

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

35335

LEASE

BETWEEN

CITY OF LONG BEACH

and

LGB CA Holdings, LLC, dba Ross Aviation – Long Beach, a Delaware limited liability  
company

regarding

3205 - 3271 Airflite Way, Long Beach, California 90807

at

LONG BEACH AIRPORT

35335

LEASE

3205 Airflite Way, Long Beach, California 90807

THIS LEASE ("Lease") is made and entered into as of July 25, 2019 by and between the CITY OF LONG BEACH, a municipal corporation, acting pursuant to a minute order adopted by the City Council of the City of Long Beach on June 12, 2018 ("City"), and LGB CA Holdings, LLC, dba Ross Aviation – Long Beach, a Delaware limited liability company ("Lessee") (sometimes herein referred to individually as a "party", or together as "parties").

RECITALS

WHEREAS, on August 21, 2017, City issued a Request for Proposals for the leasing and development of City-owned property for aeronautical use ("RFP"); and

WHEREAS, after review of all the proposals, City has selected Lessee based on the criteria set forth in the RFP; and

WHEREAS, City and Lessee desire to enter into this Lease for premises located at the Long Beach Airport ("Airport");

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

**ARTICLE 1. SPECIFIC TERMS AND PROVISIONS**

1. **Demised Premises.** The subject property, commonly known as 3205-3271 AirFlite Way, Long Beach, California 90807 is located at the Airport and comprised of "Parcel A", "Parcel B" and "Parcel C" (collectively, the "Land"), which Land is depicted and outlined on Exhibit A and incorporated by reference herein, and any and all improvements located thereon (together with the Land, the "Demised Premises").

1.1 **Parcel A.** Parcel A consists of approximately 10.50 acres of land, containing approximately 147,668 square feet of improvements ("Parcel A Building(s)") on the site as follows:

(1) Building #1 (North Hangar) 29,076 square feet

- 1 (2) Building #1 (North Office) 15,220 square feet
- 2 (3) Building # 2 (South Hangar) 28,896 square feet
- 3 (4) Building # 2 (South Office) 9,475 square feet
- 4 (5) Building #3 (East Hangar) 32,400 square feet
- 5 (6) Building #4 (West Hangar) 31,500 square feet
- 6 (7) Building #7 (Storage) 551 square feet
- 7 (8) Building #8 (Storage) 550 square feet

8 1.2 Parcel B. Parcel B consists of approximately 1.66 acres of land,  
9 containing approximately 34,236 square feet of improvements ("Parcel B Building(s)"), and  
10 together with the Parcel A Buildings, the "City Buildings") on the site as follows:

- 11 (1) Building #1 (FBO Terminal/Office Building) – 34,236 square feet

12 1.3 Parcel C. Parcel C consists of approximately 3.17 acres of land.

13 1.4 Reconciliation of Square Footage. The square footage and acreage  
14 specified in Article 1, Sections 1.1 and 1.2 is subject to verification by Lessee's  
15 measurement of actual square footage and acreage within ninety (90) days from the  
16 Commencement Date, subject to the Airport Director's reasonable approval of such actual  
17 square footage and acreage. Lessee shall pay for the costs of measuring the actual square  
18 footage and acreage of the Demised Premises. The Airport Director shall replace Exhibits  
19 A and B, if necessary, based upon the corrected square footage and acreage. If the Airport  
20 Director does not approve the proposed correction within sixty (60) days from submission  
21 thereof, the proposed correction shall be deemed rejected and the square footage in Article  
22 1, Sections 1.1, 1.2 and 1.3 shall remain the Demised Premises square footage unless  
23 further amended in accordance with the terms of this Lease. Within ninety (90) days after  
24 the completion of the Planned Improvements on Parcel C, Lessee shall provide a formal  
25 survey and legal description of Parcel C and a measurement of the actual square footage  
26 of the improvements thereon for the Airport Director's approval, which shall not be  
27 unreasonably withheld. The parties shall thereafter promptly execute an amendment to  
28 this Lease evidencing an approved survey, legal description and square footage and

1 acreage measurements for Parcels A, B and C.

2                   1.5    Acceptance and Surrender. It is understood and agreed that Lessee  
3 accepts the Demised Premises in an "AS-IS, WHERE-IS, WITH ALL FAULTS" condition.  
4 Lessee agrees to surrender the Demised Premises upon the expiration or earlier  
5 termination of this Lease in a condition substantially similar to the condition of the Demised  
6 Premises on the Commencement Date, except as modified in accordance with Article 1,  
7 Section 4, Article 2, Section 18, or any other modifications made pursuant to this Lease,  
8 ordinary wear and tear excepted.

9                   2.       Term of Lease.

10                   2.1    Term.    This Lease shall commence on August 1, 2019  
11 ("Commencement Date") and shall expire on July 31, 2050 ("Lease Term"), subject to the  
12 Lease Term Reduction Options specified below, unless earlier terminated pursuant to the  
13 terms provided in this Lease. As of the Commencement Date, the following agreements  
14 shall be amended and restated in their entirety by this Lease: (1) Fixed Based Operation  
15 Lease (No. 19331) dated January 21, 1987, as amended (Parcels A and B); and (2)  
16 Commercial Use Permit dated November 8, 2016 (Parcel C) (collectively, the "Existing  
17 Leases").

18                   2.2    Lease Term Reduction Options.

19                   2.2.1 If Lessee fails to submit to the Airport Director the Definitive  
20 Improvement Plan on or before the date that is eighteen (18) months after the  
21 Commencement Date (subject to extension by the Airport Director in his or her sole  
22 discretion), then this Lease shall terminate on January 20, 2027 and Parcel C described in  
23 Article 1, Section 1.3 shall immediately be deleted from this Lease and shall no longer be  
24 included in the Demised Premises. The Airport Director shall provide Lessee written  
25 notification of any reduction in the Lease Term and removal of Parcel C from the Demised  
26 Premises. "Definitive Improvement Plan" shall mean a plan for development of Parcel C of  
27 the Demised Premises that includes all of the following elements: complete schematic  
28 plans; cost estimates for proposed improvement(s); schedule and milestones for



1 completion of improvements; and any other document reasonably requested by the Airport  
2 Director.

3 2.2.2 If Lessee fails to obtain all approvals, including any applicable  
4 compliance requirements of the California Environmental Quality Act (CEQA) and the  
5 National Environmental Policy Act (NEPA), within thirty-six (36) months after the date that  
6 the Airport Director approves the Definitive Improvement Plan (subject to extension by the  
7 Airport Director in his or her sole discretion), then this Lease shall terminate on January  
8 20, 2027 and Parcel C described in Article 1, Section 1.3 shall immediately be deleted from  
9 this Lease and shall no longer be included in the Demised Premises. The Airport Director  
10 shall provide Lessee written notification of any reduction in the Lease Term and removal  
11 of Parcel C from the Demised Premises.

12 2.2.3 If Lessee fails, by the date that is eighteen (18) months after  
13 CEQA or NEPA approvals, as applicable (subject to extension by the Airport Director in his  
14 or her sole discretion) (the "Construction Commencement Date"), to commence  
15 construction of the Planned Improvements (as defined in Article 1, Section 4), including the  
16 expenditure of a minimum of Four Hundred Thousand and No/100 Dollars (\$400,000) of  
17 the Planned Investment (as defined in Article 1, Section 4.1), then this Lease shall  
18 terminate on January 20, 2027 and Parcel C described in Article 1, Section 1.3 shall  
19 immediately be deleted from this Lease and no longer be included in the Demised  
20 Premises. The Airport Director shall provide Lessee written notification of any reduction in  
21 the Lease Term and removal of Parcel C from the Demised Premises.

22 2.2.4 The Lease Term shall be reduced by one (1) year for each four  
23 percent (4%) of Planned Investment (as defined below) that has not been expended by  
24 Lessee on the date that is the earlier to occur of (a) Lessee notifying City that it has  
25 completed construction of the Planned Improvements or (b) the date that is five (5) years  
26 from the Construction Commencement Date ("Construction Completion Deadline"), unless  
27 such date is otherwise extended by the Airport Director in his or her sole discretion. The  
28 Airport Director shall provide Lessee written notification of any reduction in the Lease Term;

1 provided, however, that the Lease Term shall not be reduced if Lessee pays to City on or  
2 before the Construction Completion Deadline an amount equal to the difference between  
3 the Planned Investment and the amount of Qualified Investment made on or before the  
4 Construction Completion Deadline.

5           2.3 No Pre-Approval. This Lease does not provide authorization for the  
6 potential approval or construction of any of the Planned Improvements as part of the  
7 Planned Investment, prior to compliance with CEQA, NEPA and all other applicable laws.  
8 City expressly reserves the right to consider all mitigation measures for any proposed  
9 development, all alternatives, including the "no project" alternative, for any proposed  
10 development, and the ability to adopt a Statement of Overriding Considerations pursuant  
11 to CEQA and NEPA.

12           2.4 No Extension Rights. Notwithstanding anything herein to the contrary,  
13 Lessee acknowledges that it has no right to an extension of this Lease or a right to a new  
14 lease at the expiration of this Lease.

15           2.5 Holdover Rent. If Lessee remains in possession of all or any part of  
16 the Demised Premises after the expiration of the Lease Term, with or without the express  
17 or implied consent of City, such tenancy shall be from month-to-month only, and not a  
18 renewal hereof or an extension for any further term, and in such case, rent and other  
19 monetary sums due hereunder shall be payable in the amount of one hundred fifty percent  
20 (150%) of the rent paid for the last month of the Lease Term plus any other charges payable  
21 hereunder at the time specified in this Lease and such month-to-month tenancy shall be  
22 subject to every other provision, covenant and agreement contained herein, including any  
23 applicable rental adjustments as set forth in this Lease. Acceptance by City of rent after  
24 such expiration or earlier termination shall not constitute a holdover hereunder or result in  
25 a renewal. The foregoing provisions of this Subsection are in addition to and do not affect  
26 the right of re-entry or any right of City hereunder or as otherwise provided by law, and in  
27 no way shall such provisions affect any right which City may otherwise have to recover  
28 damages from Lessee for loss or liability incurred by City resulting from such failure by

1 Lessee to surrender the Demised Premises. Nothing contained in this Subsection shall be  
2 construed as consent by City to any holding over by Lessee, and City expressly reserves  
3 the right to require Lessee to surrender possession of the Demised Premises to City as  
4 provided in this Lease upon the expiration or other termination of this Lease.

5       3.     **Use of Demised Premises and Other Property.**

6             3.1    Authorized Uses. Lessee shall have the right to use the Demised  
7 Premises for any use permitted to be conducted at the Airport by a fixed based operator  
8 and associated uses in conformance with the Long Beach Airport Minimum Standards for  
9 Aeronautical Activities as described in Section 3.3 (the "Permitted Use"), in order to provide  
10 for the following:

- 11               (1)    the sale of new and used aircraft parts and aircraft fuels and lubricants;
- 12               (2)    aircraft repair, maintenance, overhaul and servicing;
- 13               (3)    tie-down and hangar rental;
- 14               (4)    car rental for transient pilots and passengers;
- 15               (5)    flight instruction;
- 16               (6)    air chartering and leasing operations;
- 17               (7)    the retail sale to Lessee's customers of items directly related to fixed  
18 based operations;
- 19               (8)    catering to Lessee's customers;
- 20               (9)    employee parking and other activities related to Lessee's business as  
21 a fixed based operator;
- 22               (10)   office and administrative services;
- 23               (11)   aircraft storage; and
- 24               (12)   aircraft parts storage.

25             3.2    Unauthorized Uses. Lessee expressly acknowledges that the  
26 Demised Premises shall not be used for any use other than the Permitted Use, without the  
27 prior written consent of the Airport Director. Without limitation to the foregoing, Lessee shall  
28 not use the Demised Premises for any non-aeronautical purpose, nor for any purpose that

1 constitutes waste or nuisance, or that would unreasonably disturb the permitted use by  
2 other occupants or invitees of the Airport.

3           3.3    Minimum Standards. Use of the Demised Premises will be subject to  
4 and Lessee agrees to comply fully with all Airport Minimum Standards, attached as Exhibit  
5 C and incorporated herein, as amended, restated or replaced from time to time.

6           3.4    Access to Demised Premises. Throughout the Lease Term, Lessee,  
7 its agents, servants, employees, contractors, licensees and business invitees, shall have  
8 ground ingress and egress to and from the Demised Premises. Such access to the  
9 Demised Premises shall be subject to reasonable airfield access control and permitting  
10 requirements as may be established by City and temporary blockage or redirection due to  
11 Airport security, Airport construction, or Airport operational necessity.

12           4.    Planned Investment.

13           4.1    Planned Investment. For and in consideration of the execution of this  
14 Lease by City, Lessee, at its sole cost and expense, and at no cost to City, shall make a  
15 minimum investment of Four Million and No/100 Dollars (\$4,000,000) in Permissible Costs  
16 (as defined in Article 1, Section 9.1.1) for the development of the Demised Premises  
17 ("Planned Investment"). Lessee, at its sole cost and expense, shall undertake and  
18 complete all necessary aviation development designs, studies and investigations and  
19 secure all governmental approvals, including compliance with CEQA or NEPA, required for  
20 the construction of the Planned Improvements. Improvements constructed pursuant to the  
21 Planned Investment shall be referred to as "Planned Improvements". The cost of  
22 maintenance will not be credited toward the Planned Investment. Lessee will be  
23 responsible for presenting a plan to City that improves Parcel C, resulting in the  
24 construction and installation of the Planned Improvements in accordance with the Definitive  
25 Improvement Plan.

26           4.2    Records and Audit. City may, at its sole discretion, and with  
27 reasonable notice to Lessee, require Lessee to provide access to all records and other  
28 information necessary to perform an audit of fees and charges paid toward Lessee's

1 Planned Investment.

2           4.3 Planned Improvement Costs. Lessee expressly agrees to pay all  
3 costs and expenses, direct and indirect, associated with the Planned Improvements,  
4 including but not limited to all costs associated with inspection, architectural, design and  
5 engineering and other professional or consultant services, permitting and inspection fees,  
6 project financing, utility relocation and upgrading, environmental impact reports,  
7 landscaping, and other costs related to the Planned Improvements.

8           4.4 Maintenance Obligations. Lessee agrees that it shall keep and  
9 maintain the Demised Premises and all improvements thereon in good operating condition  
10 and repair, ordinary wear and tear excepted. Lessee agrees that its obligations under this  
11 Article 1, Section 4.4 include, among other things, the obligation to make such capital  
12 improvements and repairs as are necessary to keep and maintain the improvements on  
13 the Demised Premises in good operating condition and repair, normal wear and tear  
14 excepted. Lessee and City agree to confer annually in an effort to reach mutual agreement  
15 on the investment amount, if any, necessary to meet Lessee's obligations under this Article  
16 1, Section 4.4.

17           4.5 Airflite Way. Lessee will assume maintenance responsibility for that  
18 private street known as Airflite Way and shall keep it in a safe condition and eliminate  
19 debris all in a manner satisfactory to the Airport Director. Lessee may improve the street  
20 by making structural, landscaping, lighting or signage improvements as such may be  
21 approved in writing by the Airport Director prior to commencement of construction, and may  
22 use it as an entry to the Demised Premises. Lessee shall not have exclusive use of Airflite  
23 Way and shall maintain available access for police, fire emergency vehicles, for other  
24 tenants, for City or Airport operations in the vicinity and to all utilities having facilities,  
25 services or lines in or near Airflite Way and for all uses of any site taking access from Airflite  
26 Way. Lessee will, therefore, not be required to pay rent for Airflite Way.

27           5. Payments to City.

28           5.1 Rent. Lessee shall make monthly ground rental payments to City in

1 accordance with the schedule set forth in Exhibit B attached hereto and incorporated  
2 herein, as adjusted pursuant to the terms of this Lease (the "Ground Rent"). Beginning on  
3 January 20, 2027 (the "Building Rent Commencement Date"), in addition to the Ground  
4 Rent, Lessee shall make monthly building rent payments with respect to the City Buildings  
5 (the "Building Rent", and together with the Ground Rent, the "Monthly Rent"). The City and  
6 Lessee will negotiate in good faith to determine the initial Building Rent at least one (1)  
7 year prior to the Building Rent Commencement Date. Should the parties fail to agree upon  
8 a Building Rent at least nine (9) months prior to the Building Rent Commencement Date,  
9 then the Building Rent shall be established by the appraisals according to the procedure  
10 described in Article 1, Section 5.2.2.

11           5.2   Rental Adjustments. It is agreed that Monthly Rent shall be adjusted  
12 each year in accordance with the procedures provided hereinafter.

13           5.2.1 Annual Adjustments. Except when adjusted as provided in  
14 Article 1, Section 5.2.2, the Monthly Rent covered under this Lease shall be subject to  
15 automatic, annual rental adjustments effective on each anniversary of the Commencement  
16 Date (the "Annual Adjustment Date"). The Monthly Rent shall be adjusted on the Annual  
17 Adjustment Date according to the percentage increase over the prior year, if any, in the  
18 Consumer Price Index, All Urban Consumers for the Los Angeles-Riverside-Orange  
19 County, California area, 1982-84=100 (CPI-U), as published by the U.S. Department of  
20 Labor, Bureau of Labor Statistics ("B.L.S."), or its successor, as follows:

21           Monthly Rent shall be multiplied by the CPI-U for the month which is  
22 three months preceding the Annual Adjustment Date (hereinafter referred to as the  
23 "Adjustment Index"), divided by the said CPI-U as it stood on the same month as the  
24 Adjustment Index of the prior year (hereinafter referred to as the "Base Index") and the  
25 result shall be the "Adjusted Monthly Rent" to be applied effective as of the Annual  
26 Adjustment Date, provided that the annual adjustment shall not be less than two percent  
27 (2%) per year nor more than seven percent (7%) per year, in accordance with the  
28 calculation below.

1 In the event that the Adjusted Monthly Rent indicates a rate increase  
2 in excess of seven percent (7%), the rental rate increase shall be carried over and  
3 implemented in the succeeding year(s), as necessary, at a rate not to exceed seven  
4 percent (7%) per year.

5 The formula for calculation of Adjusted Monthly Rent shall be as  
6 follows:

7 
$$\text{Adjusted Monthly Rent} = \text{Monthly Rent} \times (\text{Adjustment Index} / \text{Base Index})$$

8 If the B.L.S. should discontinue the preparation or publication of the  
9 CPI-U, and if no transposition table is available, then City shall adopt a comparable  
10 publicly-available local consumer price index for adjusting and revising the Monthly Rent  
11 on each Annual Adjustment Date.

12 5.2.2 Periodic Adjustment to Fair Market Rental. The Monthly Rent  
13 attributable to Parcel A and Parcel B (as shown on Exhibit B) shall be adjusted to a fair  
14 market rental rate effective one (1) year after the Commencement Date. The Monthly Rent  
15 attributable to the entirety of the Demised Premises shall be adjusted to a fair market rental  
16 rate effective six (6) years after the Commencement Date, and every five (5) years  
17 thereafter. Each of the adjustment dates described in this Article 1, Section 5.2.2 shall be  
18 a "Periodic Adjustment Date".

19 (a) Parties May Negotiate in Good Faith. At least one (1)  
20 year prior to the scheduled Periodic Adjustment Date and in accordance with Article 1,  
21 Section 5.2.3, the parties may (but are not required to), in good faith, negotiate the rental  
22 rate(s) applicable to the subject adjustment period(s) as referenced above. Such good faith  
23 negotiations, initiated by either party, may include the involvement of a third party reviewer  
24 to review and make nonbinding recommendations regarding each party's rate adjustment  
25 proposal, discussions regarding external and internal factors that may be unique to the  
26 land and/or improvements so that the reviewer(s) can take them into consideration when  
27 making the recommendations in substantially the same manner as corroborated by the  
28 parties and applicable to the Demised Premises. The parties shall have continuing

1 opportunities to negotiate in good faith in an attempt to reach agreement on rental  
2 adjustment(s) notwithstanding each party's obligation to perform its duties as described  
3 under Article 1, Section 5.2.2(b). If the parties are able to reach an agreement on the  
4 adjustment to the rental rate(s), then said rate(s) shall be the rental rate(s) as of the  
5 applicable Periodic Adjustment Date. However, if the parties are unable to reach final  
6 agreement during said negotiation period, the parties may continue to negotiate in good  
7 faith to attempt to reach agreement until arbitration commences pursuant to Article 1,  
8 Section 5.2.2(f).

9 (b) Appraisal Process. If the parties cannot reach  
10 agreement on the rental rate(s) as described in Article 1, Section 5.2.2(a) at least nine (9)  
11 months prior to the scheduled Periodic Adjustment Date, then the parties shall determine  
12 the Monthly Rent by the procedures described in Article 1, Sections 5.2.2(c) through  
13 5.2.2(f); provided, however, that in no event shall the Monthly Rent ever be reduced. City  
14 may elect to have such procedures apply separately to the rent applicable to improvements  
15 and may adjust the land rental rates on the basis of airport-wide land rental rates then in  
16 effect, provided that such rates were adopted in compliance with applicable laws. Should  
17 City choose to adopt this adjustment option, City will provide written notice to Lessee no  
18 later than ten (10) months prior to the Periodic Adjustment Date of the intention to adjust  
19 land and improvements separately. Separate appraisals will be procured for the land and  
20 the improvements (if any). Under this option, both the land and improvement adjustments  
21 will be completed separately under Article 1, Sections 5.2.2(b) through 5.2.2(f). City or  
22 Lessee may elect to use the same appraiser for both appraisal reports. Every effort will be  
23 made by City and Lessee to consolidate any required meetings as required in the appraisal  
24 process described below.

25 (c) Step 1: Independent Appraisals. City and Lessee shall  
26 each select an appraiser, who is a member of the Appraisal Institute or its successor  
27 organization and meets the Minimum Qualifications as defined within this Lease (a  
28 "Qualified Appraiser"). Either Lessee or City shall, when notified in writing by the other to



1 do so, deliver to the other party the name and address of such appraiser (each selected  
2 Qualified Appraiser, a "Main Appraiser") no later than nine (9) months prior to the  
3 scheduled Periodic Adjustment Date. The Airport Director shall immediately fix the time  
4 and place for a conference between the two parties and the Main Appraisers no later than  
5 fifteen (15) days from the date of the exchange of names and addresses of the Main  
6 Appraisers. At such meeting, both Lessee and City may have discussions with the Main  
7 Appraisers as to any externalities that may affect the derivation of rental value conclusions.  
8 The Appraisal Instructions to be given to the Main Appraisers are as defined within this  
9 Lease. City and Lessee shall each pay the fees and expenses of their respective Main  
10 Appraisers. The narrative appraisals must be completed according to the Uniform  
11 Standards of Professional Appraisal Practice (USPAP) for the year in which the appraisal  
12 is completed. No later than one hundred (100) calendar days after the date of the appraiser  
13 meeting, a copy of the completed, final USPAP-compliant appraisal report procured by  
14 both City and Lessee will be made available for review by the other party on the same day.  
15 If either City or Lessee fails to deliver its appraisal report by the appraisal report delivery  
16 deadline, the late party will inform the other party in writing of the reason for the delay and  
17 the expected date on which appraisal reports will be exchanged. If either party's appraisal  
18 report cannot be delivered within four (4) months of the appraiser meeting, the complying  
19 party shall have its appraisal report determine the rental rate(s) as of the applicable  
20 Periodic Adjustment Date. Upon exchange of the two appraisal reports, in the event that  
21 the determination of the rental value in the two appraisal reports differs by fifteen percent  
22 (15%) or less, the rate that is the average of the determinations in the two appraisal reports  
23 shall be the rental rate(s) as of the applicable Periodic Adjustment Date. If the rate  
24 determinations in the two appraisal reports differ by more than fifteen percent (15%), the  
25 parties shall proceed to Article 1, Sections 5.2.2(d) – (f).

26 (d) Step 2: Arbitration Appraiser Selection. The Main  
27 Appraisers selected by each party shall be instructed to agree upon and select an  
28 Arbitration Appraiser (as defined below) no later than six (6) weeks after the appraisal

1 exchange described above. The Arbitration Appraiser shall be a Qualified Appraiser that is  
2 not under contract with the City for appraisal services. If the Arbitration Appraiser selected  
3 is not available to perform the task pursuant to the instructions set forth in Article 1, Section  
4 5.2.2(f) or is unwilling to execute a City contract for the performance of appraisal services,  
5 then City and Lessee shall inform the Main Appraisers and require them to repeat the  
6 selection process again until an available Arbitration Appraiser is selected. If the Main  
7 Appraisers cannot come to agreement on the selection of an Arbitration Appraiser within  
8 (6) six weeks from the date of the appraiser meeting, the Airport Director shall select an  
9 Arbitration Appraiser.

10 (e) Appraisal Review Period. The parties shall have one (1)  
11 month to review each other's appraisal reports from the date of the appraisal exchange as  
12 described in Article 1, 5.2.2(c). The parties may continue to negotiate the adjusted rental  
13 rates during this period. Within fifteen (15) calendar days of the appraisal report exchange  
14 in Article 1, Section 5.2.2(c) above, the Airport Director shall fix a time and place for a  
15 negotiation meeting between the parties to be held no later than six (6) weeks from the  
16 date of the appraisal report exchange. At such meeting, the parties shall attempt to reach  
17 a final agreement on the adjusted rental rates. Either party may include its Main Appraiser  
18 in the meeting, if desired. If Lessee and City reach agreement on the rental rate  
19 adjustments, then such agreed upon rates shall be the rental rate(s) as of the applicable  
20 Periodic Rental Adjustment Date. If Lessee and City are unable to reach agreement on  
21 the adjusted rental rate(s) by the date that is fourteen calendar (14) days from the date of  
22 the negotiation meeting, then the parties shall proceed to Step 3.

23 (f) Step 3: Appraiser Arbitration. City and Lessee shall each  
24 pay one-half of the fees and expenses of the Arbitration Appraiser. The Arbitration  
25 Appraiser selected by the two Main Appraisers or the Airport Director, as the case may be,  
26 in Step 2 shall receive copies of both Lessee and City's final appraisal reports that were  
27 procured in Step 1 and a list of the rental rate adjustments that have not been agreed to  
28 by the parties. The Arbitration Appraiser shall be allowed three (3) weeks to review both

1 appraisal reports. After review of the two appraisal reports, the Arbitration Appraiser will  
2 determine which of the rental rate(s) from the two appraisal reports are the most  
3 reasonable, considering comparable data selection, market information and applicable  
4 valuation methodology. The Arbitration Appraiser will communicate its decision in writing  
5 to both Lessee and City three (3) weeks after engagement.

6 5.2.3 Appraisal Criteria. The following appraisal criteria shall apply to  
7 Article 1, Sections 5.2.2(c) through 5.2.2(f).

8 (a) Appraiser Minimum Qualifications. The Main Appraiser  
9 must possess, at a minimum, an MAI or SRPA designation and must be licensed in the  
10 State of California. The Main Appraiser must perform all of the calculations and technical  
11 portions of the appraisal report as well as derive the final value conclusions within the  
12 appraisal report. The Main Appraiser must have geographic market knowledge of the Los  
13 Angeles County area. Knowledge of the entire Southern California real estate market is  
14 preferred. The Main Appraiser must have a minimum seven (7) years of experience of  
15 appraising property in Southern California. If the Main Appraiser is valuing property within  
16 the perimeter fence of an airport ("on-airport"), he or she must have performed a minimum  
17 of five (5) appraisals of on-airport property within the past five (5) years.

18 (b) Appraiser Good Standing. Main Appraisers must be in  
19 good standing with the California Bureau of Real Estate Appraisers (CBREA) or its  
20 successor organization and have no more than one complaint filed against him or her for  
21 any reason and no complaints that have resulted in any disciplinary actions. The Main  
22 Appraisers must certify in the appraisal report that he or she has never received any  
23 disciplinary actions from the CBREA. The Main Appraisers must be able to provide  
24 documentation of the sources of comparable rental rate and sales data to the reasonable  
25 satisfaction of City and Lessee.

26 (c) Appraisal Instructions. The Main Appraiser shall  
27 consider the following in completing the appraisal report:

28 (i) Long Beach administrative requirements that are

1 in force upon Lessee within its Lease at the date of value.

2 (ii) FAA regulations that may affect value such as the  
3 Building Restriction Line, Object Free Area, Runway Protection Zone,  
4 building height limitations as related to the "Transitional Zone" and any  
5 other regulations that may affect value.

6 (iii) City zoning that applies to the property. If the City-  
7 approved use does not conform to the current zoning at the date of  
8 value, and the current use is also determined to be the highest and  
9 best use, then the Main Appraiser will value the property as if it had  
10 the zoning that would allow its current use (variance granted).

11 (iv) Any public or private easements, such as utilities  
12 or rights-of-way, including avigation rights.

13 (v) The appraisal of land and buildings shall be  
14 determined as if vacant under its highest and best use at the date of  
15 value, taking into consideration the government imposed restrictions  
16 listed above (both by law and restrictions as imposed under this  
17 Lease).

18 (vi) The leasehold estate or "lessee's interest" (as  
19 defined within the most recent edition of "The Appraisal of Real Estate"  
20 as published by the Appraisal Institute) shall not to be considered.

21 (vii) City and Lessee shall have the right to modify any  
22 conditions of the appraisal process upon mutual written agreement of  
23 the parties.

24 5.2.4 With respect to additions, improvements, or alterations to  
25 leasehold structures authorized by City and made by Lessee during the Lease Term,  
26 Lessee shall not be charged rent for the rental value thereof unless and until title to said  
27 additions, improvements, or alterations revert to City pursuant to the terms of this Lease or  
28 by operation of law.

1                   5.2.5 Nothing herein shall prejudice the right of Lessee to contest, in  
2 a court of competent jurisdiction, such adjusted rental rate(s) in the event the City may  
3 have acted arbitrarily or unreasonably. However, pending the outcome of any such  
4 litigation, Lessee shall be obligated first to either pay the new rental rate(s) and all  
5 retroactive amounts directly to City as they come due, or deposit such increased amounts  
6 of such rental rate(s) and the retroactive amounts into a joint escrow account. Provision  
7 shall be made for the payment to City of the escrowed funds, including accrued interest,  
8 (to the extent such funds are owed by Lessee to City) upon a final determination of the  
9 appropriate rental adjustment, if any.

10                   5.2.6 It is agreed that failure by the parties to timely comply with the  
11 rental readjustment procedures herein shall not be construed to constitute a waiver of the  
12 right of City to a rental readjustment. In the event adjustment of rental rate(s) is not  
13 completed prior to the adjustment date, Lessee shall continue to pay the rent set for the  
14 preceding period, at the intervals and in the manner fixed for such preceding period, and if  
15 such rent is thereafter fixed in a different amount, such new rental rate(s) shall take effect  
16 retroactively back to the beginning date of the readjustment period. Subject to Lessee's  
17 right of contest and right to escrow funds, unless the City otherwise agrees to a payment  
18 plan with interest, Lessee shall promptly pay to City that sum, if any, which has accrued as  
19 a result of such retroactive application.

20                   5.2.7 If City has complied with the appraisal procedure and related  
21 time frames as set forth above, City shall be entitled to receive, in addition to all retroactive  
22 rents that become due as a result of the adjusted rental rate(s), the time value of said rental  
23 increase(s) calculated from the effective date of the increase(s) to the time period that the  
24 rental increase(s) are assessed to Lessee at an interest rate representing what City may  
25 have otherwise been entitled to if the funds associated with the increase(s) were available  
26 for City's use; however, in no event shall the interest rate be more than five percent (5%).

27                   5.2.8 Assessments, Fees, and Charges. In addition to the rental  
28 obligation, Lessee hereby agrees to pay such assessments, fees, and charges as shall be

1 set by the City Council and that shall be generally applicable and proportionate to similarly  
2 situated lessees at Airport.

