution to the statutes specified herein.

19.19 Accord and Satisfaction. The payment by Operator or the receipt by City of a lesser amount than the rent stipulated in this Agreement may be, at City's sole option, deemed to be on account of the earliest due stipulated rent, or deemed to be on account of rent owing for the current period only, notwithstanding any instructions by or on behalf of Operator to the contrary, which instructions shall be null and void, and no endorsement or statement on any check or any letter accompanying any such check or payment will be deemed an accord and satisfaction, and City may accept such check or payment without prejudice to City's right to recover the balance of such rent or payment or pursue any other remedy available in this Agreement, at law or in otherwise, including possession of the Premises. City may accept any partial payment from Operator without invalidation of any contractual notice required to be given herein (to the extent such contractual notice is required) and without invalidation of any notice given or required to be given pursuant to applicable law. In such event, if City shall receive any such partial payment after it shall have commenced an action against Operator, City may amend its action as contemplated by Section 1161.1(c) of the California Civil Code to reflect any such partial payment, and no such payment shall limit any of City's rights to continue the action.

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

19.21 Estoppel Statements. Within ten (10) days after request therefore by City, Operator shall deliver, in recordable form, a an estoppel statement certifying that this Agreement is in full force and effect; the date of Operator's most recent payment of Rent, and that Operator 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 Operator that: (i) this Agreement 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 Operator has no right of offset, counterclaim or deduction against Rent hereunder; and (iii) no more than one month's Base Rent has been paid in advance. Notwithstanding the conclusiveness of Operator's failure to deliver such statement, Operator's failure shall constitute a breach of this Agreement.

19.22 Authority. If Operator signs as a corporation, a limited liability company, or a partnership, each of the persons executing this Agreement on behalf of Operator does hereby covenant and warrant that Operator is a duly authorized and existing entity, that Operator has and is duly qualified to do business in California, that Operator has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Operator are authorized to do so. Upon City's request, Operator shall provide City evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

19.23 Consents. If City is required to reasonably grant consent or approval, but does not do so, Operator's sole and exclusive remedy is to seek specific performance and in no event will City be liable for any monetary damages.

19.24 Options Personal. If and to the extent Operator has an option to extend the Term of this Agreement, such option is personal to the original Operator and may be exercised only by the original Operator while occupying the Premises who does so without the intent of thereafter making any Transfer, and may not be exercised by or assigned, voluntarily or involuntarily, by or to any person or entity other than Operator, unless the foregoing prohibition is waived by Director. The options, if any, herein granted to Operator are not assignable separate and apart from this Agreement, nor may any option be separated from this Agreement in any manner, either by reservation or otherwise.

19.25 Counterparts. This Agreement 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.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OPERATOR: Signature Flight Support Corporation,
[signatories to also initial Summary] a Delaware/USA Corporation

By: Stephen W. Lee

Name: Stephen W. Lee
(type or print)

Title: V.P. - operations

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

Jackson Wong
John L. Martin
Airport Director

**AUTHORIZED BY
AIRPORT COMMISSION**

Resolution No.: 07-0106
Adopted: MAY 15, 2007
Attest: Jan Caranatti
Secretary
Airport Commission

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

By: Melba R. Ferrer
Deputy City Attorney

02.16.2006

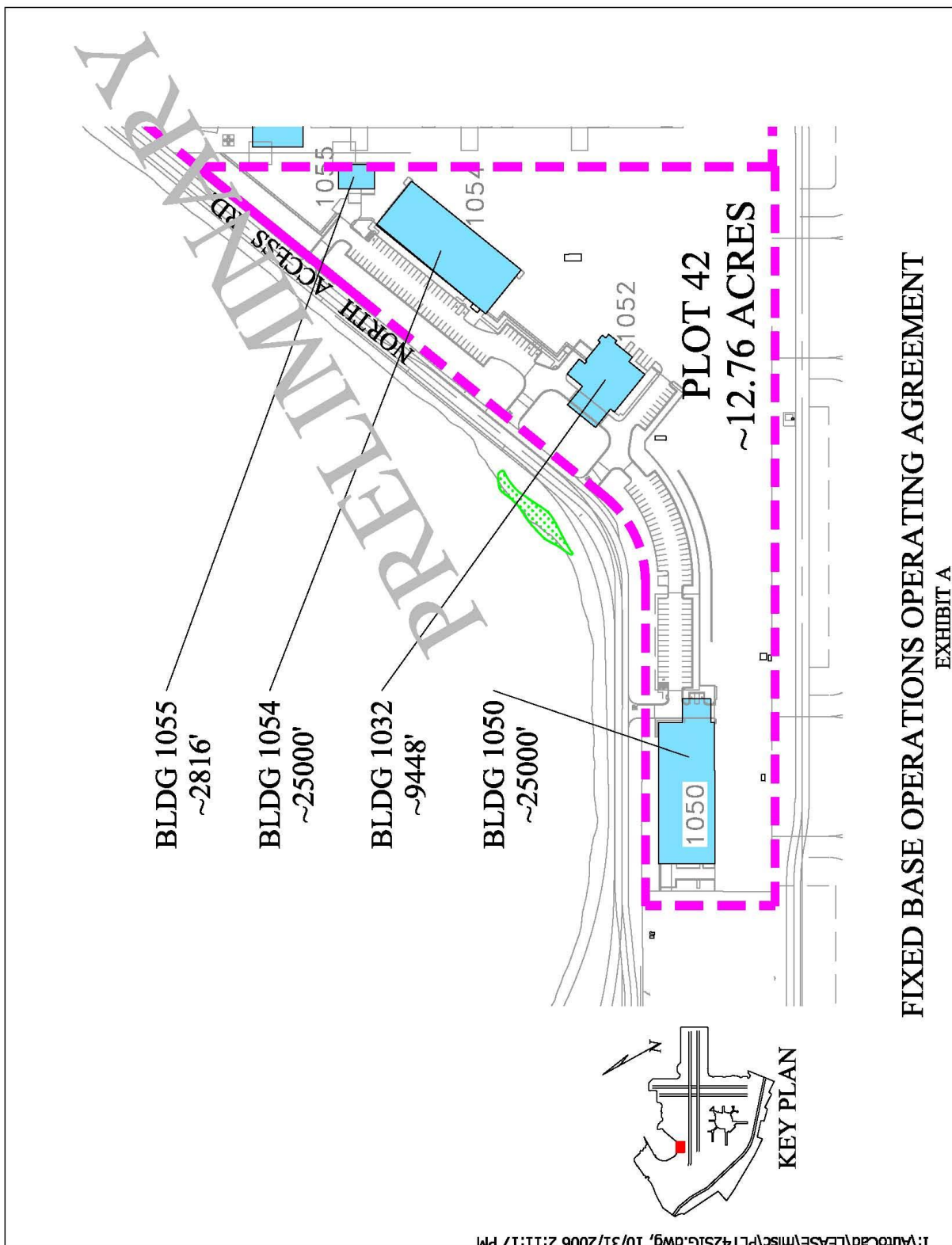
LIST OF EXHIBITS

- EXHIBIT A – Description of Premises
- EXHIBIT B – Use and Operational Requirements
- EXHIBIT C-1 – Form of Performance Bond
- EXHIBIT C-2 – Form of Letter of Credit
- EXHIBIT C – Agreement For Temporary Use
- EXHIBIT E – Minimum Standards
- EXHIBIT F – Quality Standards Program

EXHIBIT A PREMISES

Approximately 12.76 acre site located on Plot 42 as described on the attached drawings,
comprised of the following:

Executive Air Terminal	9,300 square feet
Two Aircraft Hangars	Hangar A – 24,447 square feet
	Hangar B – 24, 447 square feet
Automotive Maintenance Shop	2,816 square feet
Customer Vehicle Parking	69,428 square feet
Aircraft Parking and Circulation	11 acres



FIXED BASE OPERATIONS OPERATING AGREEMENT
EXHIBIT A

<p style="text-align: center;">EXHIBIT B</p> <p style="text-align: center;">USE AND OPERATIONAL REQUIREMENTS</p>
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<p>Required Uses :</p>	<p>FBO operator shall perform or make available, the following services on a non-exclusive basis 24 hours a day and 7 days a week including holidays, for general aviation aircraft at the Airport:</p> <ul style="list-style-type: none"> • Retail fuels sales to and into-plane for general aviation aircraft. • Aircraft marshalling and parking, chocking service within the areas specified by the Director for this purpose. • On-Airport transportation for passengers and crew. • Aircraft maintenance and repair services by licensed mechanics, towing and related assistance to disabled general aviation aircraft, including large aircraft used for general aviation applications. • Management of the Executive Terminal for the use of passengers and crews. • Management of hangar facilities for aircraft storage, maintenance and other services may be required of tenant. <p>FBO operator may not provide any additional services without the Director's prior written consent.</p>
<p>Optional Uses:</p>	<p>FBO operator, may at its option, on a non-exclusive basis provide the following services from the FBO premises and other areas of the Airport subject to approval by the Director:</p> <ul style="list-style-type: none"> • Provide retail fuel sales to and into-plane fueling for aircraft at an area designated by Director outside of the FBO Facilities. • Provide the above-mentioned required services for commercial itinerant aircraft. • Dispense contract aviation fuels and oil from the FBO Facilities and any other area designated by the Director. • Sell aircraft or aircraft parts, including aircraft radios, auxiliary supplies, and equipment relating to aircraft. • Provide for sale of food, confections, soft drinks, tobacco products, or other like commodities only if permitted in writing by the Director. • Act as an agent for car rental organizations having authority to operate on the Airport, and for other related passenger services. • As an activity incidental to other services herein permitted repair and service vehicles such as tugs, tractors, motorized ramps, baggage handling equipment, ground power units, space heaters, etc., and sell store, dispense and deliver automotive fuel, lubricants and accessories to service such vehicles. <p>Offer such other services incidental or related to Airport purposes that are not restricted or prohibited by other Airport leases, agreements or permits, Airport rules and regulations, or by law. Permits and agreements for such other services maybe granted at the discretion of the Director.</p>

EXHIBIT C-1
FORM OF PERFORMANCE BOND FOR AIRPORT
AGREEMENTS/PERMITS

_____ (Surety)

KNOW ALL MEN BY THESE PRESENT:

That we, _____, as Principal, and _____, a corporation duly organized and existing under and by virtue of the laws of the State of _____, as Surety, are held and firmly bound unto the City and County of San Francisco, acting by and through its Airport Commission, as Obligee, in the sum of _____ Dollars (\$_____) lawful money of the United States of America, to be paid to the City and County of San Francisco, acting by and through its Airport Commission, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into one or more Agreements, permits, or agreements with the City and County of San Francisco, Airport Commission (collectively, the “**Agreements**”).

