

# *REQUEST FOR PROPOSAL FOR FIXED BASE OPERATION (FBO) SERVICES AND LEASE OF PROPERTY*

The Delaware River and Bay Authority (the "Authority") requests proposals from interested parties for the performance of Fixed Base Operation services and lease of the property at:

**Cape May Airport**, 375 Forrestal Road, Rio Grande, New Jersey  
08242

R. Todd Miller, Airports Business Manager, Delaware River and Bay Authority (302) 325-5123, will handle all questions concerning submissions and procedures.

The Delaware River and Bay Authority reserves the right to reject any and all proposals. Awarding of the lease is subject to the review and approval of the Authority's Board of Commissioners. All submissions become property of the Delaware River and Bay Authority.

**Proposals must be received by 11:00 a.m. local time on  
Wednesday March 7, 2012 at the Delaware River and  
Bay Authority Airports Administration Office located  
at New Castle Airport Terminal Building, 151 North  
DuPont Highway, New Castle, DE.**

**Respond to:  
Delaware River and Bay Authority  
Attention: R. Todd Miller  
New Castle Airport  
151 North DuPont Highway, Second Floor  
New Castle, Delaware 19720**

## 1. INTRODUCTION

- 1.1 The Delaware River & Bay Authority (“Authority”) operates and maintains several facilities which are located in the four (4) lower counties of New Jersey and the State of Delaware. The Authority has both developed and undeveloped assets available for lease or purchase by aviation, commercial/light industrial and office users.
- 1.2 Authority staff has been authorized to request proposals for the lease of a property located at 375 Forrestal Road, Rio Grande, New Jersey 08242, also known as the Cape May Airport Building Main Hangar Building 110. The property is 19,000 square feet of clear span hangar and associated office space situated on approximately 1.0 acres.
- 1.3 **The property is being leased in “as-is” condition.** The previous tenant was a Fixed Base Operation (“FBO”) operator using the facility for aircraft storage and maintenance services as part of its range of services at the airport. All structural elements and major systems are in working condition pursuant to the lease agreement.
- 1.4 **Lease Term:** All proposals for the above property must include a minimum lease term of five (5) years.
- 1.5 **Minimum Proposal:** All proposals for the property must contain a minimum annual base rental payment of Eleven Thousand Five Hundred Dollars (\$11,500).

## 2. GENERAL INFORMATION AND INSTRUCTIONS

### 2.1 Issuing Office

This request for proposal (“RFP”) is being issued by the Authority. Unless otherwise specified, the Authority is the sole point of contact for the purposes of this RFP and subsequent responses. All responses will become the property of the Authority and may be a matter of public record subsequent to award of the contract or rejection of all proposals. The right is reserved by the Authority to reject any and all proposals. Proposals will not be returned.

### 2.2 Addendum to RFP

The Authority reserves the right to amend the RFP prior to the due date of responses. If it becomes necessary to revise any part of the RFP, an addendum will be provided to all Proposers to whom a copy of this RFP has been sent. All Proposers will include acknowledgment of all addenda as part of their proposal. Failure to acknowledge addenda may be grounds for disqualification of the proposal.

### 2.3 Authority Contact

All questions concerning submissions and procedures for this RFP must be in writing and should be faxed to: R. Todd Miller, Business Manager, Delaware River and Bay Authority, fax (302) 325-5125 no later than 1:00 p.m. local time on Friday February 17, 2012.

### 2.4 Pre-Proposal Meeting and Inspection

A pre-proposal meeting will be held on Wednesday February 15, 2012 at 2:30 p.m. with Authority staff at the Erma Fire Hall at the Cape May Airport. Staff will answer questions from Proposers at that time regarding FBO services, the hangar property, the proposal format, the process and review criteria. Proposers will have an opportunity to inspect the premises and hangar.

### 2.5 Submission of Proposals

Three (3) copies of each proposal(s) should be submitted to R. Todd Miller, Business Manager, Delaware River and Bay Authority, 151 N. DuPont Highway, New Castle, Delaware 19720, or via e-mail at [todd.miller@drba.net](mailto:todd.miller@drba.net) no later than 11:00 a.m. local time on Wednesday March 7, 2012.

In order to be considered for selection, responses must arrive at the Authority on or before the date and time specified. Proposers mailing responses should allow for normal mail delivery time to ensure receipt by the Authority. Proposals received after the stated time will not be eligible for selection. .

An authorized representative of the firm or individual responding must sign each copy of the proposal in ink.

### 2.6 Lease Agreement

The successful Proposer will be required to execute the Authority's standard lease agreement (the "Lease") approved for use by the Authority. **Limited changes in contract language will be entertained or permitted as necessary, at the Authority's sole discretion, to address and conform to the proposed use.**

### 2.7 Rules and Regulations

Proposers should note that the use of the above property will be subject to the Rules and Regulations for the Cape May Airport dated August, 2001, as amended, that are attached as Exhibit A.

### **3. PROPOSAL AND AWARD OF CONTRACT**

The Proposal **shall include** the following and provide a table of contents indicating where the required information is located in the submission package. Proposals that do not contain all of the requested information may be rejected.

- a) Proposer's name, address, telephone number and fax number.
- b) Location, size and description of Proposer's business and the names of its principals.
- c) Proposer's Form of Business Entity (corporation, partnership, joint venture, limited liability company, etc.), date formed, and state of formation (if applicable).
- d) Contact Information of Proposer and all principals of Proposer's business, including names, titles, telephone numbers, fax numbers and e-mails. Business cards of all key staff may be submitted (mounted) on a separate sheet.
- e) Financial Statements and three credit references of Proposer and the Principals who will be guaranteeing Proposer's performance under the Lease.
- f) Detail of proposed range of FBO services (aircraft fueling, aircraft ground handling, aircraft maintenance, flight training, etc.) at the property and any proposed construction on the premises.
- g) Number and types of jobs to be created, if known, on the property with salary ranges per title; and anticipated number of customers or clients/the public expected to use the property.
- h) Number of required aircraft parking and tie-down spaces.
- i) Proposed length of lease term, including any renewals (minimum lease term of five years required).
- j) Amount of first-year lease payment (minimum of \$11,500 required).

### **4. SELECTION CRITERIA**

Following is a list of the major criteria that the Authority will utilize to evaluate the proposals.

- a) Total amount of the lease value proposed.

- b) Range and scope of proposed FBO services to be provided.
- c) Financial ability to successfully operate a first class FBO on the property.
- d) Proposed marketing and promotional efforts to enhance fuel sales.
- e) Number and types of jobs to be created.
- f) Economic synergy with other airport businesses, (i.e., rental cars).
- g) Amount of proposed investment in the property (equipment, supplies).
- h) Experience of the Proposer in the provision of FBO services.

**5. AWARD AND EXECUTION OF LEASE**

Within thirty (30) calendar days of the date of the official notice of award of the Lease, the Proposer to whom the Lease is awarded shall deliver to the Authority 1) the executed Lease and 2) proof satisfactory to the Authority of the authority of the person or persons executing the Lease on behalf of the successful Proposer.

**6. FAILURE TO EXECUTE LEASE**

Failure upon the part of the Proposer to whom the Lease has been awarded to execute and deliver the Lease and all the other documents required herein in the manner and within the time prescribed therein shall be just cause for 1) annulment of the award and 2) for the exclusion of the Proposer from proposing on subsequent projects for such period as the Authority may deem appropriate.

It is understood and agreed by the Proposer that if the award is annulled for the above reasons, the deposit shall become the property of the Authority, not as a penalty but as liquidated damages.

**7. DISCLAIMER**

The award of a proposal shall not be binding upon the Authority until the Lease has been approved by the Board of Commissioners of the Authority and executed by the appropriate officers of the Authority following the expiration of the veto period afforded to the Governors of the States of New Jersey and Delaware.

# **EXHIBIT A**

## **(Cape May Airport Rules and Regulations)**



# EXHIBIT B

## (Form of Lease Agreement)

### LEASE AGREEMENT

THIS LEASE AGREEMENT is made as of this \_\_\_\_ day of \_\_\_\_\_, 2012 by and between THE DELAWARE RIVER AND BAY AUTHORITY, a body politic and an agency of the State of Delaware and the State of New Jersey, having an address of P. O. Box 71, New Castle, Delaware 19720 (the "Landlord") and \_\_\_\_\_., a \_\_\_\_\_ corporation having an address of \_\_\_\_\_ (the "Tenant").

#### WITNESSETH:

WHEREAS, the Delaware River and Bay Authority, a body politic and an agency of the State of Delaware and the State of New Jersey, was duly created pursuant to the Delaware-New Jersey Compact, 17 Del. C. § 1701 (the "Compact"); and

WHEREAS, among the purposes of the Landlord is the undertaking of projects which advance the economic growth and development within the counties of Delaware and New Jersey which border the Delaware River and Bay by providing for, planning and engaging in projects which will enhance the future economic growth and development of those areas; and

WHEREAS, in order to fulfill its purpose, Landlord has been empowered to plan, develop and lease certain property within the State of Delaware which Landlord determines is necessary for the sound economic development of the area; and

WHEREAS, Landlord has determined that this Lease fulfills the requirements of the Compact and is necessary for the sound economic development of the State of Delaware.

NOW THEREFORE, in consideration of the foregoing recitals, Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Premises.

a. Landlord, for and in consideration of the rents to be paid and of the covenants and agreements hereinafter contained to be kept and performed by Tenant, hereby leases to Tenant, and Tenant hereby hires from Landlord,

ALL that certain tract or parcel of land containing approximately 1.0 acres of land (the "Land") situate at the Cape May Airport (the

“Airport”) lying and being in the County of Cape May and State of New Jersey, and being commonly known as 375 Forrestal Rd., together with all of Landlord’s easement rights and appurtenances thereto for the use and benefit of the Land and the right to use, in common with others, certain related improvements consisting of, but not limited to, common areas, a parking area, drive ramps and access roads to the taxiways, walks and landscaping (collectively, the “Improvements”) serving the Land (collectively referred to as the “Leased Premises”).

2. Term.

a. The initial term of this Lease (the “Initial Term” and together with any Renewal Term or Terms (as defined herein), the “Term”) shall commence on the date hereof (the “Commencement Date”) and shall expire on the \_\_\_\_\_ anniversary of the date hereof (the “Expiration Date”), unless sooner terminated or renewed as hereinafter provided.

b. Subject to the provisions of Section 2.c., Tenant shall have the option to extend the term of this Lease for \_\_\_\_\_ periods of \_\_\_\_\_ years each (each period, a “Renewal Term”; collectively, the “Renewal Terms”; in the event that the Term of this Lease is extended as provided herein, then the last day of the last exercised Renewal Term shall be deemed to be the Expiration Date of this Lease). Tenant shall exercise said option by giving notice thereof to Landlord not more than eighteen (18) months nor less than twelve (12) months prior to the Expiration Date and, if said notice be given, the term hereof shall be extended for the Renewal Term for the Rent hereinafter provided and all of the other provisions, agreements, covenants and conditions as are herein contained (unless changed or modified by mutual agreement) shall remain applicable for the entire Renewal Term, except such of the provisions hereof as have been rendered inapplicable by the passage of time.

c. Tenant acknowledges that Landlord's interest in the Premises is a leasehold interest pursuant to that certain Ground Lease dated June 30, 1995 by and between New Castle County (the “County”), as the lessor thereunder, and Landlord, as the lessee thereunder, a Memorandum of which was recorded in the Office of the Recorder of Deeds in and for New Castle County on October 25, 1995 in Book 2000, Page 269 (the “Original Ground Lease”), as amended by that certain First Amendment to Ground Lease dated January 27, 2005 and recorded in the Office aforesaid as Instrument No. 20050316-0025274 (the “First Amendment”, the Original Ground Lease, as amended by the First Amendment, is hereinafter referred to herein as the “Ground Lease”), and that Tenant's interest in the Premises is a subleasehold interest. Tenant further acknowledges that the initial term of the Ground Lease expires on June 29, 2025, subject to certain options to renew contained in the Ground Lease. Pursuant to the terms of the option to renew, the County or the Landlord, may, in their sole discretion, elect not to exercise such option. Tenant acknowledges that (i) neither Landlord nor the County has the obligation to exercise the option to renew, and (ii) Landlord has made no statement or representations to Tenant, written or oral, with regard to its intention to renew or not renew the Ground Lease. Notwithstanding anything to the contrary contained herein, pursuant to the First Amendment, the County has agreed that in the event that the terms of a tenant lease such as this Lease extend beyond the term of the Ground Lease, the County shall assume Landlord's obligations under such tenant lease and such tenant lease shall continue in full force

and effect as if Landlord had continued in possession under the Ground Lease. Landlord agrees that if requested by Tenant, Landlord shall provide to Tenant a Non-Disturbance and Attainment Agreement, duly executed by the County.

3. Rent; Taxes and Other Charges.

a. In consideration of the covenants made by the Landlord, Tenant covenants and agrees to pay to Landlord, as Rent for the Leased Premises, the following amounts:

(i) Tenant shall pay to Landlord from and after the Commencement Date and for the remainder of the term of this Lease an annual rent ("Annual Rent") which shall be equal to \_\_\_\_\_ payable in equal monthly installments of \_\_\_\_\_ each in advance on the first (1<sup>st</sup>) calendar day of each calendar month during the first (1<sup>st</sup>) year of the Initial Term.