3       6.     **Utility Services.** Lessee shall install all utilities for the Demised Premises.  
4 Lessee shall make reasonable efforts to meter or sub-meter all utilities separately and shall  
5 be responsible for installing and maintaining all meters and sub-meters. Lessee shall pay  
6 all charges for water, gas, heat, light, power, telephone, waste, sewage, and any other  
7 utility service used by Lessee in connection with its occupancy of the Demised Premises,  
8 including deposits, connection fees, or charges and meter installation rentals required by  
9 the supplier of any such utility service, and the costs of all equipment and improvements  
10 necessary for connecting the Demised Premises to such utility service facilities  
11 (collectively, "Utility Costs"). To the extent Lessee is not paying Utility Costs directly  
12 through metered utilities, then Lessee shall pay as Additional Rent the Utility Costs that are  
13 directly or indirectly incurred by City to the extent allocable to the Demised Premises as  
14 reasonably determined by City, plus a fifteen percent (15%) administrative fee ("City's  
15 Utility Costs"). City may, at City's own expense, install, maintain and repair utilities under,  
16 over, through or in any part of the Demised Premises and Lessee shall not be entitled to  
17 payment or abatement of rent or any other compensation in connection with any such  
18 installation, maintenance and/or repair. If City installs, maintains or repairs utilities under,  
19 over, through or in any part of the Demised Premises and City damages the Demised  
20 Premises during such utility work, then City shall repair the damage to a reasonable  
21 condition. Furthermore, City will make all reasonable efforts during the installation,  
22 maintenance and/or repair not to create a materially adverse effect on Lessee's on-going  
23 business. Lessee waives any and all claims against City for compensation for any and all  
24 loss or damage sustained by reason of any defect, deficiency, or impairment of any water  
25 supply system, drainage or sewer system, gas supply system (if provided), telephone  
26 system, electrical supply system, or electrical apparatus or wires serving the Demised  
27 Premises, with the exception for claims against City for compensation for loss or damage  
28 directly resulting from installation, maintenance and/or repair performed by City.

1           7.     **Notices.**

2           7.1    Written notices to City hereunder shall be sent to the Airport Director with a  
3 copy sent to the Long Beach City Attorney and addressed to said parties at:

4  
5                   Long Beach Airport  
6                   4100 East Donald Douglas Drive, 2<sup>nd</sup> Floor  
7                   Long Beach, California 90808  
8                   Attention: Airport Director

9  
10                  With a copy to:

11  
12                  City of Long Beach  
13                  Office of the City Attorney  
14                  411 West Ocean Boulevard, 11<sup>th</sup> Floor  
15                  Long Beach, California 90802-4664

16  
17                  or to such other address as City may designate by written notice to Lessee.

18  
19           7.2    Written notices to Lessee hereunder shall be given by registered or certified  
20 mail, postage prepaid, and addressed to:

21  
22                   LGB CA Holdings, LLC  
23                   c/o Ross Aviation Holdings, LLC  
24                   3200 Cherry Creek South Dr., Suite 360  
25                   Denver, Colorado 80209  
26                   Attention: Chief Executive Officer

27  
28                  or to such other address as Lessee may designate by written notice to City.

7.3 All such notices, except as otherwise provided herein, may either be delivered personally to the Airport Director or to the Office of the City Attorney, in the one case, or to Lessee in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

8. **Assignments and Subletting.**

8.1 Lessee shall not, in any manner, assign or transfer this Lease, or any portion thereof or any interest therein ("Assignment"; for avoidance of doubt, a sublease or termination thereof shall not constitute an Assignment), without the prior written consent of City, nor sublet or sublease the whole or any part of the Demised Premises, nor license or permit the use of the same, in whole or in part, without the prior written consent of the Airport Director. Any attempts to transfer, assign, or sublease without the consent required by this Section shall be void and shall transfer no rights to the Demised Premises. Consent to one Assignment, subletting, use, or occupation shall not be deemed to be a consent to any subsequent Assignment, subletting, occupation, or use. This Lease shall not, nor shall any interest therein, be assignable as to the interest of Lessee by operation of law without the prior written consent of City. For purposes of this Lease, an Assignment shall include any change in the majority ownership of or the power to vote, directly or indirectly, the majority of outstanding capital stock, membership interest or other ownership interests of Lessee. For purposes of this Section 8.1, a serial or cumulative transfers of more than fifty percent (50%) of the ownership interests of Lessee within any consecutive twelve (12) month period shall also constitute an Assignment for purposes of this Lease; provided, however, that a serial or cumulative transfer of fifty percent (50%) or less of the ownership interests of Lessee shall not constitute an Assignment for purposes of this Lease. Notwithstanding the foregoing, the City's consent or approval shall not be required in



1 connection with an Assignment or sublease to an Affiliate of Lessee approved by City prior  
2 to the execution of this Lease (so long as such Affiliate uses the Demised Premises for  
3 uses permitted under this Lease).

4           8.2 City shall not unreasonably withhold its consent to the Assignment of  
5 this Lease or the subletting of the Demised Premises or any portion thereon; provided,  
6 however, that the use of said premises by any such assignee or sublessee must be  
7 consistent with the use authorized herein and the prospective subtenant and/or assignee  
8 must agree to execute City's Consent to Sublease and/or Assignment Agreement. A  
9 request by Lessee for Assignment shall be submitted to City in writing at least ninety (90)  
10 days before City's requested consent, along with a fully executed copy of the proposed  
11 assignment agreement, as well as a copy of all contracts or writings which set forth  
12 payments from assignee(s) to Lessee and/or which describe the acts or services to be  
13 performed by or for the assignee(s) in connection with the use of the Demised Premises.  
14 A request by Lessee for a Consent to Sublease shall be submitted to City in writing at least  
15 thirty (30) days before City's requested consent, along with a fully executed copy of the  
16 sublease. Lessee shall promptly advise City of early termination of Assignments. Rental of  
17 tie-downs, office space and hangar space for aircraft parking, for non-commercial  
18 purposes, as authorized uses under this Lease shall not require the consent of the Airport  
19 Director.

20           8.3 In the case of an Assignment requiring consent hereunder, Lessee  
21 shall pay to City a fee ("Assignment Fee") based on the following:

22           8.3.1 Lessee shall pay to City an amount equal to two percent (2%)  
23 of the Net Transaction Value. For purposes of calculating the Assignment Fee, the "Net  
24 Transaction Value" shall be defined as the difference between the following: (1) the gross  
25 transaction value attributed to the Lease (including improvements thereon owned by  
26 Lessee) and inuring to the benefit of Lessee and/or its Affiliates (as defined below), such  
27 value as reasonably approved by City, and (2) the sum of (a) Lessee's aggregate cost to  
28 acquire the Lease and the rights to the Demised Premises (including improvements

1 thereon) (the "Acquisition Cost") as specified in written notice by Lessee to City plus (b)  
2 the depreciated value of the Qualified Investments that Lessee has made to the Demised  
3 Premises at the time of the Assignment.

4 8.3.2 Notwithstanding the foregoing, if the subject Assignment  
5 occurs prior to the fifth (5<sup>th</sup>) anniversary of the Commencement Date, the Net Transaction  
6 Value shall not include (1) the gross transaction value attributed to Parcel C as reasonably  
7 determined by City or (2) the depreciated value of the Qualified Investments that Lessee  
8 has made to Parcel C as reasonably determined by City. Following each Assignment  
9 resulting in payment of an Assignment Fee to City, the transferee or successor Lessee  
10 shall notify City of the Acquisition Cost such transferee or successor paid in such  
11 Assignment for purposes of calculating any subsequent Assignment Fee.

12 8.4 Notwithstanding the foregoing, no Assignment Fee shall be charged  
13 in the event of an assignment to an Affiliate of Lessee, or an assignment, sublease or  
14 transfer of this Lease in connection with a Leasehold Financing (including any leasehold  
15 mortgage or lease assignment entered into in connection with a Leasehold Financing or  
16 upon a foreclosure or delivery of a deed in lieu of foreclosure or pursuant to any other  
17 judicial remedy, or the first transfer by a lender following such foreclosure or delivery of a  
18 deed in lieu of foreclosure), whether or not Lessee receives any compensation for any such  
19 assignment or transfer; provided, however, (a) in the case of a transfer to an Affiliate of  
20 Lessee, City reserves the right to require a guarantee, in a form satisfactory to the City  
21 Attorney's Office, for all obligations under this Lease, and (b) Lessee shall pay to City  
22 \$1,000 for costs incurred in connection with the review and processing of the consent. For  
23 purposes of this Lease, "Affiliate" shall mean (i) any entity not less than fifty percent (50%)  
24 of whose outstanding ownership interest shall, at the time, be owned directly or indirectly  
25 by Lessee or (ii) any entity which, directly or indirectly, controls or is controlled by or is  
26 under common control with Lessee. For this purpose, control shall mean the possession,  
27 directly or indirectly, of the power to direct or cause the direction of the management and  
28 policies of such entity, whether through the ownership of voting securities or by contract or

1 otherwise.

2 9. **Qualified Investments.**

3 9.1 **Qualified Investments.** The amounts expended by Lessee to satisfy  
4 the requirements of Article 1, Section 4.1 plus any other amounts expended for  
5 construction to the Demised Premises shall be defined as "Qualified Investments" provided  
6 that (i) such amounts have been actually incurred by Lessee; (ii) such amounts are in  
7 accordance in all material respects with the Definitive Improvement Plan or other  
8 development plan that has been approved in writing by the Airport Director in advance of  
9 any construction, (iii) such improvements have been constructed in accordance with this  
10 Lease, (iv) such amounts are for Permissible Costs (as defined below), (v) such amounts  
11 have been verified in accordance with Article 1, Section 9.1.3, and (vi) Lessee has not  
12 previously received any form of reimbursement or economic compensation for such  
13 amount.

14 9.1.1 "Permissible Costs" shall mean the actual cost of construction  
15 management, demolition, architecture, design and engineering, permitting and  
16 construction of any new improvements located on Parcel C, plus the cost of required  
17 bonds, inspections, environmental reports, construction insurance, project financing, utility  
18 relocation and upgrading, landscaping, building, and other similar fees related to the design  
19 and construction of such improvements incurred by Lessee. Payments made by Lessee to  
20 independent contractors for engineering and architectural design work shall be included as  
21 Qualified Investments to the extent that such costs do not exceed twenty percent (20%) of  
22 the aggregate amount of Qualified Investments. Amounts paid to any Lessee Affiliate shall  
23 be a Permissible Cost only to the extent that the amounts paid are (i) fair and are otherwise  
24 no less favorable to Lessee than would be obtained in a comparable arm's-length  
25 transaction with an unrelated third party or (ii) specifically approved in writing by the Airport  
26 Director, upon the separate written request of Lessee, made prior to incurring such costs.

27 9.1.2 Only payments made by Lessee, and Lessee's contractors and  
28 subcontractors (without duplication) may be included as Permissible Costs. For avoidance

1 of doubt, all costs associated with the permitting, design and construction of the Planned  
2 Improvements, the satisfaction of conditions imposed by any federal, state or local  
3 governmental entity in connection with the permitting or construction of the Planned  
4 Improvements shall constitute Permissible Costs. Any costs incurred by any sublessee,  
5 licensee or other occupant of any portion of the Demised Premises, other than Lessee,  
6 shall not constitute Permissible Costs. Costs associated with acquisition or installation of  
7 items that are not permanently affixed to the Demised Premises shall not be Permissible  
8 Costs.

9 9.1.3 To be deemed a Qualified Investment, amounts spent by  
10 Lessee must be verified by City, and must meet the following conditions:

11 (a) The expenditure must be submitted to City for  
12 verification within one hundred twenty (120) calendar days following the earlier to occur of  
13 the following, to the extent applicable: (a) Lessee's receipt of a Certificate of Substantial  
14 Completion AIA Document G704 Form, certificate of occupancy, or temporary certificate  
15 of occupancy; or (b) the completion of the Planned Improvements.

16 (b) Lessee must provide to City a schedule of all  
17 expenditures, which shall show line item detailed information as to each cost, including but  
18 not limited to, description, payee and date of payment. Lessee shall be responsible for  
19 providing reasonable documentation to City indicating that the amounts were expended  
20 (including, but not limited to, copies of returned checks and lien waivers, if requested), and  
21 that they are true and correct. City, at its option, may conduct an audit of such expenditures,  
22 or may engage, at Lessee's expense, a CPA firm to conduct such audit.

23 (c) Within three (3) years following the completion of the  
24 Planned Improvements, City may, at its sole discretion, and with thirty (30) days' prior  
25 written notice to Lessee, require Lessee to provide access to all records and other  
26 information necessary to perform an audit of fees and charges paid toward any or all of the  
27 improvements. City, at its option, may conduct an audit of such expenditures, or may  
28 engage, at Lessee's expense, a CPA firm to conduct such audit.

1           9.2     Subject to Article 1, Section 9.2.1, Lessee expressly agrees to pay all  
2 costs and expenses, direct and indirect, associated with Planned Improvements, including  
3 but not limited to all costs associated with inspection, design and engineering and other  
4 professional or consultant services, permitting and inspection fees, project financing, utility  
5 relocation and upgrading, environmental impact reports, landscaping, and other costs  
6 related to Lessee's Planned Investment. Without limiting the foregoing, if any of Lessee  
7 improvements to the Demised Premises (including but not limited to the Planned  
8 Improvements) cause the Federal Aviation Authority to require upgrades or repairs to areas  
9 or facilities inside or outside of Lessee's Demised Premises, then Lessee shall be solely  
10 responsible for the cost of such upgrades or repairs; provided, however, that City agrees  
11 to negotiate in good faith with Lessee to approve any modifications to such improvements  
12 to reduce or eliminate the need for any such upgrades or repairs. If Lessee fails to perform  
13 such upgrades or repairs and such upgrades or repairs are performed by City, then Lessee  
14 shall pay for the cost of such upgrades or repairs, plus an administrative fee of fifteen  
15 percent (15%).

16           9.2.1 The actual cost of demolition, design, permitting and  
17 construction of the Planned Improvements to Parcel C, plus the cost of required bonds,  
18 construction insurance, building, impact and concurrency fees and other similar fees  
19 related to the construction of such improvements incurred by Lessee; payments made by  
20 Lessee to independent contractors for engineering and architectural design work shall be  
21 included as Qualified Investments, provided that such costs shall not exceed twenty  
22 percent (20%) of the aggregate amount of Qualified Investments for each Qualified  
23 Investments submittal. Amounts paid to any Affiliate of Lessee that qualify as Qualified  
24 Investments shall be included as such only (i) to the extent that the amounts paid are fair  
25 and are otherwise no less favorable to Lessee than would be obtained in a comparable  
26 arm's-length transaction with an unrelated third party or (ii) specifically approved in writing  
27 by the Airport Director, upon the separate written request of Lessee, made prior to incurring  
28

1 such costs. Only payments made by Lessee and its contractors and subcontractors  
2 (without duplication) may be included as Qualified Investments.

3 9.2.2 Any costs incurred by any sublessee, licensee or other  
4 occupant of any portion of the Demised Premises, other than Lessee, shall not be included  
5 in Qualified Investments. Costs associated with acquisition or installation of personalty that  
6 is not permanently affixed to the Demised Premises shall not be included in Qualified  
7 Investments.

8 9.2.3 For purposes of calculating the Assignment Fee as provided in  
9 Article 1, Section 8 only, Qualified Investments shall also include (a) Lessee's actual cost  
10 of personal property, equipment or machinery used by Lessee at the Demised Premises,  
11 provided that (i) any such personal property, equipment or machinery is sold and assigned  
12 to an assignee in connection with any assignment of this Lease (and such sale or  
13 assignment is documented in writing to the City); (ii) Lessee has documented its expenses  
14 for such personal property, equipment or machinery to City in accordance with Article 1,  
15 Sections 9.2 and 9.3; and (iii) such costs shall not exceed ten percent (10%) of the total  
16 aggregate amount of Qualified Investments; (b) Lessee's actual transaction costs (brokers'  
17 fees, attorneys' fees, and appraisal fees) in connection with any Assignment (as defined in  
18 Article 1, Section 9) of this Lease, provided that such transaction costs shall not exceed  
19 six percent (6%) of the total aggregate amount of the gross transaction value received by  
20 Lessee and/or its Affiliate in connection with such Assignment; and (c) the actual amount  
21 of any payments made by Lessee to City for the acquisition of any existing, previously  
22 existing or future improvements located from time to time on the Demised Premises which  
23 have been constructed with the approval of the Airport Director under this Lease, to the  
24 extent of the current net book value (amount expended less accumulated depreciation;  
25 depreciated on a straight-line basis) of the asset or capitalized cost.

26 9.3 Conditions applicable to Qualified Investments during the Lease Term.

27 Any expenditures during the Lease Term which satisfy the requirements to be classified as  
28 Qualified Investments shall be subject to the following conditions:

1 9.3.1 Any expenditures during the Lease Term which Lessee desires  
2 to be classified as Qualified Investments must be submitted to the City for verification within  
3 one hundred twenty (120) calendar days following the earliest to occur of the following, to  
4 the extent applicable: (a) Lessee's receipt of a Certificate of Substantial Completion; or (b)  
5 Lessee's receipt of a certificate of occupancy, or temporary certificate of occupancy.

6 9.3.2 For purposes of City's verification of such amounts, Lessee  
7 must provide to the City a schedule of all Qualified Investments, which schedule shall show  
8 line item detailed information as to each cost, including but not limited to, description, payee  
9 and date of payment, Lessee shall be responsible for providing reasonable documentation  
10 to the City indicating that the amounts were expended (including, but not limited to, copies  
11 of returned checks and lien waivers, if requested), that they are true and correct, and why  
12 they are eligible to be included in the Qualified Investments amount. City, in its sole  
13 discretion, will decide if such amount may then be included in the total Qualified  
14 Investments amount. City, at its option, may conduct an audit of such expenditures, or may  
15 engage, at Lessee's expense, a CPA firm to conduct such audit.

16 **10. Mortgages, Financing, and Other Encumbrances.**

17 10.1 Notwithstanding the terms and conditions of Article 1, Section 8,  
18 Lessee shall have the right to assign Lessee's interest in this Lease for security and/or  
19 encumber Lessee's interest in the leasehold estate hereby created, with the prior written  
20 consent of the Airport Director, which consent shall not be unreasonably withheld, by  
21 mortgage, pledge, deed of trust or other instrument, or transfer title to the improvements  
22 on the Demised Premises by Lessee in accordance with the terms and conditions  
23 hereunder (subject to City's rights of reversion to such improvements upon the expiration  
24 or earlier termination of this Lease and the scheduled reversion of the improvements on  
25 Parcel A and Parcel B on January 20, 2027) (a "Leasehold Financing"), to a reputable  
26 lender or lending institution, as determined in the sole judgment of the Airport Director (a  
27 "Leasehold Mortgagee"), for the purpose of financing or refinancing the construction of the  
28 improvements authorized herein to be constructed on the Demised Premises, including

1 any betterments or additions thereto. In such event, upon Lessee's written request to the  
2 Airport Director, City shall execute an estoppel certificate in form and substance reasonably  
3 satisfactory to City and Leasehold Mortgagee. Any Leasehold Financing attempted without  
4 the prior written consent of the Airport Director shall be null and void and shall be a Default  
5 Event under this Lease. In connection with Lessee's request for consent to any such  
6 Leasehold Financing, Lessee shall submit for the Airport Director's prior review and written  
7 approval any and all instruments and documents to be executed by, or binding upon,  
8 Lessee in connection therewith (the "Leasehold Financing Documents"). In the event such  
9 Leasehold Financing is approved in writing by the Airport Director and this Lease is so  
10 assigned, Lessee's interest in the leasehold estate hereby created is so encumbered, or  
11 title to the new improvements is so transferred, City shall not be bound, nor shall the terms,  
12 conditions, and covenants of this Lease nor the rights and remedies of City hereunder be  
13 in any manner limited, restricted, modified, or affected by reason of the terms or provisions  
14 of the Leasehold Financing Documents. The only rights of any such Leasehold Mortgagee  
15 under an approved Leasehold Financing shall be as follows:

16 10.1.1 A Leasehold Mortgagee under an approved Leasehold  
17 Financing shall not be entitled to any notice required to be given by City to Lessee under  
18 the provisions of this Lease unless Lessee designates by written notice to City that notices  
19 of Default Events or notices to cure Default Events under this Lease are to be sent to such  
20 lender's address, as well as to Lessee (see Article 1, Section 7).

21 10.1.2 In the event of any Default Event by Lessee under the  
22 provisions of this Lease:

23 (a) the Leasehold Mortgagee will have the same periods as  
24 are given Lessee for remedying such Default Event or causing it to be remedied, plus, in  
25 each case, provided that the Leasehold Mortgagee shall pay all unpaid Monthly Rent under  
26 this Lease and, to the extent susceptible of cure by the Leasehold Mortgagee, shall  
27 promptly commence and diligently pursue to completion any cure with respect to any other  
28 acts required to be performed by Lessee under this Lease, an additional period of sixty



1 (60) days after the expiration thereof or after City has served a notice or a copy of a notice  
2 of such Default Event upon the Leasehold Mortgagee, whichever is later;

3 (b) the Leasehold Mortgagee, without prejudice to its rights  
4 against Lessee, shall have the right to make good such Default Event within the applicable  
5 grace periods provided for in Article 1, Subsection 10.1.2(a) whether the same consists of  
6 the failure to pay Monthly Rent or the failure to perform any other matter or thing which  
7 Lessee is hereby required to do or perform, and City shall accept such performance on the  
8 part of the Leasehold Mortgagee as though the same had been done or performed by  
9 Lessee; for such purpose City and Lessee hereby authorize the Leasehold Mortgagee to  
10 enter upon the Demised Premises and to exercise any of its rights and powers under this  
11 Lease and, subject to the provisions of this Lease, under the Leasehold Financing; and

12 (c) In the event of any Default Event by Lessee other than  
13 in the payment of Rent under this Lease, and if prior to the expiration of the applicable  
14 grace period specified in Article 1, Subsection 10.1.2(a), the Leasehold Mortgagee shall  
15 give City written notice that Leasehold Mortgagee intends to undertake the curing of such  
16 Default Event, or to cause the same to be cured, or to exercise its rights to acquire the  
17 leasehold interest of Lessee by foreclosure or otherwise, and shall immediately commence  
18 and then proceed with all due diligence to do so, whether by performance on behalf of  
19 Lessee or its obligations under this Lease, or by entry on the Demised Premises by  
20 foreclosure or otherwise, then so long as Lessee or Leasehold Mortgagee remains current  
21 in the payment of Monthly Rent due under this Lease, City will not terminate or take any  
22 action to effect a termination of this Lease or reenter, take possession of or re-let the  
23 Demised Premises or similarly enforce performance of this Lease in a mode provided by  
24 law so long as the Leasehold Mortgagee is with all due diligence and in good faith engaged  
25 in the curing of such Default Event, or effecting such foreclosure; provided, however, that  
26 the Leasehold Mortgagee shall not be required to continue such possession or continue  
27 such foreclosure proceedings if such Default Event shall be cured.

28

10.1.3 In the event Lessee files with Airport Director a written assignment of its right to participate in the distribution of any insurance proceeds, assigning all of its right, title, and interest in and to such proceeds to an approved Leasehold Mortgagee, and further, in the event the indebtedness upon the note secured by such assignment, mortgage, deed of trust, encumbrance, or instrument transferring title has not been fully paid, satisfied and the security for the debt released, then, subject to any limitations imposed under applicable law on the right to use such proceeds to pay off the indebtedness evidenced by the Leasehold Financing Documents imposed under applicable laws, such approved Leasehold Mortgagee shall be entitled to the distribution of the insurance proceeds, if any, payable to Lessee to the extent of such Leasehold Mortgagee's interest therein.

10.1.4 So long as any monetary Default Events under this Lease have been cured, approved Leasehold Mortgagee shall have the right to succeed to Lessee's interest in the leasehold estate herein created under the exercise of the power of foreclosure as provided by law or as may be done by voluntary act on the part of Lessee in lieu of sale on foreclosure and such Leasehold Mortgagee may assign said leasehold estate to a third party transferee ("Successor by Leasehold Mortgage") with the prior written consent of City (which consent shall not be unreasonably withheld, conditioned or delayed), provided that, in each case (i) the Successor by Leasehold Mortgage and/or its principal or management company shall possess sufficient financial capability to perform the remaining obligations under this Lease as they come due, and (ii) the Successor by Leasehold Mortgage and/or its principal, management company or the executives of the Successor by Leasehold Mortgage or management company must either be lessees at the Airport in good standing and not in default under their leases or have at least five (5) years of experience managing or owning fixed base operations at an airport with aircraft operations of the character and type of users reasonably comparable to the Airport. Upon such succession to or taking over of the leasehold estate, such Successor by Leasehold Mortgage shall be bound by all of the terms, conditions, and covenants of this Lease and

1 shall continue the operation on the Demised Premises only for the purposes provided in  
2 Article 1, Section 3, or for such purpose as Airport Director may, at that time, authorize in  
3 writing; and provided, further, no succession by a Successor by Leasehold Mortgage shall  
4 release Lessee from its obligations hereunder.

5 10.1.5 Once Leasehold Financing and the Leasehold Financing  
6 Documents are approved, two (2) copies of any and all Leasehold Financing Documents  
7 shall be filed with City at least two (2) weeks prior to the effective date thereof, and Lessee  
8 shall obtain Airport Director's prior written consent of any changes or amendments thereto.  
9 Upon and immediately after the recording of any approved Leasehold Financing  
10 Documents, Lessee shall cause to be recorded in the Office of the County Recorder for  
11 the County of Los Angeles a request for a copy of any notice of Default Event and of any  
12 notice of sale, as provided in Section 2924b of the Civil Code of the State of California,  
13 duly executed and acknowledged by City and specifying that said notice be mailed to City  
14 at the address set forth in Article 1, Section 7.

15 10.1.6 Consent by the Airport Director to one Leasehold Financing or  
16 one Leasehold Mortgagee shall not be a waiver of City's rights under this Section as to any  
17 subsequent Leasehold Financing or assignment or other transfer by such Leasehold  
18 Mortgagee, and any such subsequent Leasehold Financing or successor Leasehold  
19 Mortgagee shall be subject to City's review and approval in accordance with the terms and  
20 conditions of this Lease. This prohibition against the transfer of any Leasehold Mortgagee's  
21 interest includes any transfer which would otherwise occur by operation of law.

22 10.2 City and Lessee acknowledge that this Lease may require  
23 amendments and modifications in connection with, and in order to accommodate,  
24 Leasehold Financings. Lessee shall submit proposed amendments and modifications to  
25 City in connection with each Leasehold Financing, and City shall consider such  
26 amendments in connection with its review of the Leasehold Financing. Any such  
27 amendment to this Lease shall be subject to approval by the City Council. All reasonable  
28

1 expenses incurred by City in connection with any such amendment shall be paid by  
2 Lessee.

3 11. **Aircraft Noise.** This Lease and the uses to which Lessee shall put the  
4 Demised Premises and Airport shall be expressly subject to the following access and noise  
5 restrictions:

6 11.1 Lessee shall comply with the terms of the Long Beach Airport Noise  
7 Compatibility Ordinance as set forth in Section 16.43 of the Long Beach Municipal Code,  
8 which is incorporated herein by this reference. A copy of the Ordinance has been attached  
9 to this Lease as Exhibit D. Upon request from City with regard to its noise investigations,  
10 Lessee agrees to cooperate with City in its efforts to identify any pilot, operator and/or  
11 aircraft owner that is the subject of City's investigations.

12 11.2 Lessee specifically agrees that City shall not be liable or responsible  
13 to Lessee for any damage, injury, economic loss or deprivation which may develop or arise  
14 by reason of any existing noise abatement requirements or any future aircraft access,  
15 aircraft phase-out, noise abatement or noise curfew ordinances adopted by City at the  
16 Airport. Lessee agrees not to institute any legal action or make any claims with regard to  
17 any such City noise reduction or abatement ordinances.

18 12. **Estoppel Certificate.** The parties hereto agree, from time to time and within  
19 twenty (20) business days after request by the other party hereto, to deliver to the  
20 requesting party, or the requesting party's designee, an estoppel certificate in reasonable,  
21 normal and customary form, as reasonably requested by the requesting party, with such  
22 modifications as may be necessary to make such certificate factually accurate, certifying:  
23 (i) whether this Lease is in full force and effect, and if it is alleged that this Lease is not in  
24 full force and effect, setting forth the nature thereof in reasonable detail; (ii) whether this  
25 Lease has been supplemented or amended, specifying the manner in which it has been  
26 supplemented or amended; (iii) the date to which all rental payments have been made; (iv)  
27 the commencement and expiration date of this Lease; and (v) whether, to the best of the  
28 knowledge of the signer of such certificate, the other party is in Default Event. Lessee shall

1 pay City an amount equal to Two Thousand and No/100 Dollars (\$2,000) prior to the  
2 execution by City of an Estoppel Certificate. Said amount represents a reasonable  
3 administrative fee for costs reasonably incurred in connection with the processing of the  
4 Estoppel Certificate and reimbursement of its attorneys' fees in connection with the review,  
5 preparation and processing of the document.

## 6 **ARTICLE 2. STANDARD TERMS AND PROVISIONS**

### 7 **13. Limitations on Use of Demised Premises.**

8 13.1 Lessee shall not use the Demised Premises, nor any portion thereof,  
9 for any purpose other than that set forth in Article 1, without first having obtained the written  
10 consent of the Airport Director, which consent may be withheld in the Airport Director's sole  
11 discretion.

12 13.2 There is hereby reserved to City, its successors and assigns, for the  
13 use and benefit of the public, a right of flight for the passage of aircraft in the airspace  
14 above the surface of the Demised Premises herein leased. This public right of flight shall  
15 include the right to cause in said airspace any noise inherent in the operation of any aircraft  
16 used for navigation or flight through the said airspace or landing at, taking off from, or  
17 operating on Airport. Lessee agrees not to make any claim or institute legal action against  
18 City under any theory of recovery for any interference with Lessee's use and enjoyment of  
19 the Demised Premises which may result from noise emanating from the operation of  
20 aircraft to, from, or upon Airport.

21 13.3 Lessee, by accepting this Lease, agrees for itself and its successors  
22 and assigns that it will not make use of the Demised Premises in any manner which might  
23 interfere with the landing and taking off of aircraft from Airport or otherwise constitute a  
24 hazard to such operations. In the event that Lessee interferes with any air traffic as  
25 described above, City reserves the right to enter upon the Demised Premises hereby  
26 leased and cause the abatement of such interference at the expense of Lessee.

27 13.4 Lessee shall conduct its, and cause its sublessees to conduct their  
28 operations on the Demised Premises in such manner as to reduce as much as is

1 reasonably practicable, considering the nature and extent of said operations, any and all  
2 activities which interfere unreasonably with the use of other premises adjoining the  
3 Demised Premises at Airport, including, but not limited to, the emanation from the Demised  
4 Premises of noise, vibration, movements of air, fumes, and odors.

5 13.5 Lessee is prohibited from installing or using any wireless workstations,  
6 access control equipment, wireless internet servers, application or system software such  
7 as transceivers, modems, or other interface units that interfere with any operations at the  
8 Airport, including without limitation the FAA Control Tower.