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall perform all terms of the Agreements (which by reference are made a part hereof), including the payment of rent or fees, in accordance with the terms of such Agreements, then this obligation shall be null and void, otherwise to remain in full force and effect; and shall be effective _____.

This bond may be called upon by Obligee by a notice sent to the Surety in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at: _____.

Any such call by Obligee shall include a statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

- a) Principal has defaulted under one or more of the Agreements; or
- b) Principal has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed 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 any state thereof, or any jurisdiction available to Principal, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or
- c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Principal; or

- d) This bond is cancelled, terminated, or not renewed, and City has not received an acceptable replacement letter of credit or bond at least thirty (30) days prior to the cancellation, termination, or expiration date.

We shall honor and pay on such call within ten (10) days after receipt.

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date, termination date or expiration date of this bond, if any is stated, of our intention to cancel, terminate, or non-renew this bond. In the event we fail to give such notice promptly, then this bond shall be deemed renewed for an additional one-year period.

Signed, sealed and dated this _____ day of _____.

Principal: By: _____

Title: _____

Seal: _____

Surety By: _____
Company:

Title: _____

Seal: _____

(Attach Notary Public Certificate and Attorney-in-Fact form)

EXHIBIT C-2
FORM OF LETTER OF CREDIT FOR AIRPORT
AGREEMENTS/PERMITS

Date _____

Irrevocable Letter of Credit No. _____

Airport Commission
City and County of San Francisco
Attn: Deputy Director, Business & Finance
San Francisco International Airport
International Terminal, No. Shoulder Bldg., 5/F
PO Box 8097
San Francisco, CA 94128

Ladies and Gentlemen:

We hereby establish an irrevocable letter of credit in your favor in the amount of _____ United States Dollars (US\$ _____) for the account of _____ ("Account Party"), available by your draft at sight, when accompanied by the following document:

A statement signed by the Airport Director of the Airport Commission of the City and County of San Francisco, or his/her designee, to the effect that any of the following events has occurred or is continuing:

- a) Account Party has defaulted under the one or more agreements with the City and County of San Francisco, acting by and through its Airport Commission at San Francisco International Airport; or
- b) Account Party has become insolvent, or has taken the benefit of any present or future insolvency statute, or has made a general assignment for the benefit of creditors, or has filed 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 any state thereof, or any jurisdiction available to Account Party, or has consented to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or
- c) A petition under any of the federal bankruptcy laws or an action under any present or future insolvency law or statute has been filed against Account Party; or
- d) This letter of credit is cancelled or not renewed, and City has not received an acceptable replacement letter of credit or bond at least thirty (30) days prior to the cancellation or expiration date.

Drafts drawn under and in compliance with the terms of this letter of credit will be duly honored by us upon presentation and delivery of the statement specified above. Partial draws are permitted. Such drafts may be presented in person or by registered mail, overnight mail, overnight courier service, or other courier service sent to our offices at:

_____.

We shall give you notice in writing by registered mail at least forty-five (45) days prior to the cancellation date or expiration date of this letter of credit, if any is stated, of our intention to cancel or non-renew this letter of credit. In the event we fail to give such notice promptly, then this letter of credit shall be deemed renewed for an additional one-year period. Notwithstanding the foregoing, this letter of credit shall finally expire on _____, 20_.

Sincerely,

<p style="text-align: center;">EXHIBIT D AGREEMENT FOR TEMPORARY USE</p>
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AGREEMENT FOR TEMPORARY USE

This AGREEMENT dated as of _____ is between _____, a Delaware corporation (“_____”), the City and County of San Francisco acting through its Airport Commission, (“Airport”) and San Mateo County (“County”).

_____ has entered into a Fixed Based Operation (FBO) Services Operating Agreement dated _____, with the Airport, to provide service for the accommodation, storage, and maintenance, of general aviation aircraft. The Airport-owned FBO Facilities are operated by _____ and include hangars (FBO Hangar) an executive terminal, an automotive maintenance shop, hydrant fueling system, customer and rental vehicle parking and aircraft parking located on Plot 42 as indicated on Exhibit A attached hereto.

The Airport desires to provide the San Mateo County Coroner’s Office with the use of a portion of the facilities shown on Exhibit A consisting of one (1) FBO Hangar, ramp and parking area as better described in Exhibit B as a morgue and autopsy laboratory in the event a multiple casualty incident with fatalities occurs at San Francisco International Airport.

_____ hereby consents to such use by the Airport and the County on the terms and conditions hereinafter set forth.

1. Notice.

A. When the Airport desires to use the FBO Hangar as provided herein, it shall notify _____ as set forth in Exhibit B attached hereto. Upon receiving such notice, _____ will initiate the steps necessary to turn over occupancy of the FBO Hangar and ancillary facilities as specified above to the Airport.

_____ shall be allowed a minimum of 6 hours to shut down its operations at the FBO Hangar and turn over occupancy of the FBO Hangar, ramp and parking area to the Airport’s designated representative identified on Exhibit C.

B. _____’s shutdown steps shall be allowed to continue after the turnover if _____ is unable to complete its shutdown during the designated period.

C. All notices shall be given to each party's designated representative as shown on Exhibit D.

D. The intent of this Agreement is to use the FBO Hangar in emergency situations, and phone or verbal notices shall constitute acceptable notice. However, the Airport shall also provide written confirmation notice to _____.

2. Transfer of Occupancy. At the initiation of occupancy by the Airport and use by the County, the parties' representatives shall conduct a walk-through inspection of the FBO Hangar to discuss critical operating features of utility controls, telephone systems, safety requirements, hazardous material handling procedures, read utility meters, note any existing structural damage, etc. _____ shall have the option, at its sole expense, to have present at all times during Airport occupancy and use by the County a guard to oversee and protect _____'s interest.

3. Term. The Airport's occupancy may continue at its option for a period up to 30 days. During each day of occupancy, the Airport shall advise _____'s representative of the expected duration. This duration estimate shall not be binding on the Airport but is advisory to _____ for its planning purposes.

4. Use. During occupancy under this Agreement, the use shall be limited to those actions by the County necessary to investigate the accident and resulting deaths. This shall include all activities associated with the investigation, including engineering and medical examinations of deceased and their effects. The intent is to allow use while the accident scene is undisturbed, but not to provide long-term occupancy for detailed study, evaluation and reporting of the causes of the accident.

5. Termination of Occupancy.

A. The Airport shall provide _____ not less than 24 hours notice that its occupancy has terminated. All materials brought onto the FBO Hangar premises by the Airport or County shall be removed by its respective owner, including without limitation, medical equipment, communications equipment and personal property. The FBO Hangar shall be cleaned and returned in a condition similar to that which existed at the time the Airport and the County first occupied the FBO Hangar. The County shall dispose of medical waste in accordance with applicable laws and regulations, and shall empty and disinfect all refuse dumpsters prior to vacating the premises.

B. At the time designated for returning occupancy of the FBO Hangar to _____, the Airport, the County and _____ shall conduct a walk-through inspections, each party making such written notes as it desires, signing the same and delivering to other a copy. If, after resuming occupancy, _____ discovers property or other matter brought onto the property by the activity of the Airport or the County, it shall give a minimum of 72 hours notice to the representatives of the Airport and the County identified in Exhibit B hereto and thereafter be entitled to dispose of such property without liability.

6. Access During Airport Occupancy. During the Airport's occupancy and the County's use of the FBO Hangar, the Airport and the County shall, upon request from _____ and at a time which does not unreasonably interfere with the

County's activities, allow _____ and those identified by _____ as authorized to use _____'s planes to enter the hangar to remove such of their own property as they wish: e.g. tools, records, computer, parts, operating manuals and schedules, maintenance supplies etc. Prior to removal of the items from the FBO Hangar, _____ shall prepare a list by description, date, time and name of person removing each item and this list shall be signed by _____, the County and the Airport representatives, and copies shall be retained by all parties. During its term of occupancy, the Airport shall at its sole cost have at all times a security guard present. The Airport shall restrict access to the Hangar to only those who need access for performance of official duties and shall allow _____'s designated representative access on request.

7. Use of Building Contents. Neither the Airport nor the County shall, without prior written _____ approval, use any building contents or other personal property other than normal consumable supplies used in daily building maintenance. This prohibition shall include without limitation use of computers, lockers, tools, aviation fuel and lubricants.

8. Utilities. As part of the occupancy contemplated under this Agreement, the Airport and the County may use the electrical service, gas, water, sewer and refuse removal service at the FBO Hangar. The Airport shall provide a rent credit to _____ for the costs of such usage within 30 days of receiving a letter from _____ detailing such utility expenses. The Airport will bill the County for its prorata share of the utilities based on the duration of occupancy to be calculated as follows:

$\text{Cost of Utility per Month} / 30 \text{ days} = \text{Cost Per Day} \times \text{number of days occupied.}$

The Airport and County may also be granted use of the telephone equipment. _____ will provide to Airport copies of telephone bills with notations signifying calls originated either by the Airport or County. The Airport will bill the County accordingly.

9. Hazardous Materials/Environmental Requirements.

A. Neither the Airport nor the County shall introduce into or bring into the FBO Facilities any hazardous materials, which are not necessary for the authorized use of the Hangar as a morgue and autopsy laboratory. "Hazardous materials" shall mean 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 environment.

B. All such hazardous materials as are introduced for the authorized purpose shall be treated and disposed of by County in accordance with applicable federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or hazardous materials.

10. Indemnification.

_____ agrees to defend, indemnify and hold harmless (1) the City and County of San Francisco, its officers, employees and agents, from any and all acts, claims, omissions, liabilities and losses by whomever asserted arising out of acts or omissions of _____ in its obligation under this Agreement, except those arising by reason of the sole negligence of the City and County of San Francisco, its officers, employees and agents; and (2) the County, its officers, employees and agents, from any and all acts, claims, omissions, liabilities and losses by whomever asserted arising out of acts or omissions of _____ in its obligations under this agreement, except those arising by reason of the sole negligence of the County, its officers, employees and agents.

The City and County of San Francisco agrees to defend, indemnify and hold harmless (1) _____, its officers, employees and agents, from any and all acts, claims, liabilities and losses by whomever asserted arising out of acts or omissions of the City and County of San Francisco in its obligations under this agreement, except those arising by reason of the sole negligence of _____, its officers, employees and agents; and (2) County, its officers, employees and agents, from any and all acts, claims, liabilities and losses by whomever asserted arising out of acts or omissions of the City and County of San Francisco in its obligations under this agreement, except those arising by reason of the sole negligence of County, its officers, employees and agents.

