

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

25418
THIRD AMENDMENT TO GROUND LEASE

NO. 25418

THIS THIRD AMENDMENT TO GROUND LEASE NO. 25418 (this "Amendment") is made and entered into in duplicate as of May 17, 2007, pursuant to minute order adopted by the City Council of the City of Long Beach at its meeting of April 24, 2007, by and between the CITY OF LONG BEACH, a municipal corporation ("Landlord"), and AP-LONG BEACH AIRPORT LLC, a Delaware limited liability company ("Tenant").

A. Landlord and Advanced Aerodynamics & Structures, Inc. ("Original Tenant"), as predecessor-in-interest to Tenant, entered into that certain Long Beach Municipal Airport Lease (Contract No. 25418) dated as of October 17, 1997 (as amended, the "Lease"), as amended by (i) that certain First Amendment dated April 27, 1999 by and between Original Tenant and Landlord and (ii) that certain Second Amendment dated August 15, 2005 by and between Tenant and Landlord.

B. Landlord and Tenant desire to further amend the Lease by, among other things, evidencing the early exercise of an extension option by Tenant and amending the use restrictions placed upon the Premises.

NOW, THEREFORE, Landlord and Tenant agree as follows:

1. Tenant exercises its first and only option to extend provided for under Section 3.A. of the Lease, so that the term of the Lease is extended for an additional ten (10) year period. The expiration date of the Lease shall be January 13, 2038.

2. Subsection 2.A. of the Lease is amended and restated in its entirety to read as follows:

"A. USE The Premises and any and all improvements located or erected thereupon shall be used as either (i) a manufacturing facility for the manufacture,

1 sale, maintenance and repair of aircraft, administrative office, research and
2 development and such other uses as are incidental to and consistent with the
3 manufacture of aircraft, (ii) facilities for the storage and maintenance of aircraft,
4 vehicles and other public safety equipment, (iii) the sale of fuel to Tenant, or any
5 subtenant or subsubtenant under this Lease, or (iv) general office use as otherwise
6 legally permitted.”

7
8 3. Subsection 9.C.(3) of the Lease is amended and restated in its entirety to
9 read as follows:

10 “(3) Shall contain a statement that the subtenant agrees to be bound by all
11 terms, covenants and conditions of this Lease which are to be performed by
12 TENANT.”

13
14 4. Subsection 5.G. of the Lease is amended and restated in its entirety to read
15 as follows:

16 “G. PROPERTY OF CITY Any buildings, structures or other improvements
17 constructed or placed on the Premises by TENANT or other improvements installed
18 by TENANT which service the Premises shall remain the property of TENANT
19 unless TENANT otherwise requests and such request is approved in writing by
20 LANDLORD. Said buildings, structures and other improvements shall become the
21 property of LANDLORD upon the expiration or termination of this Lease without
22 compensation therefor.”

23
24 5. Subsection 5.I. of the Lease is amended and restated in its entirety to read
25 as follows:

26 “I. In the absence of a written agreement to the contrary or unless otherwise
27 provided herein, the Project, exclusive of trade fixtures, constructed or placed within
28

1 the Premises by TENANT must, upon completion, be free and clear of all liens,
2 claims, or liability for labor and material and shall become the property of
3 LANDLORD at the expiration of this Lease or upon earlier termination hereof
4 without cost or obligation to LANDLORD.”

5
6 6. Section 17.E. of the Lease is amended and restated to read in its entirety as
7 follows:

8 “E. SURRENDER OF POSSESSION (1) Upon the termination or earlier
9 expiration of this Lease (whether by lapse of time or otherwise), TENANT shall
10 leave the Improvements on the Premises (but TENANT shall not have any
11 restoration obligation as to the Premises except for any required environmental
12 remediation of the Premises, which TENANT shall undertake at its cost) and shall
13 thereafter peaceably surrender possession within a reasonable period of time, not
14 exceeding thirty (30) days. Notwithstanding the foregoing, the remediation obligation
15 of TENANT shall not apply to (i) a Release by LANDLORD, its agents or
16 employees, on, under or from the Premises prior to the Effective Date, (ii) remedial
17 action or cleanup which is not required by a governmental agency having jurisdiction
18 over the Premises or pursuant to statutory or common law, (iii) any Release on,
19 under or from the Premises occurring prior to the Effective Date, and (iv) a Release
20 into the groundwater under the Premises which TENANT can establish was not
21 caused by TENANT.