9 13.6 Lessee has no rights under this Lease to install or use any antennae  
10 or telecommunications equipment on the roof or exterior of any building or structure on the  
11 Demised Premises, unless such installation or use is directly related to the conduct of  
12 Lessee's business and in full compliance with City's permit process and  
13 telecommunications policies, as may be modified from time to time at the sole discretion of  
14 the Airport Director. Lessee may not license or sublease to others the right to install or use  
15 antennae or other telecommunications equipment on the Demised Premises, unless such  
16 sublessee has been approved by the Airport Director to use the Demised Premises for the  
17 Permitted Use, and such installation and use of antennae or telecommunications  
18 equipment is directly related to the conduct of such sublessee's business and is in full  
19 compliance with City's permit process and telecommunications policies.

20 14. **Rental Payments.**

21 14.1 Delivery of Rental Payments. Rent shall be paid by Lessee to City on  
22 or before the first day of each calendar month of the Lease Term, pursuant to Article 1,  
23 Section 5. In the event the commencement or termination date of this Lease falls on any  
24 date other than the first day of the calendar month, the applicable rental for that month  
25 shall be calculated pro rata according to the number of days during which the Demised  
26 Premises, or any part of same, were occupied by Lessee during said month. All payments  
27 shall include the contract number, which is stamped on the first page of this Lease, on each  
28 payment check and the remittance advice attached to the invoice, if any, delivered to

1 Lessee by City. Upon written approval by the Airport Director, Lessee may be approved to  
2 make electronic rental payments to the City.

3 14.2 All payments shall be mailed to the following address:

4  
5 City of Long Beach  
6 411 West Ocean Boulevard  
7 Long Beach, CA 90802-4604  
8

9 14.3 City may, from time to time, designate another address to which rental  
10 payments shall be made and will provide at least thirty (30) days advance written notice of  
11 such address change. Invoices for Monthly Rent will be sent by City to Lessee as a  
12 customer courtesy, and receipt of such invoice shall not be a condition prior to payment of  
13 rent. Invoices for any other amounts payable by Lessee to City hereunder will be sent by  
14 City to Lessee and receipt of such invoice shall be a condition prior to payment of such  
15 amounts.

16 15. **Liquidated Damages for Delinquent Payment.**

17 15.1 Payment of rentals, fees, and charges shall be delinquent if not  
18 received by City within ten (10) days following the due date. Without waiving any rights  
19 available under this Lease or by law, in the event of delinquent payments, Lessee  
20 recognizes that City will incur certain expenses, the amount of which is difficult to ascertain.  
21 Therefore, in addition to payment(s) owing, Lessee agrees to pay the liquidated damages  
22 set forth below to compensate City for all expenses and/or damages and loss resulting  
23 from said delinquent payments by Lessee.

24 15.2 The liquidated damages for delinquent payments shall be assessed  
25 each month at a rate of one percent (1%) interest (i.e., equivalent to twelve percent (12%)  
26 per annum compounded monthly) on the Average Daily Balance (as hereinafter defined)  
27 of the unpaid amount. "Average Daily Balance" shall mean the sum of Lessee's unpaid  
28 balance on each day of the monthly billing cycle divided by the number of days in the

1 monthly billing cycle.

2 16. **Reports.** City may, at its discretion and with reasonable notice to Lessee,  
3 require Lessee within ten (10) days after the end of each calendar month, to report to the  
4 City certain operating data covering the previous calendar month in such form and content  
5 as shall reasonably be specified by the Airport Director solely for the purpose of verifying  
6 Lessee's compliance with its obligations under this Lease and the Airport Minimum  
7 Standards.

8 17. **Audits.** City may, at its sole discretion and with reasonable notice to Lessee,  
9 require Lessee to provide access to all records and other information necessary to perform  
10 an audit for the sole purpose of verifying the rental, fees, other charges paid and payable  
11 to City, and any required information for payments by City to Lessee, including but not  
12 limited to invoices and proof of payments related to reimbursement for Lessee  
13 improvements and other Lessee-required investments. City shall have the right to access  
14 such records and information for five (5) years past the end of the fiscal year in which they  
15 were generated and up to five (5) years past the expiration or early termination of this  
16 Lease. Lessee shall retain all records and other information necessary to perform an audit  
17 as described above for a minimum of five (5) years.

18 18. **Faithful Performance Guaranty.**

19 18.1 Lessee shall furnish to City and maintain throughout the term of this  
20 Lease and for sixty (60) days following Lease termination, a Faithful Performance  
21 Guarantee ("FPG") to secure the faithful performance by Lessee of all the terms,  
22 provisions, and covenants contained herein including, but not limited to, the payment of  
23 rent and any other specified compensation or reimbursement for the Planned  
24 Improvements or maintenance not made by Lessee. The FPG shall be separate from any  
25 other guarantee(s) to City by Lessee. The initial amount of the FPG shall be three (3) times  
26 the highest monthly rental amount, commencing with the initial first year's rent, prescribed  
27 herein. Any adjustments to rent, pursuant to Article 1, Section 5, shall also result in a  
28 commensurate adjustment to the FPG, pursuant to Article 2, Subsections 18.2 and 18.3.



1 If all or any part of the FPG is used to pay delinquent account as set forth in this Lease,  
2 Lessee shall, within sixty (60) days after drawdown, replenish the FPG so that the FPG  
3 equals three (3) times the highest monthly rental amount.

4 18.2 If Lessee has previously provided such FPG to City and if, for any  
5 reason, Lessee's monthly monetary obligation to City for use of the Demised Premises  
6 under this Lease is thereafter increased in excess of ten percent (10%), then the amount  
7 of the FPG shall, within sixty (60) days after receiving written notice from City,  
8 correspondingly be increased to a sum three (3) times of the new monthly amount  
9 prescribed under this Lease.

10 18.3 If Lessee has previously provided such FPG to City and if, for any  
11 reason, Lessee's monthly monetary obligation to City for use of the Demised Premises  
12 under this Lease is thereafter decreased in excess of ten percent (10%), then the amount  
13 of Lessee's FPG may be correspondingly decreased to a sum three (3) times of the new  
14 amount prescribed under this Lease, within sixty (60) days following written notice to City  
15 by Lessee.

16 18.4 FPGs of Twenty-Five Thousand Dollars (\$25,000) or less shall be in  
17 the form of a Cashier's Check, Company Check, Money Order, Certificate of Deposit or  
18 Irrevocable Letter of Credit. FPGs in excess of Twenty-Five Thousand Dollars (\$25,000)  
19 shall be in the form of an Irrevocable Letter of Credit. Letters of Credit shall be self-renewing  
20 from year-to-year and shall remain in full force and effect for a minimum period of ninety  
21 (90) days following termination or cancellation of this Lease. However, the Irrevocable  
22 Letter of Credit may be subject to termination upon sixty (60) days written notice (subject  
23 to Subsection 18.5), provided that, Lessee shall first give City notice in writing of its intent  
24 to terminate the Letter of Credit and provide a replacement Irrevocable Letter of Credit to  
25 the City so that there is no lapse in coverage. All FPGs must be approved as to form by  
26 the City Attorney.

27 18.5 Lessee shall furnish one original and one copy of such FPG on or  
28 before the Commencement Date or within thirty (30) days following notice of adjustment of

1 the rent. City acknowledges that Lessee has deposited One Hundred Twenty-Five  
2 Thousand and No/100 Dollars (\$125,000) in cash with the City as a FPG and that therefore  
3 the amount reflected in the Irrevocable Letter of Credit delivered by Lessee on or before  
4 the Commencement Date shall be reduced by the amount of this cash FPG. If, for any  
5 reason, said FPG is not provided by Lessee and/or is not thereafter maintained in sufficient  
6 amount throughout the term hereof, or replenished within sixty (60) days of drawdown, City  
7 may terminate this Lease at any time upon giving Lessee a thirty (30) day advance written  
8 notice. Upon the expiration or earlier termination of this Lease, and if Lessee has satisfied  
9 all of its obligations to City hereunder, City shall relinquish to Lessee said FPG following  
10 such expiration or earlier termination and satisfaction of all obligations to City within thirty  
11 (30) days of that determination, which determination will not be unreasonably withheld or  
12 delayed. The FPG shall be submitted to:

13  
14 Long Beach Airport  
15 4100 E. Donald Douglas Drive, 2<sup>nd</sup> Floor  
16 Long Beach, CA 90808  
17

18 **19. Improvements and Alterations.**

19 **19.1 By Lessee.**

20 19.1.1 Prior to the construction of any improvements, including but not  
21 limited to structural improvements, additions, alterations, or signs, Lessee shall obtain  
22 approval from City. Lessee shall submit to City for concept approval the preliminary plans  
23 and estimated construction cost for such improvements. Said approval, subject to the  
24 conditions set forth herein, shall be given in a reasonably timely manner. Upon approval  
25 by the Airport Director of Lessee's preliminary plans, Lessee shall prepare working  
26 drawings and specifications which shall be true and correct developments of the  
27 preliminary plans so approved. Lessee shall then submit a written request for construction  
28 approval and a minimum of five (5) complete sets of said approved working drawings and

1 copies of the specifications to the City for written approval by the Airport Director. The  
2 Airport Director's written approval and any conditions related to the construction of the  
3 improvements or alterations shall become a part of this Lease as though fully set forth  
4 herein once the document is fully executed by both parties. Upon receipt of the Airport  
5 Director's approval and subsequent to securing all required Governmental Permits outlined  
6 in Article 2, Section 19.1.8, Lessee shall cause the construction called for by the approved  
7 working drawings and specifications to be commenced and completed promptly. No  
8 substantial changes, additions, or alterations shall be made in said working drawings or  
9 specifications, or in the construction called for thereby, without first obtaining the Airport  
10 Director's approval in writing. Upon completion of the improvements approved by the City,  
11 Lessee shall furnish to City, at no charge, three complete sets of "record" drawings, and  
12 one complete set in Computer Aided Design (CAD) format. These drawings must include  
13 any applicable permit numbers, the structural and other improvements installed by Lessee  
14 in the Demised Premises, and the location and details of installation of all equipment, utility  
15 lines, heating, ventilating, and air-conditioning ducts and related matters. Lessee shall keep  
16 said drawings current by updating them in order to reflect any changes or modifications  
17 which may be made in or to the Demised Premises.

18 19.1.2 Any conditions, restrictions, or limitations placed upon the  
19 approval of Lessee improvements by the Airport Director pursuant to Article 2, Section  
20 19.1.1 shall be conditions of this Lease as though fully set forth herein once the document  
21 is fully executed by both parties. Lessee shall hold City harmless from liability with respect  
22 to any claims regarding any improvements, additions, or alterations made thereto.

23 19.1.3 For each and every construction or alteration project  
24 undertaken on the Demised Premises, Lessee shall prepare a final construction report.  
25 This report shall contain the following elements: (1) type of improvement constructed or  
26 altered; (2) floor area or capacity of improvement constructed or altered; (3) total cost of  
27 construction or alteration including a detailed cost breakdown; (4) completion date for  
28 construction or alteration; and (5) a copy of the certificate of occupancy. The construction

1 report shall be delivered to the City at the address provided in the Notices Section of this  
2 Lease no later than sixty (60) days following completion, and applicable permitting  
3 approvals of the construction or alteration.

4 19.1.4 Lessee shall also keep the Demised Premises and any  
5 improvements constructed thereon free and clear of liens for labor and material expended  
6 by or for Lessee or on its behalf in accordance with Article 2, Section 20.

7 19.1.5 Lessee agrees to comply with the notification and review  
8 requirements covered in Part 77 of the Federal Aviation Administration Regulations in the  
9 event any future structure or building is planned for the Demised Premises, or in the event  
10 of any planned modification or alteration of any present or future building or structure  
11 situated on the Demised Premises.

12 19.1.6 Lessee agrees that it will not erect nor permit the erection of  
13 any structure or object nor permit the growth of any tree on the land leased hereunder  
14 above the mean sea level elevation obstruction contours shown on the contour drawings  
15 on file with City, if applicable. In the event the aforesaid covenants are breached, City  
16 reserves the right to enter upon the Demised Premises hereunder and to remove the  
17 offending structure or object and cut the offending tree, all of which shall be at the expense  
18 of Lessee.

19 19.1.7 Before any work is performed on or within the Demised  
20 Premises, as described in the aforementioned Article 2, Subsection 19.1.1, Lessee may  
21 be required to file Payment and Performance Bonds with City. All required Payment and  
22 Performance Bonds must be approved by City before any work commences.

23 19.1.8 Governmental Permits. Before commencement of construction  
24 or development of any buildings, structures, or other work or improvements upon the  
25 Demised Premises, Lessee shall, at its own expense with the cooperation of City (acting  
26 in its proprietary capacity), secure or cause to be secured any and all permits which may  
27 be required by the City of Long Beach (acting in its regulatory capacity) or any other  
28 governmental agency having authority over such construction, development or work.

1 Lessee shall provide a copy of each such permit to the Airport Director prior to commencing  
2 the subject work or activity.

3 19.2 By City.

4 19.2.1 City reserves the right to further develop or improve the landing  
5 area of Airport or any other portion of the Airport, as it sees fit, regardless of the desires or  
6 view of Lessee, and without interference or hindrance. If any such development or  
7 improvement interferes substantially with Lessee's use and occupancy of the Demised  
8 Premises, Lessee shall be entitled to an appropriate reduction in rental or termination of  
9 this Lease. City will restore the Demised Premises to its original condition, as they existed  
10 prior to any development or improvement affecting the Demised Premises, upon the  
11 completion of any construction by City or its agents.

12 19.2.2 City agrees, but shall not be obligated to Lessee, to maintain  
13 and keep in repair the landing area of the Airport and all publicly-owned facilities of the  
14 Airport. Lessee shall have, in conjunction with the general public and other Airport users,  
15 a non-exclusive right to use the landing area of the Airport and all other Airport facilities  
16 open to the general public subject to the right of City to direct and control all activities of  
17 Lessee and other tenants of the Airport in a non-discriminatory manner on such landing  
18 area and in such publicly-owned facilities.

19 19.2.3 Lessee acknowledges that the City retains the right without  
20 compensation to Lessee to install or use antennae or telecommunications equipment on  
21 the roof or exterior of any building or structure on the Demised Premises (and the right to  
22 install and attach cables, wires and conduits on, over or under the Demised Premises), or  
23 to lease or license others to do so. City agrees to install or grant the right to install or attach  
24 such antennae and/or telecommunications equipment in such a manner that will not cause  
25 a loss of water-tightness in the roof or wall structures or their related components. The right  
26 to install or use said antennae or telecommunications equipment shall not include the right  
27 to penetrate fully through roof or wall structures owned by Lessee without first obtaining  
28 approval of Lessee, which approval may not be unreasonably withheld. City further agrees

1 to maintain such antennae or telecommunications equipment, and to repair any damage  
2 caused by such installation or the operation of antennae or telecommunications equipment  
3 on the roof or exterior of any building or structure on the Demised Premises. City hereby  
4 agrees that the use of the Demised Premises, as described herein, will not be interfered  
5 with during the operation, installation, maintenance or repair of such antennae and/or  
6 telecommunications equipment. If City fails to so maintain or repair such antennae or  
7 telecommunications equipment and such failure may cause damage to the applicable  
8 building or structure on the Demised Premises, Lessee may complete such maintenance  
9 or repair to mitigate any such damage, and City shall reimburse Lessee in full for the cost  
10 thereof upon presentment of an invoice therefor.

11       20.    **Liens**. During Lease Term, the fee interest in the real property underlying the  
12 Demised Premises shall not be used as security for any loans or mortgages or otherwise  
13 have any liens placed on it. Additionally, Lessee shall keep any City-owned improvements  
14 on the Demised Premises free and clear of any liens or other encumbrances. By way of  
15 specification without limitation, Lessee shall keep the Demised Premises free from any  
16 liens arising out of any work performed, materials furnished, or obligations incurred by or  
17 for Lessee and shall indemnify, hold harmless and defend City from any liens and  
18 encumbrances arising out of any work performed or materials furnished by or at the request  
19 of Lessee. In the event that Lessee does not, within thirty (30) calendar days following the  
20 imposition of any such lien, cause such lien to be released of record by payment or posting  
21 of a proper bond, City shall have in addition to all other remedies provided herein and by  
22 law, the right, but not the obligation to cause, upon ten (10) business days prior written  
23 notice to Lessee, the same to be released by such means as it shall deem proper, including  
24 payment in satisfaction of the claim giving rise to such lien. All such sums paid by City and  
25 all expenses incurred by it in connection therewith, including costs, attorneys' fees, and a  
26 fifteen percent (15%) administrative fee, shall be paid by Lessee to City on demand.  
27 Nothing in this Section shall be construed to limit any rights of Lessee to use its leasehold  
28 interest as security for any loans to the extent that such use is permitted under this Lease.

1 Nothing in this Section shall be construed to place any obligations upon Lessee with  
2 respect to liens, loans, or mortgages placed upon the Demised Premises by City, its City  
3 Council, City officers, agents, or employees.

4       21.     **Modification to Size of Demised Premises.**

5               21.1   Damage to or Destruction of Improvements. If, during the Lease Term,  
6 any buildings, structures, or improvements on the Demised Premises are partially or totally  
7 destroyed from a risk covered by the insurance described in the Article 2, Section 26 and  
8 Section 27, thereby rendering the Demised Premises partially or totally inaccessible or  
9 unusable, Lessee must restore the Demised Premises to substantially the same condition  
10 as they were immediately before destruction.

11              21.2   If, during the Lease Term, improvements on the Demised Premises  
12 are partially or totally destroyed from a risk not covered by the fire and extended coverage  
13 insurance described in this Lease, thereby rendering said Demised Premises partially or  
14 totally inaccessible or unusable, such destruction shall not automatically terminate this  
15 Lease. If, however, the cost of restoration exceeds ten percent (10%) of the full  
16 replacement value of improvements, as said value existed immediately before said  
17 destruction, Lessee may, at Lessee's option, terminate this Lease by giving written notice  
18 to City within sixty (60) days from the date of destruction. If Lessee elects to terminate as  
19 above provided, Lessee shall be obligated, unless otherwise directed by City, to demolish  
20 all damaged improvements and remove all debris from the Demised Premises at Lessee's  
21 sole cost. If Lessee fails to exercise its right to terminate this Lease, this Lease shall  
22 continue in full force and effect for the remainder of the term specified herein and Lessee  
23 shall restore the Demised Premises to substantially the same condition as they were in  
24 immediately before destruction.

25       22.     **Ownership of Improvements.**

26              22.1   During the Lease Term, title to all structures, improvements, facilities,  
27 or alterations constructed or installed by Lessee shall remain in Lessee or the entity  
28 designated in any approved Leasehold Financing Documents. Upon the expiration of this

1 Lease, or earlier termination of this Lease, said structures, improvements, facilities, or  
2 alterations, other than machines, equipment, trade fixtures, and similar installations of a  
3 type commonly removed without structural damage to the Demised Premises, shall  
4 become a part of the land upon which they are constructed, or of the building to which they  
5 are affixed, and title thereto shall thereupon vest in City, unless City requests Lessee to  
6 remove some or all of said structures, improvements, facilities, or alterations. If so  
7 requested, Lessee shall promptly remove said items at Lessee's sole cost and expense,  
8 including full remediation and restoration of the Demised Premises pursuant to Article 2,  
9 Section 24. In the event the removal of any fixture damages any part of the Demised  
10 Premises, Lessee shall repair such damage and restore the Demised Premises to as good  
11 condition as the same was in prior to said damage, reasonable wear and tear excepted,  
12 as may be required and approved by City.

13 22.2 During the Lease Term, title to all structures, improvements, facilities,  
14 or alterations constructed or installed by Lessee for which Lessee has been reimbursed by  
15 City (if any) shall thereupon vest in City.

16 22.3 Upon title to said structures, improvements, facilities, or alterations  
17 vesting in City, City shall be entitled to reasonable rent, fees and/or other charges, and  
18 Lessee shall be obligated to pay the same for as long as Lessee occupies said structures,  
19 improvements, facilities and alterations.

20 22.4 Notwithstanding the above, from and after January 20, 2027, City shall  
21 be entitled to Building Rent on the City Buildings which shall be paid and determined  
22 pursuant to Article 1, Section 5.1. The Building Rent for the City Buildings shall be  
23 periodically adjusted pursuant to Article 1, Section 5.2.

24 23. **Signs.**

25 23.1 No identification signs pertaining to Lessee's operations shall be  
26 installed or placed in or on the Demised Premises or Airport until Lessee has submitted to  
27 the Airport Director drawings, sketches, design dimensions, and type and character of such  
28 identification signs proposed to be placed thereon or therein and has received written



1 approval from the Airport Director and all necessary signage permits have been issued by  
2 the City of Long Beach Development Services Department. The Airport Director's written  
3 approval and any conditions related to the subject signs shall become a part of this Lease  
4 as though fully set forth herein once the document is fully executed by both parties.

5 23.2 Other than approved identification signs, Lessee shall not, at any time,  
6 under any circumstances, install, place, or maintain any type of advertising, on the  
7 Demised Premises.

8 24. **Maintenance and Repair of Demised Premises.**

9 24.1 Lessee, solely at its own cost and expense, shall keep and maintain  
10 the Demised Premises and all improvements in good repair and working order, reasonable  
11 wear and tear excepted, and in a clean, properly maintained, and safe condition. All  
12 maintenance, repairs, and replacements shall be in accordance with: applicable prevailing  
13 industry maintenance standards; maintenance requirements which City may develop; in  
14 compliance with all manufacturers' recommendations, warranties and guarantees; and all  
15 federal, state, and local government rules and regulations. Lessee shall keep the Demised  
16 Premises, at all times, free and clear of weeds, wastepaper, discarded plastic, graffiti,  
17 discarded pallets, and all other trash and debris of any kind.

18 24.2 If Lessee fails to so maintain or repair the Demised Premises, City  
19 may serve a "Notice to Cure" upon Lessee. Said Notice shall prescribe the work to be  
20 accomplished by Lessee in order to correct the maintenance deficiencies and shall state  
21 the due date by which Lessee shall have to complete the work as prescribed in the Notice.  
22 In addition, a copy of the "Notice to Cure" may be posted on the Demised Premises in a  
23 conspicuous place. Furthermore, City retains the right, but not the obligation, to make  
24 emergency repairs when, in the sole determination of the Airport Director, failure to take  
25 immediate action will damage the facilities or disrupt operations, at Lessee's sole cost and  
26 expense, plus an administrative fee in the amount of fifteen percent (15%) of the cost.

27 24.3 If, in the reasonable opinion of the Airport Director, any Default Event  
28 is of such nature that it cannot physically be corrected within the period originally specified

1 by City, and if the party in Default Event has responded with a course of action and has  
2 commenced to remedy such Default Event promptly after the receipt of such Notice, and  
3 shall continuously and diligently proceed in good faith to eliminate such Default Event, then  
4 the period for correction shall be extended for such length of time as is reasonably  
5 necessary to complete the same.

6           24.4 If the work prescribed in the "Notice to Cure" is not completed by  
7 Lessee in a manner reasonably satisfactory to the Airport Director, and Lessee fails to  
8 correct such work within the time specified by City in the mailed Notice, or as set forth in  
9 Article 2, Subsection 24.3, City may, at City's sole option, and at Lessee's sole cost and  
10 expense, enter upon the Demised Premises and perform whatever work may, in the  
11 reasonable opinion of the Airport Director, be required to correct the maintenance  
12 deficiencies. If City exercises this option, Lessee shall pay to City a sum equal to the direct  
13 cost of labor and materials expended for said work, plus a surcharge equal to fifteen  
14 percent (15%) of said direct cost. Payment shall be made within thirty (30) days of invoice  
15 date.

16           25. **City's Right of Access and Inspection.** With forty-eight (48) hours' written  
17 notice in the absence of any emergency, City, by and through its officers, employees,  
18 agents, representatives, and contractors, shall have the right at all reasonable times and  
19 in a reasonable manner, upon prior notice to Lessee, to enter upon the Demised Premises  
20 for the purpose of inspecting the same or for doing any act or thing which City may be  
21 obligated or have the right to do under this Lease, or otherwise, and no abatement of rental  
22 shall be claimed by or allowed to Lessee by reason of the exercise of such rights unless  
23 otherwise provided herein. In the exercise of its rights under this Section, City, its officers,  
24 employees, agents, and contractors shall not unreasonably interfere with the conduct of  
25 Lessee's business on the Demised Premises as herein authorized.

26           26. **Liability Insurance.**

27           26.1 Lessee agrees that at all times during the term of this Lease and any  
28 renewal or extension thereof, it will maintain in full force and effect an insurance policy or

1 policies which will insure and indemnify, to the extent allowed by California law, Lessee  
2 and the City of Long Beach, the City Council and each member thereof, all of City's Boards  
3 and Commissions and every officer, employee, and agent of the City against liability,  
4 financial loss or expense resulting from any suits, claims, demands, actions or loss, brought  
5 by any person or persons and from all costs and expenses of litigation brought by reason  
6 of the use and occupation by Lessee or by any other person or persons of the Demised  
7 Premises, against the City, the City Council or members thereof, or any board, officer,  
8 employee, or agent of the City in the amount of Ten Million Dollars (\$10,000,000) per  
9 occurrence (or as otherwise delineated below) for any injury to persons and or damages  
10 to property in or about the Demised Premises and any buildings constructed thereon, or  
11 the Long Beach Municipal Airport or any of its facilities.

12 26.2 Such policy or policies of insurance shall provide at least the following  
13 forms of insurance with minimum coverage of:

14 26.2.1 Contractual Liability; with limits apply to the following classes:

- 15 (a) Concessionaires, One Million Dollars (\$1,000,000)
- 16 (b) Contractors, Two Million Dollars (\$2,000,000)
- 17 (c) Fixed base operator, Ten Million Dollars (\$10,000,000)

18 26.2.2 Aircraft Liability, including passenger bodily injury; with limits  
19 apply to the following classes:

- 20 (a) Cargo airlines, Fifteen Million Dollars (\$15,000,000)
- 21 (b) Helicopter landing facility control operators, Five Million  
22 Dollars (\$5,000,000)
- 23 (c) Private passenger, fixed, single engine rotor, One Million  
24 Dollars (\$1,000,000)
- 25 (d) Private passenger, multi-engine rotor or rotary, Two  
26 Million Dollars (\$2,000,000)
- 27 (e) Private passenger jet, Five Million Dollars (\$5,000,000).

28 Additional insured status is required for all liability policies. In addition, as the

operations and/or products of Lessee and its subtenants dictate and as determined in writing by the City Risk Manager or designee, the following may apply:

26.2.3 Airport Liability;

26.2.4 Products and/or Completed Operations Liability

Hangarkeepers (Hull);

26.2.5 Hangarkeepers (In-flight).

26.2.6 Coverage for Fuel Operations; with limits apply to the following

classes:

(a) General liability, Ten Million Dollars (\$10,000,000)

(b) Pollution liability and pollution clean-up, Two Million Dollars (\$2,000,000)

26.2.7 Standard Hangarkeeper's Liability:

(a) Fixed wing, piston:

(i) One Million Dollars (\$1,000,000) any one aircraft;

(ii) Two Million Dollars (\$2,000,000) any one occurrence

(b) Rotary:

(i) One Million Five Hundred Thousand Dollars (\$1,500,000) any one aircraft;

(ii) Three Million Dollars (\$3,000,000) any one occurrence

(c) Jet:

(i) Two Million Dollars (\$2,000,000) any one aircraft;

(ii) Four Million Dollars (\$4,000,000) any one occurrence

26.2.8 In-flight Hangarkeepers:

1 (a) Fixed wing, piston: One Million Dollars (\$1,000,000) any  
2 one aircraft or occurrence

3 (b) Rotary: One Million Five Hundred Thousand Dollars  
4 (\$1,500,000) any one aircraft or occurrence

5 (c) Jet: Two Million Dollars (\$2,000,000) any one aircraft or  
6 occurrence

7 26.2.9 Special Perils Property Insurance: Full replacement cost (new)  
8 of the buildings.

9 26.2.10 Business Interruption Insurance: An amount equal to  
10 twelve (12) months' rent payments naming City as loss payee.

11 26.2.11 Aircraft Maintenance: Five Million Dollars (\$5,000,000)  
12 any one occurrence.

13 26.2.12 Liquor Liability: One Million Dollars (\$1,000,000).

14 The insurance policy or policies shall either contain a broad form of  
15 contractual liability including Leases, or it shall have attached thereto an  
16 endorsement providing for such coverage. The policy shall include a Severability of  
17 Interests (Cross Liability) Clause, and said coverage shall be primary and  
18 noncontributing with any other insurance available to the City. The City of Long  
19 Beach, the City Council and each member thereof, all of City's Boards and every  
20 officer, employee, and agent of the City shall be named as an additional insured on  
21 said policy. The insurance coverages specified in Subsections 26.2.2, 26.2.3,  
22 26.2.5, 26.2.6 and 26.2.7 shall take effect upon the Commencement Date.

23 26.3 Upon the execution of this Lease, the Lessee shall deliver all policies  
24 of insurance mentioned herein or certified copies thereof to the Airport Director for approval  
25 as to sufficiency and for approval as to form by the City Attorney. When said policies of  
26 insurance have been so approved, Lessee may substitute a certificate of insurance issued  
27 by the respective insurance companies certifying that said insurance coverage is in full  
28 force and effect and that all operations of the Lessee under this Lease are covered by such

1 insurance; and upon the filing of said certificates, the policy or policies will be returned by  
2 City to Lessee. All insurance policies secured by Lessee shall contain the following:

3 "The inclusion herein of any person or entity as an insured shall not affect any right  
4 such person or entity would have as a claimant hereunder if not so included."

5 Notwithstanding any other provision to the contrary contained in this Lease,  
6 Lessee shall not have the right to take possession of Parcel C until such certificate or  
7 certificates are filed, in addition to the required insurance for the remainder of the Demised  
8 Premises, with the Airport Director.

9 26.4 All insurance policies secured by Lessee providing the coverages  
10 required under this Lease shall be obtained from insurers having a minimum financial rating  
11 from A.M. Best of A:VIII and shall require each insurer to notify City by registered or certified  
12 mail of any modification, termination or cancellation of any policy of insurance no less than  
13 thirty (30) days prior to the effective date of such modification, termination or cancellation.  
14 Notice by the insurer shall be effective upon the receipt of said notice by City. In addition  
15 to any other requirements of this Lease, Lessee shall notify City of any modification,  
16 termination or cancellation of any policy of insurance secured by Lessee pursuant to this  
17 paragraph as soon as Lessee learns of any such modification, termination or cancellation.  
18 Each of said policies shall stipulate that said policy provides primary coverage and is not  
19 subordinate to nor contributing with any other insurance coverage held or maintained by  
20 City. The procuring of such policy or policies of insurance shall not be construed to be a  
21 limitation upon Lessee's liability or as full performance on Lessee's part of the  
22 indemnification and hold harmless provisions of this Lease; and Lessee understands and  
23 agrees that notwithstanding any policy or policies of insurance Lessee's obligation to  
24 protect, indemnify and hold harmless City hereunder is for the full and total amount of any  
25 damage, injuries, loss, expense, costs or liabilities caused by or in any manner connected  
26 with or attributed to the acts or omissions of Lessee, its officers, agents, employees,  
27 subtenants, licensees, patrons or visitors, or the operations conducted by Lessee, or  
28 Lessee's use, misuse or neglect of the Demised Premises.

1           26.5 In the event Lessee does not desire to present the original or a  
2 photostatic copy of said policy for approval as above provided, Lessee may present for  
3 approval and filing a certificate of insurance to which is attached the following  
4 endorsement:

5           "Within the limits set forth in the declarations, to indemnify and gave harmless the  
6 City of Long Beach, its officers and employees, from and against any and all claims  
7 or demands for injury, damage, loss, liability, cost and expense of any kind or nature  
8 whatsoever for death, injury or loss to persons or damage to property, which the  
9 City of Long Beach, its officers or employees, may sustain or incur or which may be  
10 imposed upon them, or any of them, arising out of or attributable to the use of the  
11 premises described in a lease between the City of Long Beach and the insured,  
12 including the use of the City's Long Beach Airport and its facilities.