The County agrees to defend, indemnify and hold harmless (1) _____, its officers, employees and agents, from any and all acts, claims, liabilities and losses by whomever asserted arising out of acts or omissions of the County in its obligations under this agreement, except those arising by reason of the sole negligence of _____, its officers, employees and agents; and (2) the City and County of San Francisco, its officers, employees and agents, from any and all acts, claims, liabilities and losses by whomever asserted arising out of acts or omissions of the County in its obligations under this agreement, except those arising by reason of the sole negligence of the City and County of San Francisco, its officers, employees and agents.

In the event of concurrent negligence of the City and County of San Francisco, its officers, employees and agents, and the County, its officers, employees and agents, and _____ and its officers, employees and agents, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

11. Annual Review. At least once per year or on or about the anniversary of the execution of this Agreement, the parties shall confer to review the Agreement, verify steps and procedures to be used and discuss any common concerns.

12. Special Circumstances. The FBO Hangar floor is painted with a special reflective epoxy paint. It is very slippery and extremely dangerous when wet or otherwise covered with liquids. The County shall cover the floor with mats or temporary covering, as necessary, during the County's operation of a morgue and autopsy laboratory. Full removal of such temporary

covering and restoration to the original flooring shall be completed by the County at the termination of Airport occupancy and County use of the Hangar.

13. Relationship. This Agreement sets forth the circumstances, terms and conditions for temporary use of the FBO Hangar to the Airport and the County. The Agreement covers temporary use, at San Francisco International Airport, in the event that a multiple casualty incident has occurred and there are fatalities to investigate. This Agreement can be amended at any time by mutual consent or terminated at any time by request of any party without any residual liability except as herein provided.

14. Business Loss / Interruption. _____ acknowledges and understands that its operations may be interrupted and adversely affected as a result of the temporary occupancy and use authorized pursuant to his Agreement. As part of the occupancy contemplated under this agreement, the Airport and the County will be using one (1) of the FBO Hangar as a temporary morgue. During such occupancy, _____ and its tenants will not be able to use the facility. As such, the Airport will provide a rental credit to _____ for business disruption cost caused by this occupation. At the end of the occupation, _____ will submit to the Airport an invoice which shall include the representation that _____ has incurred business interruption loss, which invoice shall be accompanied by copies of actual rental agreements between _____ and its tenants for the period of the temporary occupancy by the County. The Airport will provide a rental credit based on the following formula:

Monthly Rental per Month/30 = Cost Per Day x number of days of temporary occupancy.

Additionally, the Airport shall use reasonable efforts to assist _____ in locating a temporary hangar to accommodate _____'s maintenance and parking activities displaced by the use of the temporary morgue.

////////

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

By: _____
Name: _____
Title: _____
Dated: _____

John L. Martin
Airport Director

SAN MATEO COUNTY

By: _____
Name: _____
Title: _____
Dated: _____

Authorized by Airport Commission

Resolution No.: _____
Adopted: _____
Attested: _____

Secretary
Airport Commission

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Deputy City Attorney

EXHIBIT E

MINIMUM STANDARDS

D R A F T

MINIMUM STANDARDS

FOR FIXED BASE OPERATION SERVICES AT SFO

Minimum Standards: An operator of Fixed Base Operation (FBO) facilities at San Francisco International Airport (SFO, the “Airport”) shall comply with the Minimum FBO Standards (the “Standards”) at all times. The Standards are subject to change at any time upon prior written notice provided by the Airport Director.

Purpose: To establish the minimum acceptable level of operating standards for FBOs at SFO. The purpose of the Standards is to encourage, promote, and ensure that the FBO:

1. delivers world-class general aviation facilities, products and services
2. promotes a safe and secure operating environment
3. provides economic stability and health to SFO’s general aviation business
4. efficiently maximizes the use of land-constrained SFO property.

**Overview of
Minimum
Standards:**

An operator of a FBO is a qualified commercial operator engaged in the sale of general aviation products, services and facilities, including: the storage, distribution and sales of aviation fuels and lubricants (jet fuel, avgas, and aircraft lubricants); passenger, crew, and aircraft ground services, support, and amenities; catering; aircraft parking; and aircraft maintenance. Further, no FBO operator may operate at SFO unless it has entered into a direct land rental or FBO operating agreement with the Airport prior to the start of service.

Scope of Services:

Except as otherwise authorized by the Airport, all products and services shall be provided by FBO operator’s employees using FBO operator’s vehicles and equipment. FBO operator’s products and services shall include the following:

1. Aircraft Servicing
 - a. Aircraft Fueling: The sale, delivery and dispensing of jet fuel and Avgas for all grades normally required by general aviation aircraft with a response time for fuel and oil services within 15 minutes of such requests.
 - b. Aircraft Oils and Lubricants: The sale of aviation oils and lubricants of all types and grades ordinarily required by general aviation aircraft.
 - c. Aircraft Cleaning: Clean and tidy the interior and exterior of aircraft.
 - d. Water Service: Replenish potable water and drinking water upon request.
 - e. Lavatory Service: Empty, clean, flush and replenish lavatory fluids.
 - f. Cooling/Heating: Provide heating and cooling to aircraft as required.
 - g. Catering Service: Have the capability to provide catering service, to include the removal and replenishment of catering supplies.
2. Ramp Services:
 - a. Marshalling: Provide for marshalling of aircraft at arrival and departure.
 - b. Parking: Position and provide parking equipment as necessary.
 - c. Receipt and Dispatch: Provide aircraft tow-in and push-back services as required.
 - d. Provide aircraft ground power units.
 - e. Have passenger-loading steps available as appropriate and necessary.
 - f. Provide courtesy transportation for passengers, crew, and baggage, utilizing FBO operator's vehicles, as necessary and appropriate.
 - g. Make arrangements for crew and passenger ground transportation (limousine, shuttle, and rental car).
 - h. Provide emergency services to disabled general aviation aircraft on the airport, including towing and transporting disabled aircraft at the request of the owner or operator of the aircraft, or the Airport.
3. Flight Operation Services:
 - a. Communications: Dispatch, receive and document all incoming messages in connection with FBO provided services.
 - b. Flight Operations and Crew Administration: Provide meteorological aeronautical documentation as requested.
 - c. Flight Plans: Prepare and make available flight plans.

- d. Load Control: Convey and deliver flight documentation, load sheets, balance charts and manifests.
- 4. Aircraft Maintenance
 - a. Routing and non-routing maintenance of aircraft, including repairs and inspections.
 - b. Aircraft maintenance shall be performed by person currently certified by the Federal Aviation Administration (“FAA”) with current ratings appropriate to the work being performed.
 - c. FBO operator is entitled to utilize an Airport authorized service provider in order to meet the aircraft maintenance Standard.

Facilities:

- 1. FBO shall have adequate facilities (hangar and terminal facilities), aircraft parking and vehicle parking to accommodate all required services as outlined above, but not less than approximately 12.76 acres of land and approximately 58,000 square feet of hangar and terminal facilities.
- 2. Facilities must consist of the following:
 - a. Terminal Space – 9,300 square feet
Customer area shall be 6,800 dedicated square feet to include but not limited to the following:
 - Office facilities for FBO users
 - Covered car port
 - Lounge(s) for crew and passengers
 - Flight planning and flight services facilities equipped local navigation charts, flight planning materials and weather information available during hours of operation
 - Customer service counters
 - Conference room
 - Public telephones
 - WIFI access
 - Restrooms.
 - b. Administrative area shall be at least 2,500 square feet to support the FBO operation.
 - c. Outdoor Aircraft parking approximately 6.7 acres. Each Aircraft storage hangar shall be no less than 24,447 square feet.
 - d. Maintenance facility shall be at least 2,816 square feet.
 - e. Ramp service area shall be at least 10,000 square feet.

Fueling Equipment:

1. FBO shall maintain equipment in sufficient quantities and of sufficient type to service all aircraft handled by the FBO, which shall include at a minimum the following:
 - a. Four (4) refueling service vehicles for jet fuel, at least three (3) having a minimum capacity of 5,000 gallons, and one having a minimum capacity of 10,000 gallons.
 - b. Two (2) refueling service vehicles for Avgas, or other grade of fuel ordinarily dispensed, having a minimum capacity of 1,500 gallons.
 - c. FBO shall have access to a fuel dispensing system with a capacity which will provide an inventory of jet fuel and aviation gasoline required by general aviation users at the Airport at all times.
 - d. A sufficient supply of absorbent material and the vehicular means to transport this material for the immediate containment and clean up of a spill and for removal of the contaminated absorbent material.
2. FBO operator shall be liable, indemnify, and hold harmless the City for all leaks, spills, or other damage that may result through the handling and dispensing of fuel.
3. FBO operator shall maintain records on file of quality control checks and inspections of fuel storage equipment for 5 years and make such records available for review at any time.
4. FBO operator shall develop and maintain Standard Operating Procedures (SOP) for fuel vehicles. FBO's SOP shall include but not be limited to the following: training plan, fuel quality assurance procedures, recording keeping, emergency response, procedures for responding to fuel fires, spills, and training standards for persons handling or dispensing fuel. FBO's SOP shall be submitted to the Airport for approval prior to the Commencement of operation.

Hours of Operation:

FBO shall be open 24 hours a day, 7 days a week, including holidays, to meet the demands of the public.

1. FBO shall provide sufficient uniformed, efficient, trained and qualified personnel on duty as necessary to meet the minimum standards set forth herein, providing aircraft fueling, parking,

ground services and support sufficient to meet the demands of the public.

2. The activities of an FBO will be supervised by a full time, on-site manager who will be responsible for adhering to these minimum standards, the terms of the written agreement and providing world-class service to the public.
3. Personnel, on duty shall at all times be clean, neat in appearance, courteous, and properly uniformed, with the exception of management and administrative personnel. Uniforms shall identify the name of the FBO and the Employee and shall be clean, neat, professional, and properly maintained at all times. All personnel shall display airport security badges in a conspicuous manner at all times.
4. An operator performing general aviation fueling shall
 - a. Have at least one fueler on duty 24 hours per day seven days per week; and
 - b. Have at least one additional person on duty 24 hours per day, seven days per week to supervise the, customer service representative, fueler, ramp attendant, etc.