(ii) Commencing on the first (1<sup>st</sup>) anniversary of the Commencement Date, and continuing on each subsequent anniversary of the Commencement Date thereafter (each such anniversary an "Adjustment Date") during the Initial Term, Annual Rent due hereunder for the twelve (12) month period immediately following each Adjustment Date shall be increased as follows: In the event that the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, Philadelphia - Wilmington - Trenton, All Items (1982 - 1984 equals 100) (hereinafter called the "Price Index") or a successor or substitute index appropriately adjusted, reflects an increase in the cost of living in the last available calendar month (the "Adjustment Month") prior to the Adjustment Date over and above such cost of living as reflected by the Price Index as it existed for the same month exactly one (1) year earlier (hereinafter referred to as the "Base Index"), Annual Rent for the following twelve (12) month period shall be increased by an amount determined by multiplying the Annual Rent payable during the preceding twelve (12) month period by a fraction, the numerator of which shall be the Price Index for the Adjustment Month and the denominator of which shall be the Base Index; provided, however, in no event shall the adjusted Annual Rent be less than the Annual Rent payable during the immediately preceding twelve (12) month period. Annual Rent, as adjusted by the Price Index, shall be due and payable on the first (1<sup>st</sup>) day of each month during the Term.

(iii) [On the \_\_\_\_\_ anniversary and the \_\_\_\_\_ anniversary and on the first (1<sup>st</sup>) day of each Renewal Term, the Annual Rent shall be equal to the fair rental value of the Premises, as determined by the Landlord, in its sole discretion, based upon the then most recent appraisal commissioned by the Landlord (the "Fair Market Rent"); provided, however, that in no event shall the adjusted Annual Rent payable for the adjustment year be less than the Annual Rent payable during the immediately preceding twelve (12) month period. On the first day of each subsequent twelve (12) month period, Annual Rent shall be determined pursuant to increases in the Price Index as set forth in Section 3.a.(ii) above. Landlord shall advise Tenant of its determination of the Fair Market Rent no later than thirty (30) days after Tenant's written request therefor. Said request shall be made no earlier than thirty (30) days prior to the first date on which Tenant may exercise its renewal option under Section 2.b. hereof and no later than thirteen (13) months prior to the expiration of the then current term.]

b. Tenant will bear, pay, and discharge prior to delinquency, as additional rent (“Additional Rent”), (i) all taxes, assessments, special assessments and other governmental levies and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, other than User Fees (as hereinafter defined in Section 4.b.), which shall during the Term of this Lease be assessed, levied, charged or imposed by any governmental authority upon or become payable out of or become a lien on the Premises (as hereinafter defined) or Leased Premises, or any part thereof; (ii) all costs arising directly or indirectly from Tenant’s use and occupancy of the Premises or Leased Premises (hereinafter collectively referred to herein as the “Impositions”) which shall, pursuant to present or future law or otherwise, prior to or during the Term hereby granted, have been or be levied, charged, assessed, or imposed upon, or become due and payable out of or for, or become or have become a lien on, the Premises or Leased Premises and any interest or penalties for late payment thereof it being the intention of the parties hereto that the rents reserved herein shall be received and enjoyed by Landlord as a net sum free from all of such Impositions. Tenant shall not be required to pay any inheritance, estate, succession, transfer, gift, capital stock tax levied upon Landlord or any tax on the overall net income of Landlord imposed by the federal government of the United States or by the State of Delaware or the State of New Jersey.

c. All payments of Rent (as defined herein) made by Tenant to Landlord hereunder shall be payable without prior notice or demand, and all other payments required to be made by Tenant to Landlord hereunder shall be payable upon such notice as is herein required, in lawful currency of the United States of America, or by check subject to collection, and shall be paid to Landlord by delivering or mailing the same by regular mail to The Delaware River and Bay Authority, P.O. Box 566 Wilmington, Delaware 19899, or to such other person or at such other place as Landlord may from time to time designate by written notice to Tenant.

d. Tenant shall pay to Landlord throughout the Term of this Lease the Annual Rent, Additional Rent and other payments hereunder or other charges due to Landlord (collectively referred to herein as the “Rent”), without abatement, deduction or set-off except as otherwise expressly provided herein.

e. All Additional Rent and other payments provided for under this Lease shall constitute Rent payable hereunder with the same effect as if the same were the Rent reserved herein and, in the event of the non-payment by Tenant of any such Additional Rent or other payments when due according to the terms of this Lease, Landlord shall have the same rights and remedies in respect thereof as Landlord shall or may have in respect of the Rent herein reserved.

f. In the event Tenant fails to pay any amount of Rent when due, in addition to Landlord’s other remedies hereunder and at law or in equity subject to any limitations herein expressly contained, Tenant shall pay to Landlord interest on such late payment at the rate of eighteen percent (18%) per annum compounded annually from the date due until paid. The provisions of this paragraph in no way relieve Tenant of the obligation to pay Rent on or before the date on which it is due, nor do the terms of this paragraph in any way affect Landlord’s remedies pursuant to this Lease in the event Rent is unpaid after the date due.

g. Upon execution of this Agreement, Tenant shall pay to Landlord a security deposit in the amount of **[two months' rent]** (the "Security Deposit") as security for the payment of Rent and the performance and observance of the agreements and conditions in this Lease contained on the part of Tenant to be performed and observed. In the event of any default or defaults in such payment, performance or observance Landlord may apply the Security Deposit or any part thereof toward the curing of any such default or defaults and/or toward compensating Landlord for any loss or damage arising from any such default or defaults. Upon the yielding up of the Premises at the expiration or other termination of the Term, if Tenant shall not then be in default or otherwise liable to Landlord, the Security Deposit or the unapplied balance thereof shall be returned to Tenant. It is understood and agreed that Landlord shall always have the right to apply the Security Deposit or any part thereof, as aforesaid in the event of any such default or defaults, without prejudice to any other remedy or remedies which Landlord may have, or Landlord may pursue any other such remedy or remedies in lieu of applying the Security Deposit or any part thereof. If Landlord shall apply the Security Deposit or any part thereof as aforesaid, Tenant shall upon demand pay to Landlord the amount so applied by Landlord, to restore the Security Deposit to its original amount. Whenever the holder of Landlord's interest in this Lease shall transfer the said interest, said holder shall turn over to transferee the Security Deposit or the unapplied balance thereof, and thereafter such holder shall be released from any and all liability to Tenant with respect to the Security Deposit or its application or return, it being understood that Tenant shall thereafter look only to such transferee with respect to the Security Deposit, its application and return. The Security Deposit shall be non-interest bearing to Tenant.

h. No security or guarantee which may now or hereafter be furnished to Landlord for the payment of Rent or the performance of Tenant's other obligations under this Lease shall in any way constitute a bar to the recovery of the Premises or defense to any action in unlawful detainer or to any other action which Landlord may bring for a breach of any of the terms, covenants or conditions of this Lease.

i. Landlord hereby acknowledges that it has leased the Leased Premises to Tenant solely in consideration of the rents to be paid by Tenant and the performance of the obligations herein expressly assumed by Tenant to be performed. Tenant acknowledges that, except as set forth in this Lease, Landlord has not made any representation or warranty, express or implied in fact or by law, as to the use or uses to which the Leased Premises or any part thereof may be put.

#### 4. Use, Maintenance, Repairs, Compliance with Laws, Etc.

a. Tenant has leased the Leased Premises after a full and complete examination thereof. Except as otherwise provided in this Lease, (a) Tenant accepts the same "as is" without any representation or warranty by Landlord, express or implied in fact or by law, and without recourse to Landlord, as to the title thereto, the nature, condition or usability thereof or the use or uses to which the Leased Premises or any part thereof may be put and (b) Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the Leased Premises or Premises throughout the Term of this Lease.

b. The Leased Premises may be used and occupied for operation Tenant's

business as a \_\_\_\_\_ in accordance with [the Minimum Standards and] Rules and Regulations of the Airport each as may be amended from time to time (each as hereinafter defined), and for no other purpose without the prior written consent of Landlord. The Tenant shall not be permitted to have outside storage on the Leased Premises. Tenant will not occupy or use, or permit any of Tenant's agents, employees, and invitees or all persons claiming under Tenant to occupy or use, any portion of Leased Premises or the Airport for (i) any business or purpose other than as a hangar and related uses in connection with the operation of Tenant's business as a \_\_\_\_\_, with all requisite taxiing area uses, and all other uses incidental to the use and operation of the Improvements, or (ii) any use or purpose which is unlawful in part or in whole. Tenant will not do, or permit any of Tenant's agents, employees, and invitees or all persons claiming under Tenant to do, anything which will, to Tenant's knowledge, render void Landlord's insurance policy covering the Leased Premises.

c. Tenant shall take good care of the Premises, make all repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, and shall maintain and keep the Premises broom clean, in a first class condition, in good order, repair and a clean and healthful condition in a manner consistent with the other land and Improvements located at the Airport, ordinary wear and tear and casualty excepted. Tenant shall also keep the sidewalks and gutters in front of the Premises free and clear from rubbish, ice and snow and shall not encumber or obstruct the same or allow the same to be encumbered or obstructed in any manner. Tenant shall comply with all Requirements (as hereinafter defined in Section 4.g.) applicable to the condition, use or occupancy of the Premises by Tenant, or to Tenant's use of the Premises. Tenant agrees that it shall observe all reasonable regulations and requirements of insurers of the Premises concerning the use and condition thereof for the purpose of maintaining or reducing current fire hazard and insurance rates, and Tenant shall not permit or cause rubbish or waste materials to accumulate unreasonably within the Premises, and shall, at any time in the case of emergencies or at any reasonable time during normal business hours following reasonable notice in all other cases, submit to periodic inspection of the Premises by an authorized representative of Landlord in accordance with Article 5. Tenant shall pay or cause to be paid all User Fees. For purposes hereof, "User Fees" shall mean all use and occupancy taxes, vault, water and sewer charges, rates and rents, charges for public utilities, license and permit fees and all other governmental levies and charges which shall during the term of this Lease be levied, charged or imposed by any governmental authority upon utilities and services rendered to Tenant or the rent and income received by or for the account of Tenant or for any use or occupancy of the Premises by Tenant or any subtenant. Tenant will not do, permit or suffer any waste, damages, disfigurement or injury to or upon the Premises or any part thereof.

d. Landlord represents that, as of the date hereof, the Leased Premises are not subject to real estate taxation by any state or local governmental entity under the existing Compact. In the event that any general and special taxes, assessments and governmental charges of any kind and nature whatsoever (collectively "taxes") are lawfully levied against the Leased Premises and/or the improvements thereon and are applicable to any year during the term, Tenant agrees to pay such taxes, prior to the due date of any tax payment. In addition, Tenant shall pay upon demand any reasonable fees, expenses and costs incurred by Landlord in protesting any assessments, levies or the tax rate. Tenant shall provide Landlord with evidence of payment of taxes promptly after the payment date for such tax payment. If at any time during the Term of this Lease, the present method of taxation shall be changed so that in lieu of or in

addition to the whole or any part of any taxes, assessments or governmental charges levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed on Landlord a capital levy or other tax directly on the rents received therefrom and/or a franchise tax, assessment, levy or charge measured by or based, in whole or in part, upon such rents for the present or any future buildings on the land which comprises the Leased Premises, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be deemed to be included within the term "taxes" for the purposes hereof. Except as set forth in the preceding sentence, "taxes" shall not include any excise, inheritance, estate, succession, transfer, income, gift, franchise or capital stock tax levied upon Landlord nor shall "taxes" include any fees or charges arising from the late payment of taxes unless Tenant failed to make its payment due hereunder as required. Tenant will, at Tenant's own cost and expense, bear, pay, and discharge prior to delinquency, all real estate taxes, assessments, sewer, water and charges, duties, impositions, license and permit fees, charges for public utilities of any kind, payments and other charges of every kind and nature whatsoever, ordinary or extraordinary, foreseen or unforeseen, general or special (all of which are hereinafter sometimes collectively referred to as "Impositions"), which shall, pursuant to present or future law or otherwise, during the Term be levied, charged, assessed, or imposed upon, or become due and payable for or with respect to, or become a lien on, the Leased Premises, Improvements or any Alterations (as hereinafter defined) located thereon or therein, and any interest or penalties for Tenant's late payment thereof; it being the intention of the parties hereto that the Rent reserved herein shall be received and enjoyed by Landlord as a net sum free from all of such Impositions.

e. All electric, gas, sewer and water and other utility service will be provided to the Leased Premises by the public utility, the town of New Castle or other utility providers servicing the Airport. Tenant shall pay all costs and fees associated with all utilities consumed at the Premises.

f. Interruptions of any services, whether or not furnished by Landlord, shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, or render Landlord liable for damages by abatement of Rent or otherwise, or relieve Tenant from the performance of its obligations under this Lease.

g. From and after the Commencement Date and during the balance of the Term of this Lease, Tenant shall, at its expense, comply with all present and future laws, rules, regulations and ordinances of any federal, state, county, municipal or other governmental, public or quasi-public authority, department, bureau, board, agency or office applicable to the Premises or any part thereof, including, but not limited to, the State of Delaware, New Castle County and the Federal Aviation Administration and all requirements of any insurance policy carried by Tenant and applicable to all or any part of the Premises or the use thereof (hereinafter collectively referred to as "Requirements" or a "Requirement", as the case may be), and shall indemnify and hold harmless Landlord from and against all fines, penalties, claim or claims for damages of every kind and nature arising out of any failure to comply with any such Requirements, the intention of the parties being with respect thereto that Tenant, during the term hereby granted, shall discharge and perform all the obligations of Landlord, as well as all the obligations of Tenant, arising as aforesaid, so that at all times the rental of the Premises shall be net to Landlord without deductions or expenses on account of any such Requirement; provided, however, that Tenant may, in good faith contest the validity or application of any such