13           This policy names as additional insureds the City of Long Beach, its boards and  
14 their officers', agents and employees. This insurance is primary and not contributing  
15 with other insurance held by said additional insureds.

16           The policy shall not be cancelled or otherwise modified until thirty (30) days' written  
17 notice thereof has been served on the Airport Director of the City of Long Beach.

18           This endorsement shall control over all other provisions of the policy or  
19 endorsements thereto, which are inconsistent herewith."

20           26.6 The procuring of any policy of insurance shall not be construed to be  
21 a limitation upon Lessee's liability or as a full performance on its part of the indemnification  
22 provisions of this Lease, Lessee's obligations being, notwithstanding said policy of  
23 insurance, for the full and total amount of any damage, injury or loss caused by the  
24 negligence or neglect connected with or attributable to its operations under this Lease.

25           26.7 As a condition precedent to the effectiveness of this Lease, Lessee  
26 shall obtain an endorsement to, or have an appropriate provision in, its public liability and  
27 property damage insurance policy indicating that any loss occasioned the City as a result  
28 of negligent activities, operation or conduct of any subtenant is covered by the policy if

1 such endorsement can be obtained from any insurance carrier.

2           26.8 Any insurance policies procured by Lessee hereunder shall provide  
3 that the insurance carrier waives all rights of subrogation against the City. If the City shall  
4 obtain any policies of insurance on or insuring against loss arising out of the operation of  
5 the Demised Premises during the term hereof, each such policy shall include a waiver by  
6 the insurance carrier of all rights of subrogation against Lessee.

7           26.9 City shall have the right at any time during the term of this Lease to  
8 review the type, form and coverage limits of the insurance enumerated herein. If, in the  
9 reasonable opinion of City, the insurance provisions in this Lease are not sufficient to  
10 provide adequate protection for City and the members of the public using Long Beach  
11 Airport, City may require the Lessee to obtain insurance sufficient to provide such adequate  
12 protection. Insurance requirements shall be applied uniformly to all lessees engaged in  
13 similar type operations on the Long Beach Airport, and such requirements shall be  
14 consistent with industry standards.

15           26.10 The insurance required by Sections 26, 27 and 28 may be provided  
16 by Lessee or subtenants of Lessee for Lessee or in lieu of Lessee's obligation provided,  
17 however, that said requirements shall be complied with and any failure to do so shall be a  
18 breach of this Lease.

19           26.11 Notwithstanding anything to the contrary contained in this Section 26,  
20 whenever, and separately with respect to each occurrence, the operations and /or products  
21 offered by Lessee or its subtenants change (either as an increase or decrease in required  
22 coverage and limits) during the term of this Lease, the coverage and limits of coverage in  
23 Subsection 26.2 that apply to Lessee or its subtenants may change as determined in  
24 writing by the City Risk Manager or designee; provided, however that in no event shall the  
25 insurance coverage limits that are required from any existing (as of the Effective Date)  
26 subtenant of Lessee apply until the second anniversary of the Effective Date, and then only  
27 to the extent that such insurance coverage limits have been updated and City has required  
28 compliance with such limits by City's other tenants at the Airport which are similarly-



1 situated to Lessee.

2       27.    **Property Insurance.**

3               27.1 Lessee agrees that at all times during the term of this Lease and any  
4 renewal or extension thereof, it will maintain in force an insurance policy which will insure  
5 and indemnify Lessee and the City from loss occurring to equipment, buildings, structures,  
6 or other improvements on the Demised Premises by reason of fire and any other hazards  
7 insured against in what is commonly known as special perils ("all risk") coverage at full  
8 replacement cost new of the buildings, structures, or other improvements or fixtures used  
9 in connection with the operation of any improvements located on the Demised Premises.  
10 The City shall be named an additional insured and loss payee as its interests may appear  
11 under said policy.

12             27.2 Should the Demised Premises or the building of which the Demised  
13 Premises is a part be damaged or destroyed, in whole or in part, by fire, earthquake or any  
14 other casualty at any time during the term of this Lease so that the same cannot be repaired  
15 within one year to substantially the same condition it was immediately prior to the  
16 happening of such casualty, Lessee may, within ninety (90) working days after the  
17 happening of such casualty and with the agreement of City, terminate this Lease as of the  
18 date of said casualty. In the event of any termination of this Lease as provided in this  
19 clause, Lessee shall forthwith surrender the Demised Premises to City. In the event of any  
20 damage or destruction or other casualty as mentioned in this paragraph, except that  
21 caused by neglect on the part of Lessee, and this Lease is not terminated as provided in  
22 this clause, Lessee shall commence such reasonable and appropriate steps as are  
23 necessary to make and secure payment of such insurance claims as are available. Lessee  
24 shall diligently pursue its claims to completion. Lessee shall commence restoration of the  
25 Demised Premises and shall proceed with reasonable diligence to restore the basic  
26 building to substantially the condition in which it was prior to the occurrence of said  
27 casualty. Lessee shall likewise proceed with reasonable diligence to restore and  
28 reconstruct all other improvements on the Demised Premises to substantially the same

1 condition in which they were prior to the happening of the casualty. Failure of Lessee to  
2 take the actions required by this paragraph shall entitle City to terminate this lease on thirty  
3 (30) days' notice to Lessee or upon the depletion of the loss payee payments under the  
4 business interruption insurance, whichever occurs first. Lessee shall be responsible for  
5 the restoration of the Demised Premises but not to improvements thereon to the condition  
6 in which they were prior to the happening of the casualty, and there shall be no reduction  
7 in the rent for Lessee's loss of use of the Demised Premises. In the event the cost of  
8 replacing or restoring the improvements on the Demised Premises exceeds One Hundred  
9 Thousand Dollars (\$100,000) and is not covered by the insurance required under this  
10 Lease, Lessee shall have the right to terminate this Lease. In no event shall City be liable  
11 to Lessee for any damages resulting to Lessee from the happening of any such fire or other  
12 casualty or from the repair or reconstruction of the Demised Premises or from the  
13 termination of this Lease as herein provided, nor shall Lessee be released thereby from  
14 any of its obligations hereunder except as expressly stated in this clause.

15 27.3 Any insurance policies procured by Lessee hereunder shall provide  
16 that the insurance carrier waives all rights of subrogation against the City.

17 27.4 The requirements of Subsections 26.3, 26.4, 26.5, 26.6, 26.7, 26.8  
18 and 26.9 relating to the form, nature, source and effects of insurance policies shall apply  
19 to policies obtained pursuant to this paragraph as well.

20 28. **Worker's Compensation Insurance.** Evidence of current workers'  
21 compensation coverage as required by the Labor Code of the State of California and  
22 Employer's liability insurance with minimum limits of One Million Dollars (US \$1,000,000)  
23 per accident or occupational illness shall be provided to City. The policy shall be endorsed  
24 with a waiver of the insurer's right of subrogation against the City of Long Beach, and its  
25 officials, employees, and agents

26 29. **Indemnification and Hold Harmless.**

27 29.1 Lessee shall indemnify, protect and hold harmless City, its Boards,  
28 Commissions, and their officials, employees and agents ("Indemnified Parties"), from and

1 against any and all liability, claims, demands, damage, loss, obligations, causes of action,  
2 proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys'  
3 fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or  
4 alleged to have arisen, in whole or in part, out of or in connection with (1) the use of the  
5 Demised Premises by Lessee, its officers, employees, agents, subcontractors, or anyone  
6 under Lessee's control, or (2) Lessee's breach or failure to comply with any of its  
7 obligations contained in this Lease (collectively "Claims" or individually "Claim").

8           29.2 Lessee shall have a separate and wholly independent duty to defend  
9 Indemnified Parties at Lessee's expense by legal counsel reasonably acceptable to City,  
10 from and against all Claims asserted by third parties, and shall continue this defense until  
11 the Claims are resolved, whether by settlement, judgment or otherwise. No finding or  
12 judgment of negligence, fault, breach, or the like on the part of Lessee shall be required for  
13 the duty to defend to arise. City shall notify Lessee of any Claim asserted by a third party  
14 against it, shall tender the defense of such Claim to Lessee, and shall assist Lessee, as  
15 may be reasonably requested, in the defense.

16           29.3 If a court of competent jurisdiction determines that a Claim was caused  
17 by the sole negligence or willful misconduct of Indemnified Parties, Lessee's costs of  
18 defense and indemnity shall be (1) reimbursed in full if the court determines sole  
19 negligence or willful misconduct by the Indemnified Parties, or (2) reduced by the  
20 percentage of negligence or willful misconduct attributed by the court to the Indemnified  
21 Parties.

22           29.4 The provisions of this Section 29 shall survive the expiration or  
23 termination of this Lease.

24           30. **Nondiscrimination and Equal Employment Practices.**

25           30.1 **Federal Non-Discrimination Provisions.**

26           30.1.1 Lessee for itself, its heirs, representatives, successors in  
27 interest, and assigns, as a part of the consideration hereof, does hereby covenant and  
28 agree as a covenant running with the land that in the event facilities are constructed,

1 maintained, or otherwise operated on the said property described in this Lease, for a  
2 purpose for which a Department of Transportation program or activity is extended or for  
3 another purpose involving the provision of similar services or benefits, Lessee shall  
4 maintain and operate such facilities and services in compliance with all other requirements  
5 imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs  
6 of the Department of Transportation, and as said Regulations may be amended.

7 30.1.2 Lessee for itself, its personal representatives, successors in  
8 interest, and assigns, as a part of the consideration hereof, does hereby covenant and  
9 agree as a covenant running with the land that: (1) no person on the grounds of race, color  
10 or national origin shall be excluded from participation in, denied the benefits of, or be  
11 otherwise subjected to discrimination in the use of said facilities, (2) that in the construction  
12 of any improvements on, over, or under such land and the furnishing of services thereon,  
13 no person on the grounds of race, color, or national origin shall be excluded from  
14 participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that  
15 Lessee shall use the Demised Premises in compliance with all other requirements imposed  
16 by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the  
17 Department of Transportation, and as said Regulations may be amended.

18 30.1.3 Lessee assures that it will comply with pertinent statutes,  
19 Executive Orders, and such rules as are promulgated to assure that no person shall, on  
20 the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from  
21 participating in any activity conducted with or benefiting from Federal assistance. This  
22 Provision obligates Lessee or its transferee for the period during which Federal assistance  
23 is extended to the airport program, except where Federal assistance is to provide, or is in  
24 the form of personal property or real property or interest therein or structures or  
25 improvements thereon. In these cases, the Provision obligates the party or any transferee  
26 for the longer of the following periods: (a) the period during which the property is used by  
27 the sponsor or any transferee for a purpose for which Federal assistance is extended, or  
28 for another purpose involving the provision of similar services or benefits; or (b) the period

1 during which the airport sponsor or any transferee retains ownership or possession of the  
2 property.

3 30.1.4 Lessee shall furnish its services on a commercially reasonable  
4 and not unjustly discriminatory basis to all users, and charge commercially reasonable and  
5 not unjustly discriminatory prices for each unit or service, provided that Lessee may be  
6 allowed to make reasonable discounts, rebates, or other similar types of price reductions  
7 to volume purchasers or long-term tenants or based on changing market conditions or  
8 other reasons, provided that in all such instances such price reductions otherwise comply  
9 with the requirements of this Section 30.1.

10 30.1.5 Lessee agrees that it shall insert the provisions found in Article  
11 2, Subsections 30.1.3 and 30.1.4 in any sublease, assignment, license, or permit by which  
12 said Lessee grants after the Commencement Date a right or privilege to any person, firm,  
13 or corporation to render accommodations and/or services to the public on the Demised  
14 Premises herein leased.

15 30.2 **Non-Discrimination in Use of Demised Premises**. There shall be  
16 no discrimination against or segregation of any person, or group of persons, on account of  
17 race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap,  
18 marital status, domestic partner status, or medical condition in the lease, sublease,  
19 transfer, use, occupancy, tenure, or enjoyment of the Demised Premises or any part of the  
20 Demised Premises or any operations or activities conducted on the Demised Premises or  
21 any part of the Demised Premises. Nor shall Lessee or any person claiming under or  
22 through Lessee establish or permit any such practice or practices of discrimination or  
23 segregation with reference to the selection, location, number, use or occupancy of  
24 Lessees, sublessees, or vendees of the Demised Premises. Any sublease or assignment  
25 which may be permitted under this Lease shall also be subject to all non-discrimination  
26 clauses contained in Article 2, Section 30.2.

27 31. **Taxes, Permits and Licenses**.

28 31.1 Lessee shall pay any and all taxes of whatever character that may be

1 levied or charged upon the Demised Premises, or upon Lessee's improvements, fixtures,  
2 equipment, or other property thereon or upon Lessee's use thereof. Lessee shall also pay  
3 all license or permit fees necessary or required by law or regulation for the conduct of  
4 Lessee's business or use of the Demised Premises.

5 31.2 If a claim is made against City for any of the above charges, City shall  
6 promptly notify Lessee in writing; provided, however, that failure by City to give such notice  
7 shall not constitute a waiver of Lessee's obligation to pay such taxes, license and/or permit  
8 fees.

9 31.3 In addition, by executing this Lease and accepting the benefits thereof,  
10 a property interest may be created known as a "possessory interest". If such possessory  
11 interest is created, Lessee, as the party in whom the possessory interest is vested, shall  
12 be subject to the payment of the property taxes levied upon such interest.

13 31.4 The obligations of Lessee under this Section, however, shall not  
14 prevent Lessee from contesting the validity and/or applicability of any of the above charges  
15 and during the period of any such lawful contest, Lessee may refrain from making, or direct  
16 the withholding of, any such payment without being in breach of the above provisions. Upon  
17 a final determination in which Lessee is held responsible for such taxes and/or fees, Lessee  
18 shall promptly pay the required amount plus all legally imposed interest, penalties and  
19 surcharges. If all or any part of such taxes and/or fees, penalties, or surcharges are  
20 refunded to City, City shall remit to Lessee such sum(s) to which Lessee is legally entitled.

21 32. **Default.**

22 32.1 **Default Events.** The following events shall be deemed to be events of  
23 default (each a "Default Event") by Lessee under this Lease:

24 32.1.1 Lessee fails to pay any Monthly Rent due under this Lease,  
25 which failure continues for a period of ten (10) days after such payment should have been  
26 paid pursuant to the terms and conditions of this Lease;

27 32.1.2 Lessee fails to comply with any term, provision or covenant of  
28 this Lease, other than paying its Monthly Rent, and does not cure such failure within thirty

(30) days after City has sent written notice to Lessee specifying such failure or such longer period of time as may be granted by Airport Director to cure such Default Event as long as Lessee commences to cure such Default Event within such thirty (30) day period and diligently proceeds to cure such Default Event;

32.1.3 Lessee makes an assignment of this Lease, or any rights granted to Lessee hereunder, to, and for the benefit of, Lessee's creditors;

32.1.4 Lessee, within thirty (30) days after the commencement of any proceeding against Lessee seeking adjudication of bankruptcy or reorganization, rearrangement, composition, readjustment, liquidation, dissolution or similar relief, fails to cause such proceedings to be dismissed;

32.1.5 Lessee, within sixty (60) days after the appointment without Lessee's consent or acquiescence of any trustee, receiver, or liquidator of Lessee or a material part of its assets, causes such appointment to be vacated.

32.1.6 The interests of Lessee under this Lease shall not, except at City's option and with its written consent, be assignable by operation of law. In case of the bankruptcy of Lessee, or the appointment of a receiver for Lessee and such receiver is not removed within one hundred twenty (120) days from the date of appointment, or if a receiver is appointed to take possession of the Demised Premises as a result of any act or omission of Lessee and such receiver is not removed within one hundred twenty (120) days from the date of appointment, or if Lessee makes an assignment of this Lease for the benefit of creditors, or if possession of the Demised Premises is taken by virtue of any attachment, execution, or the levy of any judicial process, City, at its election, may, after written notice to Lessee, terminate this Lease.

**32.2 City's Remedies.** Upon the occurrence of a Default Event, City, in addition to any other rights or remedies available to City at law or in equity, but provided that Leasehold Mortgagee is not then pursuing a cure of such Default Event in accordance with the terms of Article 1, Section 10, shall have the right to:

32.2.1 Terminate this Lease and all rights of Lessee under this Lease,

1 by giving Lessee thirty (30) days written notice that this Lease is terminated, in which case,  
2 the provisions of Article 2, Section 22 shall apply and City may recover from Lessee the  
3 aggregate sum of:

4 (a) The worth at the time of award of any unpaid rent that  
5 had been earned at the time of termination;

6 (b) The worth at the time of award of the amount by which  
7 (A) the unpaid rent that would have been earned after termination until the time of award  
8 exceeds (B) the amount of rental loss, if any, that Lessee affirmatively proves could be  
9 reasonably avoided;

10 (c) The worth at the time of award of the amount by which  
11 (A) the unpaid rent for the balance of the term after the time of award exceeds (B) the  
12 amount of rental loss, if any, that Lessee affirmatively proves could be reasonably avoided;

13 (d) Any other amounts incurred by City directly caused by  
14 Lessee's failure to perform Lessee's obligations, including any such amounts ascertained  
15 or determined at any time after the Default Event; and

16 (e) All other amounts in addition to or in lieu of those  
17 previously set out as may be permitted from time to time by applicable California law.

18 (f) As used in Article 2, Subsections 32.2.1(a) and (b), the  
19 "worth at the time of award" is computed by adding interest at the rate of percent (10%)  
20 per annum from the date any unpaid rent was first due and payable in the case of  
21 Subsection 32.2.1(a) and from the date of termination in the case of Subsection 32.2.1(b)  
22 until, in either case, such amount is paid. As used in Article 2, Subsection 32.2.1(c), the  
23 "worth at the time of award" is computed as the net present value of such amount  
24 determined by discounting that amount at the discount rate of the Federal Reserve Bank  
25 of San Francisco at the time of the award plus one percent (1%). As used in this Section,  
26 the term "rent" shall include the Monthly Rent and any and all other payments required by  
27 Lessee under this Lease.

28 32.2.2 Continue this Lease, and from time to time, without terminating



1 this Lease, either:

2 (a) Recover all rent and other amounts payable as they  
3 become due or,

4 (b) Re-let the Demised Premises or any part on behalf of  
5 Lessee on terms and at the rent that City, in City's sole discretion, may deem advisable, all  
6 with the right to make alterations and repairs to the Demised Premises, at Lessee's sole  
7 cost, and apply the proceeds of re-letting to the rent and other amounts payable by Lessee.  
8 To the extent that the rent and other amounts payable by Lessee under this Lease exceed  
9 the amount of the proceeds from re-letting, City may recover the excess from Lessee as  
10 and when due.

11 32.2.3 Upon the occurrence of a Default Event, but provided that  
12 Leasehold Mortgagee is not then pursuing a cure of such Default Event in accordance with  
13 the terms of Article 1, Section 10, City shall also have the right, with or without terminating  
14 this Lease, to re-enter the Demised Premises and remove all property from the Demised  
15 Premises. City may store the property removed from the Demised Premises at the expense  
16 and for the account of Lessee.

17 32.2.4 None of the following remedial actions, alone or in combination,  
18 shall be construed as an election by City to terminate this Lease unless City has in fact  
19 given Lessee (and Leasehold Mortgagee, if applicable) written notice that this Lease is  
20 terminated or unless a court of competent jurisdiction decrees termination of this Lease:  
21 any act by City to maintain or preserve the Demised Premises; any efforts by City to re-let  
22 the Demised Premises; any re-entry, repossession, or re-letting of the Demised Premises  
23 by City pursuant to this Section. If City takes any of the previous remedial actions without  
24 terminating this Lease, City may nevertheless at any later time terminate this Lease by  
25 written notice to Lessee, provided that Leasehold Mortgagee is not then pursuing a cure of  
26 such Default Event in accordance with the terms of this Lease.

27 32.2.5 If City relets the Demised Premises, City shall apply the  
28 revenue from the re-letting as follows: first, to the payment of any indebtedness other than

1 rent due from Lessee to City; second, to the payment of any cost of re-letting; third, to the  
2 payment of the cost of any maintenance and repairs to the Demised Premises; and fourth,  
3 to the payment of rent and other amounts due and unpaid under this Lease. City shall hold  
4 and apply the residue, if any, to payment of future amounts payable under this Lease as  
5 the same may become due, and shall be entitled to retain the eventual balance with no  
6 liability to Lessee. If the revenue from re-letting during any month, after application  
7 pursuant to the previous provisions, is less than the sum of (i) City's reasonable and  
8 documented expenditures for the Demised Premises during that month and (ii) the  
9 amounts due from Lessee during that month, Lessee shall pay the deficiency to City  
10 immediately upon demand.

11 32.2.6 After the occurrence of a Default Event, City, in addition to or in  
12 lieu of exercising other remedies, may, but without any obligation to do so, cure the breach  
13 underlying the Default Event for the account and at the expense of Lessee. However, City  
14 must, by prior written notice to Lessee (and Leasehold Mortgagee, if applicable) first allow  
15 Lessee a reasonable opportunity to cure, except in cases of emergency, where City may  
16 proceed without prior notice to Lessee. Lessee shall, upon demand, immediately reimburse  
17 City for all costs, including costs of settlements, defense, court costs, and attorney fees,  
18 that City may incur in the course of any cure.

19 32.2.7 No security or guaranty for the performance of Lessee's  
20 obligations that City may now or later hold shall in any way constitute a bar or defense to  
21 any action initiated by City or unlawful detainer or for the recovery of the Demised  
22 Premises, for enforcement of any obligation of Lessee, or for the recovery of damages  
23 caused by a breach of this Lease by Lessee or by a Default Event.

24 32.2.8 Except where this is inconsistent with or contrary to any  
25 provisions of this Lease, no right or remedy conferred upon or reserved to either party is  
26 intended to be exclusive of any other right or remedy, or any right or remedy given now or  
27 later existing at law or in equity or by statute. Except to the extent that either party may  
28 have otherwise agreed in writing, no waiver by a party of any violation or nonperformance

1 by the other party of any obligations, agreements, or covenants under this Lease shall be  
2 deemed to be a waiver of any subsequent violation or nonperformance of the same or any  
3 other covenant, agreement, or obligation, nor shall any forbearance by either party to  
4 exercise a remedy for any violation or nonperformance by the other party be deemed a  
5 waiver by that party of the rights or remedies with respect to that violation or  
6 nonperformance.

7           32.3 Cross Default. A material breach of the terms of any other lease,  
8 license, permit, or contract held by Lessee with City shall constitute a material breach of  
9 the terms of this Lease and shall give City the right to terminate this Lease for cause in  
10 accordance with the procedures set forth in this Section.

11           33. Waiver. The waiver by either party of any breach of any term, covenant, or  
12 condition herein contained shall not be deemed to be a waiver of any other term, covenant,  
13 or condition, or of any subsequent breach of the same term, covenant, or condition. The  
14 subsequent acceptance of rent hereunder by City shall not be deemed to be a waiver of  
15 any preceding breach by Lessee of any term, covenant, or condition of this Lease other  
16 than the failure of Lessee to pay the particular rent so accepted, regardless of City's  
17 knowledge of such preceding breach at the time of acceptance of such rent.

18           34. Attorney's Fees. If City shall, without any fault, be made a party to any  
19 litigation commenced by or against Lessee arising out of Lessee's use or occupancy of the  
20 Demised Premises, then Lessee shall pay all costs, expenses, and reasonable attorney's  
21 fees incurred by or imposed upon City in connection with such litigation. Each party shall  
22 give prompt notice to the other of any claim or suit instituted against it that may affect the  
23 other party.

24           35. Hazardous and Other Regulated Substances.

25           35.1 Definition of "hazardous substance(s)." For the purposes of this  
26 Lease, "hazardous substances" means:

27                   35.1.1 Any substance the presence of which requires the investigation  
28 or remediation under any federal, state or local statute, regulation, rule, ordinance, order,

1 action, policy or common law; or

2 35.1.2 Any substance which is or becomes defined as a hazardous  
3 waste, extremely hazardous waste, hazardous material, hazardous substance, hazardous  
4 chemical, toxic chemical, toxic substance, cancer causing substance, substance that  
5 causes reproductive harm, pollutant or contaminant under any federal, state or local  
6 statute, regulation, rule or ordinance or amendments thereto, including, without limitation,  
7 the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.  
8 Section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C.  
9 Section 6901 et seq.); or

10 35.1.3 Any substance which is toxic, explosive, corrosive, flammable,  
11 infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or  
12 becomes regulated by any governmental authority, agency, department, commission,  
13 council, board, or instrumentality of the United States, the State of California, the City of  
14 Los Angeles, or any political subdivision of any of them; or

15 35.1.4 Any substance the presence of which on the Demised  
16 Premises causes or threatens to cause a nuisance upon the Demised Premises or to  
17 adjacent properties or poses or threatens to pose a hazard to the health or safety of  
18 persons on or about the Demised Premises; or

19 35.1.5 Any substance the presence of which on adjacent properties  
20 could constitute a trespass by Lessee; or

21 35.1.6 Any substance, without limitation, which contains gasoline,  
22 aviation fuel, jet fuel, diesel fuel or other petroleum hydrocarbons, lubricating oils, solvents,  
23 polychlorinated bipheynols (PCBs) asbestos, urea formaldehyde or radon gases.

24 35.2 Definition of "Pre-Existing Environmental Conditions." For the  
25 purposes of this Lease, "Pre-Existing Environmental Conditions" shall mean any  
26 environmental conditions or hazardous substances, or release, spill, or discharge of the  
27 same (specifically including any and all matters related to aviation gas or lead), existing or  
28 occurring prior to the occupancy of the Demised Premises by Lessee, whether known or

1 unknown, and including, without limitation, any such conditions or hazardous substances  
2 related to, arising from or contained in, on or under the City Buildings or any other  
3 improvements on the Demised Premises prior to Lessee's occupation of the Demised  
4 Premises, or discovered in connection with the demolition of the City Buildings by or on  
5 behalf of Lessee, including, without limitation, any asbestos containing materials (so long  
6 as such demolition was conducted in accordance with applicable laws).

7           35.3 Environmental Indemnity. Except for Pre-Existing Environmental  
8 Conditions, which shall be the sole responsibility of City, Lessee agrees to accept sole  
9 responsibility for full compliance with any and all applicable present and future rules,  
10 regulations, restrictions, ordinances, statutes, laws, and/or other orders of any  
11 governmental entity regarding the use, storage, handling, distribution, processing, and/or  
12 disposal of hazardous substances, regardless of whether the obligation for such  
13 compliance or responsibility is placed on the owner of the land, on the owner of any  
14 improvements on the Demised Premises, on the user of the land, or on the user of the  
15 improvements. Lessee agrees that any claims, damages, penalties, or fines asserted  
16 against or levied on City and/or Lessee as a result of noncompliance by Lessee or its  
17 employees, servants, agents, contractors or subcontractors with any of the provisions in  
18 this Section shall be the sole responsibility of Lessee and that Lessee shall indemnify and  
19 hold City harmless from all such claims, damages, penalties, or fines. Further, City may, at  
20 its option, pay such claims, damages, penalties, or fines resulting from Lessee's non-  
21 compliance with any of the terms of this Section, and Lessee shall indemnify and reimburse  
22 City for any such payments.

23           35.4 Except for conditions existing prior to the original occupancy of the  
24 Demised Premises by Lessee or Lessee's predecessors in interest under this Lease or the  
25 Existing Leases, in the case of any hazardous substance spill, leak, discharge, release or  
26 improper storage on the Demised Premises or contamination of the Demised Premises by  
27 any person, Lessee agrees to make or cause to be made any necessary repairs or  
28 corrective actions as well as to clean up and remove any spill, leakage, discharge, release

1 or contamination, in accordance with applicable laws. In the case of any hazardous  
2 substance spill, leak, discharge, release or contamination by Lessee or its employees,  
3 servants, agents, contractors, or subcontractors on the Demised Premises or as may be  
4 discharged or released by Lessee or its employees, servants, agents, contractors, or  
5 subcontractors in, on or under adjacent property which other property of City or its lessees,  
6 Lessee agrees to make or cause to be made any necessary corrective actions to clean up  
7 and remove any such spill, leakage, discharge, release or contamination. If Lessee fails to  
8 repair, clean up, properly dispose of, or take any other corrective actions as required  
9 herein, City may (but shall not be required to) take all steps it deems necessary to properly  
10 repair, clean up, or otherwise correct the conditions resulting from the spill, leak, discharge,  
11 release or contamination. Any such repair, cleanup, or corrective actions taken by City shall  
12 be at Lessee's sole cost and expense and Lessee shall indemnify and pay for and/or  
13 reimburse City for any and all costs (including any administrative costs) City incurs as a  
14 result of any repair, cleanup, or corrective action it takes.

15           35.5 If Lessee installs or uses already installed underground storage tanks,  
16 aboveground storage tanks, pipelines, or other improvements on the Demised Premises  
17 for the storage, distribution, use, treatment, or disposal of any hazardous substances,  
18 Lessee agrees, upon the expiration and/or termination of this Lease, to remove the above  
19 referenced improvements, and clean up releases of hazardous substances released during  
20 the occupancy of the Demised Premises by Lessee or Lessee's predecessors in interest  
21 under this Lease or the Existing Leases, or both, at the sole option of the Airport Director.  
22 Said removal and/or cleanup shall be at Lessee's sole cost and expense and shall be  
23 undertaken and completed in full compliance with all federal, state, and local laws and  
24 regulations, as well as with the reasonable directions of the Airport Director.

25           35.6 Lessee's Provision to City of Environmental Documents. Unless  
26 otherwise agreed to by City, Lessee shall promptly supply City with complete and legible  
27 copies of all material notices, reports, correspondence, and other documents sent by  
28 Lessee to or received by Lessee from any governmental entity regarding any hazardous

1 substance. Such written materials include, without limitation, all documents relating to any  
2 threatened or actual hazardous substance spill, leak, or discharge, or to any investigations  
3 into or clean-up of any actual or threatened hazardous substance spill, leak, or discharge  
4 including all test results.

5                   35.7 Survival of Environmental Indemnity Obligations. This Section and the  
6 obligations herein shall survive the expiration or earlier termination of this Lease.

7           36. **Airfield Security.**

8           36.1 Lessee shall be responsible for fully complying with any and all  
9 applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws,  
10 airport security agreements, and/or orders of any federal, state, and/or local governmental  
11 entity regarding airfield security. Lessee shall be responsible for the maintenance and  
12 repair of that portion of the Airport perimeter fence, including gates and doors, located on  
13 the Demised Premises or controlled by Lessee. Lessee shall comply fully with applicable  
14 provisions of the Transportation Security Administration Regulations, 49 Code of Federal  
15 Regulations ("CFR") Sections 1500 through 1550 and 14 CFR Part 129, including the  
16 establishment and implementation of procedures acceptable to the Airport Director to  
17 control access from the Demised Premises to air operation areas in accordance with the  
18 Airport Security Program required by CFR Sections 1500 through 1550. Further, Lessee  
19 shall exercise exclusive security responsibility for the Demised Premises and, if Lessee is  
20 an aircraft operator, do so pursuant to Lessee's Transportation Security Administration  
21 approved Aircraft Operator Standard Security Program used in accordance with 49 CFR,  
22 Parts 1510, 1540 and 1546.