Licenses and Certification:

1. FBO operator shall provide to the Airport (for itself and for its sublessees) evidence of all federal, state, and local licenses, certificates and permits that are required to conduct the activity.
2. All FBO (and sublessees/subcontractors) employees shall be properly certificated by the FAA (when applicable), current, and hold the appropriate ratings and medical certification for the work being performed.
3. FBO operator and its Sublessees /Subcontractors must adhere to the San Francisco International Airport Commission Rules and Regulations. Further FBO operator must obtain necessary approvals and licenses outlined in “Rules and Regulations” or otherwise required by the Airport or by local, state or federal law prior to the start of operation.
4. FBO must be certified compliant with the Airport’s Quality Standards Program and submit annual recertification documents upon request.

Insurance:

1. Throughout the term of this lease and Operating Agreement, Lessee shall maintain in force at its own expense, insurance with insurers having an AM Best rating of at least A-, Class VIII, and under forms of policy satisfactory to the City and in compliance with the following:
 - a. Workers' Compensation
To the extent that Lessee has employees as defined in the California State Labor Code, Workers' Compensation insurance at statutory requirements and Employer's Liability insurance, with limits not less than \$1,000,000 each accident, illness, injury or disease.
 - b. General Liability
Commercial General Liability insurance with limits not less than \$50,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, Contractual Liability and Personal Injury, including coverage for Independent Contractors, Explosion, Collapse and Underground, Broad Form Property Damage, and Products and Completed Operations coverages. Hangarkeeper's Liability's upper single limits of any one aircraft to be determined by the estimated replacement cost of the average number of aircraft parked (serviced) on any given day.
 - c. Hangar Keepers' Liability
Hangar Keepers' Liability of \$50,000,000 to include property damage for all non-owned Aircraft under the care, custody and control of the FBO.
 - d. Automobile Liability
Commercial Automobile Liability insurance with limits not less than \$50,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, hired or non-owned vehicles, as applicable.
 - e. Property Insurance
Property insurance on an all-risk form for 100% of the replacement value on tenant improvements, fixtures, and equipment insuring against the perils of fire, lightning, extended coverage perils, vandalism, and malicious mischief in and on the assigned facilities. Tenant improvements include improvements made by Lessee at its sole cost and do not include any improvements made on behalf of or reimbursed by

the City. Such coverage shall include Rental Interruption coverage insuring that RENT will be paid to the City for at least 1 year if Lessee is unable to operate its business at the Premises due to an insured risk.

f. Business Income Insurance

Business Income Insurance for a period of at least one (1) year if Lessee is unable to operate its own business at the Premises due to a risk required to be insured against by Lessee hereunder. Said insurance shall also cover business interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion.

g. Pollution Liability

Pollution Liability insurance with limits not less than \$25,000,000 each occurrence combined single limit for bodily injury, property damage and cleanup costs. Insurance shall be maintained with evidence of insurance provided to the City for at least five (5) years after completion of work under the contract.

Without limiting the generality of the foregoing, General Liability, Automobile Liability, Pollution Liability and Property Insurance policies shall be endorsed to provide the following:

1. Name as additional insureds the City and County of San Francisco, its officers, employees and members of Commissions.
2. That such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
3. Insurance policies shall provide 30 days notice to the City of policy cancellation for any reason, non-renewal or reduction in coverages.

Security:

1. FBO operator shall, if required by the Airport, enter into an "Airport Tenant Security Program" with Aviation Security Department at SFO prior to the start of operation.
2. FBO operator shall adhere to all applicable security requirements prescribed by the Airport or pursuant to local, state or federal law.

<p>EXHIBIT F QUALITY STANDARDS PROGRAM</p>
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San Francisco International Airport

Quality Standards Program

January 1, 2006

Overview

The San Francisco Airport Commission has adopted the Quality Standards Program (the “Program”) as referenced in the Airport Rules and Regulations. The Program is being implemented to enhance security and safety at San Francisco International Airport. The Program applies to any firm, including airline and concession tenants and third party vendors (collectively, “Covered Employers”) which employ personnel involved in performing services which directly impact safety and/or security.

The Program is part of the Airport’s Rules and Regulations. Covered Employers will still be required to be in compliance with all other applicable Airport operating requirements, including those in their respective leases and permits, Rules and Regulations, and Airport Directives.

General Standards

The Program will focus on four general areas:

<u>Section</u>	<u>General Standards</u>
• Hiring practices	High School Diploma or equivalent work experience. English proficiency
• Training	Initial Training Program, Recurrent Training Program and record retention guidelines
• Equipment standards	Routine maintenance program Response time for non-routine maintenance A User Check Log
• Compensation	Currently, minimum hourly wage is \$11.23 with Benefits; \$12.48 without Benefits

Types of Employees Covered by the Program

The Program is applicable to employees of Covered Employers who:
(1) require the issuance of an Airport badge with AOA access and work in and around the AOA in the performance of their duties; or (2) are directly involved in passenger and facility security, including checkpoint screening, passenger check-in, skycap and baggage check-in and handling services, and AOA perimeter control. The Program is applicable to all existing Covered Employers as well as new entrants.

Those Impacting Security

- ▲ Employees in this category include those directly engaged in performing checkpoint security screening, passenger check-in activities, skycap and baggage check-in and handling services, and AOA perimeter control.

Part 1544 of Transportation Safety Regulations (TSR) governs air carriers and their Covered Employers and sets forth basic quality standards for all areas outlined above, except compensation. Airport Staff has developed enhanced quality standards for Covered Employers in this category to ensure the highest level of security at San Francisco International Airport. Standards will be deemed updated to reflect changes in TSR Part 1544 or other changes to TSR which may be pertinent to the application of this program to covered employees.

Standards for Covered Employers in this category are on Attachment A.

Those Impacting Safety

Employees in this category include those directly engaged in activities, which may impact safety within the AOA. These employees include but are not limited to the following:

- ▲ Employees providing ramp handling functions, including aircraft cleaning, fueling, and baggage/cargo handling
- ▲ Employees operating catering vehicles regularly on the AOA for the purpose of servicing aircraft
- ▲ Other employees issued an Airport badge with AOA access working in and around the AOA in the performance of their duties

Standards for Covered Employers in this category are on Attachment B.

Benefits and Compensation

Covered Employers are required to provide a minimum compensation/benefits offering for employees engaged in such services. The implementation of a compensation/benefits package in response to the Program shall not result in the reduction of the overall value of the existing compensation/benefits program.

Benefits

- Company paid membership in a group medical plan at least equivalent to the group rate of an HMO membership with the most members in California. (This benefit must become effective no later than 90 days after employment.)
- Twelve (12) paid days off per year
- Ten (10) days of un-paid leave per year
- Paid and un-paid days off may be accrued during the first year of employment
- All paid leave must be exhausted prior to use of un-paid leave

Compensation

- The Minimum Compensation Level will be adjusted annually in accordance with the Bay Area Cities – Consumer Price Index
- Adjustments to the minimum, based on October data, will be effective January 1st of each year thereafter

Process

Certification

A certification process will occur in which all of the criteria outlined on Attachments A and/or B will be reviewed with each Covered Employer. Airport staff will conduct the review.

Third Party Vendors

When staff is satisfied that a Covered Employer in this category is in compliance with the Program, an operating permit will be issued. Any airline desiring to contract for these types of services with a third party vendor that has not yet been certified must contact Aviation Management to begin the review process. The operating permit will outline the permitted services as well as the conditions under which business must be conducted at the Airport.

Airlines and Concessionaires

Lessees, permittees and concessionaires are required to comply with the Airport Rules and Regulations, including the Program, pursuant to their respective agreements.

Annual Certification and Audit Rights

On or before July 1st of each year, each Covered Employer shall deliver to the Airport Director a statement certifying that it is in compliance with the Program. The Airport reserves the right to review and audit such compliance at any time. Airport staff will conduct all audits to ensure continuing compliance. If at any time a Covered Employer is found to be out of compliance, the Airport will give notice to the Covered Employer and allow a reasonable cure period to address the noted deficiency, unless such deficiency is considered an endangerment, at which point operations must cease until the deficiency is corrected. Such notice to third party Covered Employers will include a copy to all known airlines contracting for the Covered Employer's service at the Airport.

Default

Any non-compliance with the Program will be considered a default under the Covered Employer's agreement with the Airport. If the default is not cured within the time period specified in the Airport's notice, the Airport may exercise all remedies available to it including but not limited to the imposition of fines and the termination of any and all agreements with the Airport.

Non-Compliance

Upon receipt of any notice of non-compliance with the Program, the Covered Employer must promptly take action to cure such non-compliance. If the non-conformance is not cured within the time period specified in the Airport's notice, the Airport may exercise all remedies available to it including but not limited to the imposition of fines and the termination of any and all agreements with the Airport.

Fines

If a Covered Employer defaults with respect to any requirement of the Program, the Airport Director may elect to impose a fine equal to \$200.00 per violation, per day. The Airport's right to impose such fines shall be in addition to and not in lieu of any and all other rights available to the Airport. Such fine amount may be increased from time to time at the discretion of the Airport Director.

Attachment A

Quality Standards

Covered Employers Impacting Security

The certification process and requirements are outlined as follows.

Certification Process Outline:

Aviation Security certification process:

- *Aviation Management* directs tenant to contact *Aviation Security* (telephone: 650-821-3901).
- Obtain the *Aviation Security Certification Process Instruction* document.
- Assemble/prepare appropriate materials/personnel guided by the *Aviation Security Certification Instruction*, “Certification Requirements” section as follows.
- Meet with *Aviation Security* for certification review. This process can be expected to take approximately one-and-a-half to two hours.
NOTE: Review of training includes a random review of training records and training curriculum/materials. A tenant may wish to arrange a separate review with its training department.
- *Aviation Security* notifies *Aviation Management* of the certification results and sends the tenant an Aviation Security certification completion letter.

Certification Requirements:

The certification requirements include five component areas of a company’s operation. These include the Company Background, Hiring Processes and Practices, Training Requirements, Personnel Administration and Evaluation, and Security Management and Oversight.

This overview will provide information to aid in preparing for the certification process. It outlines specific certification items of examination within each of the component areas and provides instruction as applicable. In preparing for the certification it is recommended, whenever possible, to include supporting documentation.

A. Company Background Information

1. Personnel and staffing statistics at SFIA (e.g list the total number of managers, supervisors, staff members);
2. Entity or entities for which a tenant company provides services including the Airport. Note the types of services provided for each entity.
3. SFIA-issued access media status. Note the types of SFIA-issued media the company personnel hold (e.g. *blue* AOA-access badge, *yellow* construction badge, *gray* no security access authority badge, *purple* sterile-area-only badge.) Note the approximate number of personnel holding each media type.