Requirement and, pending the final determination of such contest, may postpone compliance therewith but not so as to subject Landlord to any fine or penalty or to prosecution for a crime, to cause the Premises or any part thereof to be condemned or to be vacated or to cause any public liability or casualty insurance to become void. If civil liability is incurred by reason of noncompliance, Tenant may nevertheless make such contest and postpone compliance, provided Tenant furnishes to Landlord security reasonably satisfactory to Landlord against any loss or injury by reason of such non-compliance. Landlord shall execute and deliver to Tenant any document or authorization which may be necessary to enable Tenant so to contest any such Requirement and shall fully cooperate with Tenant in connection with any such contest, but Landlord shall incur no liability for the payment of any costs or expenses in connection therewith and Tenant agrees to indemnify and hold Landlord harmless from any such costs or expenses. If, as a result of any change in any applicable Requirements, the Premises must be altered to lawfully permit Tenant's specific use and occupancy thereof, such alterations shall be made by Tenant, and the entire cost shall be borne by Tenant.

h. Landlord shall not be responsible or liable for, and Tenant hereby waives all claims against Landlord for, any damage or injury to any property or to any person or persons at any time on the Premises; nor shall Landlord be in any way responsible or liable in case of any accident or injury to any of Tenant's servants, employees, or agents, or to any person or persons in or about the Premises; and Tenant agrees that it will not hold Landlord in any way responsible or liable therefor and will further indemnify and hold harmless Landlord from and against any and all claims made by any party and all liability, penalties, damages, expenses and judgments arising from injury to persons or property of any nature and also for any matter or thing which shall or may happen in or upon, growing out of the occupation of or otherwise in connection with the Premises; however, the foregoing provisions of this Section shall not apply to any claims, liability, injury, damage or thing caused by a negligent act or willful misconduct on the part of Landlord or their agents, servants or employees.

i. Landlord reserves the right, but shall not be obligated to the Tenant, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Tenant in this regard.

j. Landlord reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Tenant from erecting, or permitting to erect, any Improvements or other structures on the Airport which, in the reasonable opinion of Landlord, could limit the usefulness of the Airport or constitute a hazard to aircraft.

k. Landlord, upon written request and reasonable advance notice to Tenant, shall have the right to show the Premises, at such times as Landlord and Tenant may agree (which may be after regular business hours) and in a manner so as not to interfere with the business being conducted thereon, to any prospective tenants or other interested parties and may enter upon the Premises, or any part thereof, upon such request and notice and at such times, for such purpose. In addition, upon such request and notice and at such agreed upon times, Landlord may during the term of this Lease enter upon the Premises for the purpose of ascertaining the condition of same or whether Tenant is observing and performing the obligations assumed by it under this Lease.

1. [Tenant, its agents, employees, customers and invitees shall have the right to use, in common with others now or hereafter authorized, the common facilities of the Airport, including, without limitation, the landing field, runways, aprons, taxiways, floodlights, landing lights, control tower, signal tower, radio aids, and all other conveniences for flying, landing and take-off of aircraft (“Common Airport Facilities”). All such use shall be in accordance with the laws of the United States of America, the State of New Jersey, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all Rules and Regulations and Minimum Standards (as hereinafter defined) of Landlord now in force or hereafter prescribed, adopted or promulgated by ordinance or law. Tenant shall not be restricted in the number of landings and takeoffs conducted at the Airport in aircraft owned or operated by or for Tenant. Nothing herein contained shall be deemed to grant to Tenant any exclusive right for the conduct of any activity on the Airport within the meaning of Section 308A of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1349a, except that Tenant shall have the exclusive right to possession of the Leased Premises. ]

m. Tenant will not without the prior written consent of Landlord (not to be unreasonably withheld) install any signs, window or lettering on or about the exterior of the Premises.

n. Tenant shall comply, and shall cause Tenant’s agents, employees, and invitees to comply, fully with all Rules and Regulations of the Airport (“Rules and Regulations”) and minimum standards (the "Minimum Standards") of which Tenant has received written notice. Landlord shall at all times have the right to change such Rules and Regulations and the Minimum Standards or to promulgate other Rules and Regulations or Minimum Standards in such reasonable manner as may be deemed advisable for the safety, care, and cleanliness of the Airport and for the preservation of good order therein and which affect all other Airport tenants with comparable permitted uses, and Landlord agrees to require compliance with and enforce such Rules and Regulations and Minimum Standards in a non-discriminatory manner. Copies of all changes and amendments to the Rules and Regulations or Minimum Standards will be forwarded to Tenant in writing and shall be carried out and observed by Tenant. Tenant shall further be responsible for the compliance with such Rules and Regulations and Minimum Standards by Tenant’s employees, servants, agents and visitors. Tenant acknowledges receipt of the current Rules and Regulations and Minimum Standards of the Airport.

o. [Tenant shall pay a fuel flowage fee in accordance with Airport Rules and Regulations. Fuel flow fees shall be paid on a monthly basis, in arrears, on or before the tenth (10<sup>th</sup>) day of the following month. Payments made after the tenth (10<sup>th</sup>) day of the month in which due shall be subject to a late fee of one and one-half percent (1½%) of the total amount outstanding. On or before the seventh (7<sup>th</sup>) day of each month, Tenant shall deliver to Landlord a report detailing all landings at the Airport by Tenant’s customers during the preceding month. Tenant shall submit to Landlord the prescribed State gasoline forms showing deliveries to the Tenant and sales by Tenant. Such form shall be submitted by the twentieth (20<sup>th</sup>) day of the month following the month of account. Landlord may require Tenant to submit for examination any other forms evidencing fuel transactions between Tenant and any third party.]

p. No aircraft fueling or defueling shall be conducted within or around the Premises at any time except in accordance with the Minimum Standards and the Rules and

Regulations.

q. [Operating Standards.

(i) Minimum Standards for Aeronautical Services. The Minimum Standards as adopted by the Landlord from time to time shall constitute the minimum operating standards to be met by Tenant in order to conduct any aeronautical activity or endeavor at the Airport. Tenant agrees that all aeronautical activities authorized under this Agreement and engaged in by Tenant shall be performed in accordance with the said Minimum Standards including such amendments thereto as may be adopted by Landlord from time to time.

(ii) Standard Requirements for All Services. In providing any of the required services or activities specified herein, Tenant shall operate for the use and benefit of the public, and shall meet or exceed the following standards:

(A) Tenant shall furnish service on a fair, reasonable and not unjustly discriminatory basis to all users of the Airport. Tenant shall furnish good, prompt and efficient service adequate to meet all reasonable demands for the services at the Airport.

(B) Tenant shall charge fair, reasonable and nondiscriminatory prices for each unit of sale or service; provided, however, that Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(iii) Tenant shall select and appoint a full-time manager for its operations at the Airport. The manager shall be qualified in experience and vested with full power and authority to act in the name of the Tenant with respect to the method, manner and conduct of the operation of the fixed base operation services to be provided by Tenant. The manager shall be available at the Airport during regular business hours. In the absence of the manager, a duly authorized and experienced subordinate shall be in charge and available at the Airport.

(iv) Tenant shall control the conduct, demeanor and appearance of its employees, agents, vendors and contractors, who shall be trained by Tenant and shall possess such technical qualifications and hold such certificates or qualifications, or both, as may be required in carrying out assigned duties. It shall be Tenant's responsibility to maintain close supervision over its employees and contractors to assure a high standard of service and safety to Tenant's customers. The Landlord shall have the right to object to Tenant regarding the demeanor, conduct and appearance of Tenant's employees and contractors, whereupon Tenant shall take all steps necessary to remove the cause of the objection up to and including termination of the employee. All employees shall wear appropriate uniforms and Tenant shall provide, and its employees shall at all times wear or carry, name tags or other suitable means of identification. The name tags or other means of identification, and uniforms shall be subject to the prior written approval of the Landlord. Tenant shall be responsible for conducting a security background access investigation, consisting of a fingerprint based criminal records check (CHRC) on each employee. Tenant shall comply with all applicable provisions of 49 Code of Federal Regulations Part 1542\1540 "Airport Security", any Transportation Security

Regulations, all other applicable laws, rules and regulations governing the Airport and the Landlord's security program. Gates, doors, fences or other parts of the Premises shall be kept locked by Tenant at all times when not in use by, or when not under constant physical control of, Tenant. Lock malfunctions or other deficiencies, which would permit unauthorized access, shall be reported by Tenant forthwith to Landlord, and the unsecured access point shall be maintained by Tenant under constant security surveillance until it has repaired the same and security through such point has been restored. Tenant shall be solely responsible for the payment of any and all penalties and fines which may be levied by the Transportation Security Administration (TSA) for violation of any Transportation Security Regulation arising from or relating to Tenant's failure to perform its security responsibilities.

(v) It is not the intent of this Agreement to grant Tenant the exclusive right to provide any or all of the services described herein at any time during the Term of this Agreement. Nothing herein shall preclude Landlord from granting to others certain rights and privileges at the Airport which are similar in part or in whole to those granted to the Tenant.

(vi) Tenant shall not contract out to a third party the performance of any of the aeronautical activities or services required under this Agreement or engage in any business or activity at the Airport other than those specifically authorized under this Agreement unless otherwise approved in writing by Landlord.

(vii) Tenant shall submit to Landlord the prescribed State gasoline forms showing deliveries to the Tenant and sales by Tenant. Such form shall be submitted by the twentieth (20<sup>th</sup>) day of the month following the month of account. Landlord may require Tenant to submit for examination any other forms evidencing fuel transactions between Tenant and any third party.]

#### 5. Inspections.

Landlord shall have the right to enter the Leased Premises, the Improvements and all improvements located therein or thereon at any time in the case of emergencies or at any reasonable time during normal business hours following reasonable notice in all other cases and, in any event, in such manner as will not unreasonably interfere with the conduct of Tenant's business in the Premises, for the following purposes: (a) to ascertain the condition of the Premises; (b) to determine whether Tenant is diligently fulfilling Tenant's responsibilities under this Lease or to investigate suspected violations of this Agreement; (c) to inspect any repairs made by the the Tenant or to make such repairs as may be permitted to be made by Landlord under the terms of this Lease; (d) to do any other act or thing which Landlord reasonably deems necessary to preserve the Premises; or (e) to conduct safety inspections. Landlord shall use commercially reasonable efforts to minimize interference with Tenant's access to the taxiways and its use and occupancy of the Premises during the performance of any inspection of the Premises, and shall promptly repair any damage to the Premises, including any Alterations or property of Tenant located therein, caused by Landlord in its performance of such inspections. During the one (1) year prior to the end of the Term and at any time Tenant is in default hereunder, Landlord shall have the right to enter the Premises at any reasonable time during business hours after notice to Tenant (except in the case of emergencies), for the purpose of showing the same to prospective tenants. Tenant and Landlord shall arrange to meet for a joint

inspection of the Premises on a date which is at least thirty (30) days prior to the date Tenant intends or is required to vacate the Premises. In the event that Tenant vacates the Premises without Landlord's prior knowledge, Landlord's inspection at or after Tenant vacates the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration which Tenant is required perform or pay for pursuant to the terms of this Lease.

6. Alterations; Additions and Improvements.

a. All alterations, additions, improvements, replacements or changes (which such alterations, changes, demolitions, replacements, improvements, additions and constructions are hereinafter collectively referred to as "Alterations") made by Tenant to the Premises or Leased Premises shall be constructed only with Landlord's prior written consent which consent shall not be unreasonably withheld, and shall be constructed at Tenant's expense. The construction of all Alterations shall be performed in accordance with all Requirements in a good and workmanlike manner. Tenant shall not be entitled to any abatement, allowance, reduction or suspension of the rent or additional rent, nor shall Tenant be released of or from any other obligation imposed upon Tenant under this Lease, on account of the construction of the Improvements or the making of such Alterations. No construction will begin until any and all FAA environmental and airspace issues are satisfied, including the requirements of FAA order 5050.4A, (Outline of Environmental Requirements). The construction of the Alterations shall be constructed in accordance with the foregoing FAA requirements and all other applicable federal, state, and local laws, and ordinances, including the Unified Development Code of New Castle County, as the same may be amended from time to time, and the Airport Layout Plan, as approved by the FAA from time to time, the rules and regulation of the Airport, and any environmental laws (collectively, the "Regulations). Tenant shall be fully responsible for any damage to property or injury to person resulting from the construction of all Alterations made by it to the Premises, and shall hold Landlord harmless with respect thereof. The Alterations made to the Premises by Tenant shall be and become the property of Landlord upon the expiration, cancellation or sooner termination of this Lease.

b. In the event that Tenant begins construction of improvements to the Leased Premises and prior to completion thereof, ceases significant construction activity for a period of one hundred twenty (120) days, this Lease may be terminated at Landlord's discretion and regardless of whether Landlord elects to terminate this Lease, upon notice from Landlord, Tenant shall demolish and remove such partially completed improvements, restoring the Leased Premises to the condition they were in immediately prior to the construction in accordance with all applicable rules, regulations, ordinances and statutes, and should Tenant fail to demolish and remove such partially completed improvements as aforesaid, Landlord may do so and Tenant shall reimburse Landlord for its costs of doing so.

c. On the completion date of any Alterations (other than those consisting of purely cosmetic work), Tenant shall deliver to Landlord each of the following:

(i) A certificate of completion by the architect who supervised the construction which shall state that all work has been completed in accordance with the approved plans and specifications;

(ii) Any and all certificate(s) of occupancy, and any equivalent permit(s) or certificate(s) which may be required by any and all federal, state, county, and local governmental authorities; and

(iii) A survey of the Leased Premises, showing the completed structure and showing that there are no encroachments by it on any adjoining premises in compliance with all laws.

d. Within thirty (30) days after the date any such Alterations are completed, Tenant shall deliver to Landlord the certificate of a duly licensed title company or its agency, currently dated, that the time for the filing of all mechanics, materialness, and/or similar liens with respect to such Alterations has expired, or, if such is not the case, that a search of the record shows that no liens or lis pendens with respect to such Alterations then encumber the Premises. If the latter information is furnished by such title company, or its agency, then, within ninety (90) days thereafter Tenant shall deliver a further certificate of such title company that no liens or lis pendens with respect to such Alterations then encumber the Leased Premises.