23           36.2 In addition to the foregoing, gates and doors located on the Demised  
24 Premises which permit entry into restricted areas at Airport shall be kept locked by Lessee  
25 at all times when not in use or under Lessee's constant security surveillance. Gate or door  
26 malfunctions which permit unauthorized entry into restricted areas shall be reported to the  
27 Airports' Operations and Security Divisions without delay and shall be maintained under  
28 constant surveillance by Lessee until repairs are affected by Lessee or City and/or the gate

1 or door is properly secured.

2           36.3 Lessee shall cooperate with City to maintain and improve Airport  
3 security, and shall cooperate in investigations of violations of state and local laws,  
4 ordinances, and rules and regulations, of any federal, state and/or local governmental  
5 entity regarding airport and airfield security. Lessee shall provide necessary assistance to,  
6 and cooperate with, City in case of any emergency. Lessee shall, upon request, provide  
7 City relevant information which will enable City to provide efficient and effective  
8 management in response to any airport or airfield emergency.

9           36.4 All civil penalties levied by the TSA for violation of TSA Regulations  
10 pertaining to security gates or doors located on the Demised Premises or otherwise  
11 controlled by Lessee shall be the sole responsibility of Lessee. Lessee agrees to indemnify  
12 City for any federal civil penalties amounts City must pay due to any security violation  
13 arising from the use of Demised Premises or the breach of any obligation imposed by this  
14 Section. In such event, Lessee is also responsible for City's reasonable and documented  
15 attorney's fees and costs.

16           37. **Business Tax Registration.** Lessee represents that it has registered its  
17 business with the Office of Financial Management – Business Services Division of the City  
18 of Long Beach and has obtained and presently holds from that Office a Business Tax  
19 Registration Certificate, or a Business Tax Exemption Number. Lessee shall maintain, or  
20 obtain as necessary, all such Certificates required of it under said Ordinance and shall not  
21 allow any such Certificate to be revoked or suspended during the term hereof.

22           38. **Laws Rules and Regulations.**

23           38.1 In relation to its use and occupation of the Demised Premises, Lessee  
24 shall be solely responsible for fully complying with any and all applicable present and/or  
25 future rules, regulations, restrictions, ordinances, statutes, laws, policies and/or orders of  
26 any federal, state, and/or local government authority ("Applicable Laws"). This Lease shall  
27 be subject to and subordinate to all Applicable Laws and any City agreement or obligation  
28 pursuant to Applicable Laws, including but not limited to City's grant assurances to the



1 Federal Aviation Administration.

2           38.2 Lessee shall be solely responsible for fully complying with any and all  
3 applicable present and/or future orders, directives, or conditions issued, given or imposed  
4 by the Airport Director which are now in force or which may be hereafter adopted by the  
5 City Council and/or the Airport Director with respect to the operation of Airport.

6           38.3 Lessee shall be solely responsible for any and all civil and/or criminal  
7 penalties assessed as a result of its failure to comply with any of these rules, regulations,  
8 restrictions, restrictions, ordinances, statutes, laws, orders, directives and or conditions.

9           39. **Disabled Access.**

10           39.1 Lessee shall be solely responsible for fully complying with any and all  
11 applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws  
12 and/or orders of any federal, state, and/or local governmental entity and/or court regarding  
13 disabled access to improvements on the Demised Premises including any services,  
14 programs, or activities provided by Lessee. Lessee shall be solely responsible for any and  
15 all damages caused by, and/or penalties levied as the result of, Lessee's noncompliance.  
16 Further, Lessee agrees to cooperate fully with City in its efforts to comply with the  
17 Americans With Disabilities Act of 1990, and any amendments thereto or successor  
18 statutes.

19           39.2 Should Lessee fail to comply with Subsection 39.1, then City shall  
20 have the right, but not the obligation, to perform, or have performed, whatever work is  
21 necessary to achieve equal access compliance. Lessee will then be required to reimburse  
22 City for the actual cost of achieving compliance, plus a fifteen percent (15%) administrative  
23 charge.

24           40. **Visual Artists' Rights Act.**

25           40.1 Lessee shall not install, or cause to be installed, any work of art subject  
26 to the Visual Artists' Rights Act of 1990 (as amended), 17 U.S.C. 106A, et seq., or California  
27 Code Section 980, et seq., hereinafter collectively "VARA" on or about the Demised  
28 Premises without first obtaining a waiver, in writing, of all rights under VARA, satisfactory

1 to the Airport Director and approved as to form and legality by the City Attorney's Office,  
2 from the artist. Said waiver shall be in full compliance with VARA and shall name City as a  
3 party for which the waiver applies.

4 40.2 Lessee is prohibited from installing, or causing to be installed, any  
5 piece of artwork covered under VARA on the Demised Premises without the prior, written  
6 approval and waiver of the Airport Director. Any work of art installed on the Demised  
7 Premises without such prior approval and waiver shall be deemed a trespass, removable  
8 by City, by and through its Airport Director, upon three (3) days written notice, all costs,  
9 expenses, and liability therefor to be borne exclusively by Lessee.

10 40.3 Lessee, in addition to other obligations to indemnify and hold City  
11 harmless, as more specifically set forth in this Lease, shall indemnify and hold harmless  
12 City from all liability resulting from Lessee's failure to obtain City's waiver of VARA and  
13 failure to comply with any portion of this provision.

14 40.4 The rights afforded City under this provision shall not replace any other  
15 rights afforded City in this Lease or otherwise, but shall be considered in addition to all its  
16 other rights.

17 41. **Equal Benefits Ordinance.** Unless otherwise exempted in accordance with  
18 the provisions of the EBO, this Lease is subject to the applicable provisions of the Equal  
19 Benefits Ordinance (the "EBO"), section 2.73 et seq. of the Long Beach Municipal Code,  
20 as amended from time to time.

21 41.1 During the Lease Term, Lessee certifies and represents that Lessee  
22 will comply with the EBO. Lessee agrees to post the following statement in conspicuous  
23 places at its place of business available to employees and applicants for employment:

24 "During the performance of a contract with the City of Long Beach, Lessee will  
25 provide equal benefits to employees with spouses and its employees with  
26 domestic partners. Additional information about the City of Long Beach's  
27 Equal Benefits Ordinance may be obtained from the City of Long Beach  
28 Business Services Division at 562-570-6200."

1           41.2 The failure of Lessee to comply with the EBO will be deemed to be a  
2 material breach of this Lease by City.

3           41.3 If Lessee fails to comply with the EBO and to cure any such  
4 noncompliance within thirty (30) days, City may cancel, terminate or suspend this Lease,  
5 in whole or in part, and monies due or to become due under this Lease may be retained  
6 by City. City may also pursue any and all other remedies at law or in equity for any breach.

7           41.4 Failure to comply with the EBO may be used as evidence against  
8 Lessee in actions taken pursuant to the provisions of Long Beach Municipal Code 2.93 et  
9 seq.

10           41.5 If City determines that Lessee has set up or used its contracting entity  
11 for the purpose of evading the intent of the EBO, City may terminate this Lease.

12           42. **Condemnation.** The parties hereby agree that:

13           42.1 If the Demised Premises, or any portion thereof, or any interest  
14 therein, are taken by eminent domain, or otherwise, by any governmental authority, or by  
15 a "quasi-public entity" for public use, or sold to a governmental authority threatening to  
16 exercise the power of eminent domain, this Lease, and Lessee's obligation to pay rent  
17 hereunder, shall terminate as to the part so taken as of the date the condemning authority  
18 takes title or possession, whichever first occurs, and the rent, fees and/or other charges  
19 hereunder shall be apportioned and paid to the date of such taking. A taking of the Demised  
20 Premises includes the taking of easements for air, light and any other easements in the  
21 land, including, but not limited to an impairment or taking of access to adjoining streets.

22           42.2 **Effect of Partial Condemnation.** In the event a portion of the Demised  
23 Premises are appropriated or taken and Lessee, at its sole discretion, determines that the  
24 remainder thereof is not suitable for the continued use of the Demised Premises by Lessee  
25 for conducting Lessee's operations thereon in the same manner and extent as carried on  
26 prior to such taking, Lessee shall have the right to terminate this Lease upon giving City  
27 written notice of its intent to exercise said right. Said notice shall be given not more than  
28 one hundred twenty (120) days following the date of service of a complaint in eminent

1 domain upon Lessee, or one hundred twenty (120) days following City's demand that  
2 Lessee acknowledge its intent to terminate this Lease, unless City and Lessee agree, in  
3 writing, to an earlier termination or to extend said period. If Lessee exercises its right to  
4 terminate this Lease pursuant to this Subsection 42.2, Lessee shall give City thirty (30)  
5 days prior written notice of the effective date of said termination.

6 42.2.1 If, in the event of such taking of a portion of the Demised  
7 Premises, Lessee does not terminate this Lease, this Lease shall continue in full force and  
8 effect as to the part not taken, and the rent to be paid by Lessee during the remainder of  
9 the term, subject to adjustment as provided elsewhere in this Lease, shall be as follows:  
10 the land and improvement rental shall be reduced in the same proportion as the land taken  
11 by eminent domain bears to the area of the Demised Premises before the taking.

12 42.2.2 In determining whether a partial condemnation renders the  
13 remainder of the Demised Premises unsuitable for the use then being made of the Demised  
14 Premises by Lessee, Lessee, among other things, shall take into consideration the cost of  
15 restoration, the rentable area of the remaining improvements and the suitability of the  
16 remaining Demised Premises for conducting Lessee's operations thereon in the same  
17 manner and extent as carried on prior to such taking.

18 42.2.3 Except as provided for in Article 2, Section 22, should Lessee  
19 terminate this Lease pursuant to this Section 42, title to all improvements, additions or  
20 alterations constructed or installed by Lessee upon the Demised Premises and which have  
21 not already vested in City shall thereupon vest in City.

22 42.3 Application of Award Upon a Total or Partial Taking.

23 42.3.1 If this Lease is terminated pursuant to Article 2, Subsection 42.2  
24 herein, or, if all or a portion of the Demised Premises are taken, then the entire award or  
25 compensation paid for land, improvements, and buildings owned by City, the amortized  
26 portion of the value of buildings and improvements built by Lessee and which will become  
27 the property of City upon termination of this Lease, and/or loss or taking of business  
28 goodwill of City, shall be the property of City.

42.3.2 Lessee shall have the right to receive compensation for the unamortized value of the buildings and any improvements which are still owned by Lessee and which were placed on the Demised Premises by Lessee and located thereon at the time of such taking or appropriation, and for the value of any off-site investments or improvements included in the conditions to the approval of the Definitive Improvement Plan, and for its trade fixtures, equipment, and supplies, and for loss or damage to Lessee's business goodwill. The "amortized value" which City shall be entitled to receive is a portion of the award for said Lessee-owned buildings and improvements equal to an amount determined by a ratio equal to the number of years the building and/or improvements have been in existence over the original Lease Term, without consideration of any possibility or probability of renewal, or of options, if any. There shall be no amortization of partially constructed improvements authorized by City, if said construction is incomplete within the time period set forth in the approval granted by City. The value, to be determined by City, of such partially constructed improvements shall be paid to Lessee.

42.4 Severance Damages. The entire award of compensation paid for any severance damages, whether paid for impairment of access, for land, buildings, and/or improvements shall be the property of City, regardless of whether any buildings or improvements so damaged are owned or were constructed by City or Lessee. However, should City determine that improvements are to be restored, that portion of the severance damages necessary to pay the cost of restoration, as set forth in Article 2, Subsection 42.5, shall be paid to Lessee upon the written request of Lessee accompanied by evidence that the sum requested has been paid for said restoration and is a proper item of such cost and used for such purpose.

42.5 Partial Taking: Restoration. In case of a taking of the Demised Premises other than a total taking and/or should Lessee elect not to terminate this Lease pursuant to this Section, City and Lessee may mutually agree that Lessee shall restore any improvements on the Demised Premises, and Lessee shall, at Lessee's expense, whether or not the awards or payments, if any, on account of such taking are sufficient for the

1 purpose, promptly commence and proceed with reasonable diligence to effect (subject to  
2 Force Majeure) restoration of the improvements on the remaining portion of the Demised  
3 Premises as nearly as possible to their condition and character immediately prior to such  
4 taking, except for any reduction in area caused thereby, or with such changes or alterations  
5 as may be made at the election of Lessee in accordance with this Lease.

6 42.5.1 In the event the improvements damaged and/or taken belong  
7 to City, City shall not be obligated to restore said improvements should City, in its sole  
8 discretion, determine not to do so.

9 42.6 Taking for Temporary Use. In the event of a taking of all or any portion of the  
10 Demised Premises for temporary use, this Lease shall continue in full force and effect with  
11 a reduction or abatement of rental or other sum payable hereunder for the portion of the  
12 Demised Premises temporarily taken, and City shall be entitled to make claim for, recover  
13 and retain any awards or proceeds made on account thereof, whether in the form of rent  
14 or otherwise. City shall restore or cause to be restored any such areas temporarily taken  
15 to the condition existing before the taking.

16 43. Miscellaneous Provisions.

17 43.1 Fair Meaning. The language of this Lease shall be construed  
18 according to its fair meaning, and not strictly for or against either City or Lessee.

19 43.2 Section Headings. The section headings appearing herein are for the  
20 convenience of City and Lessee, and shall not be deemed to govern, limit, modify, or in  
21 any manner affect the scope, meaning, or intent of the provisions of this Lease.

22 43.3 Void Provisions. If any provision of this Lease is determined to be void  
23 by any court of competent jurisdiction, then such determination shall not affect any other  
24 provision of this Lease, and all such other provisions shall remain in full force and effect.

25 43.4 Two Constructions. It is the intention of the parties hereto that if any  
26 provision of this Lease is capable of two constructions, one of which would render the  
27 provision void and the other of which would render the provision valid, then the provision  
28 shall have the meaning which renders it valid.

1                   43.5 Laws of California. This Lease shall be construed and enforced in  
2 accordance with the laws of the State of California and venue shall lie at Airport.

3                   43.6 City's Consent. In each instance herein where City's or the Airport  
4 Director's approval or consent is required before Lessee may act, such approval or consent  
5 shall not be unreasonably withheld, unless otherwise provided.

6                   43.7 Gender. The use of any gender herein shall include all genders, and  
7 the use of any number shall be construed as the singular or the plural, all as the context  
8 may require.

9                   43.8 Exclusivity. It is understood and agreed that nothing herein contained  
10 shall be construed to grant or authorize the granting of an exclusive right within the meaning  
11 of Section 308 of the Federal Aviation Act [49 U.S.C. 40103(e) and (Public Law 103-272;  
12 108 STAT. 1 102)].

13                  43.9 Rights of United States Government. This Lease shall be subordinate  
14 to the provisions and requirements of any existing or future agreement between City and  
15 the United States relative to the development, operation, or maintenance of Airport. Failure  
16 of Lessee or any occupant to comply with the requirements of any existing or future  
17 agreement between the City and the United States, which failure shall continue after  
18 reasonable notice to make appropriate corrections, shall be cause for immediate  
19 termination of Lessee's rights hereunder.

20                  43.10 War or National Emergency. This Lease and all the provisions hereof  
21 shall be subject to whatever right the United States Government now has or in the future  
22 may have or acquire affecting the control, operation, regulation, and taking over of Airport  
23 or the exclusive or nonexclusive use of Airport by the United States during the time of war  
24 or national emergency.

25                  43.11 Time. Time shall be of the essence in complying with the terms,  
26 conditions, and provisions of this Lease.

27                  43.12 Integration Clause. This is an integrated agreement. It is understood  
28 that no alteration or variation of the terms of this Lease shall be valid unless made in writing

1 and signed by the parties hereto. This Lease contains the entire agreement between the  
2 parties hereto and supersedes any and all prior written or oral agreements between them  
3 concerning the subject matter contained herein. There are no representations, agreements  
4 or understandings, oral or written, between and among the parties relating to the subject  
5 matter contained in this Lease which are not fully set forth herein.

6           43.13 Force Majeure. Except as otherwise provided in this Lease, whenever  
7 a day is established in this Lease on which, or a period of time, including a reasonable  
8 period of time, is designated within which, either party hereto is required to do or complete  
9 any act, matter or thing, the time for the doing or completion thereof shall be extended by  
10 the period of the Force Majeure (as hereinafter defined); provided, however, that nothing  
11 contained in this Subsection shall excuse Lessee from the prompt payment of any rental  
12 or other monetary charge required of Lessee hereunder. For purposes of this Lease, the  
13 term "Force Majeure" shall mean, in relation to the conditions that may cause a party to be  
14 temporarily, partially or wholly prevented from performing its obligations to the other party  
15 under this Agreement and not for any other purpose or for any benefit of any third party:  
16 any event beyond the reasonable control of the party claiming it, including, but not limited  
17 to, embargoes, shortages of material, acts of God, acts of public enemy (such as war,  
18 (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage),  
19 acts of a governmental authority (such as the United States' Department of Transportation,  
20 the United States Federal Aviation Administration, the United States Transportation  
21 Security Administration, the United States Environmental Protection Agency and defense  
22 authorities), fires, floods, earthquakes, hurricanes, tornadoes and other extreme weather  
23 conditions; provided, however, that strikes, boycotts, lockouts, labor disputes, labor  
24 disruptions, work stoppages or slowdowns shall not be considered an event of Force  
25 Majeure. The term Force Majeure includes delays caused by governmental agencies in the  
26 processing of applicable building and permits but only to the extent that such processing  
27 time actually exceeds the normal and reasonable processing time period for such  
28 governmental agency permit; provided, however, that any delays caused by Lessee or its



1 Contractors in the processing of such permits (such as Lessee or its Contractors' failure to  
2 submit complete applications for such permits) shall not be considered a basis for a claim  
3 of Force Majeure by Lessee. Any lack of funds shall not be deemed to be a cause beyond  
4 the control of a party. If Lessee shall claim a delay due to Force Majeure, lessee must notify  
5 City in writing within five (5) business days of the first occurrence of any claimed event of  
6 Force Majeure. Such notice must specify in reasonable detail the cause or basis for  
7 claiming Force Majeure and the anticipated delay in Lessee's performance to the extent  
8 such anticipated delay is known to Lessee at the time such notice to City is required. If  
9 Lessee fails to provide such notice within said five (5) business-day period, then no Force  
10 Majeure delay shall be deemed to have occurred. Delays due to events of Force Majeure  
11 shall only be recognized to the extent that such event actually delays the performance by  
12 such party and cannot otherwise be mitigated using commercially reasonable efforts.

13 43.14 Approvals. Any approvals required by City under this Lease shall be  
14 approvals of the City acting as landlord and shall not relate to, constitute a waiver or,  
15 supersede or otherwise limit or affect the governmental approvals or rights of the City as a  
16 governmental agency, including the approval of any permits required for construction or  
17 maintenance of the Demised Premises and the passage of any laws including those  
18 relating to zoning, land use, building and safety.

19 43.15 Conflicts in this Lease. If there are any direct conflicts between the  
20 provisions of Article 1 and Article 2 of this Lease, the provisions of Article 1 shall be  
21 controlling. If there are any direct conflicts between the provisions of Article 1 and Article 2  
22 of this Lease and the Exhibits, the provisions of Articles 1 and 2 shall be controlling,  
23 provided nothing herein shall be construed to contradict applicable law.

24 43.16 Ordinances and Municipal Code (hereinafter referred to as "Code")  
25 Language Governs. Ordinance and Code excerpts and/or exhibits are provided as a  
26 convenience to the parties only. In the event of a discrepancy between the Exhibits and  
27 the applicable ordinance and/or code language, or amendments thereto, the language of  
28 the Code shall govern.

1                   43.17 Amendments to Ordinances and Codes. The obligation to comply with  
2 any Ordinances and Codes which have been incorporated into this Lease by reference,  
3 shall extend to any amendments which may be made to those Ordinances and Codes  
4 during the Lease Term.

5                   43.18 Days. Unless otherwise specified, "days" shall mean calendar days.

6                   43.19 Deprivation of Lessee's Rights. Except as otherwise provided herein,  
7 City shall not be liable to Lessee for any diminution or deprivation of Lessee's rights under  
8 this Lease which may result from Lessee's obligation to comply with any and all Applicable  
9 Laws and/or orders of any federal, state and/or local government authority and/or court  
10 hereunder on account of the exercise of any such authority as is provided in this Section,  
11 nor shall Lessee be entitled to terminate the whole or any portion of this Lease by reason  
12 thereof.

13                   43.20 Reconciliation of Area and/or Square Footage. If, at any time, it is  
14 discovered that any measurement of any portion(s) of the Demised Premises stated in this  
15 Lease is inaccurate, this Lease shall be amended to appropriately reflect the correct  
16 measurement(s), and corresponding adjustments in the Monthly Rent shall be made. Any  
17 such adjustment(s) made to the Monthly Rent, shall be retroactive to the commencement  
18 of this Lease, or to that date(s) on which City deems approval of correct measurement(s)  
19 to the Demised Premises is appropriate.

20                   44. **Other Agreements Not Affected**. Except as specifically stated herein, this  
21 Lease, and the terms, conditions, provisions and covenants hereof, shall apply only to the  
22 Demised Premises herein particularly described and shall not in any way change, amend,  
23 modify, alter, enlarge, impair, or prejudice any of the rights, privileges, duties, or obligations  
24 of either of the parties hereto, under or by reason of any other agreement between said  
25 parties, except that nothing contained in such other agreement shall limit the use by Lessee  
26 of the within Demised Premises for the herein referred to purpose.

27 ///

28 ///

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN WITNESS WHEREOF, the parties have themselves or through their duly authorized officers caused this Lease to be executed as of the day and year hereinabove written.

**Tom Modica**  
**Assistant City Manager**

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER**

"City"

CITY OF LONG BEACH, a municipal corporation

By: \_\_\_\_\_



Patrick H. West

City Manager

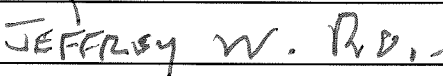
"Lessee"

LGB CA HOLDINGS, LLC, a Delaware limited liability company

By: \_\_\_\_\_



Name: \_\_\_\_\_



Title: \_\_\_\_\_

CEO

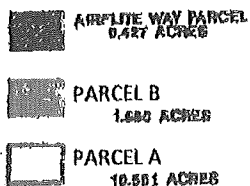
APPROVED AS TO FORM

7-25-2019  
\_\_\_\_\_  
CHARLES PARKIN, City Attorney

By: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CITY ATTORNEY

# EXHIBIT A



LON HUNTER CHIEF SURVEYOR L.A. CITY  Chris Kung MANAGER, AIRPORT BUREAU	FIELD WORK			CITY OF LOS ANGELES BEACH - CALIFORNIA DEPARTMENT OF PUBLIC WORKS, ENGINEERING BUREAU TOYOTA / AIRLITE LEASE & AIRLITE WAY PARCEL AT LONG BEACH AIRPORT CITY ENGINEER FILE # 20082 Jan 5 1992 DATE APPROVED
	BOOK	PAGE	DATE	
	L-105	454	12-19-91	
DWA. NO. 65-1067 PROJECT 1676 PLANS	DRAWINGS			PREPARED E. SMITH CHECKED L. MADDOX LEASE NO. DRAWING NO. 65-1057a
	DWA. NO.	PAGE	DATE	
	65-1067	9-3	12-22-91	
	PROJECT	8-1	1-14-92	

LEGAL DESCRIPTION  
for  
AIRPORT WAY

That portion of Lot 9 of the American Colony Tract as per map recorded in Book 19, Pages 89 and 90 of Miscellaneous Records in the office of the County Recorder of Los Angeles County, State of California, described as follows:

Beginning at the northeasterly corner of said Lot 9 of the American Colony Tract, said corner also being at the intersection of the easterly line of said American Colony Tract and the centerline of Wardlow Road, 80 feet wide, 40 feet on each side of said centerline, as shown on Parcel Map No. 17545 filed in Book 196, Pages 34 through 39 inclusive, of Maps in the office of said County Recorder, said corner also being Long Beach Airport Monument 16 as shown on said Parcel Map No. 17545; thence South 89°51'34" West along said centerline of Wardlow Road 40.83 feet; thence South 0°09'30" East 40.00 feet to the southerly line of said Wardlow Road to the TRUE POINT OF BEGINNING; thence North 89°51'34" East 39.02 feet along said southerly line; thence South 0°08'30" East 71.84 feet; thence South 89°51'30" East 24.82 feet; thence South 0°08'30" East 418.10 feet to the northerly line of an unrecorded lease as shown on Drawing K-1857 on file in the office of the City Engineer of the City of Long Beach; thence South 89°51'30" West 30.00 feet along said northerly line; thence North 0°08'30" West 419.54 feet; thence South 89°51'30" West 30.87 feet; thence North 0°08'30" West 70.00 feet to said southerly line of Wardlow Road; thence North 89°51'34" East 45.87 feet along said southerly line to the TRUE POINT OF BEGINNING.

Said parcel containing 18,584.72 square feet or 0.427 acres.

Subject to easements for road and public utility purposes granted by the City of Long Beach to be used in common with others.

Legal Description  
for  
Toyota Airfile, Inc.  
Phase 3 Improvements

Those portions of Lots 9 and 10 of the American Colony Tract as per map recorded in Book 19, Pages 89 and 90 of Miscellaneous Records, in the office of the County Recorder of Los Angeles County, State of California, AND that portion of Rancho Los Cerritos as shown on Map in Book 2, Pages 202 through 205 inclusive, of Patents in the Office of the County Recorder of said County, described as follows:

Beginning at the northeasterly corner of said Lot 9 of the American Colony Tract, said corner being at the intersection of the easterly line of said American Colony Tract and the centerline of Wardlow Road, 80 feet wide, 40 feet on each side of said centerline as shown on Parcel Map No. 17545 filed in Book 196, Pages 34 through 39 inclusive, of Maps in the office of said County Recorder, said corner also being Long Beach Airport Monument 16 as shown on said Parcel Map No. 17545; thence South 0°08'30" East 828.94 feet along said easterly line to the northerly line of an unrecorded lease as shown on Drawing M-1857 on file in the office of the City Engineer of the City of Long Beach; thence continuing South 8°08'30" East 303.62 feet along said easterly line; thence North 45°00'00" West 12.80 feet to the TRUE POINT OF BEGINNING; thence South 45°00'00" West 78.05 feet; thence South 0°08'00" East 269.93 feet; thence North 89°48'17" East 288.89 feet; thence North 27°53' feet; thence North 45°00'00" East 151.38 feet to the beginning of a tangent curve concave to the West and having a radius of 62.88 feet; thence 82.75 feet along said curve through a central angle of 80°00'00" to a tangent line; thence North 45°00'00" West 70.58 feet; thence South 45°00'00" West 70.38 feet to the beginning of a non-tangent curve concave to the South and having a radius of 88.34 feet from which point a radial line bears North 37°44'50" East; thence 64.01 feet along said curve through a central angle of 41°54'28" to the beginning of a reverse curve concave to North and having a radius of 23.33 feet; thence 20.02 feet along said curve through a central angle of 49°09'38" to a tangent line; thence North 45°00'00" West 122.57 feet to the TRUE POINT OF BEGINNING.

Said parcel containing 72,326.507 square feet or 1.660 acres.

PREPARED	CHECKED	LEADS NO.	DRAWING NO.
B. SMITH	L. MADDOX		M-1857a

Exhibit "A"



LONG BEACH AIRPORT  
LGB CA Holdings, LLC, dba Ross Aviation  
3205 -3271 Airflite Way  
Long Beach, CA 90807

**EXHIBIT B**  
**RENTAL PAYMENTS \***

PREMISES RENT*	AREA	RATE	MONTHLY	ANNUAL
GROUND RENT: Parcel A	10.50 AC	\$25,954 per acre/per year	\$22,710.00	\$272,520.00
GROUND RENT: Parcel B	1.66 AC	\$70,352 per acre/per year	\$9,732.00	\$116,784.00
GROUND RENT: Parcel C	3.17 AC	\$35,000 per acre/per year	\$9,250.00	\$111,000.00
BUILDING RENT	181,904 SF	TBD**	\$0.00	\$0.00
TOTAL RENT			\$41,692.00	\$500,304.00
FAITHFUL PERFORMANCE GUARANTEE (FPG)*				
<u>PERIOD</u> Effective from the Commencement Date thru the entire Lease Term.		<u>INITIAL AMOUNT</u> \$125,076.00		

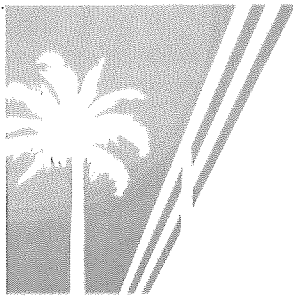
\*ALL RENT, FEES, FPG, AND OTHER CHARGES, AS SET FORTH IN THIS EXHIBIT B, ARE SUBJECT TO ADJUSTMENT PURSUANT TO THE TERMS OF THIS LEASE, SECTION 5.1.

\*\* BEGINNING JANUARY 20, 2027, LESSEE SHALL MAKE MONTHLY BUILDING RENT PAYMENTS IN ADDITION TO GROUND RENT PAYMENTS, WHICH SHALL BE DETERMINED AND PAYABLE PURSUANT TO SECTION 5.1 AND SUBJECT TO ADJUSTMENT PURSUANT TO SECTION 5.2.



# EXHIBIT C

2017



**long beach**  
airport

where the going is easy®

## Minimum Standards for Aeronautical Activities



## Table of Contents

Introduction.....	1
General Requirements.....	3
Fixed Base Operator.....	11
Limited Fixed Base Operator .....	19
Commercial Hangar Operator (SASO) .....	27
Specialized Aviation Service Providers.....	28
Non-Commercial Self-Fueling.....	33
Definitions.....	37

# **1. INTRODUCTION**

## **1.1 Purpose and Scope**

1.1.1 The purpose of these Minimum Standards is to encourage, promote, and ensure: (1) the delivery of high quality aviation products, services, and facilities to Long Beach Airport (Airport) users, (2) the design and development of quality aviation improvements at the Airport, (3) aviation safety and security, (4) the economic health of aviation businesses, and (5) the orderly development of Airport property for aviation purposes.

1.1.1.1 To this end, all entities desiring to engage in aeronautical activities at the Airport shall be accorded reasonable opportunities, without unjust discrimination, to engage in such activities, subject to meeting (complying with) these Minimum Standards, the Airport's Land Use Plan, and agreement/permit conformance.

1.1.2 Aeronautical activities may be proposed that do not fall within the categories designated herein. In any such cases, appropriate minimum standards shall be established by the Airport Director on a case-by-case basis for such activities and incorporated into the operator's agreement or permit.

## **1.2 Exclusive Rights**

1.2.1 In accordance with the Airport Assurance given by the federal and/or State government to the City of Long Beach (City) as a condition to receiving federal and/or State funds, the granting of rights or privileges to engage in commercial aeronautical activities shall not be construed in any manner as affording an operator any exclusive right, other than the exclusive use of the land and/or improvements that may be leased to the operator, and then only to the extent provided in an agreement or permit.

1.2.1.1 The presence on the Airport of only one entity engaged in a particular commercial aeronautical activity does not, in and of itself, indicate that an exclusive right has been granted. It is the policy of the City not to enter into or promote an understanding, commitment, or express agreement to exclude other reasonably qualified entities. Accordingly, those who desire to enter into an agreement or permit with the City should neither expect nor request that the City exclude others who also desire to engage in the same or similar activities. The opportunity to engage in a commercial aeronautical activity shall be made available to those entities meeting (complying with) the qualifications and the requirements set forth in these Minimum Standards

and as space may be available at the Airport to support such activity provided such use is consistent with the current and planned uses of Airport land and improvements and is in the best interest of the City.

1.2.1.1.1 If the FAA determines that any provision of these Minimum Standards or any agreement or permit or any practice constitutes a grant of a prohibited exclusive right, such provision or agreement or permit shall be deemed null and void and such practice shall be discontinued immediately.