22
23
24 (2) All improvements of any kind constructed, erected or installed upon
25 the Premises shall be and remain the property of TENANT during the term of this
26 Lease. All such Improvements shall automatically become the property of
27 LANDLORD at the time of such termination without compensation therefor.
28

1 (3) Except as to improvements or property owned by LANDLORD upon
2 termination of this Lease (whether by lapse of time or otherwise), TENANT shall
3 cause all personal property upon the Premises, whether or not such property be
4 owned by TENANT or by third parties, to be removed from the Premises prior to the
5 termination date and shall cause to be repaired any damage occasioned by such
6 removal. If the property is not so removed from the Premises, LANDLORD shall
7 have the right to remove and/or sell and/or destroy the same (subject to the interest
8 of any person other than TENANT therein) at TENANT's expense, and TENANT
9 agrees to pay the reasonable cost of any such removal, sale, or destruction within
10 thirty (30) days of receipt of an invoice from LANDLORD.”

11
12
13 7. Subsection 8.B. is amended so that the following language is added to the
14 end thereof:

15 “In the event of termination of this Lease by reason of either a default by
16 TENANT that is not (or cannot reasonably be) cured by lender or in the event
17 TENANT’S interest under this Lease shall be sold, assigned or transferred pursuant
18 to the exercise of any remedy of the lender, or pursuant to judicial proceedings or
19 a deed or assignment in lieu of foreclosure, or in the event of the rejection of the
20 Lease by any trustee or debtor in possession in bankruptcy under the provisions of
21 the Bankruptcy Code, 11 U.S.C. Section 365, and if within thirty (30) days thereafter
22 the lender shall have paid, or arranged to the satisfaction of LANDLORD to cure any
23 default on the part of TENANT under this Lease which is susceptible to cure by
24 lender, then LANDLORD, within thirty (30) days after receiving a written request
25 therefore from the lender (which shall be given within forty-five (45) days after the
26 lender receives notice of such termination or within forty-five (45) days of such
27
28

1 transfer, and upon payment to LANDLORD of all expenses, including allocable in-
2 house and reasonable outside attorneys' fees, incident thereto (less the net income
3 collected by LANDLORD from the date of termination to the date of commencement
4 of the term of the new lease), shall execute and deliver to the lender or its nominee,
5 assignee or transferee, as the case may be, a new lease of the Premises. Such
6 new lease shall be for a term equal to the remainder of the term of this Lease as
7 extended by any option to renew exercised by TENANT to extend the term hereof
8 before giving effect to such termination, shall contain all the same material
9 covenants, agreements, provisions, conditions and limitations as this Lease, shall
10 be superior to all rights, liens and interests intervening between the date of this
11 Lease and the date of such new lease, and shall be free of any and all rights of
12 TENANT under this Lease."
13

14
15 8. Subsection 18.D. is amended so that the following language is added to the
16 end thereof:

17 "LANDLORD shall have the right, but not the obligation, to contest any
18 possessory interest or other tax on TENANT'S behalf."
19

20 9. Binding Effect. Except as amended by this Amendment, the Lease remains
21 unchanged and in full force and effect.

22 10. Entire Agreement, Counterparts. This Amendment constitutes the entire
23 agreement between the parties with respect to the subject matter hereof, and may not be
24 modified except in writing signed by both parties. This Amendment may be executed in
25 counterparts, each of which when taken together shall constitute the entire agreement.

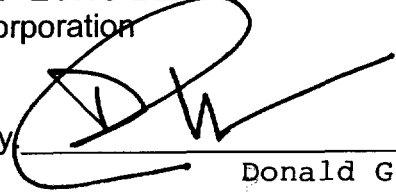
26 11. Effective Date. This Amendment shall be effective as of the date executed
27 by Landlord.
28

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 hereto have executed this Amendment to Lease as of the day and year first above written.

AP-LONG BEACH AIRPORT LLC, a Delaware corporation

Date: May 18, 2007

By: 
Donald G. Abbey
Its: President

"Tenant"


CITY OF LONG BEACH, a municipal corporation

Date: May 23, 2007

ASSISTANT
By: Christine J. Shippis
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.
"Landlord"

The foregoing Amendment to Lease is approved as to form this 21 day of May, 2007.

ROBERT E. SHANNON, City Attorney

By: 
Richard F. Anthony, Deputy

RFA:abc 02/12/2007 #06-03834
L:\APPS\CtyLaw32\WPDOCS\D006\005\00100086.WPD