B. Hiring Processes and Practices

1. Background investigation requirements.
 - a. Note the company name and address that performs the company background investigations.
 - b. Note the type of investigation (e.g. criminal history, work history). This should include the length of time that was reviewed/verified and the process used to review this information (e.g. 10-year background, FBI fingerprint review).
 - c. If employees undergo drug testing, note the name and address of the company that performs the testing. Note, also, the frequency of any drug-testing, if performed after initial testing.
2. Education requirements. Describe the minimal level of educational background required for entry-level employment. Note how this is verified.
3. Basic aptitudes
Describe basic security work aptitudes that receive interview focus (e.g. threat assessment aptitudes, customer service skills.) Describe methods, processes, procedures utilized to assess these aptitudes during the hiring process. Include any documentation that supports this process.
4. English proficiency
Describe how the ability to speak, read and write in English is assessed during the hiring process. Describe the methods, processes, procedures that the company uses to assess a potential employee's ability to carry out oral and written instructions, to read English language identification media (credentials, airline tickets, documents, waybills, invoices, labels as required), to verbally communicate effectively and understandably with the public, to provide verbal and written report and emergency response as required under high-stress situations. Include any supporting documentation.
5. Physical requirements
Describe the basic physical abilities (vision, color perception, hearing, physical coordination, motor skills) required to perform the job. Explain how these abilities are verified during the hiring process.
6. Hiring content orientation
Briefly describe the company's "new-employee package" describing any security-related policies, or mission statement; outline the "new-employee" structure—length of probation, on-the-job-training (OJT), initial training.

C. Training Requirements

Tenant may wish to arrange for **Aviation Security** to meet at the company training site for the training component of the certification process.

1. SFIA Aviation Security Awareness Training.

This is training that SFIA, **Aviation Security** provides. If your company includes services that provide Secured Area/AOA access-control, then this training is required in accordance with (IAW) AOB 03-02. This training is *recommended* for any other company employees.

2. Initial Company Security Training

Describe training: curriculum, frequency, testing. Describe training materials, methods, processes and procedures. Provide curriculum and/or any supporting documentation of formal training program.

3. Recurrent Security Training (Applies to tenants whose duties include service to companies with regulatory recurrent training requirements.)

Describe any recurrent training: curriculum, frequency, testing. Describe training materials, methods, processes and procedures. (NOTE: IAW the Airport Security Program (ASP) all airport employees requirement 2-year recurrent SIDA training; Part 1544 requires that personnel who issue baggage tags or passenger boarding passes require recurrent—each two years—HAZMAT training to include Dangerous Goods in Baggage and Dangerous Goods Labels.)

4. Records Maintenance

Provide access to training records for random review. Training records should include the trainee's name and the date of training.

NOTE: If QSP applicant is regulated under 49 CFR 1544 or 1546, then training review is confirmed through the TSA and not performed by Aviation Security.

D. Personnel Administration and Evaluation

1. Personnel Evaluation Program

Describe the company program that evaluates personnel performance and present documents that validate it. Note the frequency of personnel evaluation program.

2. Progressive Discipline Program

Outline the company's progressive discipline program. Explain how this is accomplished and show appropriate documentation.

3. Grievance Process

Outline the company program that allows its employees to address fair employment practices and/or personnel issues. Explain how this is accomplished and show appropriate documentation.

E. Security Management and Oversight

1. Internal Audit Program

Describe how management develops/utilizes formal and informal auditing processes and programs. (Explain how this is accomplished and show appropriate documentation. e.g. auditing checklists, supervisor's security status reports).

2. Company Security Director/Manager

Note the name and contact information for the director or manager of the company's Security Program.

3. Protocol to report changed emergency contact information of company personnel:

Describe method(s) used to notify of status change of company security director; or of major change in emergency information.

Attachment B

Quality Standards

Covered Employers Impacting Safety

1. General

- a. Provide a site (on or adjacent to the Airport) for scheduled and unscheduled repairs and maintenance of company equipment.
- b. Secure Airport approval for an area to store equipment when not in use.
- c. Supply Airport with names, titles and 24-hour phone number of Management and shift supervisory personnel.
- d. Will be subject to the provisions/standards contained in the Airport Vehicle Audit Oversight Program.

2. Hiring Practices

Education: High School graduate, GED, or an equivalent combination of education and experience.

- a. Meet all ADA and EEO requirements.
- b. Pass Airport TSA approved SIDA (Security Identification Display Area) training.
- c. Be physically fit to perform the duties of the job.
- d. Possess valid California Drivers License.
- e. Successfully complete all Airport License and Permit Bureau requirements (tests) to obtain Airport AOA driving privileges.
- f. Cannot have a reckless driving or DUI conviction within previous 24 months.

3. Training

Must have an approved New Employee Training Program that includes Airport Rules and Regulations governing:

- a. Vehicle operations
- b. Aircraft Operations
- c. Hazardous Materials handling procedures
- d. Litter, FOD, and debris control
- e. Runway Incursion Prevention Training

Training program must also include:

- a. Ground Service Equipment operation
- b. Safe driving on the AOA (video)
- c. Interline baggage operations
- d. Training on provisions of Airport Vehicle Impound Program
- e. Fueling procedures

Recurrent Training:

- a. Must conduct recurrent training on a minimum of an annual basis
- b. Must conduct safety meetings on a minimum of a monthly basis

4. Equipment Standards

Maintenance – Must have a GSE (Ground Service Equipment) Preventative Maintenance Program that includes the following:

- a. Periodic safety inspection schedules for each type of motorized equipment
- b. Procedures for taking mechanically unsound equipment “out of service”

- c. Daily User Check Program for each type of motorized equipment. This checklist must include provisions for inspection of:

- Tires
- Head, tail and brake lights
- Horn
- Parking brake
- Handrails and guards
- Walk-around fluid leak check

Maintain all GSE maintenance records for a minimum of twenty-four (24) months.
Inventory – Provide the Airport’s License and Permit Bureau an inventory listing of all motorized equipment.

5. Management and Oversight

Each Covered Employer shall establish and carry out an internal quality assurance program to include:

- a. A procedure to monitor performance, including incident reports and personnel feedback, to identify existing problems or potential causes of problems, in assigned security duties.
- b. A procedure for corrective action to ensure that existing problems that have been identified are corrected.
- c. A procedure for preventive action to ensure that potential causes of problems that have been identified are remedied.
- d. An internal audit program to audit the Covered Employer’s organization for compliance with (1) Federal regulations and security programs and (2) Airport requirements.
- e. Unless otherwise authorized by the Airport, a director of quality assurance who is independent from operations and training functions and who manages the quality assurance program.

Annually, and upon change of assignment or required information, the Covered Employer shall identify to the Airport the name, address, telephone and fax numbers, and e-mail address, if applicable, of a regional or corporate employee performing the quality assurance functions identified above.

**MODIFICATION NO. 1 TO THE FIXED BASE OPERATOR (FBO)
LEASE AND OPERATING AGREEMENT NO. 07-0106
WITH SIGNATURE FLIGHT SUPPORT CORPORATION
AT THE SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS MODIFICATION NO. 1 TO THE FIXED BASE OPERATOR (FBO) LEASE AND OPERATING AGREEMENT NO. 07-0106 AT THE SAN FRANCISCO INTERNATIONAL AIRPORT (this "**Modification**"), as of Reference Date Dec 22, 2014, is entered into by and between the City and County of San Francisco, acting by and through its Airport Commission ("**City**"), and Signature Flight Support Corporation ("**Signature**").

Recitals

A. The City and County of San Francisco owns San Francisco International Airport ("**Airport**") located in the County of San Mateo, State of California, which Airport is operated by and through the Airport Commission ("**Commission**"), the chief executive officer of which is the Airport Director.

B. The Commission has the legal responsibility for the management, supervision, operation, use, maintenance, extension, construction, and control of the Airport's terminals.

C. Signature operates the Fixed Base Operation (hereinafter referred to as "**FBO**") at the Airport, and City determined that such service is desired for the accommodation, storage, and maintenance of general aviation aircraft.

D. Following a competitive process, pursuant to Section 2A.173 of the San Francisco Administrative Code, the Commission has determined that Signature is the best responsible and responsive proposer. Signature was awarded the Fixed Base Operator Lease and Operating Agreement by Airport Commission Resolution No. 07-0106, adopted May 15, 2007, and by Board of Supervisors Resolution No. 436-07, adopted July 31, 2007. Signature became the tenant under Lease No. 07-0106 whereby, effective October 1, 2007, Signature commenced a ten-year Lease and Operating Agreement with the City for the FBO located at the Airport ("**Agreement**").

E. As part of the award of the Agreement, Signature proposed to construct a new hangar at its sole cost; however, due to the unprecedented decline in demand for hangar storage, the slowdown in business aviation travel, and the general economic environment of general aviation, the Airport, at the request of Signature, provided four one-year deferments (in 2009, 2010, 2011 and 2012), as it pertained to their hangar construction obligation.

F. In order for Signature to meet the Agreement obligation for the on-site general aviation hangar ("**Hangar C**"), Signature requested from the Airport an extension of the Term of the Agreement for an additional five (5) years to allow Signature to amortize their investment. Signature has commenced construction of Hangar C and completion is expected in or around November 2014.

G. Airport Finance Staff conducted an extensive survey of rent structures across the country for FBO similar to SFO and determined that the current Agreement is above market

value and, further, it is in the best interest of the City to extend the Agreement Term for a period of five (5) years, from October 1, 2017 to September 30, 2022, as the current rent structure is above market value. During the extension period, Signature will continue to pay the Minimum Annual Guarantee ("MAG"), as the same is adjusted annually by Consumer Price Index ("CPI").

H. As part of the extension of the Agreement Term, Signature shall renovate the Executive Air Terminal Facility within one hundred eighty (180) days from October 1, 2017. The specific details of the renovation are further described below in this Modification.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do mutually agree as follows:

1. Commencement Date; Defined Terms.

(a) This Modification shall be conditioned upon (1) the approval of this Modification by the Airport Commission, Board of Supervisors, and the Mayor, each acting in their sole and absolute discretion, and (2) the execution of this Modification by both parties.

(b) The Agreement Term shall be modified to expire on 11:59 pm on September 30, 2022 ("**Expiration Date**").

(c) Capitalized terms not defined herein shall have the meanings given them in the Agreement.

2. Investment and Alteration. Section 7.3 (d) is hereby included as part of the Agreement:

Section 7.3 (d) Operator shall renovate the Executive Air Terminal Building within one hundred eighty (180) days from October 1, 2017 or a later date, as may be approved by the Director, acting in his sole and absolute discretion. Such renovation shall include, but not limited to, the following: (i) roof restorations for the Executive Air Terminal Building and existing hangars; (ii) upgrading the camera monitoring system through the FBO; (iii) HVAC systems; (iv) replacement of the existing monument sign with a LED-lit sign; (v) updating paint, carpet and furniture to ensure the finest traveler experience consistent with standards established for Terminal 2 at the Airport and that exceeds the current condition at the Executive Air Terminals. Operator shall give notice to Director of its intended plan with respect to such required improvements and acknowledges that all such improvements are subject to the requirements of the Agreement, including Director's approval requirements.