e. Whether under the provisions of this Lease or otherwise, neither Tenant, nor any agent, employee, representative, contractor, or subcontractor of Tenant, shall have any power or authority, express or implied, to do any act or thing, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or to make any contract or agreement which will bind Landlord or the interest of Landlord in the Leased Premises or to charge the Rent payable hereunder by Tenant for any claim in favor of any person dealing with Tenant, and Landlord shall not have any responsibility to Tenant or to any contractor, subcontractor, supplier, materialman, workman or other person, firm or corporation who shall engage in or participate in any demolition or construction work, the Improvements or any Alterations unless Landlord shall expressly undertake such obligation by an agreement in writing signed by Landlord and made between Landlord and Tenant, or such contractor, subcontractor, supplier, materialman, workman, or other person, firm or corporation. Nothing herein contained shall be deemed to be Landlord's written authorization of any contract for any Alterations or other improvements to be entered into by Tenant. Notice is hereby given that Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and that no mechanic's or other lien for any such labor or materials shall attach to or affect the reversionary or other estate or interest of Landlord in and to the Premises. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of labor performed or materials furnished in connection with any work performed on the Leased Premises under contracts executed by Tenant on which any lien is or can be validly and legally asserted against its leasehold interest in the Leased Premises, and that it will save and hold Landlord harmless from any and all loss, liability, cost or expense based on or arising out of asserted claims or liens against the leasehold estate of Tenant or against the right, title and interest of Landlord in the Leased Premises or under the terms of this Lease. Tenant will not permit any mechanic's lien or liens or any other liens which may be imposed by law affecting Landlord's interests in the Leased Premises to be placed upon the Leased Premises arising out of any action or claimed action by Tenant. Whenever and as often as any such lien shall have been filed against the Premises based upon any action or omission of Tenant, any subtenant or of anyone claiming through Tenant or a subtenant, Tenant shall, within thirty (30) days after written notice from Landlord of the filing thereof, take such action by bonding, deposit or payment as will remove or satisfy the lien, to the

satisfaction of Landlord. If Tenant shall fail to cause such lien forthwith to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may discharge the same by paying the amount of such lien or any portion thereof without inquiry as to the validity thereof, and such amount and all costs and expenses, including reasonable attorneys' fees and interest, incurred by Landlord in procuring the discharge of such lien shall be due and payable by Tenant to Landlord, as additional Rent hereunder, within fifteen (15) days following Landlord's written demand for such sums. Notwithstanding the foregoing, Tenant shall have the right to contest any such lien in good faith and with all due diligence so long as any such contest, or action taken in connection therewith protects the interests of Landlord and any mortgagee in the Leased Premises and the Land, and Landlord and any such mortgagee are, by the expiration of said thirty (30) day period, furnished such reasonable protection, and reasonable indemnification against any loss, liability, cost or expense related to any such lien and the contest thereof as are reasonably satisfactory to Landlord and any such mortgagee. Tenant shall indemnify and keep indemnified and defend and hold harmless Landlord against all such liens, charges and encumbrances, expressed or implied, which may encumber the Premises as a result of or in connection with the Improvements or such Alterations, work, labor, services or materials.

f. Until the Expiration Date or date of sooner termination of the Term of this Lease, title to all Alterations situate or erected by Tenant, and the equipment and all other items installed on the Premises by Tenant, shall remain solely in Tenant. Upon the Expiration Date or date of sooner termination of the Term of this Lease, such Alterations, equipment (other than Personal Property, as defined below) and items shall be and become the property of Landlord and, at the expiration of the Primary Ground Lease, shall be and become the property of the County, free from any liens or claims of Tenant whatsoever, without any compensation therefor from Landlord or the County to Tenant or to any other person, firm, or corporation, and the same shall be surrendered to Landlord and Tenant shall not without the consent of the Landlord remove any of the same from the Premises. Notwithstanding the foregoing, the Tenant shall be permitted at the expiration of this Lease (assuming Tenant is not in default under this Lease) to remove all tangible personal property not permanently part of the improvements, including furniture, furnishings, paneling, partitions, lighting, business and trade fixtures, machinery and communications, office and other equipment installed by or at the expense of Tenant (collectively, "Personal Property"); provided, however, that the removal of said personal property and trade fixtures shall in no event invalidate the certificate of occupancy and further provided that in the event of such removal, Tenant shall repair or pay the cost of repairing any damage to the improvements caused thereby. Notwithstanding the foregoing, upon the Expiration Date or date of sooner termination of the term of the Lease, Landlord shall, at its sole option, be entitled to have the Premises returned to it clear of the Improvements, Alterations and any improvements above and below ground level, including, but not limited to, the permanent disconnection of all utilities and the removal of all above-ground and underground storage tanks in accordance with all applicable environmental and other regulations; provided, however, that if Landlord so elects such removal, Tenant shall have until the earlier of (i) one hundred eighty (180) days after such Expiration Date or sooner termination of this Lease or (ii) the expiration of the Ground Lease in which to remove such improvements, and provided that such an occupancy for purposes of removal shall be subject to the then applicable Annual Rent. If Tenant fails to so remove the Improvements, or Alterations or improvements, Landlord may thereafter remove said Improvements Alterations or improvements at Tenant's expense.

g. To secure the payment of all rentals and other sums of money becoming due from Tenant under this Lease, Landlord shall have, and Tenant grants to Landlord, a first lien upon the leasehold interest of Tenant under this Lease and upon the Improvements, Alterations, improvements, any inventory, equipment and other personal property owned or leased by Tenant or any subtenant now or hereafter located at the Premises, which lien may be enforced in equity. Notwithstanding the foregoing, provided that Tenant is not in default hereunder (following the expiration of any applicable notice and cure periods), Landlord agrees that it shall agree to waive any lien it may have as to specific personal property being financed or refinanced, including, without limitation, the aircraft being stored in the Premises (and any replacement thereof), if so requested by any financial institution financing or refinancing such personal property (the "Personal Property Lender"). Landlord further agrees that, if so requested by any Personal Property Lender, Landlord shall waive any lien it may have against such personal property by signing and delivering to the Personal Property Lender a written waiver of such lien, in form and substance reasonably acceptable to Landlord and its counsel; provided, however, that in no event shall Landlord be required by such Personal Property Lender to undertake any obligations or responsibility to the Personal Property Lender or with respect to the personal property which is the subject of the waiver. Rather, the parties agree that the intention of this Section 6.h. is to require only that Landlord agree to waive any lien it may have against specific personal property being financed or refinanced if so requested by any Personal Property Lender.

7. Insurance.

a. From and after the Commencement Date, Tenant shall, at its sole cost and expense, keep and maintain Commercial General Liability insurance protecting the Tenant, and naming Landlord as an additional insured, against any and all claims for damages to persons or property or for loss of life or property occurring upon, in or about the Premises and from the operations at the Premises. Such insurance shall be written with a Combined Single Limit for Bodily Injury and Property Damage of not less than Five Million Dollars (\$5,000,000.00) for any one occurrence and Five Million Dollars (\$5,000,000.00) in the aggregate (with the aggregate applicable "per location").

b. Tenant shall, at Tenant's own cost and expense, shall procure automobile liability insurance covering all owned, non-owned, hired or borrowed vehicles, with a limit of no less than One Million Dollars (\$1,000,000.00) covering all such vehicles for each occurrence. The policy shall name Landlord as an additional insured, and shall be carried by insurers licensed to do business in the State of Delaware and of recognized responsibility satisfactory to Landlord. The policy shall expressly waive and bar any claim of subrogation against Landlord. Tenant shall furnish Landlord with evidence that such coverage has been procured and is being maintained. Said policy shall provide thirty (30) days notice of cancellation or non-renewal to Landlord.

c. In the event that Tenant shall carry Aircraft Hull Insurance in connection with its aircraft, such policy shall expressly waive and bar any claim of subrogation against Landlord.

d. Tenant shall, at its own cost and expense, procure aircraft liability insurance, with a limit of no less than \$5,000,000 per person for bodily injury, \$5,000,000

property damage, and \$5,000,000 per occurrence. The policy shall name Landlord as an additional insured, and shall be carried by insurers licensed to do business in the State of Delaware and of recognized responsibility satisfactory to Landlord.

e. Tenant shall, at its own cost and expense, procure hangarkeepers legal liability insurance protecting the Tenant and naming Landlord as an additional insured against any and all claims for damages to persons or property or for loss of life or property arising from the ownership, maintenance or use of the hangars at the Premises.

f. Prior to commencing any construction of any Alterations, Tenant shall, at Tenant's own cost and expense, obtain Builders' Risk Insurance covering the Premises and such other portion of the Premises which will be affected by the Alterations to the full extent of the insurable replacement value thereof for special perils and all deductible shall be the responsibility of the Tenant. The policy shall expressly waive and bar any claim of subrogation against Landlord.

g. Tenant shall obtain a Workers' Compensation insurance policy in an amount equal to or exceeding the statutory limits for the State of Delaware, including Employers' Liability and an Occupational Diseases Insurance policy of no less than One Million Dollars (\$1,000,000.00).

h. Tenant shall be fully responsible for the payment of any deductible, and Tenant shall not make a claim against Landlord for recovery of any deductible. Landlord reserves the right to reassess the type and limits of coverages required to be carried by Tenant hereunder and to adjust such requirements from time to time by delivering written notice to Tenant of such adjustments. The insurance provided for herein hereof shall be effected under standard form policies, if readily obtainable, which policies may be blanket policies covering other property in addition to the Premises, provided that the protection afforded thereunder shall be no less than would have been afforded under a separate policy covering only the Premises. If the insurance is underwritten on a claims made basis the retroactive date shall be prior to or coincide with the date of this Agreement. All policies shall be provided by insurers licensed to do business in the State of Delaware or have recognized responsibility satisfactory to Landlord. In addition, each of the foregoing policies shall, to the extent permitted by law, expressly waive and bar any claim of subrogation against Landlord and shall contain an agreement by the insurer to provide to Landlord at least thirty (30) days notice of cancellation or non-renewal. Tenant shall furnish Landlord with evidence that the insurance required by this Agreement has been procured and is being maintained, and shall notify the Landlord in the event of the cancellation, renewal or non-renewal of any such policy. Tenant shall notify Landlord in the event of cancellation or renewal of such policy. Tenant shall notify Landlord in writing, as soon as practicable, of any claim, demand, or action arising out of an occurrence covered hereunder of which Tenant has knowledge.

i. The Tenant, at its own cost and expense, shall insure its own fixtures, equipment and contents and, on an optional basis, any automobile physical damage, mobile equipment, business interruption and/or extra expense exposure, and their policies for each shall include a waiver of subrogation in favor of Landlord. If there is any deductible, the Tenant shall be responsible for the deductible and will not make any claim for any deductible against Landlord.

j. Other than in connection with the gross negligence or willful misconduct of Landlord, Landlord shall not be liable for and Tenant will indemnify and hold Landlord, its Commissioners, agents, employees and officers, harmless from and against any claims, actions or causes of action, or any damages, loss, liability, costs and expenses, including attorneys' fees and costs of investigation, defense and disbursements, which Landlord may suffer or incur as a result of or arising out of any claim of loss of life, personal injury or illness or damage to person or property which arise from or in any manner are based upon, arising out of or occurring in, on or about the Premises or Airport, or caused or occasioned wholly or in part by the following: (i) the act, omission, performance or nonperformance, negligence or misconduct of or breach of this Lease by Tenant, its agents, employees, licensees, concessionaires, contractors, customers, subtenants, invitees or by any other person entering the Premises, or the improvements located thereon, or the Airport under the express or implied invitation of Tenant, or (ii) arising out of Tenant's possession, use, control or management of, operation of its business at, or activities on or about the Premises or Airport . Landlord shall not be liable to Tenant or Tenant's agents, employees, invitees or any person entering upon the Airport in whole or in part because of Tenant's use of the Premises for any damage or injury (including loss of life) to persons or property due to any condition, design, or defect in the Premises or its mechanical systems which may exist or occur. Landlord shall not be liable or responsible for any loss, damage or injury (including loss of life) to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, act of terrorism, court order, requisition or order of governmental body or authority, or other matter beyond control of Landlord, or, except as otherwise specifically provided in this Lease, for any injury or damage or inconvenience to Tenant which may arise through the repair or alteration of any part of the Premises by Landlord in accordance with the terms of this Lease, or failure to make repairs, or from any other cause whatever. In case Landlord shall be made a part to any litigation commenced by or against Tenant, its agents, employees, licensees, concessionaires, contractors, customers, subtenants, invitees or by any other person entering the Premises, or the improvements located thereon, or the Airport under the express or implied invitation of Tenant, then Tenant shall protect and hold Landlord harmless and shall immediately respond and take over the expense, defense and investigation of all such claims, causes of action, damages, expenses and liabilities with counsel reasonably acceptable to Landlord, and shall pay all costs, expenses, and attorneys' fees incurred or paid by Landlord in connection with such litigation. Tenant shall also pay all costs, expenses and attorneys' fees that may be incurred or paid by Landlord in enforcing the covenants, conditions, and agreements of this Lease, whether incurred as a result of litigation or otherwise. Landlord may join in such defense with counsel of its own choice in which event Tenant shall also pay all costs, expenses and attorneys' fees that may be incurred or paid by Landlord in enforcing the covenants, conditions, and agreements of this Lease, whether incurred as a result of litigation or otherwise. The Tenant recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges that it is an express condition of this Agreement. The terms and provisions of this paragraph shall survive expiration or earlier termination of this Lease and shall remain in full force and effect with respect to any and all claims, liabilities, expenses, losses, costs, fines and damages (including attorneys' fees) and causes of action of every kind and character set forth herein. Compliance with the insurance requirements set forth herein shall not relieve Tenant of its liability or obligation to indemnify Landlord as set forth herein.

k. Landlord, its agents, employees and contractors shall not be liable for, and Tenant hereby releases all claims for business interruption, damage to person or property sustained by Tenant, or any person claiming through Tenant, resulting from any fire, accident, occurrence, or condition in or upon the Premises or Airport including, but not limited to, such claims for damage resulting from (i) any defect in or failure of any system, equipment, pipes, stairs, railing or walks; (ii) any equipment or appurtenances becoming out of repair; (iii) the bursting, leaking, or running of any tank, washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about such building or premises; (iv) the backing up of any sewer pipe or downspout; (v) the escape of steam or hot water; (vi) water, snow or ice being upon or coming through the roof or any other place upon or near such building or Premises or otherwise; (vii) the falling of any fixtures; (viii) broken glass; or (ix) the act or omission of any other person or party.