### **1.3 Applicability**

1.3.1 These Minimum Standards specify the standards and requirements that must be met (and complied with) by any operator desiring to engage in commercial aeronautical activities at the Airport.

1.3.1.1 Throughout these Minimum Standards, the words "standards" or "requirements" shall be understood to be modified by the word "minimum" except where explicitly stated otherwise. Any required determinations, interpretations or judgments regarding what constitutes an acceptable minimum standard, or regarding compliance with such standard, shall be made by the Airport Director. All entities are encouraged to exceed the applicable minimum standards. No entity shall be allowed to engage in aeronautical activities at the Airport under conditions that do not, in the City's discretion, meet (comply with) these Minimum Standards.

1.3.2 These Minimum Standards shall apply to any new agreement or permit or any amendment to an existing agreement or permit relating to the occupancy and/or use of Airport land and/or improvements for engaging in aeronautical activities. If an entity desires, under the terms of an existing agreement or permit, to change its aeronautical activities, the City shall, as a condition of its approval of such change, require the entity to meet (comply with) these Minimum Standards, except as noted in this section (1.3).

1.3.2.1 These Minimum Standards shall not affect any agreement or permit or amendment to such agreement or permit properly executed prior to the date of promulgation of these Minimum Standards except as provided for in such agreement or permit, in which case these Minimum Standards shall apply to the extent permitted by such agreement or permit.

1.3.2.2 These Minimum Standards shall not be deemed to modify any existing agreement or permit under which an entity is

required to exceed these Minimum Standards, nor shall they prohibit the City from entering into or enforcing an agreement or permit that requires an entity to exceed the Minimum Standards.

- 1.3.3 If these Minimum Standards are amended after operator enters into an agreement or permit with the City, the operator shall not be required to increase operator's leased premises or construct any additional capital improvements to be in compliance with the amended Minimum Standards until such time as operator's existing agreement or permit is amended or operator enters into a new agreement or permit with the City.

## **2. GENERAL REQUIREMENTS**

### **2.1 Introduction**

- 2.1.1 All operators engaging in aeronautical activities at the Airport shall meet (fully comply with) or exceed the requirements of this Section 2 as well as the minimum standards applicable to the operator's activities, as set forth in subsequent sections, except as noted in Section 1.3.

### **2.2 Experience/Capability**

- 2.2.1 Operator shall, in the judgment of the City demonstrate before and maintain during (throughout) the term of the agreement or permit, the following:

- 2.2.1.1 The capability of consistently providing the proposed products, services, and facilities and engaging in the proposed activities in a safe, secure, efficient, courteous, prompt, and professional manner in service to (and to the benefit of) the public, AND

- 2.2.1.2 The financial and technical responsibility, capability, and integrity to

develop and maintain required improvements; procure and maintain required vehicles, equipment, and /or aircraft; employ required personnel; and engage in the activity.

### **2.3 Agreement or Permit Approval**

- 2.3.1 No entity shall engage in an activity unless the entity has an agreement or permit with the City authorizing such activity or the entity has received prior written approval from the City to sublease land or improvements from an authorized operator and engage in the activity at the Airport.

- 2.3.2 An agreement or permit shall not reduce or limit operator's obligations with respect to complying with these Minimum Standards, except as noted in Section 1.3.

## **2.4 Payment of rents, Fees, and Charges**

- 2.4.1 Operator shall pay the rents, fees, or other charges specified by the City for engaging in commercial aeronautical activities.
- 2.4.2 Operator's failure to remain current in the payment of any and all rents, fees, charges, and other sums due to the City shall be grounds for revocation of the operator's agreement, permit, or the City's approval authorizing the conduct of activities at the Airport.

## **2.5 Leased Premises**

- 2.5.1 Operator shall lease or sublease sufficient land and/or lease, sublease, or construct sufficient improvements for the activity as required in these Minimum Standards.

### **2.5.2 Apron/Paved Tiedowns**

- 2.5.2.1 Apron(s) and paved tiedowns (if required) must be of adequate size and weight-bearing capacity to accommodate the movement, staging, and parking of operator's, sublessees', and customers' aircraft, and support equipment without interfering with the movement of aircraft in and out of other facilities and the movement of aircraft operating to/from/on taxilanes or taxiways.

### **2.5.3 Vehicle Parking**

- 2.5.3.1 Paved vehicle parking shall be sufficient to accommodate all of operator's and sublessees', customers', employees', visitors', vendors', and suppliers' vehicles on a daily basis. The sufficiency of vehicle parking shall be determined in conjunction with the City.
- 2.5.3.2 Paved vehicle parking shall be on operator's leased premises and/or located in close proximity to operator's main facility.
- 2.5.3.3 On-street vehicle parking is not allowed, unless specifically authorized by the City.

## **2.6 Facility Maintenance**

- 2.6.1 Operator shall maintain its leased premises (including all related and associated appurtenances, landscaping, paved areas, installed equipment and utility services, lighting, and signage) in a clean, neat, orderly, and fully functional condition.

2.6.2 Operator shall provide all necessary cleaning services for its leased premises, including janitorial and custodial services, trash removal services, removal of foreign objects/debris, and any related services necessary to maintain the improvements in good, clean, neat, orderly, and fully functional condition, normal wear and tear excepted.

2.6.3 Operator shall replace, in like kind, any property damaged by its employees, patrons, sublessees, contractors, et al. or by operator's activities.

## **2.7 Products, Services, and Facilities**

2.7.1 Products, services, and facilities shall be available on a reasonable, and not unjustly discriminatory, basis to all Airport users.

2.7.2 Operator shall charge reasonable, and not unjustly discriminatory, prices for each product, service, or facility.

2.7.3 Operator shall conduct its activities within and from its leased premises in a safe, secure, efficient, courteous, prompt, and professional manner consistent with the degree of care and skill exercised by experienced operators providing comparable products, services, and facilities, and engaging in similar activities from similar leased premises in like markets.

## **2.8 Non-Discrimination**

2.8.1 Operator shall not discriminate against any person or class of persons by reason of race, creed, color, national origin, sex, age, or physical handicap in providing any products, services, or facilities or in the use of any of its facilities that are available to the public, or in any manner prohibited by applicable regulatory measures including without limitation Part 21 of the Rules and Regulations of the office of the Secretary of Transportation effectuating Title VI of the Civil Rights Act of 1964, as amended or reenacted.

## **2.9 Licenses, Permits, Certifications, and Ratings**

2.9.1 Operator and operator's personnel shall obtain and comply with, at operator's sole cost and expense, all necessary licenses, permits, certifications, or ratings required for the conduct of operator's activities at the Airport as required by the City or any other duly authorized agency prior to engaging in any activity at the Airport.

2.9.1.1 Operator shall keep in effect and post in a prominent place, readily accessible to the public, all necessary or required licenses, permits, certifications, or ratings.

- 2.9.1.2 Upon request, operator shall provide copies of such licenses, permits, certifications, or ratings to the Airport Director within 10 business days.

## **2.10 Personnel**

- 2.10.1 Operator shall have a responsible person on its leased premises to supervise activities and such person shall be qualified and authorized to represent and act for and on behalf of operator during all hours of activities with respect to the method, manner, and conduct of the operator and operator's activities.

- 2.10.1.1 When such responsible person is not on the leased premises, such individual shall be immediately available by telephone, pager, or other means that provides for immediate contact.

- 2.10.2 Operator shall have in its employ, on duty, and on its leased premises during hours of activity, properly trained, qualified, and courteous personnel in such numbers as are required to meet these Minimum Standards and to meet the reasonable demands of the aviation public for each activity being conducted in a safe, secure, efficient, courteous, prompt, and professional manner.

- 2.10.3 Operator shall control the conduct, demeanor, and appearance of its employees. It shall be the responsibility of the operator to maintain close supervision over its employees to ensure that a high standard (quality) of products, services, and facilities are provided in a safe, secure, efficient, courteous, prompt, and professional manner.

## **2.11 Aircraft, Equipment, and Vehicles**

- 2.11.1 All required aircraft, equipment, and vehicles must be fully operational, functional, and available at all times and capable of providing all required products and services.

- 2.11.1.1 Aircraft equipment, and vehicles may be unavailable, from time to time, on a temporary basis, as long as appropriate and reasonable measures are taken to return the aircraft, equipment, or vehicle to service as soon as possible.

## **2.12 Hours of Activity**

- 2.12.1 Hours of activity shall be clearly posted in public view using appropriate and professional signage.

## **2.13 Security**

- 2.13.1 Operator shall fully comply with the City's Airport Security Plan (ASP).

- 2.13.2 Operator shall designate a responsible person for the coordination of all security procedures and communications and provide point-of-contact information to the Airport Security Coordinator (ASC) including the name of its primary and secondary contacts and a 24-hour telephone number for both individuals.
- 2.13.3 Operator shall develop and maintain a security plan that shall include, at a minimum, the following elements:
  - 2.13.3.1 Procedures for security facilities, vehicles, equipment, and aircraft during hours of operation and after hours.
  - 2.13.3.2 Employees' background checks required by the ASP and security awareness training including procedures to report suspicious personnel or situations to the proper law enforcement agencies.
  - 2.13.3.3 Customer, visitor, and baggage identification.
  - 2.13.3.4 Procedures for preventing tampering of facilities, vehicles, equipment, and aircraft.
  - 2.13.3.5 Procedures for handling threats by phone and in person.
  - 2.13.3.6 Procedures for controlling access to Operator's leased premises and ensuring that vehicles, equipment, and personnel allowed to access through Operator's access point(s) are authorized and properly identified or under escort or other approved method of control, as established by the ASC.
  - 2.13.3.7 Procedures for securing unattended facilities, vehicles, equipment, and aircraft.
  - 2.13.3.8 Procedures prohibiting passengers or baggage from being left unattended in or near aircraft, within the public-restricted areas of the Air Operations Area (AOA), or within the Security Identification Display Area (SIDA).
  - 2.13.3.9 Procedures for transient flight crew members and passengers including:
    - 2.13.3.9.1 Ensuring proper escort or other method of control approved by the ASC.
    - 2.13.3.9.2 Crewmember contact information and verification procedures.
    - 2.13.3.9.3 Verification of pilot's certificate and government-issued photo ID for flight crewmembers.



#### 2.13.3.9.4 Vendor procedures including:

- 2.13.3.9.4.1 Positive identification of all vendors having access to Operator's leased premises.
- 2.13.3.9.4.2 Security check-in procedures for all vendors.
- 2.13.3.9.4.3 Procedures for ensuring all vendors are aware of security requirements for the Operator's leased premises.

2.13.4 Operator's Security Plan shall be submitted to the ASC for review and approval no later than 30 days before Operator commences activities at the Airport and shall be resubmitted any time changes to the security plan are proposed.

2.13.5 Operator shall maintain fencing, doors, gates, lighting, and locks in good and operable condition at all times.

2.13.6 Aircraft rental and flight instruction operators must positively identify new students and renter pilots, consistent with any/all federal, State, and local regulations.

2.13.7 Aircraft charter and aircraft management operators and other businesses involved in the dispatching of aircraft must develop procedures to verify aircraft dispatch customers.

2.13.8 All Operators are required to keep an active log of keys, access cards, and other media issued that allows access to Operator's leased premises or identifies authorized persons. The log shall be made available to the ASC upon request, and any lost or stolen access/identification media shall be reported to the ASC immediately.

2.13.9 All Operators must comply with all applicable reporting requirements (as established by the City, FAA, TSA, and law enforcement agencies).

#### **2.14 Conformance with federal, State, and local rules and regulations**

2.14.1 Operator shall abide by all applicable federal, State, and local rules and regulations, including Long Beach Municipal Code Section 16.43, as amended.

#### **2.15 Insurance**

- 2.15.1 Operator shall procure and maintain during the term of its agreement or permit, insurance policies required by applicable regulatory measures and/or the City.
- 2.15.2 When Operator engages in more than one activity, the minimum insurance limits shall be established by the City based upon the nature of each activity or combination of activities. While it may not be necessary for Operator to carry insurance policies for the combined total of the minimum requirements of each activity, Operator shall procure and maintain insurance for all exposures in amounts at least equal to the greatest of the required minimum or as established by the City.
- 2.15.3 Certificates of Insurance for the insurance required by regulatory measures and/or the City shall be delivered to the City upon execution of any agreement, permit, or when approval is given by the City to engage in commercial aeronautical activities at the Airport. Operator shall furnish additional Certificates of Insurance 30 days prior to any changes in coverage. Insurance coverages shall remain in full force and effect through the term of the agreement or permit, and Certificates of Insurance shall be kept current with the City.

## **2.16 Indemnification and Hold Harmless**

- 2.16.1 Operator shall defend, indemnify, save, protect, and hold harmless the City of Long Beach, the Long Beach Airport, and the Long Beach City Council, individually and collectively, and their representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, administrative proceedings, arbitration, or costs at any time received, incurred, or accrued by the City of Long Beach, the Long Beach Airport, and the Long Beach City Council, individually and collectively, and their representatives, officers, officials, employees, agents, and volunteers as a result of, or arising out of Operator's activities, actions, or inactions. In the event a party indemnified hereunder is in part responsible for the loss, the indemnitor shall not be relieved of the obligation to indemnify; however, in such a case, liability shall be shared in accordance with California principles of comparative fault.
- 2.16.2 Operator shall accept total responsibility, defend, indemnify, save, protect, and hold harmless the City of Long Beach, the Long Beach Airport, and the Long Beach City Council, individually and collectively, and their representatives, officers, officials, employees, agents, and volunteers in the event of an environmental contaminating accident or incident caused by Operator, its employees, its vendors or any other personnel used by the Operator to maintain Operator's improvements, vehicles, equipment, or aircraft.

2.16.3 Nothing herein shall constitute a waiver of any protection available to the City of Long Beach, the Long Beach Airport, and the Long Beach City Council, individually and collectively, and their representatives, officers, officials, employees, agents, and volunteers under the California Governmental Immunity Act or similar statutory provisions.

## **2.17 Taxes**

2.17.1 Operator shall, at its sole cost and expense, pay all taxes, fees, and other charges that may be levied, assessed, or charged by any duly authorized agency relating to Operator's leased premises (land and/or improvements), Operator's improvements on leased premises, and/or operator's activities.

## **2.18 Multiple Activities**

2.18.1 When more than one activity is conducted at the Airport, applicable Minimum Standards shall be established by the Airport Director.

2.18.2 Depending upon the nature of the combined activities, the Minimum Standards shall not be:

2.18.3 Less than the highest standard for each element (e.g., land, hangar, office, shop, etc.) within the combined activities, or

2.18.4 Greater than the cumulative standards for all of the combined activities.

### **3. FIXED BASE OPERATOR**

#### **3.1 Introduction**

- 3.1.1 A Fixed Base Operator (FBO) is a commercial operator engaged in the sale of products, services, and facilities for all types of aircraft (piston and turbine-powered aircraft) to include, at a minimum, the following activities at the Airport: aviation fuels and lubricants (Jet Fuel, Avgas, and aircraft lubricants); passenger, crew, and aircraft ground services, support, and amenities; aircraft maintenance; aircraft parking, tiedown, hangar, office, and shop rental.
- 3.1.2 In addition to the general requirements set forth in Section 2, each FBO at the Airport shall comply with the following Minimum Standards set forth in Section 3.

#### **3.2 Scope of Activity**

- 3.2.1 Unless otherwise stated in these Minimum Standards, all products and services shall be provided by FBO's employees using FBO's vehicles and equipment.
- 3.2.2 FBO's products and services shall include the following:
  - 3.2.2.1 Aviation fuels and lubricants (Jet Fuel, Avgas, and aircraft lubricants):
    - 3.2.2.1.1 FBO shall deliver and dispense, upon request, Jet Fuel, Avgas and aircraft lubricants into all aircraft using the Airport.
    - 3.2.2.1.2 FBO shall provide a response time of not more than 15 minutes during required hours of activity (except in situations beyond the control of the FBO).
  - 3.2.2.2 Passenger, crew, and aircraft ground services, support, and amenities:
    - 3.2.2.2.1 FBO shall meet, direct, and park all aircraft arriving on FBO's leased premises with exception of aircraft that have a designated (assigned) tiedown space or area.
    - 3.2.2.2.2 FBO shall provide courtesy on-site transportation for passengers, crew, and baggage, as necessary and /or appropriate.
    - 3.2.2.2.3 FBO shall provide parking and tiedown of aircraft upon the FBO's leased premises.

3.2.2.2.4 FBO shall provide hangar storage for aircraft upon the FBO's leased premises, to include in-out (aircraft towing) service.

3.2.2.2.5 FBO shall provide crew and passenger baggage handling and other related arrival and departure services.

3.2.2.2.6 FBO shall provide oxygen and compressed air services and be able to provide nitrogen services directly or through arrangement with another entity.

3.2.2.2.7 FBO shall provide lavatory services and aircraft cleaning services.

3.2.2.2.8 FBO shall provide aircraft ground power.

3.2.2.2.9 FBO shall be able to make crew and passenger ground transportation arrangements (limousine, shuttle, and rental car).

3.2.2.2.10 FBO shall be capable of making aircraft catering arrangements.

### 3.2.2.3 Aircraft Maintenance

3.2.2.3.1 FBO shall provide, upon request, routine (minor) aircraft line maintenance (i.e., including preventative maintenance as defined in 14 CFR Part 43, Appendix A and excluding maintenance associated with 50 hour, 100 hour, annual inspections, major alteration, and major repair) on the airframe, powerplants and associated systems of aircraft using the Airport. Service may be provided directly through in-house or by procurement through qualified contract services.

### 3.2.2.4 Aircraft Storage

3.2.2.4.1 FBO shall develop, own, and/or lease facilities for the purpose of subleasing (to the public) aircraft storage space to entities engaging in commercial or non-commercial aeronautical activities.

## 3.3 Leased Premises

3.3.1 FBO shall have adequate land (see Section 2.5.1), including apron/paved tiedown (see Section 2.5.2), facilities (hangars, terminal, maintenance, and fuel storage), and vehicle parking (see

Section 2.5.3) to accommodate all activities of FBO and all approved sublessees, but not less than the following:

- 3.3.1.1 Contiguous Land – 7 acres (304,920 square feet), upon which all required improvements including apron/paved tiedown, facilities and vehicle parking shall be located.
- 3.3.1.2 Apron – 3 acres (130,680 square feet), with weight bearing capacity to accommodate the largest aircraft handled or serviced by FBO.
- 3.3.1.3 Paved tiedown – adequate to accommodate the number, type, and size of based and transient aircraft requiring tiedown space at the operator's leased premises, but not less than ten (10) paved tiedown spaces.
- 3.3.1.4 Facilities – 46,000 square feet (total) consisting of the following:
  - 3.3.1.4.1 Terminal space – 5,000 square feet. Customer area shall be at least 2,500 dedicated square feet to include adequate space for crew and passenger lounge(s), flight planning room, conference room, public use telephones, and restrooms. Administrative area shall be at least 1,250 dedicated square feet to include adequate space for employee offices, work areas, and storage.
  - 3.3.1.4.2 Maintenance area – 1,000 square feet. Maintenance area shall include adequate space for employee offices, work areas, and storage for aircraft parts and equipment.
  - 3.3.1.4.3 Hangar space – 40,000 square feet. At least one hangar shall be capable of accommodating an aircraft having a length of 100 feet, a wingspan of 95 feet, and a tail height of 26 feet. At least 25,000 square feet shall be dedicated to (for) aircraft storage and 15,000 square feet shall be available for the provision of aircraft maintenance.
  - 3.3.1.4.4 Vehicle Parking – not less than required by City code.

### **3.4 Fuel Storage**

- 3.4.1 FBO shall construct or install and maintain an above ground fuel storage facility at the Airport, unless otherwise authorized or

required, in a location consistent with the current and planned uses of Airport land and improvements and approved by the City.

3.4.2 Fuel storage facility shall have total capacity for three days peak supply of aviation fuel for aircraft being serviced by FBO. In no event shall the total storage capacity be less than:

3.4.2.1 20,000 gallons for Jet Fuel storage.

3.4.2.2 20,000 gallons for Avgas storage.

3.4.2.3 500 gallons for waste fuel or test samples (or the capability to recycle waste fuel or test samples).

3.4.3 FBO shall, at its sole cost and expense, maintain the fuel storage facility, all improvements thereon, and all appurtenances thereto, in a clean, neat, orderly, and fully functional condition consistent with good business practices and equal or better than in appearance and character, other similar improvements on the Airport.

3.4.4 FBO shall demonstrate that satisfactory arrangements have been made with a reputable aviation petroleum supplier/distributor for the delivery of aviation fuels in the quantities that are necessary to meet the requirements set forth herein.

3.4.5 Fuel suppliers utilized by operator must have a current and executed Fuel Delivery Permit, if one is required by the City, on file with the Airport.

3.4.6 FBO shall have a written Spill Prevention Control and Countermeasures (SPCC) Plan that meets regulatory measures for fuel storage facilities. An updated copy of the SPCC Plan shall be filed with the Airport at least 30 days prior to commencing operations.

3.4.7 FBO shall be liable and indemnify the City for all leaks, spills, or other damage that may result through the handling and dispensing of fuel.

3.4.8 Fuel dispensed by FBO shall meet quality specifications as outlined in ASTM D 1655 (Jet A) and ASTM D 1910 (Avgas), or superseding standards. Ensuring the quality of the fuel is the responsibility of the FBO.

3.4.9 FBO shall maintain records that identify the amount (number of gallons) of: (1) aviation fuel purchased by the FBO (by fuel type), (2) delivered to the FBO's fuel storage facility (by fuel type), and (3) delivered to FBO customer aircraft and/or dispensed by FBO at the Airport (by customer type).

3.4.10 On or before the 10<sup>th</sup> day of the subsequent month, unless otherwise provided for in FBO's agreement with City, FBO shall provide a summary report to the City identifying the amount (number of

gallons) of: (1) aviation fuel purchased by the FBO (by fuel type), (2) delivered to the FBO's fuel storage facility (by fuel type), and (3) delivered to FBO customer aircraft and/or dispensed by the FBO at the Airport (by customer type) and FBO shall pay the appropriate fees and charges due to the City. City reserves the right to amend its method of collecting fees by separate agreement with those parties. Alternative methods may not result in collecting more than is due to the City.

- 3.4.11 Records (and meters) shall be made available for review (audit) by the City or its designated representative. In the case of a discrepancy between the amount of fuel purchased by and/or delivered to the FBO and the amount of fuel delivered to FBO customer aircraft and/or dispensed by the FBO at the Airport, FBO shall promptly pay, in cash, all additional fees and charges due the City, plus annual interest on the unpaid balance at the maximum rate allowable by law, or as specified by a current agreement, from the date originally due.

### **3.5 Fueling Equipment**

- 3.5.1 FBO shall have two Jet Fuel refueling vehicles with one having a capacity of at least 5,000 gallons and one having a capacity of at least 2,000 gallons.

- 3.5.2 FBO shall have two Avgas refueling vehicles each having a capacity of at least 750 gallons. A fixed Avgas self-serve refueling system may be substituted for an Avgas refueling vehicle.

3.5.2.1 If substituted for an Avgas refueling vehicle, the fixed Avgas self-serve fueling system shall: (1) be constructed or installed in a location specified by the Airport Director, (2) be available and maintained by FBO for public commercial use, and (3) have detailed (and readily accessible) instructions for the proper and safe operation of the system and a fully functional (and readily accessible) telephone, emergency shut-off, properly rated fire extinguisher, and fuel spill kit.

3.5.2.2 FBO may have only one Avgas refueling vehicle if FBO has a written agreement with another FBO at the Airport to provide Avgas fueling services at times when the FBO's refueling vehicle is unavailable or unable to meet the required response time.

3.5.2.2.1 Agreement must be on file with the Airport.

- 3.5.3 Aircraft refueling vehicles shall be equipped with metering devices that meet all applicable regulatory measures. One refueling vehicle



dispensing Jet Fuel shall have over-the-wing and single point aircraft servicing capability. All refueling vehicles shall be bottom loaded.

3.5.4 Each refueling vehicle and all fueling equipment shall be equipped and maintained to comply with all applicable safety and fire prevention requirements, standards, and regulatory measure including, without limitation, those prescribed by:

3.5.4.1 State of California Fire Code;

3.5.4.2 City of Long Beach Fire Code;

3.5.4.3 National Fire Protection Association (NFPA) Codes;

3.5.4.4 California Department of Health and Environment Oil Inspection Regulatory Section;

3.5.4.5 14 CFR Part 139, Airport Certification, Section 139.321 "Handling/Storing of Hazardous Substances and Materials".

3.5.4.6 Applicable FAA Advisory circulars (AC) including AC 00-34 "Aircraft Ground Handling and Servicing" and AC 150/5210-5 "Painting, Marking and Lighting of Vehicles Used On An Airport".

### **3.6 Equipment**

3.6.1 FBO shall have the following equipment:

3.6.1.1 Adequate wheel chocks for aircraft parking on open apron areas and equipment for securing aircraft on permanent tiedowns including ropes, chains, wheel chocks, and/or other types of aircraft restraining devices which are required to safely secure aircraft as described in FAA Advisory Circular 20-35C.

3.6.1.2 One oxygen cart and one compressed air unit.

3.6.1.3 One ramp transportation vehicle to provide transportation of passengers and baggage between FBO terminal building and aircraft.

3.6.1.4 Two aircraft towing vehicles (and two bars) with at least one having a rated draw bar capacity sufficient to meet the towing requirement of the heaviest general aviation aircraft frequenting the Airport.

3.6.1.5 Two ground power units capable of providing electricity to direct current (DC) powered aircraft.

3.6.1.6 One lavatory service cart.

- 3.6.1.7 Spill kits including one mobile unit per contiguous ramp area with the necessary equipment and materials to contain a fuel spill and keep it from flowing into drains or other damage potential areas.
- 3.6.1.8 Adequate number of approved and regularly inspected dry chemical fire extinguisher units shall be maintained within all hangars, on all apron areas, at all fuel storage facilities, and on all ground handling and refueling vehicles.
- 3.6.1.9 All equipment reasonably necessary for the proper performance of aircraft maintenance in accordance with applicable FAA regulations and manufacturers' specifications, and minimum maintenance as stipulated in Section 3.2.2.3.

### **3.7 Personnel**

- 3.7.1 Personnel, while on duty, shall be clean, neat in appearance, courteous, and at all times properly uniformed. Uniforms shall identify the name of the FBO and the employee and shall be clean, neat, professional, and properly maintained at all times.
  - 3.7.1.1 Management and administrative personnel shall not be required to be uniformed.
- 3.7.2 FBO shall develop and maintain Standard Operating Procedures (SOP) for fueling and ground handling and shall ensure compliance with standards set forth in FAA Advisory Circular 00-34A "Aircraft Ground Handling and Servicing." FBO's SOP shall include a training plan, fuel quality assurance procedures and record keeping, and emergency response procedures to fuel spills and fires. FBO's SOP shall also address: regular safety inspections, bonding and fire protection; public protection; control of access to fuel storage facilities; and marking and labeling of fuel storage tanks and refueling vehicles. FBO's SOP shall be submitted to the Airport no later than 30 days before the FBO commences activities at the Airport (and it shall be resubmitted anytime changes are made).
- 3.7.3 FBO shall have two properly trained and qualified line service technicians (FBO employees), on each shift, providing aircraft fueling, parking, and ground services and support.
  - 3.7.3.1 FBO shall have one supervisory line service technician (FBO employee) trained in an FAA approved fire safety program (14 CFR Part 139.321).
- 3.7.4 FBO shall have one properly trained and qualified customer service representative (FBO employee), on each shift (except from the hours of 11:00 p.m. to 6:00 a.m.), to provide customer service and support.

- 3.7.5 FBO (or authorized aircraft maintenance operator) shall have one airframe and powerplant mechanic properly trained and qualified to provide aircraft maintenance on aircraft using the Airport.

### **3.8 Hours of Activity**

- 3.8.1 Aircraft fueling and passenger, crew, and aircraft ground handling services, support, and amenities shall be continuously offered and available to meet reasonable demands of the public for this activity between the hours of 6:00 a.m. and 11:00 p.m. seven days a week (including holidays).

- 3.8.1.1 These services shall also be available all other times (after hours), on-call, with a response time not to exceed 30 minutes.

- 3.8.2 Aircraft maintenance shall be offered and available to meet reasonable demand of the public for this activity between the hours of 8:00 a.m. and 5:00 p.m. five days a week.

- 3.8.2.1 Aircraft maintenance shall be available all other times (after hours), on-call with response time not to exceed 60 minutes.

### **3.9 Aircraft Removal**

- 3.9.1 Recognizing that aircraft removal is the responsibility of the aircraft owner/operator, the FBO shall be prepared to lend assistance within 30 minutes upon request by either the Airport or the aircraft owner in order to maintain the operational readiness of the Airport's aircraft movement areas. The FBO shall prepare an aircraft removal plan and have the equipment readily available that is necessary to remove aircraft typically using the Airport.

### **3.10 Insurance**

- 3.10.1 FBO shall maintain, at a minimum, the insurance coverage set forth in their agreement with the City.

## **4. LIMITED FIXED BASE OPERATOR**

### **4.1 Introduction**

4.1.1 A Limited Fixed Base Operator (FBO) is a commercial operator engaged in the sale of products, services, and facilities for (or in support of) piston-powered aircraft only, to include, at a minimum, the following activities at the Airport: aviation fuel (Avgas only) and aircraft lubricants; passenger, crew, and aircraft ground services, support and amenities; aircraft maintenance; and aircraft parking, tiedown, hangar, office, and shop rental.

4.1.1.1 A Limited FBO does not engage in the sale of products, services, and facilities for (or in support of) aircraft other than piston-powered aircraft.

4.1.1.1.1 Any entity desirous of engaging in the sale of products, services, and facilities for turbine aircraft must meet the requirements set forth in Section 3.

4.1.2 In addition to the general requirements set forth in Section 2, each Limited FBO at the Airport shall comply with the following Minimum Standards set forth in this Section 4.

### **4.2 Scope of Activity**

4.2.1 Unless otherwise stated in these Minimum Standards, all products and services shall be provided by Limited FBO's employees using Limited FBO's vehicles and equipment.

4.2.2 Limited FBO's products and services shall include the following:

4.2.2.1 Aviation fuel (Avgas only) and aircraft lubricants:

4.2.2.1.1 Limited FBO shall deliver and dispense, upon request, Avgas and aircraft lubricants into piston-powered aircraft using the Airport.

4.2.2.1.2 Limited FBO shall provide a response time of not more than 15 minutes during required hours of activity (except in situations beyond the control of Limited FBO).

4.2.2.2 Passenger, crew, and aircraft ground services, support, and amenities.

4.2.2.2.1 Limited FBO shall meet, direct, and park aircraft arriving on Limited FBO's leased premises with exception of aircraft that have a designated (assigned) tiedown space or area.

4.2.2.2.2 Limited FBO shall provide courtesy on-site transportation for passengers, crew, and baggage, as necessary and/or appropriate.

4.2.2.2.3 Limited FBO shall provide parking and tiedown of aircraft upon Limited FBO's leased premises.

4.2.2.2.4 Limited FBO shall provide hangar storage of aircraft upon Limited FBO's leased premises, to include in-out (aircraft towing) service.

4.2.2.2.5 Limited FBO shall provide crew and passenger baggage handling and other related arrival and departure services.

4.2.2.2.6 Limited FBO shall provide oxygen and compressed air services.

4.2.2.2.7 Limited FBO shall provide lavatory services and aircraft cleaning services.

4.2.2.2.8 Limited FBO shall provide aircraft ground power.

4.2.2.2.9 Limited FBO shall be able to make crew and passenger ground transportation arrangements (limousine, shuttle, and rental car).