3. Premises. Exhibit A is hereby removed and replaced with Exhibit A-1. Exhibit A-1 will reflect the addition of Hangar C, measuring approximately 25,000 square feet, and the revised parking layout.

4. Full Force and Effect. As modified hereby, each and every one of the terms, conditions, and covenants in the Agreement shall remain in full force and effect.

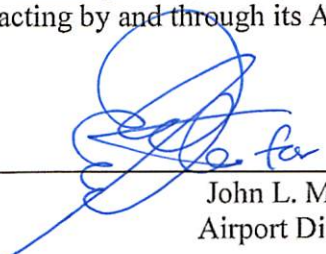
IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate by their duly authorized officers the day and year first hereinabove written.

OPERATOR: Signature Flight Support Corporation,
a Delaware Corporation

By: 
Maria A. Sastre
President & Chief Operating Officer

APPROVED AS TO FORM:
88-14-14
LEGAL DEPT.

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission


John L. Martin
Airport Director

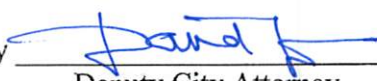
AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 14-0176

Adopted: September 9, 2014

Attest: 
Secretary
Airport Commission

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

By: 
Deputy City Attorney

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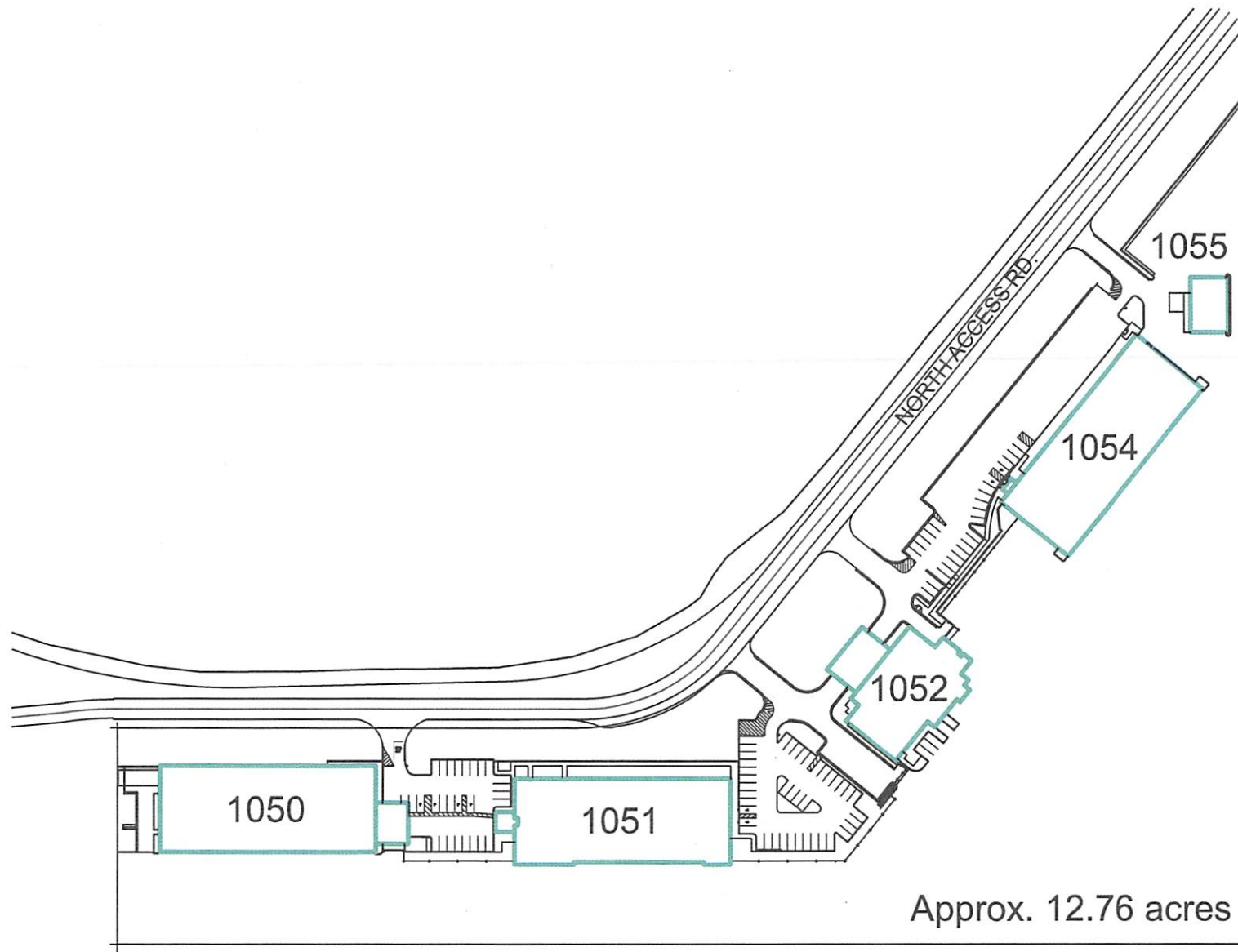


Exhibit A-1

LEASE DRAWING

LOCATION: PLOT 42

TENANT: SIGNATURE FLIGHT SUPPORT

AIRPORTS COMMISSION

CITY & COUNTY OF SAN FRANCISCO

SAN FRANCISCO INTERNATIONAL AIRPORT

DWG: PLT42SIG

DATE: 08/28/2014

ROOM NUMBER	AREA	CAT
Bldg. 1055	2,816'	N/A
Bldg. 1054	24,447'	N/A
Bldg. 1052	9,300'	N/A
Bldg. 1051	24,470'	N/A
Bldg. 1050	24,447'	N/A



KEY PLAN



San Francisco International Airport

MEMORANDUM

May 15, 2007

P.O. Box 8097
San Francisco, CA 94128
Tel 650.821.5000
Fax 650.821.5005
www.flysfo.com

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Caryl Ito
Hon. Eleanor Johns
Hon. Richard J. Guggenhime

FROM: Airport Director

SUBJECT: Award of Fixed Base Operator Lease and Operating Agreement

DIRECTOR'S RECOMMENDATION: AWARD THE FIXED BASE OPERATOR LEASE AND OPERATING AGREEMENT TO SIGNATURE FLIGHT SUPPORT CORPORATION FOR A TERM OF TEN (10) YEARS WITH A BASE RENT OF \$11,000,000 OR THE SUM OF PERCENTAGE RENTS IN VARIOUS CATEGORIES, WHICHEVER IS GREATER

Executive Summary

We have completed the competitive selection process for the Fixed Base Operator Lease and Operating Agreement and award is recommended to Signature Flight Support Corporation ("Signature").

Background

On September 19, 2006, the Airport Commission ("Commission") adopted Resolution No. 06-0178 authorizing staff to commence a competitive selection process and issue a Request for Proposals ("RFP") for The Fixed Base Operator Lease and Operating Agreement ("Agreement"). The fixed base operation ("FBO") is located on Plot 42 on the north side of the airfield, for the accommodation, storage, and maintenance of general aviation aircraft. The FBO handles general aviation, corporate and other non-scheduled aircraft.

On November 30, 2006, as part of a RFP for FBO operations at the Airport, staff conducted a pre-proposal conference. The RFP provided for a lease and operating agreement with a term of ten (10) years, percentage rent as proposed in each of several service categories and an initial minimum annual guarantee no less than \$3,500,000.

**AIRPORT
COMMISSION**
CITY AND COUNTY
OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

CARYL ITO

ELEANOR JOHNS

RICHARD J. GUGGENHIME

JOHN L. MARTIN
AIRPORT DIRECTOR

On February 6, 2007 by Resolution No. 06-0228, the Commission authorized staff to accept proposals.

In response to the RFP, on March 23, 2007, Airport staff received five proposals for the Fixed Base Operator Lease and Operating Agreement. They are as follows:

- Piedmont Hawthorne Holdings, Inc., d/b/a Landmark Aviation
- Signature Flight Support Corporation
- Truman Arnold Companies, d/b/a TAC Air
- San Fran Jet Center, Inc.
- Million Air Interlink, Inc.

As specified in the Request for Proposals ("RFP"), staff reviewed the proposals to ensure that the proposers met the minimum requirements set forth in the RFP. After careful review of the minimum submittal requirements, staff determined that Million Air Interlink, Inc. and San Fran Jet Center, Inc. did not meet the minimum requirements.

Staff forwarded the three proposals that met the minimum requirements to the evaluation panel for review. The proposals were reviewed in accordance with the following evaluation criteria set forth in the RFP: (a) Ownership or Management Experience; (b) Financial Strength of Proposer; (c) Proposed Payment to Airport; (d) Design Intent; (e) Business Plan; and (f) Management and Staffing Plan. On April 20, 2007, the panel convened and conducted oral interviews. While all three qualified proposers submitted excellent proposals, after the proposal evaluation and oral interviews, the panel determined unanimously that Signature submitted the superior proposal. Signature scored the highest points in each of the evaluation criteria described above. The total scores from the panel are as follows:

Proposer	Points (Maximum Points 200)
Signature Flight Support Corporation	189.2
Truman Arnold Companies, d/b/a TAC Air	176.3
Piedmont Hawthorne Holdings, Inc., d/b/a Landmark Aviation	146.1

Proposal

Signature proposes to pay a minimum annual guarantee of \$11,000,000 (with an annual CPI adjustment) or the percentage rents shown in the table below, whichever is

greater. The following are the percentages that will be effective under the new Agreement as compared with percentages paid under the current agreement.

Category	Current Percentage	Signature Proposal
	Rent	
Landing Fees	100%	100%
Fuel Sales	16%	27%
Aircraft Parking	50%	55%
Advertising	25%	40%
Other Gross Revenues	25%	26%
Aircraft Sales	0	1%

Signature is the current FBO operator at SFO. For Calendar Year 2006, rent paid by Signature to the Airport was \$7,690,005. The proposed payment to the Airport outlined above represents an increase of 43% in guaranteed revenues to the Airport. Based on the proposed percentage rent submitted, there is an opportunity for revenues to exceed the 43% increase.