8. Damage to or Destruction of the Premises.

a. If the Premises are rendered partially or wholly untenable by fire or other casualty, this Lease shall not terminate, but Tenant shall, by written notice to Landlord within thirty (30) days of such fire or other casualty, elect (i) to rebuild and restore the Premises, or (ii) demolish any and all improvements, including, but not limited to, the Improvements, Alterations and other improvements, on the Leased Premises and return the Land to its leveled condition, all at Tenant's sole cost and expense. Any restoration or demolition shall be commenced within ninety (90) days of the date of such fire or casualty and shall be completed within a commercially reasonable time period.

b. In no event shall Landlord be required to rebuild, repair or replace any part of the Improvements, partitions, fixtures, additions, Alterations and other improvements which may have been placed in or about the Premises by Tenant. Any insurance which may be carried by Landlord or Tenant against loss or damage to the improvements or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

c. Each of Landlord and Tenant hereby releases the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire, extended coverage perils, vandalism or malicious mischief sprinkler leakage or any other perils insured in policies of insurance covering such property, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible; provided, however, that this release shall be applicable and in force and effect only to the extent that such release shall be lawful at that time and in any event only with respect to loss or damage occurring during such times as the releasor's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder and then only to the extent of the insurance proceeds payable under such policies. Landlord and Tenant each agree that it will request its insurance carriers to include in its policies such a clause or endorsement. If extra cost shall be charged therefor, each party shall advise the other thereof and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so. If such other party fails to pay such extra cost, the release provisions of this paragraph shall be inoperative against such other party to the extent necessary to avoid invalidation of such releasor's

insurance.

d. In the event of any damage or destruction to the improvements or the Premises, Tenant shall, upon notice from Landlord, remove forthwith, at its sole cost and expense, such portion or all of the property belonging to Tenant or its licensees from such portion or all of the Premises as Landlord shall request and Tenant hereby indemnifies and holds Landlord harmless from any loss, liability, costs, and expenses, including attorney's fees, arising out of any claim of damage or injury as a result of any alleged failure to properly secure the Premises prior to such removal and/or such removal.

9. Condemnation.

a. If any substantial part of the Leased Premises should be taken for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof and the taking would prevent or materially interfere with the use of the Leased Premises for the purpose for which it is then being used, this Lease shall terminate effective when the physical taking shall occur in the same manner as if the date of such taking were the date originally fixed in this Lease for the expiration of the Term hereof.

b. If part of the Leased Premises shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and this Lease is not terminated as provided in the subparagraph above, this Lease shall not terminate but the Rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the portion of the Leased Premises taken.

c. In the event of any such taking or private purchase in lieu thereof Landlord and Tenant shall each be entitled to receive and retain such separate awards and/or portion of lump sum awards as may be allocated to their respective interests in any condemnation proceedings; provided that Tenant shall not be entitled to receive any award for Tenant's loss of its leasehold interest, the right to such award being hereby assigned by Tenant to Landlord.

10. Assignment and Subletting.

a. Tenant shall have the right to assign or transfer this Lease or any interest in the Improvements or any Alterations or to sublet the whole or any part of the Premises, whether voluntarily or by operation of law, and to permit the ownership, use or occupancy of the Premises by anyone other than Tenant, only with the prior written consent of Landlord and provided such assignment or subletting satisfies the purposes of the Compact and enhances the sound economic development of the State of Delaware. Such restrictions shall be binding upon any transferee, assignee or subtenant to which Landlord has consented. In the event Tenant desires to sublet the Premises, or any portion thereof, or assign this Lease or any interest in the Improvements or any Alterations, Tenant shall give written notice thereof to Landlord within a reasonable time prior to the proposed commencement date of such subletting or assignment, which notice shall set forth the name of the proposed subtenant or assignee and the relevant terms of any sublease or assignment. In no event may Tenant sublet or assign, nor will Landlord

consent to any sublease or assignment, if the Rent is determined in whole or in part based upon the income or profits derived by the sublessee or assignee (other than a rent based on a fixed percentage or percentages of receipts or sales), if Landlord is currently negotiating with such proposed assignee for space elsewhere at the Airport, if the proposed subtenant or assignee is of a character or is engaged in a business which is not in keeping with the standards of the Airport, if the subtenant or assignee does not have the financial wherewithal to discharge the obligations it is undertaking (as determined in Landlord's reasonable discretion), or if it is a governmental entity or not-for-profit entity. Notwithstanding any permitted assignment or subletting, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of the Rent herein specified and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Upon the occurrence of an "event of default" (as hereinafter defined), if the Premises or any part thereof are then assigned or sublet, Landlord, in addition to any other remedies herein provided or provided by law, may, at its option, collect directly from such assignee or subtenant all rents due and becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord from Tenant hereunder, and no such collection shall be construed to constitute a novation or a release of Tenant from the further performance of Tenant's obligations hereunder. Tenant shall pay to Landlord, on demand, a reasonable service charge equal to Landlord's out-of-pocket costs for the processing of the application for the consent and for the preparation of the consent to any assignment or subletting by Tenant hereunder.

b. If Tenant assigns this Lease or sublets all or any portion of the Premises and receives any Profits (as hereinafter defined), whether as a lump-sum payment, periodic payment or otherwise, then all such Profits shall be paid to Landlord as Additional Rent.

"Profits" shall mean the entire excess, after deduction of brokerage commissions plus all other costs of subletting (including, without limitation, marketing costs, rent concessions, reasonable attorneys' fees, and tenant improvement allowances), of revenues generated by the subleasing of the Leased Premises or portions thereof or by the assignment of this Lease over the Annual Rent plus Additional Rent and other payments due from Tenant hereunder applicable thereto for the period from the date such assignment or sublease commences to the date of termination of such sublease or assignment. All such revenues shall be applied first to the reimbursement of such costs of subletting or assignment until they are paid in full. No more than thirty (30) days after the commencement of any sublease or assignment which will produce Profits and annually thereafter, Tenant shall furnish Landlord with a sworn statement certified by one of its officers, setting forth in detail the computation of the Profits on such sublease or assignment (which computation shall be based upon generally accepted accounting principles).

c. No assignment of this Lease shall be valid and no assignee shall take possession of the Premises or any portion thereof until an executed counterpart of the agreement of assignment and an agreement by the assignee assuming the obligations of Tenant hereunder for the balance of the Term of this Lease, both of which agreements shall be in recordable form, shall have been delivered to Landlord.

d. Notwithstanding anything to the contrary contained herein, and without prejudice to Landlord's right to require a written assumption from each assignee, any person or entity to whom this Lease is assigned including, without limitation, assignees pursuant to the

provisions of the Bankruptcy Code, 11 U.S.C. Paragraph 101 et seq. (the "Bankruptcy Code") shall automatically be deemed, by acceptance of such assignment or sublease or by taking actual or constructive possession of the Premises, to have assumed all obligations of Tenant arising under this Lease effective as of the earlier of the date of such assignment or sublease or the date on which the assignee or sublessee obtains possession of the Premises. In the event this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord and shall remain the exclusive property of Landlord and not constitute the property of Tenant or Tenant's estate within the meaning of the Bankruptcy Code. In the event of any default described in Paragraph 12 below, in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, in connection with any assignment and assumption of this Lease, Tenant must fulfill the following obligations, in addition to any other reasonable obligations that Landlord may require, before any assumption of this Lease is effective: (1) all defaults under Paragraph 12 of this Lease must be cured within ten (10) days after the date of assumption; (ii) all other defaults under Paragraph 12 of this Lease other than under subsection (a) of Paragraph 11 must be cured within fifteen (15) days after the date of assumption; (iii) all actual monetary losses incurred by Landlord (including, but not limited to, reasonable attorneys' fees) must be paid to Landlord within ten (10) days after the date of assumption; and (iv) Landlord must receive within ten (10) days after the date of assumption a security deposit in the amount of six (6) months Annual Rent (using the Annual Rent in effect for the first full month immediately following the assumption) and an advance prepayment of Annual Rent in the amount of three (3) months Annual Rent (using the Annual Rent in effect for the first full month immediately following the assumption), both sums to be held by Landlord in above and deemed to be Rent under this Lease for the purposes of the Bankruptcy Code as amended and from time to time in effect. In the event this Lease is assumed in accordance with the requirements of the Bankruptcy Code and this Lease, and is subsequently assigned, then, in addition to any other reasonable obligations that Landlord may require and in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Landlord shall be provided with (i) a financial statement of the proposed assignee prepared in accordance with generally accepted accounting principles consistently applied, though on a cash basis, which reveals a net worth in an amount sufficient, in Landlord's reasonable judgment, to assure the future performance by the proposed assignee of Tenant's obligations under this Lease; or (ii) a written guaranty by one or more guarantors with financial ability sufficient to assure the future performance of Tenant's obligations under this Lease, such guaranty to be in form and content satisfactory to Landlord and to cover the performance of all of Tenant's obligations under this Lease.

e. Notwithstanding anything contained herein to the contrary, the Tenant shall be prohibited from effecting a change in or conversion of the ownership of the Improvements and use of the Leased Premises to a condominium or other form of ownership.

f. Notwithstanding the foregoing, Tenant shall have the right to assign this Lease or sublease all or any part of the Premises to any Affiliate (defined below) of Tenant without obtaining the prior consent of Landlord. As used herein, "Affiliate" means any entity which controls Tenant, is controlled by Tenant or is under common control with Tenant, and "control" means the direct or indirect ability to determine the management and policies of the subject entity.

11. Landlord's Right to Perform Tenant's Covenants; Cumulative Remedies, Waivers.

a. If (a) Tenant shall at any time fail to perform any act required on its part to be performed under this Lease and (b) such default shall continue for a period of thirty (30) days (or, in the event of an emergency, such shorter period of time as shall be reasonable under the circumstances) after written notice thereof, specifying such default, shall have been given to Tenant or, in the case of a non-monetary default which cannot with reasonable diligence be remedied by Tenant within thirty (30) days, if Tenant shall fail to proceed as promptly as may reasonably be possible after the service of such notice and with reasonable diligence to remedy the default or shall thereafter fail to prosecute the remedying of such default with reasonable diligence, then Landlord may, but shall not be obligated, upon not less than ten (10) days' written notice to Tenant (or, in the event of an emergency, upon such shorter notice as shall be reasonable under the circumstances) and without waiving or releasing Tenant from any obligation of Tenant in this Lease contained, perform such act for the account of and at the expense of Tenant. All sums so paid and all expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon from the date of such expenditure at the Default Rate (as defined in Section 11(c) hereof), shall be payable by Tenant to Landlord on demand or at the option of Landlord may be added to any rent then due or thereafter becoming due under this Lease. All sums which may become payable to Landlord by Tenant in accordance with this Article 11 and all other charges and expenses of whatsoever nature which Tenant is required to pay pursuant to this Lease, if not paid when due, shall be deemed Additional Rent hereunder and payable as aforesaid, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the non-payment of any such sums by Tenant as in the case of default by Tenant in the payment of Rent.

b. Landlord may restrain any breach or threatened breach of any covenant, agreement, provision or condition herein contained, but the mention herein of any particular remedy shall not preclude Landlord from any other remedy it might have either at law or in equity. The failure of Landlord to insist upon the strict performance of any one of the covenants, agreements, provisions or conditions of this Lease or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment for the future of such covenant, agreement, provision, condition, right, remedy or election, but the same shall continue and remain in full force and effect. Any right or remedy of Landlord in this Lease specified and any other right or remedy that Landlord may have at law, in equity or otherwise upon breach of any covenant, agreement, provision or condition in this Lease contained upon the part of Tenant to be performed shall be distinct, separate and cumulative rights or remedies and no one of them, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other. No covenant, agreement, term, provision or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing and signed by Landlord or Landlord's agent duly authorized in writing. The consent of Landlord to any act or matter must be in writing and shall apply only with respect to the particular act or matter to which such consent is given and shall not relieve Tenant from the obligation wherever required under this Lease to obtain the consent of Landlord to any other act or matter. Receipt or acceptance of any rental by Landlord shall not be deemed to be a waiver of any default under the covenants, agreements, provisions and conditions of this Lease or of any right which Landlord

may be entitled to exercise hereunder. In the event that Tenant is in arrears in the payment of any Rent or other charge payable hereunder, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited and Tenant agrees that Landlord may apply any payments made by Tenant to any items Landlord sees fit irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

12. Default and Remedies.

a. The following events shall be deemed to be "Events of Default" by Tenant under this Lease:

(i) Tenant shall fail to pay any sum of money to Landlord when due hereunder, whether such sum is an installment of Annual Rent, any amount designated as additional rent hereunder, or any other payment or reimbursement to Landlord required herein (whether or not the same are designated as Additional Rent hereunder), and such failure shall continue for a period of five (5) business days from the date of notice to Tenant informing Tenant of such failure.