4.2.2.2.10 Limited FBO shall be capable of making aircraft catering arrangements.

4.2.2.3 Aircraft Maintenance - Limited FBO shall provide, upon request, routine (minor) aircraft line maintenance (i.e., including preventative maintenance as defined in 14 CFR Part 43, Appendix A and excluding maintenance associated with 50 hour, 100 hour, annual inspections, major alteration, and major repair) on the airframe, powerplants, and associated systems of aircraft (piston-powered only) using the Airport. Service may be provided directly through in-house or by procurement through qualified contract services.

4.2.2.4 Aircraft Storage - Limited FBO shall develop, own, and/or lease facilities for the purpose of subleasing (to the public) aircraft storage space for aircraft to entities engaging in commercial or non-commercial aeronautical activities.

### **4.3 Leased Premises**

4.3.1 Limited FBO shall have adequate land (see Section 2.5.1), apron/paved tiedown (see Section 2.5.2), facilities (hangars, terminal, maintenance, and fuel storage), and vehicle parking (see

Section 2.5.3) to accommodate all activities of Limited FBO and all approved sub lessees, but not less than the following:

- 4.3.1.1 Contiguous Land - 3 acres (130,680 square feet), upon which all required improvements including apron, paved tiedown, facilities, and vehicle parking shall be located.
- 4.3.1.2 Apron – 1.5 acres (65,340 square feet), with weight bearing capacity to accommodate the largest aircraft handled or serviced by Limited FBO.
- 4.3.1.3 Paved Tiedown – adequate to accommodate the number, type, and size based and transient aircraft requiring tiedown space at the operator's leased premises, but not less than ten (10) paved tiedown spaces.
- 4.3.1.4 Facilities – 8,000 square feet consisting of the following:
  - 4.3.1.4.1 Terminal space – 2,500 square feet. Customer area shall be at least 1,250 square feet to include adequate space for crew and passenger lounge(s), flight planning room, conference room, public use telephones, and restrooms. Administrative area shall be at least 625 square feet to include adequate space for employee offices, work areas, and storage.
  - 4.3.1.4.2 Maintenance space – 500 square feet. Maintenance area shall include adequate space for employee offices, work areas, and storage for aircraft parts and equipment.
  - 4.3.1.4.3 Hangar space – 5,000 square feet or large enough to accommodate the largest aircraft undergoing aircraft maintenance (other than preventative aircraft maintenance as described in 14 CFR Part 43), whichever is greater.
- 4.3.1.5 Vehicle Parking – not less than required by City code.

#### **4.4 Fuel Storage**

- 4.4.1 Limited FBO shall construct or install and maintain an above ground fuel storage facility at the Airport, unless otherwise authorized or required, in a location consistent with the current and planned uses of Airport land and improvements and approved by the City.
- 4.4.2 Fuel storage facility shall have total capacity for three days peak supply of aviation fuel for aircraft being serviced by Limited FBO, in no event shall the total storage capacity be less than:

- 4.4.2.1 20,000 gallons for Avgas storage.
- 4.4.2.2 500 gallons for waste fuel or test samples (or the capability to recycle waste fuel or test samples).
- 4.4.3 Limited FBO shall, at its sole cost and expense, maintain the fuel storage facility, all improvements thereon, and all appurtenances thereto, in a clean, neat, orderly, and fully functional condition consistent with good business practices and equal or better than in appearance and character to other similar improvements on the Airport.
- 4.4.4 Limited FBO shall demonstrate that satisfactory arrangements have been made with a reputable aviation petroleum supplier/distributor for the delivery of aviation fuel in the quantities that are necessary to meet the requirements set forth herein.
- 4.4.5 Fuel supplies utilized by Limited FBO must have a current and executed fuel delivery permit, if required by the City, on file with the Airport.
- 4.4.6 Limited FBO shall have a written Spill Prevention, Control, and Countermeasures (SPCC) plan that meet regulatory measures for fuel storage facilities. An updated copy of the SPCC plan shall be filed with the Airport at least 30 days prior to commencing operations.
- 4.4.7 Limited FBO shall be liable and indemnify the City for all leaks, spills, or other damage that may result through the handling and dispensing of fuel.
- 4.4.8 Fuel dispensed by Limited FBO shall meet quality specifications as outlined is ASTM D 1910 (Avgas), or any superseding standards. Ensuring the quality of the fuel is the responsibility of Limited FBO.
- 4.4.9 Limited FBO shall maintain records that identify the amount (number of gallons) of: (1) aviation fuel purchased by Limited FBO, (2) delivered to Limited FBO's fuel storage facility, and (3) delivered to Limited FBO customer aircraft and/or dispensed by Limited FBO at the Airport (by customer type).
  - 4.4.9.1 On or before the 10<sup>th</sup> day of the subsequent month, Limited FBO shall provide a summary report to the City identifying the amount (number of gallons) of: (1) aviation fuel purchased by Limited FBO, (2) delivered to Limited FBO's fuel storage facility, and (3) delivered to Limited FBO customer aircraft and/or dispensed by the FBO at the Airport (by customer type) and Limited FBO shall pay the appropriate fees and charges due to the City. City reserves the right to amend its method of collecting fees by separate

agreement with third parties. Alternative methods may not result in collecting more than is due to the City.

- 4.4.9.2 Records (and meters) shall be made available for review (audit) by the City or its designated representative. In the case of a discrepancy between the amount of fuel purchased by and/or delivered to Limited FBO and the amount of fuel delivered to Limited FBO customer aircraft and/or dispensed by Limited FBO at the Airport, Limited FBO shall cooperate fully with the City to reconcile any report discrepancies to ensure appropriate fees are paid to the City.

## **4.5 Fueling Equipment**

- 4.5.1 Limited FBO shall have two Avgas refueling vehicles each having a capacity of at least 750 gallons. A fixed Avgas self-serve refueling system may be substituted for an Avgas refueling vehicle.

- 4.5.1.1 If substituted for an Avgas refueling vehicle, the fixed Avgas self-serve fueling system shall: (1) be constructed or installed in a location specified by the Airport, (2) be available and maintained by Limited FBO for public commercial use, and (3) have detailed (and readily accessible) instructions for the proper and safe operation of the system and a fully functional (and readily accessible) telephone, emergency shut-off, properly rated fire extinguisher, and fuel spill kit.

- 4.5.1.2 Limited FBO may have only one Avgas refueling vehicle if Limited FBO has a written agreement with another FBO at the Airport to provide Avgas fueling services at times when Limited FBO's refueling vehicle is unavailable or unable to meet the required response time.

- 4.5.1.3 Agreement must be on file with the Airport.

- 4.5.2 Aircraft refueling vehicles shall be equipped with metering devices that meet all applicable regulatory measures. All refueling vehicles shall be bottom loaded.

- 4.5.3 Each refueling vehicle and all fueling equipment shall be equipped and maintained to comply with all applicable safety and fire prevention requirements, standards, and regulatory measures including, without limitation, those prescribed by:

- 4.5.3.1 State of California Fire Code;

- 4.5.3.2 City of Long Beach Fire Code;

- 4.5.3.3 National Fire Protection Association (NFPA) Codes;



- 4.5.3.4 California Department of Health and Environment Oil Inspection Regulatory Section;
- 4.5.3.5 14 CFR Part 139, Airport Certification, Section 139.321 "Handling/Storing of Hazardous Substances and Materials".
- 4.5.3.6 Applicable FAA Advisory Circulars (AC) including AC 00-34 "Aircraft Ground Handling and Servicing" and AC 150/5210-5 "Painting, Marking and Lighting of Vehicles Used On An Airport".

## **4.6 Equipment**

### **4.6.1 Limited FBO shall have the following equipment:**

- 4.6.1.1 Adequate wheel chocks for aircraft parking in (on) open apron areas and equipment for securing aircraft on permanent tiedowns including ropes, chains, wheel chocks, and/or other types of aircraft restraining devices, which are required to safely secure aircraft as described in FAA Advisory Circular 20-35C.
- 4.6.1.2 One oxygen cart and one compressed air unit.
- 4.6.1.3 One ramp transportation vehicle to provide transportation of passengers and baggage between Limited FBO's terminal building and aircraft.
- 4.6.1.4 Two aircraft towing vehicles (and two bars) with at least one having a rated draw bar capacity sufficient to meet the towing requirement of the heaviest piston-powered aircraft typically using the Airport.
- 4.6.1.5 Two ground power units capable of providing electricity to direct current (DC) powered aircraft.
- 4.6.1.6 One lavatory service cart.
- 4.6.1.7 Spill kits including one mobile unit per contiguous ramp area with the necessary equipment and materials to contain a fuel spill and keep it from flowing into drains or other damage potential areas.
- 4.6.1.8 Adequate number of approved and regularly inspected dry chemical fire extinguisher units shall be maintained within all hangars, on all apron areas, at all fuel storage facilities, and on all grounding handling and refueling vehicles.
- 4.6.1.9 All equipment reasonably necessary for the proper performance of aircraft maintenance in accordance with

applicable FAA regulations and manufacturers' specifications.

#### **4.7 Personnel**

4.7.1 Personnel while on duty shall be clean, neat in appearance, courteous, and at all times, properly uniformed. Uniforms shall identify the name of Limited FBO and the employee and shall be clean, neat, professional, and properly maintained at all times.

4.7.1.1 Management and administrative personnel shall not be required to be uniformed.

4.7.2 Limited FBO shall develop and maintain SOPs for fueling and ground handling and shall ensure compliance with standards set forth in FAA Advisory Circular 00-34A "Aircraft Ground Handling and Servicing". Limited FBO's SOP shall include a training plan, fuel quality assurance procedures and record keeping, and emergency response procedures to fuel spills and fires. Limited FBO's SOP shall also address: regular safety inspections, bonding and fire protection; public protection; control of access to fuel storage facilities; and marking and labeling of fuel storage tanks and refueling vehicles. Limited FBO's SOP shall be submitted to the Airport no later than 30 days before Limited FBO commences activities at the Airport (and it shall be resubmitted anytime changes are made).

4.7.3 Limited FBO shall have two properly trained and qualified line service technicians (Limited FBO employees), on each shift, providing aircraft fueling, parking, and ground services and support.

4.7.4 Limited FBO shall have one supervisory line service technician (Limited FBO employee) trained in an FAA approved fire safety program (14 CFR Part 139.321).

4.7.5 Limited FBO shall have one properly trained and qualified customer service representative (Limited FBO employee), on each shift (except from the hours of 11:00 p.m. to 6:00 a.m.), to provide customer service and support.

4.7.6 Limited FBO (or authorized aircraft maintenance operator) shall have one airframe and powerplant mechanic properly trained and qualified to provide aircraft maintenance on piston-powered aircraft typically using the Airport.

#### **4.8 Hours of Activity**

4.8.1 Aircraft fueling and passenger, crew, and aircraft ground handling services, support, and amenities shall be continuously offered and available to meet reasonable demands of the public for this activity

between the hours of 6:00 a.m. and 11:00 p.m. seven days a week (including holidays).

4.8.2 These services shall also be available all other times (after hours), on-call with a response time not to exceed 30 minutes.

4.8.3 Aircraft maintenance shall be offered and available to meet reasonable demand of the public for this activity between the hours of 8:00 a.m. and 5:00 p.m. five days a week.

4.8.4 Aircraft maintenance shall be available all other times (after hours), on-call with response time not to exceed 60 minutes.

#### **4.9 Aircraft Removal**

4.9.1 Recognizing that aircraft removal is the responsibility of the aircraft owner/operator, Limited FBO shall be prepared to lend assistance within 30 minutes upon request by either the Airport or the aircraft owner in order to maintain the operational readiness of the Airport's aircraft movement areas. Limited FBO shall prepare an aircraft removal plan and have the equipment readily available that is necessary to remove piston-powered aircraft typically using the Airport.

#### **4.10 Insurance**

4.10.1 Limited FBO shall maintain, at a minimum, the insurance coverage set forth in their agreement with the City.

## 5. COMMERCIAL HANGAR OPERATOR (SASO)

### 5.1 Introduction

5.1.1 A Commercial Hangar Operator is a commercial operator that develops, constructs, owns, and/or leases hangar structure(s) for the sole purpose of subleasing hangar and associated office or shop space to entities engaging in Commercial or Non-Commercial Aeronautical Activities.

### 5.2 Scope of Activity

5.2.1 Operator shall use the Leased Premises to: (1) store or maintain Operator's or Sublessee Aircraft, (2) sublease associated office and shop space that may be used for approved Commercial or Non-Commercial Aeronautical Activities.

### 5.3 Leased Premises

5.3.1 Operator engaging in this Activity shall have adequate land, apron, facilities, and vehicle parking, to accommodate all Activities of the Operator and all approved Sublessees, but not less than the following:

	<u>Group I</u> Piston and Turboprop Aircraft Hangar Storage	<u>Group II</u> Piston and Turboprop Aircraft Hangar Storage	<u>Group I</u> Turbine Aircraft Hangar Storage	<u>Group II</u> Turbine Aircraft Hangar Storage	<u>Group III</u> Turbine Aircraft Hangar Storage
Contiguous Land	1.00 Ac	1.25 Ac	1.50 Ac	1.75 Ac	2.00 Ac
Hangar	5,000 SF	7,500 SF	10,000 SF	12,500 SF	15,000 SF

5.3.1.1 Apron shall be equal to one times the hangar square footage or adequately sized to accommodate the movement of Aircraft into and out of the hangar, staging, and parking of Aircraft.

5.3.1.2 Vehicle parking shall be sufficient to accommodate customers and employees on a daily basis.

### 5.4 Insurance

5.4.1 Operator shall maintain, at a minimum, the insurance coverage set forth in their agreement with the City.

## **6. SPECIALIZED AVIATION SERVICE PROVIDERS**

### **6.1 Based Aircraft Flight Instruction**

- 6.1.1 Providers of flight instruction shall hold FAA and State certification where applicable.
- 6.1.2 Provider shall have on-Airport office space and telephone.
- 6.1.3 Restroom facilities within reasonable walking distance of office space shall be provided.
- 6.1.4 Provider shall have parking (customer & employee vehicles) available consistent with City code.

### **6.2 Aircraft Sales**

- 6.2.1 The business shall maintain on-Airport office space.
- 6.2.2 The business shall hold licenses as required by other governmental agencies.
- 6.2.3 Owners offer for sale their own aircraft and exempt from State sales licensing requirements are considered exempt from these requirements.
- 6.2.4 The sales entity shall provide, either directly or by subcontract, necessary and satisfactory arrangements for repair and servicing of aircraft, but only for the duration of any sales guarantee or warranty period and shall provide an adequate inventory of spare parts, either directly or by subcontract, for the type of new aircraft for which sales privileges are granted.

### **6.3 Aircraft Storage**

- 6.3.1 Tiedown spaces shall be designed to ensure there is no aircraft wing overlap.
- 6.3.2 Adequate tiedown hardware shall be provided for wing and tail tiedowns.
- 6.3.3 Storage of marine craft or other vehicles/equipment not required to support aviation activity is not permitted.
- 6.3.4 For taxilanes used by aircraft under power, minimum taxilane widths consistent with FAA Advisory Circular 150/5300-13, "Airport Design" shall be provided unless otherwise approved by the Airport Director.
- 6.3.5 Taxilanes shall be marked in accordance with the standards set forth in FAA Advisory Circular 150/5340-1G, "Standards for Airport Markings."

#### **6.4 Aircraft Storage Hangars**

- 6.4.1 No commercial operations shall be conducted out of a hangar unless authorized in writing by the Airport Director.
- 6.4.2 Storage of marine craft or other vehicles/equipment not required to support aviation activity is not permitted.

#### **6.5 Aircraft Maintenance and Repair**

- 6.5.1 All aircraft repairs must be made in accordance with FAA standards.
- 6.5.2 Purveyor must provide an on-Airport office and hangar or tiedown area for parking of customer aircraft.
- 6.5.3 Maintenance and repair of an aircraft situated beyond the boundary lines of tenant leasehold is prohibited at all times, unless pre-approved by the Airport Director.

#### **6.6 Aircraft Rental**

- 6.6.1 The purveyor shall maintain an on-Airport office and adequate assigned tiedowns or inside storage areas for rental aircraft.
- 6.6.2 Restroom facilities within reasonable walking distance of office space shall be provided.

#### **6.7 Avionics, Instruments, and Propeller Repair**

- 6.7.1 Purveyor shall hold required FAA and FCC licenses.
- 6.7.2 Purveyor must provide an on-Airport office and hangar or tiedown area for parking of customer aircraft.
- 6.7.3 Maintenance and repair of an aircraft situated beyond the boundary lines of tenant leasehold or FBO is prohibited at all times, unless pre-approved by the Airport Director.

#### **6.8 Flying Clubs (Non-Profit)**

- 6.8.1 All flying clubs shall be a non-profit corporation or partnership.
- 6.8.2 All aircraft shall be owned or leased by the club.
- 6.8.3 The club may not offer or conduct charter, air taxi, rental, or flight instruction, and only members of the flying club may operate the aircraft.
- 6.8.4 The club shall not permit its aircraft to be used for flight instruction of any type to any person, including club members, when such person pays or becomes obligated to reimburse for such instruction, except

when instruction is provided by a lessee or permittee authorized by the City to provide such instruction.

- 6.8.5 Exceptions are permitted to the above when flight instructors or mechanics are club members. They may perform instruction/maintenance/repair where compensation is limited to credit against payment of dues or flight time.

## **6.9 Aircraft Charter**

- 6.9.1 Adequate sheltered waiting area shall be provided within 500 feet of the aircraft. The waiting area shall be of sufficient size to hold the passenger load for the type of aircraft and meet applicable Fire Codes regarding occupancy load.
- 6.9.2 Restrooms shall be available at the waiting area.
- 6.9.3 Adequate vehicle parking spaces shall be provided on-site in accordance with City Code.
- 6.9.4 The operator shall hold all applicable FAA and DOT licenses and/or certificates.
- 6.9.5 The operator shall provide adequate ground handling equipment for type aircraft.
- 6.9.6 The operator shall provide public telephones within reasonable distance of waiting area.
- 6.9.7 No publicly available scheduled operations or public charters with a scheduled frequency of five flights or more per week are permitted except at the Airport's terminal building and associated air carrier ramp.

## **6.10 Other Specialized Aviation Services**

- 6.10.1 Other specialized aviation services include aircraft modifications (STCs), aircraft paint, aircraft upholstery, aircraft propeller service, aircraft engine component overhaul, aircraft major rehabilitation or reconstruction.
- 6.10.2 Aircraft painting, except minor touch-up painting, shall be conducted only in City approved aircraft paint booths or paint facilities.
- 6.10.3 Maintenance and repair of aircraft situated beyond the boundary lines of tenant leasehold is prohibited at all times, unless pre-approved by the Airport Director
- 6.10.4 Purveyor must provide an on-Airport office and hangar or tiedown area for parking of customer aircraft.

6.10.5 Purveyor shall hold the required FAA certification for type work.

### **6.11 Airship Operations**

6.11.1 Airship mooring locations shall be assigned as appropriate by the Airport.

6.11.2 The airship operator shall be responsible for the removal of equipment in a timely manner, not to exceed 24 hours.

6.11.3 The airship operator shall provide ground operations and radio training to the satisfaction of the Airport to each crewmember required to operate a vehicle on the AOA and must communicate via radio with the ATC tower.

### **6.12 Banner Tow Operations**

6.12.1 Each banner tow operator shall obtain a banner tow permit from the Airport.

6.12.2 A ground crew consisting of at least one individual is required for all banner tow operations.

6.12.3 Any vehicles operated on the AOA shall display Airport-related identification and markings.

6.12.4 Banner tow pickup/drop operations shall be conducted only in areas designated by the Airport.

6.12.5 The banner tow operator shall provide ground operations and radio training to the satisfaction of the Airport and to each crewmember required to operate a vehicle on the AOA and must communicate via radio with the ATC tower.

### **6.13 Mobile Aircraft Washing and Detailing**

6.13.1 Aircraft washing shall be conducted only in designated areas.

6.13.2 Operators must contain all water and associated discharge from washing activities. All such effluent shall be recycled or removed from the Airport and meet all applicable Airport, City, State, and federal clean water regulations.

6.13.3 Aircraft washing and detailing operators must receive written approval of lessee(s) or permittee(s) prior to entering their premises.

### **6.14 Mobile Catering**

6.14.1 Food catering permittees shall not operate their catering units within 300 feet of the terminal building.



6.14.2 Mobile caterers must receive written approval of lessee(s) or permittee(s) prior to entering their premises.

6.14.3 Mobile caterers must meet all applicable Airport, City, State and, Federal Regulations.

## **7. NON-COMMERCIAL SELF-FUELING**

### **7.1 Introduction**

- 7.1.1 This article sets forth the standards prerequisite to an entity engaging in non-commercial self-fueling activities at the Airport. Any entity engaging in such activities shall also be required to comply with all applicable regulatory measures pertaining to such activities.
- 7.1.2 All entities desiring self-service fueling shall be accorded a reasonable opportunity, without unlawful discrimination, to qualify and receive a Non-Commercial Self-Service Fueling Permit. Those entities that have a permit granting them the rights to perform commercial fueling (i.e., FBO) are not required to apply for a Non-Commercial Self-Service Fueling Permit.
- 7.1.3 In addition to the applicable Minimum Standards' General Requirements, each entity conducting non-commercial self-fueling activities at the Airport shall comply with the following Minimum Standards:

### **7.2 Permit Approval**

- 7.2.1 No entity shall engage in self-fueling activities unless a valid Non-Commercial Self-Fueling Permit authorizing such activity has been obtained from the City. Such entities shall herein be referred to as "Permittees".
- 7.2.2 The Permit shall not reduce or limit Permittee's obligations with respect to these Self-Fueling Minimum Standards, which shall be included in the Permit by reference.
- 7.2.3 Prior to issuance and subsequently upon request by the City, Permittee shall provide evidence of ownership (and/or lease) of any aircraft being operated (under the full control of) and fueled by Permittee. The City will determine if an aircraft lease is commercially reasonable, for purposes of self-fueling.

### **7.3 Reporting**

- 7.3.1 Permittee shall report all fuel delivered to the approved Permittee's fuel storage facility and Permittee's aircraft during each calendar month and submit a summary report on or before the 10<sup>th</sup> day of the subsequent month, and permittee shall pay the appropriate fees and charges due to the City. City reserves the right to amend its method of collecting fees by separate agreement with third parties. Alternative methods may not result in collecting more than is due to the City.

- 7.3.2 Records (and meters) shall be made available for review (audit) by the City or its designated representative. In the case of a discrepancy between the amount of fuel purchased by and/or delivered to Permittee and the amount of fuel dispensed by Permittee at the Airport, Permittee shall cooperate fully with the City to reconcile any report discrepancies to ensure appropriate fees are paid to the City.

#### **7.4 Fuel Storage**

- 7.4.1 Permittee shall demonstrate that satisfactory arrangements have been made for the storage of fuel, as follows:
- 7.4.1.1 through either an authorized FBO at the Airport or
  - 7.4.1.2 in an above ground, on-Airport fuel storage location approved by the City.
- 7.4.2 Permittee shall be liable and indemnify the City for all leaks, spills, or other damage that may result through the handling and dispensing of fuel.
- 7.4.3 Permittee shall be responsible to ensure the quality of the fuel dispensed under the authority of the Permit.

#### **7.5 Fueling Equipment**

- 7.5.1 Permittee shall utilize a single refueling vehicle for each type of fuel to be dispensed. Avgas refueling vehicles shall have a minimum capacity of 750 gallons and Jet Fuel refueling vehicles shall have a minimum capacity of 2,000 gallons.
- 7.5.2 Each refueling vehicle shall be equipped and maintained to comply at all times with all applicable safety and fire prevention requirements or standards, as may be amended from time to time, including without limitation, those prescribed by:
- 7.5.2.1 State of California Code,
  - 7.5.2.2 City of Long Beach Fire Code,
  - 7.5.2.3 National Fire Protection Association (NFPA) Codes,
  - 7.5.2.4 14 CFR Part 139, Airport Certification, Section 139.321 "Handling/Storing of Hazardous Substances and Materials";  
AND
  - 7.5.2.5 Applicable FAA Advisory Circulars (AC) including AC 00-34 "Aircraft Ground Handling and Servicing" and AC 150/5210-5 "Painting, Marking and Lighting of Vehicles Used On An Airport".

7.5.3 Prior to transporting fuel onto the Airport, Permittee shall provide the City with a Spill Prevention Contingency and Control Plan (SPCC) that meets regulatory requirements for fuel storage facilities. An updated copy of such SPCC Plan shall be filed with the Airport at least thirty (30) days prior to actual implementation. Such plan shall describe, in detail, those methods that shall be used by the Permittee to clean up any potentially hazardous fuel spills. The plan must include equipment to be used, emergency contact personnel and their telephone numbers, and all other details as to how the Permittee would contain such a spill. This plan must also describe, in detail, methods the Permittee intends to use to prevent any such spill from occurring.

7.5.4 In accordance with all applicable regulatory measures and appropriate industry practices, Permittee shall develop and maintain SOPs for fueling and shall ensure compliance with standards set forth in FAA Advisory Circular 00-34A, entitled "Aircraft Ground Handling and Servicing". The SOP shall include a training plan, fuel quality assurance procedures, record keeping, and emergency response procedures for fuel spills and fires. The SOP shall also address the following: (1) bonding and fire protection, (2) public protection, (3) control of access to refueling vehicle storage areas, and (4) marking and labeling of refueling vehicles. The SOP shall be submitted to the Airport not later than thirty (30) days before the Permittee commences self-fueling at the Airport.

## **7.6 Licenses, Certifications, and Permits**

7.6.1 Permittee shall have and provide to the Airport evidence of all federal, State, and local licenses, certificates, and permits that are required to conduct self-fueling.

## **7.7 Personnel**

7.7.1 Permittee's employees must conduct the self-fueling activity and be properly trained in aircraft refueling as prescribed the Airport.

7.7.2 There must be a minimum of two (2) individuals present during self-fueling activities.

## **7.8 Limitations**

7.8.1 Permittees shall not sell and/or dispense fuels to based or transient aircraft that are not owned by or under the full control of Permittee. Any such selling or dispensing of fuel not in conformance with the Permit shall be grounds for immediate revocation of the Permit by the City.

## **7.9 Insurance**

- 7.9.1 Except as otherwise provided for herein, Permittee shall maintain, at a minimum, the coverages and policy limits set forth in their agreement with the City.

## DEFINITIONS

The following words and phrases, whenever capitalized, shall be construed as defined herein unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases. In addition, certain other capitalized words and phrases are defined in other Policies or Directives.

All definitions contained in 49 U.S.C. § 40101 *et seq.* (previously known as the Federal Aviation Act of 1958, hereinafter cited as "FAA Act") and all amendments thereto shall be considered as included herein; and all definitions shall be interpreted on the basis and intention of the FAA Act and amendments thereto unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

Aeronautical Activity (or "Aeronautical Activities" or "Activity" or "Activities") - Any activity or service that involves, makes possible, facilitates, is related to, assists in, or is required for the operation of Aircraft or which contributes to or is required for the safety of such operations. The following Activities, without limitation, which are commonly conducted on airports, are considered Aeronautical Activities within this definition: Aircraft charter, pilot training, Aircraft rental, sightseeing, aerial photography, aerial spraying and agricultural aviation services, aerial advertising, aerial surveying, air carrier operations (passenger and cargo), Aircraft sales and service, sale of aviation fuel and oil, Aircraft Maintenance, sale of Aircraft parts, and any other Activities which, in the sole judgment of the BOAC, because of their direct relationship to the operation of Aircraft or the Airport, can appropriately be regarded as an Aeronautical Activity. For all purposes of these Directives, all products and services described herein are deemed to be "Aeronautical Activities."

Aircraft - Any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in air or space. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets, helicopters, gliders, sailplanes, amphibians, and seaplanes.

Aircraft Maintenance - The repair, maintenance, alteration, preservation, or inspection of Aircraft (including the replacement of parts). Major repairs include major alterations to the airframe, powerplant, and propeller as defined in 14 CFR Part 43. Minor repairs include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of Aircraft and their accessories.

Aircraft Operator - The owner of any Aircraft or any person who has rented or leased such an Aircraft for the purpose of operation by himself or his own agents, or any person operating an Aircraft.

Airframe and Powerplant Mechanic (or "A and P Mechanic") - A person who holds an aircraft mechanic certificate with both the airframe and powerplant ratings. This certification is issued by the FAA under the provisions of 14 CFR Part 65.

Airport - The Long Beach Airport and all land, improvements, and appurtenances within the legal boundaries of the Airport as it now exists on the Airport Layout Plan (or Exhibit A of the most recent Airport Sponsor Assurances) and as it may hereinafter be extended, enlarged, or modified.

Airport Layout Plan (or "ALP") - The currently approved drawing depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, Taxiways, buildings, roadways, utilities, nav aids, etc.

Airport Director - The person, charged with the duty to administer, manage, and control the Airport, or a duly authorized representative.

Airport Sponsor Assurances (or "Airport Grant Assurances") - Assurances that airport owner/operators must comply with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

Apron - The paved area where Aircraft can be parked and tied down.

Association - An entity legally formed and recognized under the laws of the State of California having an existence separate and apart from its members or shareholders (i.e., Limited Liability Company, Corporation, Partnership, Limited Partnership, etc.)

Commercial - For the purpose of securing earnings, income, compensation (including exchange of service), and/or profit, whether or not such objectives are accomplished.

Competitive Proposal Process - A process that is used to seek competitive proposals from qualified entities when land and/or improvements are or become available at the Airport for occupancy or use.

Contiguous Land - Land that is sharing an edge or boundary or is separated by no more than a taxilane.

Current - All rents, fees, and other charges (required to be paid under any and all Agreements with Airport) are paid.

Employees - Any individual employed by an entity whereby said entity collects and pays all associated taxes on behalf of Employee (i.e., social security and medicare) or which is contracted for through a temporary employment agency.

Equipment - All property and machinery, together with the necessary supplies, tools, and apparatus necessary for the proper conduct of the Activity being performed.

Exclusive Right - A power, privilege, or other right excluding or preventing another from enjoying or exercising a like power, privilege, or right. An exclusive right may be conferred either by express Agreement, by imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right. An exclusive right to conduct an Aeronautical Activity, which is forbidden by federal regulation, is distinguished from an exclusive right to occupy real estate, which is permitted by federal regulation under certain conditions.

Federal Aviation Administration (or "FAA") -The division within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.

Fixed Base Operator (or "FBO") - An entity that is authorized and required by Agreement with City to provide to the public, at a minimum, the following Activities at the Airport:

- A. Sale of Aviation Fuels and Lubricants
- B. Ancillary Aircraft Ground Services and Support
- C. Tiedown, Hangar, and Parking
- D. Aircraft Maintenance

Flight Training - Any use of an Aircraft to increase or maintain pilot or crewmember proficiency rather than the use of an Aircraft as transportation between two different Airports or other destinations. Flight Training shall also include any portion of a flight between two Airport or other destinations dedicated to increase or maintain pilot or crewmember proficiency.

Fuel - Any substance (solid, liquid, or gaseous) used to operate any engine in Aircraft or Vehicles.

General Aviation - All civil aviation with exception of air carriers. General aviation Aircraft are utilized for Commercial and non-commercial purposes including business/corporate, recreational/pleasure, charter/air taxi, industrial/special purpose, and instructional.

Good Standing - Consistently in compliance with all applicable regulatory measures and not in default of any Agreement with the City.

Group I - Aircraft having a wingspan up to but not including 49 feet.

Group II - Aircraft having a wingspan 49 feet up to but not including 79 feet.