Pursuant to the Minimum Investments requirements set forth in the RFP, Signature will be required to invest no less than \$930,000 in refurbishing the Executive Air Terminal and no less than \$1,292,750 in improving the hangars and other facilities. Among the improvements Signature proposes to perform pursuant to this requirement are expansion of passenger lobby and of the galley and food preparation areas in the Executive Air Terminal. To enhance safety and security, Signature proposes to improve passenger processing and security screening, including installation of state of the art security camera systems covering both perimeter and interior areas.

Signature is also proposing to build a new hangar at its own cost, utilizing the Leadership in Energy and Environmental Design ("LEED") Green Building Rating System. The new hangar will incorporate sustainable "green" architecture design; environmentally-friendly building products, energy efficient, water, electrical, mechanical and waste management systems, and environmentally-sensitive construction practices to provide a high performance building and minimize the impact on the environment, and to meet the demand of the general aviation user. The existing hangar will also be improved to LEED standards for existing facilities.

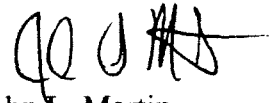
Furthering Signature's commitment to the environment, all existing ground service equipment will be replaced with new, more environmentally responsible model equipment within nine (9) months of the start of the new lease.

It is expected that all tenant improvement work except construction of the new hangar will be completed within 120 days of commencement of the new lease term, and that the new hangar facility will be completed within twelve (12) months of lease commencement.

The Airport's execution of the new lease is conditioned upon Signature's compliance with the Nondiscrimination in Employment Program and the Equal Benefits Ordinance, both of which are under review by the Human Rights Commission.

Recommendation

I recommend awarding the Fixed Base Operator Lease and Operating Agreement to Signature Flight Support Corporation contingent upon completion of the Human Rights Commission's review and favorable determination of its compliance with the Nondiscrimination in Employment Program and the Equal Benefits Ordinance, and further to direct the Commission Secretary to seek Board of Supervisor Approval.



John L. Martin
Airport Director

Prepared by: Leo Fermin
Deputy Airport Director
Business and Finance

Attachments

JLM/LF/DS/TR:amm
bc: Admin./Chron./File
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AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 07-0106

**AWARD OF THE FIXED BASE OPERATOR LEASE AND OPERATING
AGREEMENT TO SIGNATURE FLIGHT SUPPORT CORPORATION**

WHEREAS, pursuant to Resolution No. 06-0178, adopted September 19, 2006, the Airport Commission ("Commission") authorized staff to commence the competitive selection process for the Fixed Base Operator Lease and Operating Agreement ("Agreement") through a Request for Proposal ("RFP") process; and

WHEREAS, pursuant to Resolution No. 07-0030, adopted February 6, 2007, the Commission authorized staff to accept proposals; and

WHEREAS, on March 23, 2007, staff received five proposals, three of which were determined to meet the minimum requirements set forth in the RFP and forwarded to panel for evaluation; and

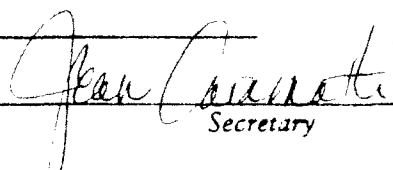
WHEREAS, a five-member panel reviewed the qualified proposals and determined unanimously that Signature Flight Support Corporation ("Signature") submitted the superior proposal, with a initial Minimum Annual Guarantee of \$11,000,000 for the first Lease Year or the sum of the following percentage rent (1) 100% of all Landing Fees, (2) 27% of all Fuel Sales, (3) 55% of all Aircraft Parking , (4) 40% of all Advertising , (5) 26% of Other Gross Revenues, and (6) 1% of fixed fees for Aircraft Sales whichever is greater; now, therefore, be it

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. **07-0106**

RESOLVED, that this Commission hereby awards the Fixed Base Operator Lease and Operating Agreement to Signature Flight Support Corporation, for a ten (10) year term, with an initial Minimum Annual Guarantee of \$11,000,000 or the sum of the following percentage rents: (1) 100% of all Landing Fees, (2) 27% of all Fuel Sales, (3) 55% of all Aircraft Parking, (4) 40% of all Advertising, (5) 26% of Other Gross Revenues, and (6) 1% of fixed fees for Aircraft Sales, whichever is greater, subject to Signature's compliance with the Nondiscrimination in Employment Program and Equal Benefits Ordinance; and, be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Lease by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of* **MAY 15 2007**



Secretary



San Francisco International Airport

MEMORANDUM

September 9, 2014

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

FROM: Airport Director

SUBJECT: Modification No. 1 to Fixed Base Operator Lease and Operating Agreement
No. L07-0106 with Signature Flight Support Corporation

DIRECTOR'S RECOMMENDATION: (1) APPROVE MODIFICATION NO. 1 TO FIXED BASE OPERATOR LEASE AND OPERATING AGREEMENT NO. L07-0106 WITH SIGNATURE FLIGHT SUPPORT CORPORATION, AND (2) DIRECT THE COMMISSION SECRETARY TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL OF THE MODIFICATION.

Executive Summary

Signature Flight Support Corporation ("Signature") was awarded the Fixed Base Operator Lease and Operating Agreement ("Agreement"), with a term of ten (10) years, from October 1, 2007 through September 30, 2017. A material condition of the Agreement required Signature to construct a new hangar facility. From 2009 through 2012, the Airport approved Signature's requests to defer the construction of the hangar facility for reasons described herein. In May 2013, the Airport denied Signature's request for another year of deferment and Signature started construction of the new hangar in November.

Staff seeks the Airport Commission's approval for a five-year Term extension, for a new expiration date of September 30, 2022, in order to retain the Agreement's above-market value and to allow Signature to amortize their investment in the new hangar, currently estimated to be \$10,000,000. All Agreement obligations will remain unchanged, including the Minimum Annual Guarantee ("MAG").

Background

On September 19, 2006, the Airport Commission ("Commission") adopted Resolution No. 06-0178 authorizing staff to commence a competitive selection process and issue a Request for Proposals ("RFP") for the Agreement. The premise is located on Plot 42 and is used to accommodate, store, and maintain general aviation aircraft. The RFP provided for a lease and operating agreement with a term of ten (10) years, percentage rent as proposed in each of several service categories, and an initial MAG of no less than \$3,500,000. Airport staff received five proposals for the Agreement, on March 23, 2007, in response to the RFP.

THIS PRINT COVERS CALENDAR ITEM NO. 3

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 May 15, 2007, the Commission adopted Resolution No. 07-0106 awarding the Agreement to Signature with the following material terms:

1. Base rent is the greater of:
 - MAG of \$11,000,000, as proposed by the Signature, with annual Consumer Price Index adjustments, or
 - The sum of percentage rent in various categories:
 - a) 100% of Aircraft Landing Fees
 - b) 27% of Fuel Sales
 - c) 55% of Aircraft Parking Fees
 - d) 40% of Advertising Gross Revenues
 - e) 26% of Other Gross Revenues
 - f) 1% of Aircraft Sales
2. Term of ten (10) years, from October 1, 2007 to September 30, 2017.
3. Required investment of no less than \$930,000 in refurbishing the Executive Air Terminal, and no less than \$1,292,750 in improving the existing hangars and other facilities.
4. Although not required, Signature proposed and agreed to construct a new hangar on Plot 42 at its sole cost, subject to Commission approval, which title to the new hangar shall vest in the City upon completion and acceptance.

On July 31, 2007, the Board of Supervisors adopted Resolution No. 436-07 approving award of the Agreement to Signature.

On November 18, 2008, the Commission adopted Resolution No. 08-0208 approving the construction of the new hangar. The Airport took the necessary actions, e.g. environmental approval, to authorize the construction of the new hangar facility. Subsequently, beginning in 2009, the aviation industry experienced an unprecedented decline in demand for hangar storage in business aviation travel and the economic environment of the general aviation business; thus, Signature requested and the Airport granted one (1) year deferrals, in 2009, 2010, 2011, and 2012, for the construction of the new hangar facility. In May 2013, the Airport denied Signature's request for another deferment.

While Signature acknowledged their commitment and Agreement obligation related to the construction of a new hangar, it indicated the following challenges:

1. The MAG payable to the Airport, which is currently at \$12,517,536, far exceeds the current scenario across the country;
2. Its investment, as required by their proposal and by the Agreement, was \$4,500,000 for existing facility improvements versus the RFP required investment of \$2,200,000;
3. Signature received LEED Certification Gold Rating from the U.S. Green Building Council following the completion of the facility improvements.
4. Its projected cost to construct the new hangar had increased from \$7,500,000 (2009) to approximately \$10,000,000 (2014);

The Agreement is in its seventh year. Following approval of a five-year extension and with the assumption of 2% yearly increases during the extension term based on Consumer Price Index adjustments, the MAG is projected to be at \$14,666,289 by Year 15 (2021).

Airport staff has conducted an extensive survey of MAG requirements across the country for fixed base operations ("FBO") similar to SFO's and determined that the current MAG paid by Signature is well above market value. The next highest MAG for a similar FBO is \$9,300,000 at Miami International Airport. All other FBOs surveyed paid an average of \$4,320,000 in MAG, as detailed on Attachment A.

Proposal

Staff and Signature have negotiated the terms of Modification No. 1 to the Agreement, as follows:

1. **Term Extension:** One five-year extension, for a new expiration date of September 30, 2022. This extension will assure that Signature's MAG, at above market value, will continue.
2. **Completion Date:** Construction of the new hangar, which will measure approximately 25,000 square feet (located as shown on Exhibit A), is currently in progress and will be completed no later than November 2014.
3. **Required Improvements:** Renovation of the Executive Air Terminal within one hundred eighty (180) days from October 1, 2017 or a later date, as may be approved by the Director. Renovation will include, but will not be limited to: (i) renovating the Executive Air Terminal Building and hangar; (ii) upgrading the camera monitoring system throughout the FBO; (iii) installing updated and more environmentally friendly landscaping; (iv) installing more efficient HVAC systems; (v) replacing the existing monument sign with a LED-lit sign; and (vi) updating paint, carpet and furniture to ensure the finest traveler experience consistent with standards established for Terminal 2 at the Airport and that exceeds the current condition at the Executive Air Terminal.

All other terms and conditions contained in the Agreement remain in full force and effect.

Recommendation

I recommend adoption of the attached Resolution (1) approving Modification No. 1 to Fixed Based Operator Lease and Operating Agreement No. L07-0106 with Signature Flight Support Corporation, which extends the Agreement Term for five (5) years, for a new expiration date of September 30, 2022, and requires the renovation the Executive Air Terminal, and (2) directing the Commission Secretary to request the Board of Supervisors' approval of the Modification.