(ii) Tenant shall fail to comply with any term, provision or covenant of this Lease (other than by failing to pay when due any sum of money to be paid to Landlord hereunder), and shall not cure such failure within thirty (30) days, if the default involves a hazardous condition, i.e., one involving a threat to life or health) after Landlord's written notice thereof to Tenant specifying in reasonable detail the nature of such default, or, if such default or any other default cannot, with due diligence, be cured within said thirty (30) day period if Tenant shall fail to commence to cure such default within said thirty (30) day period or shall thereafter fail to diligently and continuously pursue the cure thereof; or

(iii) Tenant shall fail to vacate the Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only; or

(iv) an involuntary petition shall be filed against Tenant under any bankruptcy or insolvency law or under the reorganization provisions of any law of like import, or a receiver of Tenant or of or for the all or substantially all of the property of Tenant shall be appointed without the acquiescence of Tenant, or whenever this Lease or the estate hereby granted or the unexpired balance of the Term would, by operation of law or otherwise, except for this provision, devolve upon or pass to any person other than Tenant, and any such situation under this subsection 11.a.(iv) shall continue for one hundred twenty (120) days; or

(v) Tenant shall make an assignment of all or substantially all of its property for the benefit of creditors or shall file a voluntary petition under any bankruptcy or insolvency law, or any court of competent jurisdiction shall approve a petition filed by Tenant under the reorganization provisions of any law of like import, or a petition shall be filed by Tenant under the arrangement provisions of any law of like import, or Tenant shall abandon the Premises; or

(vi) Tenant shall be in default under any other agreement between Landlord and Tenant; or

(vii) The leasehold interest of Tenant shall be levied upon under execution or be attached by process of law and Tenant shall fail to contest diligently the validity of any lien or claimed lien and give reasonably sufficient security to Landlord to insure payment thereof, or Tenant shall fail to satisfy any judgment rendered thereon and have the same released, and such default shall continue for sixty (60) days after written notice thereof to Tenant.

b. Upon the occurrence of an Event of Default described in Section 11.a hereof, Landlord shall, after written notice to Tenant informing Tenant that it has failed to cure such Event of Default within any applicable cure period, have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever:

(i) Landlord may, at its election, terminate this Lease or terminate Tenant's right to possession of the Premises only, without terminating this Lease;

(ii) Upon any termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Tenant's right to possession of the Premises, without the termination of this Lease, Tenant shall surrender and vacate the Premises with reasonable promptness, and deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Premises in such event, without process of law, and to repossess Landlord of the Premises as of Landlord's former estate and to expel or remove Tenant and any subtenants or others claiming under Tenant who may be occupying or within the Premises, and to remove any and all of Tenant's or such other persons' property therefrom, using reasonable care, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.

(iii) Upon any termination of this Lease, whether by lapse of time or otherwise, Landlord shall be entitled to recover as damages, all Rent and other sums, if any, due and payable by Tenant on the date of termination, other sums provided herein to be paid by Tenant for the residue of the then-current term hereof (excluding any and all Renewal Terms with respect to which Tenant has not exercised its option to obtain), and the actual costs incurred by Landlord in performing any other covenants which would have otherwise been performed by Tenant, less the fair rental value of the Leased Premises for such residue (taking into account the time and expense reasonably necessary to obtain a replacement tenant or tenants, including reasonable expenses hereinafter described relating to recovery of the Premises);

(iv) Upon any termination of Tenant's right to possession only, without termination of this Lease, Landlord may, at Landlord's option, in accordance with law enter into the Premises, remove Tenant's signs and other evidences of its tenancy, and take and hold possession thereof as provided in subsection 11.b.(ii), without such entry and possession terminating this Lease or releasing Tenant, in whole or in part, from any of Tenant's obligations, including Tenant's obligation to pay the Rent hereunder for the residue of the then-current term hereof (excluding any and all Renewal Terms with respect to which Tenant has not exercised its option to obtain).

(v) Landlord may, at Landlord's option, enter into and upon the Premises, without process of law but in accordance with the terms of this Lease, if Landlord determines in its reasonable discretion that Tenant is not acting within a commercially reasonable time or if Tenant fails within any applicable period of time permitted hereunder to maintain, repair or replace any item which Tenant is obligated to maintain, repair or replace hereunder, and Landlord may perform such maintenance or make such repair or replacement on behalf of Tenant, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer, and without incurring any liability for any damage resulting therefrom except if any injury or damage is caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors, and Tenant agrees to reimburse Landlord for any expenses Landlord actually incurs in performing such maintenance or making such repairs or replacements, as Additional Rent, within ten (10) days of Tenant's receipt of a bill therefor.

(vi) Any and all property which may be removed from the Premises by Landlord pursuant to the authority of this Lease or of law, to which Tenant is or may be entitled, may be handled, removed and stored, as the case may be, by or at the direction of Landlord at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof, provided Landlord acts in accordance with law and the terms and conditions of this Lease. Tenant shall pay to Landlord any and all reasonable expenses actually incurred by Landlord in the removal of and all storage charges for such property, so long as the same shall be in Landlord's possession or under Landlord's control, as Additional Rent, within ten (10) days of Tenant's receipt of a bill therefor. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Leased Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as by a bill of sale without further payment or credit by Landlord.

c. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided to Landlord by law or in equity (all such remedies being cumulative), nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to Landlord by reason of Tenant's violation or breach of any of the terms, provisions and covenants herein contained. No act done by Landlord, its agents or employees during the Term shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or accept such a surrender shall be valid unless in writing signed by Landlord. No waiver by Landlord or Tenant of any violation or breach by the other of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Landlord's acceptance of the payment of Rent or other payments hereunder from Tenant after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord in enforcing one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such Event of Default or of Landlord's right to enforce any such remedies with respect to such Event of Default or any subsequent Event of Default.

d. Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall

be deemed to require Landlord to postpone suit until the Expiration Date.

e. In the event Tenant fails to pay any installment of Rent, including any amount treated as Additional Rent hereunder, or other sums due hereunder as and when such installment or other charge is due, Tenant shall pay to Landlord on demand interest in the amount of eighteen percent (18%) plus any actual costs incurred by Landlord, and such amounts shall be additional rent hereunder and the failure to pay such late charge within ten (10) days after demand therefor shall be an additional event of default hereunder. The provision for such charge shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

f. Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law, to redeem the Premises or to have a continuance of this Lease for the term hereby demised after being dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the termination of this Lease as herein provided.

g. The words "enter", "entry", "re-enter" or "re-entry" shall not be restricted to their technical legal meaning.

13. Brokerage.

a. Landlord and Tenant each represent to the other that it has not dealt with any broker in connection with this transaction.

14. Representations and Warranties.

a. Landlord hereby warrants and represents to Tenant, upon which warranties and representations Tenant has relied in the execution of this Lease, that:

(i) Landlord has full right and lawful authority to execute this Lease for the term, in the manner and upon the conditions and provisions herein contained; and

(ii) by Resolution of its Commissioners duly adopted, a certified copy of which has been delivered to Tenant, Landlord is duly empowered to execute this Lease on its behalf, and thereby to bind Landlord to the terms, conditions and covenants herein set forth.

b. Tenant hereby warrants and represents to Landlord, upon which warranties and representations Landlord has relied in the execution of this Lease, that:

(i) Tenant has full right and lawful authority to execute this Lease for the term, in the manner and upon the conditions and provisions herein contained; and

(ii) by Resolution of the Board of Directors duly adopted, a certified copy of which has been delivered to Landlord, Tenant is duly empowered to execute this Lease on its behalf, and thereby to bind Tenant to the terms, conditions and covenants herein set forth.

15. Hazardous Materials.

a. Tenant agrees that Tenant, its agents and contractors, licensees, or invitees shall not handle, use, manufacture, store or dispose of any flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives, including, but not limited to, hazardous materials as defined in the Rules and Regulations (collectively "Hazardous Materials") on, under, or about the Premises, without Landlord's prior written consent (which consent shall not be unreasonably withheld as long as Tenant demonstrates and documents to Landlord's reasonable satisfaction (1) that such Hazardous Materials (A) are necessary or useful to Tenants business; and (B) will be used, kept, and stored in compliance with all laws relating to any Hazardous Materials so brought or used or kept in or about the Premises); and that Tenant will give all required notices concerning the presence in or on the Premises or the release of such Hazardous Materials from the Premises, provided further that Tenant shall handle, store, use and dispose of any such Hazardous Materials in a safe and lawful manner and shall not allow such Hazardous Materials to contaminate the Premises or the environment. The disposal of any aircraft engine oil, waste fuel, lubricants or other hazardous waste on the airport is prohibited. All Hazardous Materials shall be removed from the Airport and disposed of in accordance with all applicable Airport, local, state and federal rules, regulations, laws and ordinances.

b. Tenant further agrees that Tenant will not permit any substance to come into contact with groundwater under the Premises. Any such substance coming into contact with groundwater shall, regardless of its inherent hazardous characteristics, be considered a Hazardous Material for purposes of this Lease.

c. Notwithstanding the provisions of this Article 15, Tenant may handle, store, and use Hazardous Materials, limited to the types, amounts, and use identified in the Hazardous Materials List attached hereto as Exhibit C. If no Hazardous Materials List is attached to this Lease, then this Section 15.c. shall be of no force and effect. Tenant hereby certifies to Landlord that the information provided by Tenant pursuant to this paragraph is true, correct, and complete. Tenant covenants to comply with the use restrictions shown on the attached Hazardous Materials List. Tenant's business and operations, and more especially its handling, storage, use and disposal of Hazardous Materials shall at all times comply with all applicable laws pertaining to Hazardous Materials. Tenant shall secure and abide by all permits necessary for Tenant's operations on the Premises. Tenant shall give or post all notices required by all applicable laws pertaining to Hazardous Materials. If Tenant shall at any time fail to comply with this paragraph, Tenant shall immediately notify Landlord in writing of such noncompliance.

d. Tenant shall provide Landlord with copies of any Material Safety Data Sheets (as required by the Occupational Safety and Health Act) relating to any Hazardous Materials to be used, kept, or stored at or on the Premises, at least thirty (30) days prior to the first use, placement, or storage of such Hazardous Material on the Premises. Landlord shall have ten (10) days following delivery of such Material Safety Data Sheets to approve or forbid, in its sole discretion subject to the limitation contained in Section (a) above, such use, placement, or storage of a Hazardous Material on the Premises.

e. Tenant shall not store hazardous wastes on the Premises for more than ninety (90) days; "hazardous waste" has the meaning given it by the Resource Conservation and Recovery Act of 1976, as amended. Tenant shall not install any underground or above ground storage tanks on the Premises. Tenant shall not dispose of any Hazardous Material or solid waste on the Premises without Landlord's prior consent. In performing any alterations of the Premises permitted by this Lease, Tenant shall not install any Hazardous Material in the Premises without the specific consent of Landlord attached as an exhibit to this Lease.

f. Any increase in the premiums for necessary insurance on the Premises which arises from Tenant's use and/or storage of Hazardous Materials shall be solely at Tenant's expense. Tenant shall procure and maintain at its sole expense such additional insurance as may be necessary to comply with any requirement of any Federal, State or Local governmental agency with jurisdiction including, but not limited to, pollution liability insurance and on- off-premises liability insurance, and such insurance shall name Landlord as an additional insured.

g. If Landlord, in its sole discretion, believes that the Premises or the environment have become contaminated with Hazardous Materials or similar materials that must be removed under the laws of the state of Delaware, in breach of the provisions of this Lease, Landlord, in addition to its other rights under this Lease, may enter upon the Premises and obtain samples from the Premises, including without limitation the soil and groundwater under the Premises, for the purposes of analyzing the same to determine whether and to what extent the Premises or the environment have become so contaminated. Tenant shall reimburse Landlord for the costs of any inspection, sampling and analysis that discloses contamination for which Tenant is liable under the terms of this Lease. Tenant may not perform any sampling, testing, or drilling to locate any Hazardous Materials on the Premises without Landlord's prior written consent.

h. Without limiting the above, Tenant shall reimburse, defend, indemnify and hold Landlord harmless from and against any and all claims, losses, liabilities, damages, costs and expenses, including without limitation, loss of rental income, loss due to business interruption, and attorneys fees and costs, arising out of or in any way connected with the use, manufacture, storage, or disposal of Hazardous Materials by Tenant, its agents or contractors on, under or about the Premises including, without limitation, the costs of any required or necessary investigation, repair, cleanup or detoxification and the preparation of any closure or other required plans in connection herewith, whether voluntary or compelled by governmental authority. The indemnity obligations of Tenant under this Section shall survive any termination of this Lease. At Landlord's option, Tenant shall perform any required or necessary investigation, repair, cleanup, or detoxification of the Premises. In such case, Landlord shall have the right, in its sole discretion, to approve all plans, consultants, and cleanup standards. Tenant shall provide Landlord on a timely basis with (i) copies of all documents, reports, and communications with governmental authorities; and (ii) notice and an opportunity to attend all meetings with regulatory authorities. Tenant shall comply with all notice requirements and Landlord and Tenant agree to cooperate with governmental authorities seeking access to the Premises for purposes of sampling or inspection. No disturbance of Tenant's use of the Premises resulting from activities conducted pursuant to this paragraph shall constitute an actual or constructive eviction of Tenant from the Premises. In the event that such cleanup extends beyond the termination of this Lease, Tenant's obligation to pay Rent (including Additional Rent) shall continue until such cleanup is completed and any certificate of clearance or similar

document has been delivered to Landlord. Rent during such holdover period shall be increased based upon the increase in the cost-of-living from the third month preceding the holdover period, using such indices and assumptions and calculations as Landlord in its sole reasonable judgment shall determine are necessary.