Group III - Aircraft having a wingspan 79 feet up to but not including 118 feet.

Immediately - The ability to occupy premises leased from Airport and offer products, services, and/or facilities (to the public) as of the effective date of an Agreement. When construction and/or alteration of facilities are involved, immediately shall mean the ability to obtain a certificate of occupancy from the City of Long Beach, California, for the proposed facilities within six months following receipt of possession of the leased premises.

Improvements - All permanent improvements including infrastructure improvements (taxiways, taxilanes, roadways, walkways, automobile parking areas, and apron areas – asphalt pavement or concrete), utilities, landscaping, fencing, signage, fixtures, and facilities (terminal building, hangar, office, shop, fuel storage, and other related buildings, improvements, and/or support facilities) constructed, installed, or placed on, under, or above the land. Furniture, vehicles, and equipment are not considered improvements.

Infrastructure - Runways, taxiways, aprons, nav aids, roadways, and utilities.

Instructor - Any individual giving or offering to give instruction in the operation, construction, repair, or maintenance of Aircraft, Aircraft powerplants, and accessories, including the repair, parking, and maintenance of parachutes.

Leased Premises - The land and/or improvements used exclusively by Operator for the conduct of Operator's Activities.

Non-Commercial - Not for the purpose of securing earnings, income, compensation (including exchange of service), and/or profit. A non-commercial Aircraft Operator owns and/or operates Aircraft that are incidental or ancillary to the business (i.e., the Aircraft is used only to provide transportation for the exclusive use of employees, agents, and/or customers of the business and not for Commercial Activities) or used strictly for private (not for hire), personal, or recreational purposes only.

Operator - An entity that has entered into an Agreement with the Airport to engage in Aeronautical Activities (commercial or non-commercial).

Piston Aircraft - An Aircraft that utilizes a reciprocating engine for propulsion.

Property - Anything that is owned by an entity. Property is divided into two types: "real property," which is any interest in land or improvements (manmade or natural) located on the land, and "personal property," which is all other property (or property other than real property) consisting of things that are temporary or movable.

Prospective Operator - An entity desiring to use land and/or improvements at the Airport to engage in Aeronautical Activities and who shall apply in writing and in the manner or form prescribed herein for authorization to engage in such Activities at the Airport.



Readily Available - Conveniently located (in close proximity) and immediately available and accessible, but not necessarily located on the leased premises.

Refueling Vehicle - Any vehicle used for the transporting, handling or dispensing of fuels, oils, and lubricants.

Regulatory Measures - Federal, state, and local laws, codes, ordinances, rules, and regulations including Airport Policies and Directives.

Repair Station - A certified Aircraft maintenance facility approved by the FAA to perform certain specific maintenance functions. These facilities are certificated under 14 CFR Part 145.

Sublease - An Agreement entered into by an entity with an Operator that transfers rights or interests in the Operator's leased premises and is enforceable by law.

Sublessee - An entity that has entered into a sublease with an Operator.

Taxiway - A defined path, usually paved, over which Aircraft can taxi from one part of an airport to another (excluding the runway) and is under the control of the FAA Airport Traffic Control Tower.

Tiedown Area (or "Tiedown") - A paved or unpaved area (where tiedown points are located) that is suitable for parking and mooring of Aircraft. Tiedown includes the points (or anchors) and the Equipment (ropes, chains, wheel chocks, and other types of restraining devices) that are required to safely secure tiedown Aircraft, as set forward in FAA AC 20-35C.

Turbine Aircraft - An Aircraft that utilizes a form of heat engine that produces thrust by accelerating a relatively small mass of air through a large change in velocity for propulsion.

Turboprop Aircraft - An Aircraft that utilizes a gas turbine engine to drive a set of reduction gears, which, in turn, drives a propeller for propulsion.

Vehicle - Any device that is capable of moving itself, or being moved, from place to place; but does not include any device designed to be moved by human muscular power or designed to move primarily through the air.



# EXHIBIT D

## **CITY OF LONG BEACH** **Municipal Code Chapter 16.43** **Airport Noise Compatibility Ordinance**

---

### **16.43.010 Definitions.**

**16.43.020 Scope of permission to use the Airport.**

**16.43.030 Prohibited activities.**

**16.43.040 Maximum SENEL limits.**

**16.43.050 Cumulative noise limits and noise budgets.**

**16.43.060 Compliance with noise budgets.**

**16.43.070 General exemptions.**

**16.43.080 Presumptions for violation responsibility.**

**16.43.090 Violation enforcement.**

**16.43.100 Alternative enforcement procedures.**

**16.43.110 Administrative hearings and appeals.**

**16.43.120 Changes in methods of monitoring noise or calculating noise impacts.**

---

### **16.43.010 Definitions.**

A. "Air Carrier" means a scheduled carrier, certificated under FAR Parts 121, 125, or 135, operating aircraft having a certificated maximum takeoff weight of seventy-five thousand pounds or more, transporting passengers or cargo.

B. "California Noise Standards" means the Noise Standards for California Airports, as set forth in 21 California Code of Regulations, Section 5000, et seq. Unless otherwise stated, the terms used in this Chapter shall have the same meanings as set forth in the Noise Standards.

C. "Charter operation" means a revenue producing takeoff or landing, operated by a person or entity that is neither an Air Carrier nor a Commuter Carrier, using an aircraft having a certificated maximum takeoff weight of seventy-five thousand pounds or more and transporting passengers or cargo.

D. "Commuter" and "commuter carrier" means a scheduled carrier, certificated under FAR Part 121 or 135, operating aircraft having a certificated maximum takeoff weight less than seventy-five thousand pounds and transporting passengers or cargo.

E. "Engine runup" means the operation of an aircraft engine while stationary for the purpose of testing (other than preflight), servicing or repairing such engine.

F. "Flight" means one arrival and one departure by an aircraft.

G. "General aviation" means aviation activity other than operations by Air Carriers, Commuter Carriers, Industrial operators, Charter operators, and public aircraft.

H. "Incompatible property" means property used for residential purposes, schools and churches. Property subject to an easement for noise and property acoustically treated to reduce interior CNEL levels is not rendered compatible as a result of such easement or acoustic treatment.

I. "Industrial operation" means one takeoff or one landing of an aircraft over seventy-five thousand pounds maximum certificated gross takeoff weight for purposes of production, testing, remanufacturing, or delivery by or under the control of a manufacturer based at the Long Beach Airport. This definition does not include flights into or out of Long Beach for purposes of maintenance, retrofit or repair.

J. "Operation" means a takeoff or a landing of an aircraft at the Long Beach Airport.

K. "Owner/operator" means the owner of record of an aircraft operating at the Airport and the authorized user of that aircraft if different from the owner.

L. "Practice Low Approach" and "Practice Missed Approach" means an action by an aircraft consisting of an approach to or over the Airport for a landing where the pilot intentionally does not make contact with the runway.

M. "Public Aircraft" means an aircraft defined in 49 USC 40102 (37).

N. "Stop and Go" means an action by an aircraft consisting of a landing followed by a complete stop on the runway and a takeoff from that point.

O. "Touch and Go" means an action by an aircraft consisting of a landing and departure on a runway without stopping or exiting the runway.

P. "Training operation" means Touch and Go, Stop and Go, Practice Low Approach, and Practice Missed Approach Operation, or any of them. (Ord. C-7320 § 2, 1995).

#### **16.43.020 Scope of permission to use the Airport.**

Any authorization to conduct operations at the Airport which is granted or continued under this Chapter is not transferable, directly or indirectly. Entities which are jointly owned or which own a controlling interest in another entity shall not be considered separate from the commonly owned or controlled entity. Although the authorizations to conduct operations at the Airport which are granted or continued under this Chapter may be considered to be interests requiring notice and an opportunity for hearing before revocation, such authorizations nevertheless remain public rights to which no user may obtain continuing ownership. Control of any permits issued pursuant to this Chapter may last only so long as the owner/operator complies with the conditions of use, ordinances, rules, and regulations of the City, including compliance with the terms of operating permits and the payment of all fees and charges established from time to time by the City. (Ord. C-7320, § 2, 1995).

#### **16.43.030 Prohibited activities.**

A. Training Operations. No Touch and Go, Stop and Go, Practice Low Approach, or VFR Practice Missed Approach shall be conducted at the Airport except between seven a.m. and seven p.m. on

weekdays and between eight a.m. and three p.m. on Saturdays, Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that if any such holiday falls on Saturday or Sunday and, as a result, a holiday is observed on the preceding Friday or succeeding Monday, then such Friday or Monday, as the case may be, shall be considered to be a holiday for purposes of this Section. Except for instrument training, Training Operations shall be conducted only on Runways 25R/7L and 25L/7R, unless the FAA directs such Operations on Runways 34L/16R and 34R/16L.

B. Engine Runups. Engine runups shall be permitted only between the hours of seven a.m. and nine p.m. on weekdays and nine a.m. and nine p.m. on weekends and holidays. Such runups may be conducted only at locations designated for such purposes by the Airport Manager. Nothing in this Section shall be deemed to require relocation of existing runup facilities for which appropriate noise buffering devices have been constructed.

C. Formation Takeoffs and Landings. Except as necessary in the manufacture or repair of aircraft, formation takeoffs and landings are prohibited at Long Beach Municipal Airport.

D. Unapproved Charter Flights. No proposed charter operation shall be conducted unless the written permission of the Airport Manager has been sought and received before such operation is scheduled to occur. (Ord. C-7320 § 2, 1995).

#### **16.43.040 Maximum SENEL limits.**

A. Subject to the authority of the Airport Manager to adjust permissible single event noise limits for categories of Airport users in order to reduce such group's cumulative noise levels, all non-governmental Operations at the Airport shall meet the following SENEL limits:

Runway	7 a.m. to 10 p.m.	10 p.m. to 11 p.m. & 6 a.m. to 7 a.m.	11 p.m. to 6 a.m.	Noise Monitors
	Departure/Arrival	Departure/Arrival	Departure/Arrival	Departure/Arrival
30	102.5/101.5	90/90	79/79	9/10
12	102.5/101.5	90/90	79/79	10/9
25R	92/88	*/	*/	6/1
25L	95/93	*/	*/	5/2
7R	95/92	*/	*/	2/5
7L	88/92	*/	*/	1/6

\* Except in case of emergency or air traffic direction, all aircraft Operations between the hours of 10:00 p.m. and 7:00 a.m. are limited to runways 30 and 12.

B. Violations occurring during the period between ten p.m. and eleven p.m. which are the result of unanticipated delays beyond their reasonable control of the aircraft Owner/Operator shall be waived upon the presentation of evidence satisfactory to the Airport Manager that the delayed

arrival or departure resulted from such circumstances. Delays caused by mechanical failure (but not by routine maintenance), by weather conditions or by air traffic control conditions will be considered beyond the Owner/Operator's control.

C. The SENEL limits for the period from six a.m. to seven a.m. and from ten p.m. to eleven p.m. shall be subject to revision at the end of the fourth calendar quarter following the implementation of this Chapter. If, for the period covered by the four calendar quarters following implementation of this Chapter, cumulative aircraft noise has exceeded the level allowed by Section 16.43.050.A, these limits shall be reduced to eighty-five SENEL. The SENEL for the period from six a.m. to seven a.m. and from ten p.m. to eleven p.m. shall, however, revert to ninety SENEL if, for any subsequent four quarters, cumulative aircraft noise has not exceeded the level allowed by Section 16.43.050.A. (Ord. C-7320 § 2, 1995).

#### **16.43.050 Cumulative noise limits and noise budgets.**

A. It is the goal of the City that Incompatible Property in the vicinity of the Airport shall not be exposed to noise above sixty-five CNEL. In determining compliance with this noise goal and with the noise budgets established by this Chapter, a tolerance of one dB CNEL will be applied. In assessing cumulative noise levels for any period less than one year, the Airport Manager shall take into consideration and allow for reasonably anticipated seasonal variations in Operations and noise. The noise of military and Public Aircraft, for which the City bears no liability, will be excluded in calculating CNEL and in assessing compliance with the CNEL goal and CNEL budgets set forth in this Chapter.

B. For purposes of this Section, users of the Airport shall be categorized as follows: Air Carriers, Commuter Carriers, Industrial operators, Charter operators, and General Aviation (which includes all other users). Each user group at the Airport will be assigned a noise budget for takeoff and landing noise on Runway 30/12.

C. Initial noise budgets hereunder for Air Carriers, Commuter Carriers, Charter operators, and General Aviation shall be established determining the actual monitored noise level of each user group for the twelve months ended October 31, 1990. In the case of Industrial operators, the baseline November 1, 1989, to October 31, 1990, noise budget shall be established by determining the actual monitored noise level of that user group for the twelve months ended October 31, 1990, as augmented to accommodate reasonably projected Operations for manufacturing and flight test purposes by aircraft types which were under design during the base year but had not yet entered service. These noise budgets are selected to comply with the provisions of the Airport Noise and Capacity Act of 1990. Noise budgets shall be established by the Airport Manager and shall be published in a Technical Appendix to this Chapter. Administrative review of the decisions of the Airport Manager under this Chapter shall be conducted pursuant to the provisions of Section 16.43.110.

D. Following the conclusion of the first calendar quarter after the implementation of this Chapter, and following the conclusion of each calendar quarter thereafter, the Airport Manager shall issue a report assessing compliance with the noise goal set forth in Subsection A above and with the noise budgets established pursuant to Subsection C above. (Ord. C-7320 § 2, 1995).

#### **16.43.060 Compliance with noise budgets.**

## **A. General Aviation Operations.**

1. If, for the six month period covered by the two calendar quarters following implementation of this Chapter (or for any six month period thereafter), (a) General Aviation's cumulative noise (for such six month period) exceeds the level established pursuant to Section 16.43.050.C and (b) overall aircraft noise for such six month period exceeds the level allowed by Section 16.43.050.A, the GA Noise Committee will be permitted to institute voluntary procedures to reduce General Aviation's cumulative noise. If, for the two calendar quarters following a determination by the Airport Manager that General Aviation noise and total aircraft noise have exceeded the levels permitted by Section 16.43.050, the GA Noise Committee has been unsuccessful in reducing General Aviation noise to the level established pursuant to Section 16.43.050.C (and overall airport noise for the prior twelve month period exceeds the level permitted by Section 16.43.050.A), the Airport Manager shall, after consultation with the GA Noise Committee, institute such reductions in the maximum SENELs applicable to General Aviation Operations as the Airport Manager determines (recognizing the mandatory reductions in the SENEL limit for operations from six a.m. to seven a.m. and from ten p.m. to eleven p.m. to be enforced pursuant to Section 16.43.040) are necessary for General Aviation to achieve its CNEL budget. On an annual basis for as long as overall airport noise exceeds the level allowed by Section 16.43.050.A and General Aviation noise exceeds the level established pursuant Section 16.43.050.C, the Airport Manager shall raise or lower the SENEL limits applicable to General Aviation as necessary to achieve the General Aviation CNEL budget; provided, however, that such reductions in the SENEL limits shall not be applicable to flights for maintenance, retrofit or repair performed by a manufacturer with manufacturing facilities at the Airport.

2. The Airport Manager shall give at least thirty days' notice of any SENEL reduction required by Subsection A.1. Any Owner/Operator who contests any decision of the Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110.

## **B. Industrial Operations.**

1. Pending assessment of compliance with the CNEL budget applicable to Industrial Operations, the number of annual Flights by that user group shall not be increased above the number for the twelve months ended October 31, 1990, as adjusted to accommodate Flights for manufacturing and test purposes by aircraft types which were under design during the period from November 1, 1989, to October 31, 1990, but had not yet entered service.

2. In order to achieve applicable noise budgets, users within the Industrial category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Industrial Flights if the Industrial user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.

3. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional flights may be allocated to Industrial operators based on the cumulative noise generated by Industrial users during the prior twelve month period. Additional flights above those permitted under Subsection B.1 shall be awarded only to the extent the Airport Manager determines that initiation of such Flights will not lead the Industrial users, as a

group, to exceed the level allowed by Section 16.43.050.C.

4. Flights allocated by the Airport Manager pursuant to Subsection B.3 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection B.3 has resulted in cumulative noise from Industrial Flights in excess of the Industrial noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the flight awards granted under Subsection B.3 as the Airport Manager determines must be revoked in order to achieve compliance with the Industrial noise budget. In making this determination, the first Flights awarded under Subsection B.3 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.

5. No industrial operator will be required to reduce its annual Operations below the number of Operations for the twelve months ended October 31, 1990, as adjusted to accommodate Operations for manufacturing and flight test purposes by aircraft types which were under design during the period from November 1, 1989, to October 31, 1990, but had not yet entered service. The number of annual Industrial Flights below which each Industrial user shall not be reduced shall be set forth in the Technical Appendix to this Chapter.

6. In order to minimize Industrial noise, all Industrial flights shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Operations shall be scheduled between the hours of seven a.m. and ten p.m.

### **C. Charter Operations.**

1. In order to minimize noise from Charter Operations, all Charter Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Charter Operations shall be scheduled between the hours of seven a.m. and ten p.m.

2. If, for the six month period covered by the two calendar quarters following implementation of this Chapter (or for any six month period thereafter), (a) Charter operators' cumulative noise (for such six month period) exceeds the level established pursuant to Section 16.43.050.C and (b) overall aircraft noise for such six month period exceeds the level allowed by Section 16.43.050.A, the Airport Manager will attempt to gain voluntary compliance by Charter operators with operating restrictions which will result in compliance with the CNEL goal established for this user group. If, for the two calendar quarters following a determination that Charter operators' noise and total aircraft noise have exceeded the levels permitted by Section 16.43.050, the Airport Manager is unsuccessful in reducing Charter operators' noise to the level established pursuant to Section 16.43.050.C (and overall Airport noise for the prior twelve month period exceeds the level permitted by Section 16.43.050.A), the Airport Manager shall, after consultation with Charter operators, institute such reductions in the SENEL limits applicable to Charter Operations as the Airport Manager determines (recognizing the mandatory reductions in the SENEL limit for operations from six a.m. to seven a.m. and from ten p.m. to eleven p.m. to be enforced pursuant to Section 16.43.040) are necessary for Charter operators to achieve their CNEL budget. On an annual basis for as long as overall airport noise exceeds the level allowed by Section 16.43.050.A and Charter operators' noise exceeds the level established pursuant Section 16.43.050.C, the Airport Manager shall raise or lower the SENEL limits applicable to Charter operators as

necessary to achieve the Charter operators' CNEL budget.

3. The Airport Manager shall give at least thirty days' notice of any SENEL reduction required by Subsection C.2. Any Owner/Operator who contests any decision of the Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110.

#### **D. *Commuter Flights.***

1. Commuter Carriers shall be permitted to operate not less than twenty-five flights per day, the number of Flights authorized on November 5, 1990. Pending assessment of compliance with the CNEL budget applicable to Commuter Carriers, Flights by these users shall not be increased above the number permitted as of November 5, 1990.

2. In order to achieve applicable noise budgets, users within the Commuter category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Commuter Flights if the Commuter user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.

3. Flights which are available for use, but which are unallocated at the time this Chapter becomes effective, shall be allocated on a first-come, first-served basis. Allocations of Flights which are sought by more than one user shall be determined by lottery.

4. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional Flights may be allocated to Commuters based on the cumulative noise generated by Commuter Operations during the prior twelve month period. Additional Flights above those permitted under Subsection D.1 shall be awarded only to the extent the Airport Manager determines that initiation of service utilizing those flights will not lead the Commuters, as a group, to exceed the level allowed by Section 16.43.050.C.

5. Flights allocated by the Airport Manager pursuant to Subsection D.4 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection D.4 has resulted in Commuter cumulative noise in excess of the commuter noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the Flight awards granted under Subsection D.4 as the Airport Manager determines must be revoked in order to achieve compliance with the Commuter noise budget. In making this determination, the first Flights awarded under Subsection D.4 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.

6. In order to minimize Commuter noise, all Commuter Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all Operations shall be scheduled between the hours of seven a.m. and ten p.m.



### **E. Air Carrier Flights.**

1. Air Carriers shall be permitted to operate not less than forty-one flights per day, the number of flights authorized on November 5, 1990. Pending assessment of compliance with the CNEL budget applicable to Air Carriers, Flights by these users shall not be increased above the number permitted as of November 5, 1990.
2. In order to achieve applicable noise budgets, users within the Air Carrier category will be encouraged to operate at the lowest average noise level consistent with safety. This encouragement will be provided by permitting increases in the number of allowed Air Carrier Flights if the Air Carrier user group achieves compliance with the CNEL budget established pursuant to this Chapter, as determined on an annual basis.
3. Flights which are available for use, but which are unallocated at the time this Chapter becomes effective, shall be allocated on a first-come, first-served basis. Allocations of Flights which are sought by more than one user shall be determined by lottery.
4. The Airport Manager shall determine, at the end of the fourth calendar quarter following implementation of this Chapter, whether additional Flights may be allocated to Air Carriers based on the cumulative noise generated by Air Carrier Operations during the prior twelve month period. Additional Flights above those permitted under Subsection E.1 shall be awarded only to the extent the Airport Manager determines that initiation of service utilizing those Flights will not lead the Air Carriers, as a group, to exceed the level established pursuant to Section 16.43.050.C.
5. Flights allocated by the Airport Manager pursuant to Subsection E.4 shall be awarded for a period of one year. In the event the Airport Manager determines (a) that implementation of Flights awarded under Subsection E.4 has resulted in air carrier cumulative noise in excess of the Air Carrier noise budget and (b) that overall aircraft noise exceeds the level allowed by Section 16.43.050.A, the Airport Manager shall revoke such of the Flight awards granted under Subsection E.4 as the Airport Manager determines must be revoked in order to achieve compliance with the Air Carrier noise budget. In making this determination, the first Flights awarded under Subsection E.4 to be eliminated will be those of the operators with the highest average noise levels per Flight during the prior twelve months. In the event that equal priorities exist, the Airport Manager shall conduct a lottery to determine which Flights shall be eliminated.
6. In order to minimize Air Carrier noise, all Air Carrier Operations shall be conducted by aircraft which comply with the standards of FAR Part 36 Stage 3 and all operations shall be scheduled between the hours of seven a.m. and ten p.m.

F. Administrative Review. Administrative review of the decisions of the Airport Manager under this Section shall be conducted pursuant to the provisions of Section 16.43.110. (Ord. C-7320 § 2, 1995).

### **16.43.070 General exemptions.**

The following categories of aircraft shall be exempt from the provisions of this Chapter:

- A. Public Aircraft, including military aircraft;
- B. Law enforcement, emergency, and fire or rescue aircraft operated by any governmental entity;
- C. Aircraft used for emergency purposes during an emergency which has been officially proclaimed by competent authority pursuant to the laws of the United States, the State or the City;
- D. Civil Air Patrol aircraft when engaged in actual search and rescue missions;
- E. Aircraft engaged in landings or takeoffs while conducting tests, pursuant to written authorization of the Airport Manager, to determine probable compliance with the provisions of this Chapter. Such tests shall only be authorized for aircraft which, based on material submitted to the Airport Manager, are reasonably expected to be able to comply with the terms of this Chapter;
- F. Aircraft experiencing an in-flight emergency; provided, however, that the aircraft Owner/Operator or pilot in command shall, within ten days after a written request from the City, file with the Airport Manager an affidavit documenting the precise emergency condition(s) which necessitated the Operation;
- G. Aircraft operating pursuant to explicit air traffic control direction in a manner which would otherwise not comply with the terms of this Chapter.
- H. Aircraft conducting operations in response to a medical emergency which has been documented in the manner required by the Airport Manager. (Ord. C-7320 § 2, 1995).

#### **16.43.080 Presumptions for violation responsibility.**

- A. In the case of any Training Operation in which both an instructor pilot and a student pilot are in an aircraft flown in violation of any of the provisions of this Chapter, the instructor pilot shall be presumed to have caused such violation.
- B. For purposes of this Chapter, the beneficial owner of an aircraft shall be presumed to be the pilot of the aircraft with authority to control the aircraft's operation, except where the aircraft is leased, in which case the lessee shall be presumed to be the pilot with authority to control the aircraft's operation.  
Such presumptions may be rebutted only if the owner or lessee identifies the person who in fact was the pilot in command at the time of the asserted violation.
- C. In each case in which the actual operator of an aircraft can be determined, such operator shall be responsible for compliance with the terms of this Chapter.
- D. Employees of corporate owners/operators shall not be issued individual notices of violation unless it is shown that such employees failed to follow company operating procedures.
- E. Notices given by the Airport Manager, when sent by First Class United States mail (and not returned), shall be deemed received five (5) days after mailing. (Ord. C-7320 § 2, 1995).

#### **16.43.090 Violation enforcement.**

A. If the Airport's General Aviation Owner/Operators organize, maintain, and oversee the activity of a General Aviation Noise Committee (the "GA Noise Committee") to encourage voluntary noise abatement efforts, the Airport Manager will provide the GA Noise Committee with reports identifying aircraft Owner/Operators who have violated the provisions of this Chapter.

B. The GA Noise Committee, if formed, will publicize the Airport's noise abatement program and encourage compliance. In the case of General Aviation Owner/Operators which fail to comply with the City's enacted noise restrictions, the Committee shall be permitted to attempt to achieve voluntary compliance. If no Noise Committee is formed or if a General Aviation Owner/Operator does not comply with the City's enacted noise restrictions notwithstanding the Noise Committee's voluntary enforcement efforts, the Airport Manager will proceed with mandatory enforcement through the procedures of this Section 16.43.090, Section 16.43.100 of this Chapter, or both.

C. The Owner/Operator of any aircraft operated contrary to the provisions of this Chapter shall be given written notice by the Airport Manager that a violation has occurred. Said notice shall include a copy of the pertinent provisions of this Chapter and shall state that action must be taken by the Owner/Operator to insure compliance with this Chapter and all Airport regulations. Copies of the notices given by the Airport Manager under this Subsection shall be made available to the GA Noise Committee upon reasonable notice so that the GA Noise Committee may endeavor to obtain voluntary compliance with the City's noise restrictions.

D. In the event of a violation of this Chapter after a notice pursuant to Subsection C above has been received or been deemed received, the Airport Manager shall give the Owner/Operator written notice of such violation. Said notice shall also state that the aircraft Owner/Operator must, within fourteen days after such notice has been received or been deemed received, prepare and implement a written compliance program for its Operations at Long Beach Airport and submit said compliance program to the Airport Manager for review. The Airport Manager shall extend this period upon a showing of good cause. The compliance program shall contain feasible steps, consistent with safety, by which the Owner/Operator expects to achieve compliance with the provisions of this Chapter and to minimize the noise of its Operations. The Airport Manager shall not approve or disapprove compliance programs, but may give notice to the Owner/Operator that one or more aspects of a compliance program are inconsistent with this Chapter or with other rules or regulations applicable to users of the Airport. The requirement that a compliance plan shall be prepared, implemented, and submitted to the Airport Manager shall not affect or excuse any violation of this Chapter occurring after the notice given pursuant to this Subsection D has been received or has been deemed received. Copies of the notices given by the Airport Manager under this Subsection shall also be made available to the GA Noise Committee upon reasonable notice.

E. A surcharge of one hundred dollars shall be paid by the Owner/Operator of any aircraft operated on one, but only one, occasion in violation of this Chapter within twenty-four months after a notice pursuant to Subsection D has been received or has been deemed received.

F. After a notice under Subsection D has been received or has been deemed received by an Owner/Operator, a surcharge of three hundred dollars shall be paid by such Owner/Operator for the second and for each subsequent violation of this Chapter occurring during any twelve month period.

G. No surcharge shall be sought for Operations occurring before (a) a notice pursuant to Subsection C advising said Owner/Operator that the aircraft has failed to comply with this Chapter and (b) a notice pursuant to Subsection D advising the Owner/Operator of a second violation and of the need for the preparation of a compliance program has been received or been deemed received by the Owner/Operator. The maximum surcharge for an Owner/Operator that has not been the subject of a notice of violation within the previous twelve months shall be one hundred dollars. Owner/Operators with no violations within the previous twenty-four months shall be processed pursuant to Subsection D above.

H. Any Owner/Operator who contests any decision of the Airport Manager hereunder shall be entitled to the administrative hearing and appeal procedures set forth in Section 16.43.110. (Ord. C-7320 § 2, 1995).

#### **16.43.100 Alternative enforcement procedures.**

It is a misdemeanor, subject to the penalties applicable to misdemeanors, for the Owner/Operator of an aircraft to exceed any established SENEL limit without a reasonable basis for believing that the aircraft employed would comply with the applicable SENEL limit. Owner/Operators of scheduled Flights utilizing aircraft which comply with the standards of FAR Part 36 Stage 3 shall be presumed, for the purposes of this Section, to possess a reasonable basis for believing that such aircraft can be operated in compliance with applicable SENEL limits. (Ord. C-7320 § 2, 1995).

#### **16.43.110 Administrative hearings and appeals.**

A. In any case where a person or entity notified of a violation of this Chapter or a decision of the Airport Manager or his staff under this Chapter which such person or entity contends is erroneous or unjustified, the person shall be entitled to an administrative hearing before the Airport Manager or his designee. The request for such a hearing shall be made within fifteen days following the mailing of notice of the decision to be reviewed or within ten days following actual receipt of notice delivered other than by mail. The Airport Manager shall give notice when the hearing will be conducted (which shall be between fourteen and twenty-one days after the request for a hearing is received). The administrative hearing shall be informal. Witnesses may be called, but written statements may be submitted. All relevant and persuasive evidence shall be considered. The rules of evidence, discovery, and formal trial procedures shall not be applicable. Following the hearing, the Airport Manager shall prepare a record of the proceeding, including a copy of all written materials received and a summary of the oral testimony presented. The Airport Manager shall, within ten days following the hearing, issue a written post-hearing decision. That decision shall be final unless appealed to the City Manager as provided in Subsection B below.

B. Any final decision of the Airport Manager pursuant to this Chapter shall be appealable to the City Manager by giving written notice to the City Manager within fifteen days following the mailings of a notice of final decision by the Airport Manager. The City Manager or his designee shall give such person or entity at least fifteen days' notice in writing specifying the time and place of the hearing of the appeal, and inviting such person or entity to present any additional argument deemed appropriate in determining whether a violation has occurred. The notice shall be served by U.S. mail, with service being complete upon mailing. The hearing may be held before a hearing officer designated by the City Manager; provided that the designated hearing officer shall not be

from the same department as the Airport Manager, and shall be at least a Bureau Manager. The City Manager may, in the alternative, appoint an administrative hearing board consisting of not less than three members of the City's administrative staff, each of whom must meet the same criteria as an administrative hearing officer as described above. The appeal will be decided on the basis of the submissions to the Airport Manager, his summary of the evidence presented, and the arguments presented to the City Manager or his designee. The City Manager or his designee shall not be required to accept additional evidence. A written notice of decision shall be issued within fifteen days following the hearing on appeal. The final decision of the City Manager shall be final unless appealed to the City Council within fifteen days after the mailing of notice thereof by the City Manager.

C. Appeals of final decisions of the City Manager under this Chapter shall be conducted as provided in Chapter 2.93 of this Code.

D. The pendency of any proceeding pursuant to Section 16.43.110 shall not affect or excuse any violation of this Chapter occurring during the pendency of such proceedings unless the Airport Manager, the City Manager, or City Council stays the effectiveness of the decision under review. (Ord. C-7320 § 2, 1995).

**16.43.120 Changes in methods of monitoring noise or calculating noise impacts.**

Neither the methods nor the devices used in measuring aircraft noise under this Chapter shall be changed or adjusted in any manner which would limit or restrict operations or activities which were permitted by this Chapter when it was initially adopted. (Ord. C-7320 § 2, 1995).