John L. Martin
Airport Director

Prepared by: Leo Fermin
Chief Business and Finance Officer

ATTACHMENT A

Comparison of Minimum Annual Guarantee (MAG) at Other Airports

Airport	Minimum Annual Guarantee (MAG) Paid 2013
San Francisco	\$12.5M
Dulles	\$10.9M ¹
Miami	\$9.3M
San Diego	\$5.3M
Las Vegas	\$5.3M ²
Boston	\$2.8M
Tampa	\$2.7M
San Jose	\$2.6M ³
Newark	\$2.3M
Chicago	\$1.4M
Orlando	\$0.6M
Denver	0 ⁴
Portland	0 ⁵
Philadelphia	0 ⁶

Data Source: Signature Flight Support, FAA Form 127 and surveys of staffs at other Airports.

Note: Lease structures vary at each airport

¹ Two operators: (1) \$4.9M and (2) \$6.0M for a combined \$10.9M

² Two operators: (1) \$3.5M and (2) \$1.8M for a combined \$5.3M

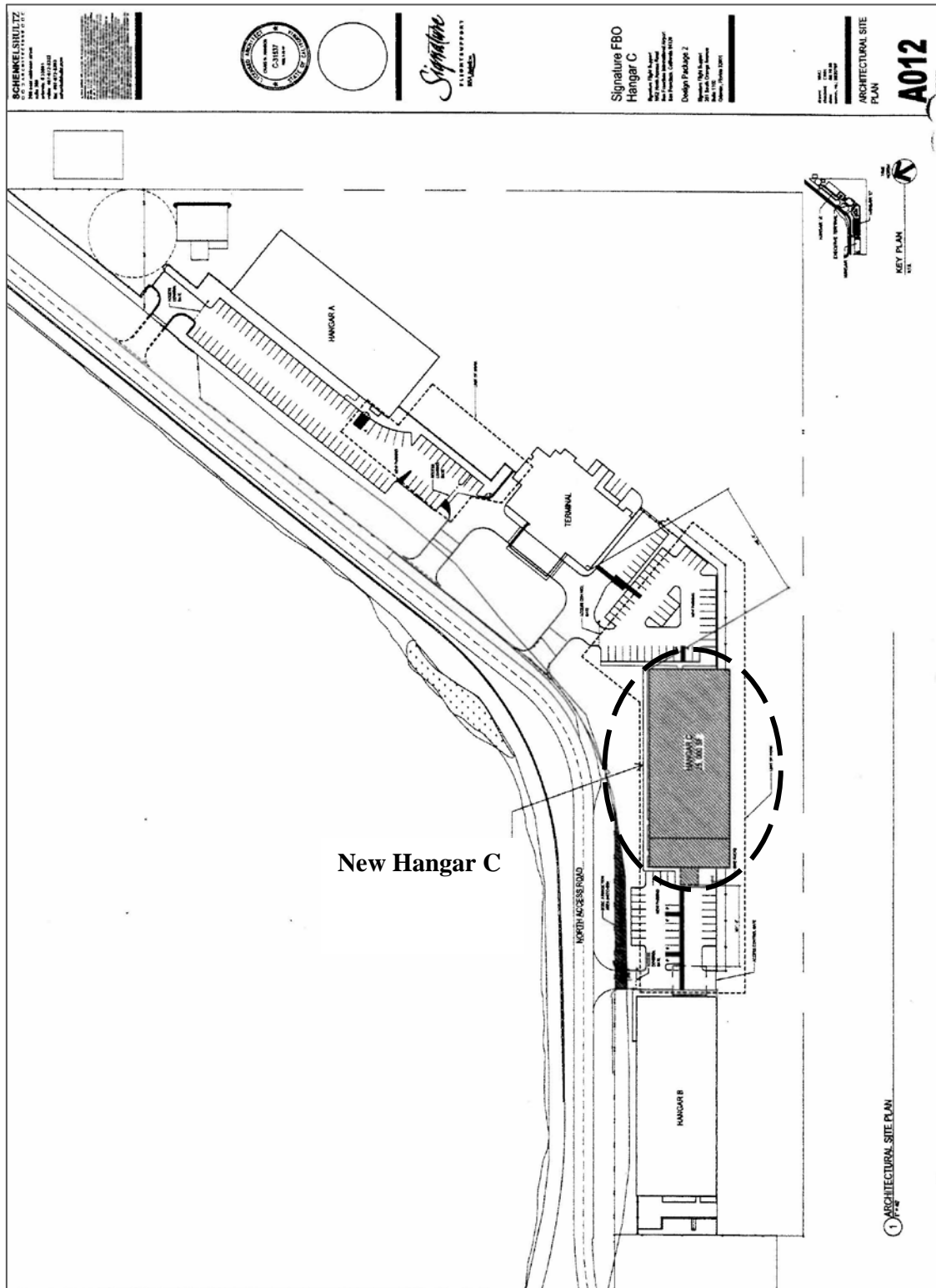
³ \$2.6M (lease yet to commence)

⁴ No MAG. \$600K revenue paid.

⁵ No MAG. \$2.1M revenue paid.

⁶ No MAG. \$2.5M revenue paid.

Location of New Hangar



AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 14-0176


APPROVAL OF MODIFICATION NO. 1 TO FIXED BASE OPERATOR LEASE AND OPERATING AGREEMENT NO. L07-0106, WITH SIGNATURE FLIGHT SUPPORT CORPORATION; AND DIRECTING THE COMMISSION SECRETARY TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL OF THE MODIFICATION

- WHEREAS, pursuant to Airport Commission Resolution No. 07-0106 and Board of Supervisors' Resolution No. 436-07, adopted on May 15, 2007 and July 31, 2007, respectively, Signature Flight Support Corporation ("Signature") was awarded the Fixed Based Operator Lease and Operating Agreement ("Agreement"); and
- WHEREAS, as part of the Agreement and subject to Commission approval, Signature proposed construction of a new hangar and associated office and maintenance space, to be located on Plot 42, at its sole cost, which title to the new hangar shall vest in the City upon completion and acceptance by the City; and
- WHEREAS, following various regulatory approvals for the new hangar, the Commission approved Signature's proposal to construct a new hangar and associated office and maintenance space by Resolution No. 08-0208, adopted November 18, 2008; and
- WHEREAS, given the unprecedented decline in demand for hangar storage in business aviation travel and the economic environment of the general aviation business, Signature requested and the Airport granted one (1) year deferments, in 2009, 2010, 2011, and 2012, for the construction of the new hangar; and
- WHEREAS, in May 2013, the Airport denied Signature's request for another deferment and Signature began construction of the new hangar in November; and
- WHEREAS, staff performed an extensive review of the business terms, including the Minimum Annual Guarantee ("MAG") paid at other FBO businesses around the country, and determined that the current MAG paid by Signature is above those paid at other airports surveyed; and
- WHEREAS, Signature desires to amortize its investment in the new hangar and Staff has determined that it is in the best interest of the Airport to retain the Agreement's above market value; therefore, be it
- RESOLVED, that the Airport Commission hereby approves and authorizes the Director to execute Modification No. 1 to Fixed Base Operator Lease and Operating Agreement No. L07-0106 with Signature Flight Support Corporation, extending the term for five (5) years, for a new expiration date of September 30, 2022, and requiring Signature to renovate the Executive Air Terminal within one hundred eighty (180) days from October 1, 2017 or a later date, as may be approved by the Director; and, be it further
- RESOLVED, that the Commission Secretary is hereby directed to request approval of this Modification No. 1 by resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

I hereby certify that the foregoing resolution was adopted by the Airport Commission

at its meeting of _____

SEP 09 2014



Secretary



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 220058

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Cathy Widener	415-554-5184
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
AIR San Francisco International Airport	cathy.widener@flysfso.com

5. CONTRACTOR	
NAME OF CONTRACTOR Signature Flight Support LLC	TELEPHONE NUMBER (407) 648-7200
STREET ADDRESS (including City, State and Zip Code) 13485 Veterans Way, Suite 600, Orlando, FL 32827	EMAIL sfo@signatureflight.com

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S) 	ORIGINAL BID/RFP NUMBER 	FILE NUMBER (If applicable) 220058
DESCRIPTION OF AMOUNT OF CONTRACT Per Formula		
NATURE OF THE CONTRACT (Please describe) Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No. 07-0106 with Signature Flight Support LLC, for an Additional Three-Year Term Extension		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Lefebvre	Lefebvre	CEO
2	Fallon	Shawn C.	CFO
3	Vahidi	Virasb	Other Principal Officer
4	Hooper	Ben	Other Principal Officer
5	Garton	Maria	Other Principal Officer
6	Gates III	William H.	Shareholder
7	Lefebvre	Tony	Board of Directors
8	Garton	Maria L.	Board of Directors
9	Fallon	Shawn C.	Board of Directors
10	Noe	William E.	Board of Directors
11	de Jongh	Frederik Christoffel	Board of Directors
12	Click	Christa	Board of Directors
13	Rinka	Patrick K.	Board of Directors
14	Davis	Lindsey M.	Board of Directors
15	Klein	Matthew	Board of Directors
16			
17			
18			
19			

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK

DATE SIGNED

BOS Clerk of the Board



San Francisco International Airport

January 11, 2022

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

Subject: Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No. 07-0106 between Signature Flight Support LLC 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 the proposed Resolution, which approves Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No. 07-0106 between Signature Flight Support LLC and the City and County of San Francisco, acting by and through its Airport Commission.

This Modification No. 2 extends the Operating Agreement Term by three years, for a new expiration date of September 30, 2025, and requires Signature Flight Support LLC to make certain infrastructure improvements and comply with additional sustainability requirements.

The following is a list of accompanying documents:

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 21-0235;
- Memorandum accompanying Airport Commission Resolution No. 21-0235;
- Copy of SFEC-126(f) Submittal;
- A copy of Fixed Base Operator Lease and Operating Agreement No. 07-0106;
- A copy of Modification No. 1 to Fixed Base Operator Lease and Operating Agreement No. 07-0106; and
- A copy of Modification No. 2 to Fixed Base Operator Lease and Operating Agreement No. 07-0106.

The following person may be contacted regarding this matter:

Diana Chow
Senior Property Manager
(650) 821-4525
Diana.chow@flysfo.com

Very truly yours,

Kantrice Ogletree /s/

Kantrice Ogletree
Commission Secretary

Enclosures

cc: Diana Chow, SFO Aviation Management
Cathy Widener, SFO Governmental Affairs
Dyanna Volek, SFO Governmental Affairs

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
PRESIDENT

ELEANOR JOHNS
VICE PRESIDENT

EVERETT A. HEWLETT, JR.

JANE NATOLI

MALCOLM YEUNG

IVAR C. SATERO
AIRPORT DIRECTOR