i. Notwithstanding anything set forth in this Lease, Tenant shall only be responsible for contamination of Hazardous Materials or any cleanup resulting directly therefrom, resulting directly from matters occurring or Hazardous Materials deposited (other than by contractors, agents or representatives controlled by Landlord) during the Lease term and any other period of time in which Tenant shall have access to the Premises. Tenant agrees that during all such times, Tenant shall take reasonable precautions to prevent the contamination of the Premises with Hazardous Materials by third parties.

j. Any of Tenant's insurance insuring against claims of the type dealt with in this Lease shall be considered primary coverage for claims against the Premises arising out of or under this Article.

k. In the event of (i) any transfer of Tenant's interest under this Lease; or (ii) the termination of this Lease, by lapse of time or otherwise, Tenant shall be solely responsible for compliance with any and all then effective federal, state or local laws concerning (x) the physical condition of the Premises; and (y) the presence of hazardous or toxic materials in or on the Premises, including but not limited to any reporting or filing requirements imposed by such laws. Tenant's duty to pay Rent shall continue until the obligations imposed by such laws are satisfied in full and any certificate of clearance or similar document has been delivered to Landlord.

l. All consents given by Landlord pursuant to this Lease shall be in writing and shall be attached as amendments to this Lease. If such consents are not attached to this Lease, then such consents will be deemed withheld.

m. It shall not be: unreasonable for Landlord to withhold its consent to any proposed assignment or sublease if (i) the proposed assignee's or sublessee's anticipated use of the Leased Premises involves the generation, storage, use, treatment or disposal of Hazardous Materials; (ii) the proposed assignee or sub-lessee has been required by any prior landlord, lender, or governmental authority to take remedial action in connection with Hazardous Materials contaminating a property if the contamination resulted from such assignee's or sublessee's actions or use of the property in question; or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal, or storage of a Hazardous Material.

n. Tenant shall be obligated to comply with all applicable federal, state or local laws, including any reporting or filing requirements imposed thereunder, concerning the use, manufacture, storage or disposal of Hazardous Materials by Tenant, its agents, employees and contractors and any permitted assignee of Tenant, at, on or under the Premises (i) at all times during the Term, whether or not this Lease has been assigned by Tenant, and (ii) following the termination of this Lease, by lapse of time or otherwise, to the extent that such continued compliance arises from the use, manufacture, storage or disposal of Hazardous Materials by

Tenant, its agents, employees and contractors and any permitted assignee of this Lease, at, on or under the Premises during the Term. In the event that such compliance extends beyond the termination of the Lease, and (A) requires that Tenant remain in occupancy or possession of the Leased Premises under this Lease, or (B) prohibits Landlord, by law or otherwise, from reletting the Premises, Tenant's obligation to pay Rent will continue until the earlier of the date (1) Tenant obligations imposed by such laws are satisfied in full and any certificate of clearance or similar document evidencing Tenant's compliance has been delivered to Landlord, and (2) the date Landlord relets the Premises; it being agreed, however, that if Landlord relets a portion of the Leased Premises, the Rent payable by Tenant hereunder shall be reduced proportionately based upon rentable square foot area of such portions which are relet.

o. Tenant agrees that it is primarily responsible for obtaining any and all necessary releases, No Further Action letters, remediation agreements, or other documentation and/or certifications required under Delaware and federal law. This primary obligation upon Tenant shall remain in effect regardless of whether it is the actions of Landlord or Tenant which require any actions under such laws. Should Tenant be unable to secure a No Further Action letter and/or Non Applicability letter from the Delaware Department of Natural Resources and Environmental Control or its successor ("DNREC"), Tenant shall enter into such agreements as may be necessary to insure that Landlord and Tenant are in compliance with all applicable laws, and the Landlord's ability to transfer and/or re-lease the Leased Premises, transfer its assets or ownership, and/or close its operations is not delayed or impaired.

p. The provisions of this Article 15 shall survive the expiration or termination of this Lease.

#### 16. Quiet Enjoyment.

a. Landlord covenants that if and so long as Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Premises without hindrance or molestation by Landlord or any party claiming by, through or under Landlord, subject to the covenants, agreements, terms, provisions and conditions of this Lease.

b. Landlord shall not be liable for any interference or disturbance to Tenant by third persons (other than Landlord's agents, employees, contractors or anyone claiming by, through or under Landlord), nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance, except as otherwise specifically provided in this Lease.

#### 17. Mortgages.

a. Tenant accepts this Lease subject and subordinate to any mortgage(s) and/or deed(s) of trust at any time hereafter granted by Landlord and constituting a first lien or charge upon the Leased Premises or the Improvements; provided, however, that if the mortgagee, trustee, or holder of any such mortgage or deed of trust (each a "Mortgagee") elects to have this

Lease and the leasehold estate granted to Tenant hereunder be superior to any such instrument, then upon written notice to Tenant from such Mortgagee of such election, this Lease shall be deemed superior to such lien, whether this Lease was executed before or after said mortgage or deed of trust. Tenant shall at my time hereafter execute within a reasonable period any reasonable instruments, releases or other documents which may be required by any such Mortgagee for the purpose of subjecting and subordinating this Lease to the lien of any such mortgage or for the purpose of evidencing the superiority of this Lease to the lien of any such mortgage, as may be the case. Notwithstanding the foregoing, Tenant's obligation to subordinate shall be contingent upon Tenant receiving a written non-disturbance agreement from each Mortgagee in form and content reasonably satisfactory to Tenant.

b. Except as hereinafter provided, Tenant agrees that it shall not mortgage, pledge or encumber this Lease or any interest therein without obtaining on each occasion the prior written consent of Landlord.

18. Notices.

a. All notices, demands, requests, approvals or other communications ("Notices") hereunder shall be in writing and shall be given as follows:

(i) If intended for Tenant - either by delivery thereof personally (if an individual) or by delivery thereof to an officer (if a corporation or other form of company) or by mailing by registered or certified mail, return receipt requested, with the postage prepaid, or by sending by reputable overnight courier, addressed to Tenant at its address hereinabove set forth.

(ii) If intended for Landlord - either by delivery thereof personally (if an individual) or by delivery thereof to an officer (if a corporation) or by mailing by registered or certified mail, return receipt requested, with the postage prepaid, or by sending by reputable overnight courier, addressed to Landlord at its address hereinabove set forth, to the attention of the Executive Director, with a copy thereof mailed as aforesaid to Michael Houghton, Esquire, Morris, Nichols, Arsht and Tunnell, 1201 N. Market Street, P. O. Box 1347, Wilmington, Delaware 19899.

b. Each party may designate in the manner aforesaid a new address to which Notices shall be given. Each Notice which shall be given in the manner aforesaid shall be deemed sufficiently given for all purposes hereunder at the time such Notice shall be delivered personally or deposited with any overnight courier or at any post office or branch post office or mail box regularly maintained by the United States Government, as the case may be.

c. Tenant agrees to give Landlord prompt and timely written notice of any personal injury or other accident claim, and of any lawsuit coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the Premises, the operation of Tenant herein, or the construction or operation of Airport by the Landlord, which in any way, directly, indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Lease.

19. End of Term; Surrender.

a. Upon the Expiration Date or the date of earlier termination of this Lease (collectively, the "Termination Date") Tenant shall peaceably surrender and yield up unto Landlord all and singular the Premises. Landlord reserves the right to require that Tenant demolish the Improvements, the Building, the Fuel Farm and any and all Alterations on the Premises and otherwise restore the Premises to unimproved and vacant condition, including, but not limited to, the permanent disconnection of all utilities and the removal of all above-ground and underground storage tanks in accordance with all applicable environmental and other regulations, which, upon such election, shall be completed by the earlier of (i) one hundred eighty (180) days after such Termination Date or (ii) the expiration of the Ground Lease. Tenant shall remain obligated for payment of Rent and Additional Rent for any occupancy of the Premises beyond the Termination Date. Upon the Termination Date, Landlord may without further notice enter upon, reenter, possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess and remove Tenant and all other persons and property from the Premises and may have, hold and enjoy the Premises and the right to receive all rental and other income of and from the same.

b. Any removable property (except money, securities and other like valuables) of Tenant or any permitted subtenant which shall remain on the Premises after the Termination Date and the removal of Tenant from the Premises may, at the option of Landlord, be deemed to have been abandoned by Tenant and may either be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit. If such property or any part thereof be sold, Landlord may receive and retain the proceeds of such sale and apply the same, at its option, against the expenses of the sale, the cost of moving and storage, any arrears of Annual Rent or Additional Rent or other charges payable hereunder and any damages to which Landlord may be entitled hereunder or pursuant to law. From and after the Termination Date, Landlord shall not be responsible for any loss or damage occurring to any property owned by Tenant, unless caused by the gross negligence or willful misconduct of Landlord, its agents or employees.

c. In the event that Tenant continues in possession of the Premises beyond the expiration, cancellation or termination of this Lease, or any renewals or extensions thereof, without Landlord's consent, such tenancy shall be presumed to be a tenancy from month to month and Tenant shall pay Rent equal to twice the monthly Rent then pertaining plus any other charges then owing, (and Tenant shall not be entitled to any Rent rebate with respect to such holdover rent). The provisions of this Article 18 shall not be construed as consent by Landlord to such possession of the Premises beyond the term of this Lease, or constitute a waiver by Landlord of any right of re-entry as herein set forth; nor shall receipt of any Rent or other act in apparent affirmance of the tenancy operate as a waiver of the right to terminate this Lease for a breach of any of the terms, covenants or obligations herein on Tenant's part to be performed.

d. The provisions of this Article 19 shall survive the Termination Date.

20. True Lease.

a. It is the intention of the parties hereto that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, and that Rent,

Additional Rent and all other sums payable by Tenant hereunder shall continue to be payable in all events, and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. Rent, Additional Rent and all other sums payable hereunder by Tenant shall be paid without notice or demand, and without setoff counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense, except as otherwise specifically set forth herein. This Lease shall not terminate and Tenant shall not have any right to terminate this Lease, during the Term (except as otherwise expressly provided herein). Tenant agrees that, except as otherwise expressly provided herein, it shall not take any action to terminate, reject, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting Landlord, Tenant or any assignee or subtenant of Tenant, (a) the exercise of any remedy including foreclosure, under any documents securing any construction financing, or (iii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by Landlord under the Federal Bankruptcy Code or by any trustee, receiver or liquidator of Landlord or by any court under the Federal Bankruptcy Code or otherwise, or (iv) the conditions of the Leased Premises. Tenant waives all rights which are not expressly stated herein but which may now or hereafter otherwise be conferred by law to quit, terminate or surrender this Lease or any of the Leased Premises; to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense of or to Rent, Additional Rent or any other sums payable under this Lease, except as otherwise expressly provided herein; and for any statutory lien or offset right against Landlord or its property.

21. Right of Flight.

a. Landlord reserves unto itself its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the Airport.

b. Tenant expressly agrees for itself its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises in order to comply with FAR, Part 77. Tenant further expressly agrees for itself its successors and assigns, to prevent any use of the Premises which would interfere with landing or taking off of aircraft at the Airport, or otherwise constitute an airport hazard.

22. Instrument of Transfer.

a. This Lease is subject to the provisions of the "Instrument of Transfer" between the United States of America and the Levy Court of New Castle County, Delaware, dated April 29, 1949, and effective as of October 27, 1947, as the same is of record in the Office of the Recorder of Deeds in Wilmington, Delaware, in Deed Record C, Volume 49, page 75, with respect to the Leased Premises, and subject to the right of the United States of America to repossess the Leased Premises or the Land under any war powers act that may exist or that may hereafter be enacted with reference to property such as is covered by this Lease, with no recourse for just compensation from the United States of America for such taking of Tenant's interest in

the Leased Premises. In the event of such dispossession, Tenant may, at its election, terminate this Lease by written notice to Landlord, but if Tenant elects not to terminate, then the Rent payable to Landlord shall be abated entirely during the period Tenant is dispossessed, and upon repossession of the Leased Premises or the Land by Landlord, the Term of this Lease shall be extended for a period of time equal to the time period of such dispossession.

23. Civil Rights.

a. Tenant for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federal Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

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

24. Miscellaneous Provisions.

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

b. Tenant hereby waives any right to interpose any counterclaim in any summary proceeding commenced by Landlord for non-payment of the Rent or Additional Rent hereunder.

c. The failure of Landlord or Tenant to complain of any act or omission on the part of the other party or to take any action in response to such act or omission, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Landlord or Tenant at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision

of this Lease or a consent to any subsequent breach of the same or any other provision.

d. This Lease constitutes the entire agreement of the parties hereto and may not be changed orally but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

e. The covenants, agreements, provisions and conditions of this Lease shall be binding upon and inure to the benefit of the successors and assigns of Landlord and Tenant. Landlord shall have the right to assign any of his rights and obligations under this Lease, and Landlord's grantee or Landlord's successor shall upon such assignment and execution of any agreement assuming Landlord's obligations hereunder, become "Landlord" hereunder, thereby freeing and relieving Landlord of all covenants and obligations as landlord hereunder except for any liabilities of Landlord to Tenant which accrued prior to the date of such assignment and assumption. Landlord agrees to furnish to Tenant corporate resolution or other appropriate documentation evidencing the due authorization of Landlord to enter into this Lease.

f. This Lease shall be governed by and construed and enforced in accordance with the laws of the State of Delaware.

g. The following rules of construction shall be applicable for all purposes of this Lease and all agreements supplemental hereto, unless the context otherwise requires.

(i) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms shall refer to this Lease and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this Lease.

(ii) Words of the masculine, feminine or neuter gender shall mean and include the correlative words of the other genders and words importing the singular number shall mean and include the plural number and vice versa.

(iii) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trust, corporations and other legal entities, including public bodies, as well as natural persons.

(iv) The terms "include", "including" and similar terms shall be construed as if followed by the phrase "without being limited to".

(v) All references in this Lease to numbered Articles and Sections and to lettered Schedules are references to the Articles and Sections of this Lease and the Schedules annexed to this Lease, unless expressly otherwise designated in context.

h. Tenant shall at any time and from time to time within thirty (30) days after written request from Landlord execute and deliver to Landlord or any prospective landlord or existing or prospective mortgagee a sworn and acknowledged estoppel certificate, in form reasonably satisfactory to Landlord and/or such existing or prospective mortgagee certifying and stating as follows: (i) this Lease has not been modified or amended (or if modified or amended, setting forth such modifications or amendments); (ii) this Lease (as so modified or amended) is in full force and effect (or if not in full force and effect, the reasons therefor); (iii) to Tenant's

knowledge, Tenant has no off-sets or defenses to its performance of the terms and provisions of this Lease, including the payment of Rent (or if there are any such defenses or off-sets, specifying the same); (iv) Tenant is in possession of the Leased Premises, if such be the case; (v) if a direction from Landlord to pay Rent to such mortgagee in the event of receipt of a notice from such mortgagee has been served upon Tenant, Tenant has received such direction and agrees to be bound by the provisions thereof; and (vi) any other accurate statements with respect to this Lease and the Leased Premises reasonably required by Landlord or such existing or prospective mortgagee. It is intended that any such statement delivered pursuant to this subsection may be relied upon by any prospective purchaser or any existing or prospective mortgagee and their respective successors and assigns and Tenant shall be liable for all loss, loan costs, contract penalties and reasonable costs and expenses resulting directly from and caused solely by Tenant's refusal to deliver an estoppel certificate and any material misstatement contained in such estoppel certificate, including the failure of any sale or funding of any loan.

i. Any indemnification or insurance of, or option granted to, Landlord shall also include or be exercisable by Landlord's Commissioners, agents and employees, as the case may be.

j. In the event of any litigation between the parties to this Lease, the prevailing party shall be entitled to reasonable attorneys' fees or in such amount as shall be determined by the court.

k. All consents given by Landlord pursuant to this Lease shall be in writing.

25. Certain Rights Reserved to Landlord.

Landlord reserves and may exercise the following rights without affecting Tenant's obligations hereunder:

a. to retain at all times pass keys to the Improvements or the combination of the lock to the Improvements, which shall be provided to the Landlord prior to the Commencement Date;

b. to take any and all reasonable measures, including making inspections or repairs, alterations, additions and improvements to the Leased Premises or to the Improvements, as may be reasonably necessary or desirable for the safety, protection or preservation of the Leased Premises or the Improvements or Landlord's interests therein, or as may be reasonably necessary to the operation of the Improvements; and

c. to add, remove or modify Improvementss (other than the Improvements) roadways, walkways, landscaping, taxiways, runways, grading and other improvements in or to the Airport, provided that Tenant's access to or use of the Improvements for Tenant's normal business operations is not materially impaired.

d. Landlord may enter upon the Leased Premises only as in this Lease and may exercise any or all of the foregoing rights hereby reserved without being deemed guilty of an eviction or disturbance of the Tenant's use or possession thereof, and without being liable in

any manner to the Tenant and without abatement of Rent or affecting any of the Tenant's obligations hereunder, provided that such entry does not materially interfere with or impair Tenant's access to or use of the Leased Premises for Tenant's normal business operations.

26. Landlord's Exculpation.

a. If Landlord fails to perform any of its obligations under the Lease, and Tenant gives written notice thereof to Landlord, and such failure continues beyond the time reasonably necessary to cure such failure, Tenant shall, in addition to all of its other remedies at law or in equity, have the right to cure such failure on behalf of Landlord and all amounts actually expended by Tenant in effecting such cure shall be reimbursed by Landlord to Tenant within thirty (30) days of Tenant's demand therefor.

b. It is expressly understood and agreed that nothing in this Lease contained shall be construed as creating any liability whatsoever against the officers and/or directors of Landlord, its employees or its individual commissioners, or their respective successors and assigns, personally, and in particular without limiting the generality of the foregoing, there shall be no personal liability of any such persons to pay any indebtedness of Landlord to Tenant accruing hereunder or to perform any covenant, either express or implied, herein contained, and that all personal liability of the above-mentioned persons or their successors and assigns, of every sort, if any, is hereby expressly waived by Tenant and every person now or hereafter claiming any right or security hereunder, and that so far as Tenant, or its successors and assigns, is concerned the owner of any indebtedness or liability accruing hereunder shall look solely to Landlord's interest in the Leased Premises and the Land, including the proceeds from the sale or transfer thereof, for the payment thereof.

27. Additional Fees.

Tenant shall pay fuel flowage fees in accordance with Airport Schedule of Fees. Tenant shall pay such fees on a monthly basis, in arrears, on or before the tenth day of the following month. Any payment of fuel fees made after the tenth (10<sup>th</sup>) day of the month in which such payment due shall be subject to a late fee of one and one-half percent (1½%) of the total amount not paid when due.

28. Guaranty.

In consideration of Landlord's consent to enter into this Lease, Tenant agrees that it shall cause its members/shareholders/partners to unconditionally guarantee the obligations of the Tenant under this Lease, in the form and content attached hereto as Exhibit D.

29. No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assignees and nothing herein expressed or implied shall give or be construed to give to any person or entity, other than the parties hereto and such assignees, any legal or equitable rights hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument as of the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

THE DELAWARE RIVER AND BAY  
AUTHORITY, a body politic and an agency of the  
State of Delaware and State of New Jersey

\_\_\_\_\_ By: \_\_\_\_\_(SEAL)  
\_\_\_\_\_  
Chairman

By: \_\_\_\_\_(SEAL)  
\_\_\_\_\_  
Vice Chairman

By: \_\_\_\_\_(SEAL)  
James T. Johnson, Jr.  
Executive Director

Attest: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_(SEAL)  
\_\_\_\_\_  
President

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LEASE AGREEMENT

BETWEEN  
DELAWARE RIVER AND BAY AUTHORITY,

AS LANDLORD

AND

---

AS TENANT

Dated as of \_\_\_\_\_ 2012

**EXHIBIT A**  
**AIRPORT RULES AND REGULATIONS**

**EXHIBIT B**

Tax Parcel No.: \_\_\_\_\_

This Document was prepared by \_\_\_\_\_

And should be returned to : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NON-DISTURBANCE & ATTORNMENT AGREEMENT**

THIS NON-DISTURBANCE & ATTORNMENT AGREEMENT ("Agreement") made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among NEW CASTLE NEW CASTLE COUNTY, a political subdivision of the State of Delaware (the "County") and \_\_\_\_\_, a \_\_\_\_\_ (the "Tenant").

**WITNESSETH:**

WHEREAS, the County and the Delaware River and Bay Authority (the "Authority") entered into that certain Ground Lease, dated June 30, 1995, as amended pursuant to that certain First Amendment to Ground Lease dated January 27, 2005 (collectively, the "Lease"), a memorandum of which is recorded in the Office of the Recorder of Deeds in and for New Castle County in Book 2000, Page 269 and as Instrument No.20050316-0025274 pursuant to which the County leased to the Authority and the Authority leased from the County certain parcels of land and improvements legally described therein as the "Demised Premises" which are located in the County of New Castle, State of Delaware and commonly known as the New Castle County Airport (the "Airport"); and

WHEREAS, pursuant to that certain Acquisition Agreement, dated June 30, 1995, by and between the County and the Authority (the "Acquisition Agreement"), the Authority agreed to assume operation and control of the Airport and further agreed to operate and manage the Airport and related facilities and to administer all of the leases relating to third party tenants at the Airport; and

WHEREAS, the Authority has determined that in order to encourage growth and economic development at the Airport, it is necessary to promote investment in the Airport by private entities and develop relationships with long term tenants and users of the Airport; and

WHEREAS, the Authority has further determined that to promote investment in the Airport by private entities and ensure the economic viability of the Airport during the Term of the Lease and thereafter, it is necessary to enter into long term leasing or other arrangements with such private entities in order to provide them with the ability to recoup their investment and realize a reasonable return on that investment; and

WHEREAS, the Initial Term of the Lease expires on June 29, 2025 (the "Initial Term Expiration Date"); and

WHEREAS, pursuant to the Lease, the Authority is permitted to enter into long term leases with tenants at the Airport, the terms of which may extend beyond the Initial Term Expiration Date in order to foster development at the Airport; and

WHEREAS, Tenant has agreed to lease certain premises at the Airport (the "Tenant Premises") pursuant to that certain Lease dated \_\_\_\_\_, by and between Tenant and the Authority (the "Tenant Lease"); and

WHEREAS, the term of the Tenant Lease may extend beyond the Initial Term Expiration Date; and

WHEREAS, pursuant to the Lease, the County has agreed to execute and deliver this Agreement to Tenant to evidence the County's agreement to recognize the Tenant Lease and honor all of the terms and provisions of the Tenant Lease in the event that the Authority does not elect to renew the Lease beyond the Initial Term Expiration Date.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and to Tenant to execute the Tenant Lease and in consideration of the sum of One Dollar (\$1.00) by each of the parties hereto paid to the other, receipt and sufficiency of which are hereby acknowledged, the parties do hereby covenant, stipulate and agree as follows:

1. The County agrees that in the event the Authority is no longer leasing the Airport pursuant to the Lease, and provided that Tenant is not in default of its obligations under the Tenant Lease, Tenant shall be entitled to continue in possession of the Tenant Premises undisturbed. It is further agreed that in such event, the County shall assume the Authority's obligations under the Tenant Lease and succeed to the interest of the Authority, as landlord under the Tenant Lease. The Tenant Lease shall continue in full force and effect as if the Authority had continued in possession under the Lease, and the County agrees to be bound to the Tenant under the Tenant Lease. From and after the date that the

County shall succeed to the Authority's interest in the Tenant Lease (hereinafter referred to as the "Assumption Date"), Tenant shall have the same rights and remedies against and obligations to the County that Tenant has against and to the Authority for any default that is in existence and continues beyond the Assumption Date, as if the default occurred on the Assumption Date.

2. Tenant agrees from and after the Assumption Date, Tenant shall attorn to the County and be bound to the County under the Tenant Lease. Tenant shall thereafter pay all rent and other charges due under and pursuant to the Tenant Lease to the County or as the County shall direct.

3. This Agreement shall be binding upon and inure to the benefit of the parties hereto and shall also bind and benefit the heirs, legal representatives, successors and assigns of the respective parties hereto, and all covenants, conditions and agreements herein contained shall be construed as running with the title to the land comprising the Tenant Premises.

4. This Agreement shall be construed, governed and enforced in accordance with Delaware law.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

NEW CASTLE COUNTY, a political  
subdivision of the State of Delaware

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

\_\_\_\_\_  
(SEAL)  
Witness

\_\_\_\_\_  
County Executive

[Signature block for Tenant]

STATE OF DELAWARE )  
 : ss.:  
NEW CASTLE COUNTY )

The foregoing Agreement was acknowledged before me, a notary public within and for said County and State, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is the \_\_\_\_\_ of \_\_\_\_\_ and who acknowledged that the name of said Authority was subscribed to the foregoing Agreement by himself as \_\_\_\_\_ thereof by the direction and authority of said \_\_\_\_\_ and that the seal impressed thereon is the seal of said \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
Notary Public

My commission expires

(SEAL)

STATE OF DELAWARE )  
 : ss.:  
NEW CASTLE COUNTY )

The foregoing Agreement was acknowledged before me, a notary public within and for said County and State, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is County Executive of said New Castle County and who acknowledged that the name of said County was subscribed to the foregoing Agreement by himself as County Executive thereof by the direction and authority of said County and that the seal impressed thereon is the seal of said County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
Notary Public

My commission expires

(SEAL)

**EXHIBIT C**  
**HAZARDOUS MATERIALS**

## EXHIBIT D

### GUARANTY

THIS LEASE GUARANTY ("Guaranty"), dated as of \_\_\_\_\_, 2006, is made by \_\_\_\_\_, with an address \_\_\_\_\_ (the "Guarantor"), to and for the benefit of the Delaware River and Bay Authority, a body politic and an agency of the State of Delaware and the State of New Jersey, duly created by Compact, with an address of P.O. Box 71, New Castle, Delaware 19720 ("Landlord"), in order to induce Landlord to enter into a certain Lease Agreement (the "Lease") between Landlord and \_\_\_\_\_, having an office \_\_\_\_\_ ("Tenant"), with respect to certain premises located at the New Castle County Airport, as more particularly described in the Lease. For valuable consideration rendered to Guarantor by Landlord, receipt of which is hereby acknowledged, and in order to induce Landlord to enter into the Lease, Guarantor, intending to be legally bound and to bind its successors and assigns, hereby covenants and agrees with Landlord as follows:

1. The Lease is hereby incorporated by reference as if herein set forth in its entirety. Guarantor represents and warrants to Landlord that prior to Guarantor's execution of this Guaranty, it received and reviewed a complete and correct copy of the Lease.

2. Guarantor irrevocably and unconditionally guarantees to Landlord the full, timely, complete absolute, direct, immediate and unconditional payment and performance (and not merely collectibility) of Tenant's obligations under the Lease, including, without limitation, all primary, secondary, direct, indirect fixed and contingent obligations of Tenant to pay, agreements and other obligations (collectively, "Obligations") of Tenant, and Tenant's successors, assigns and subtenants, arising under the Lease and all renewals, modifications, amendments and extensions thereof (which shall be deemed included in the term "Lease" as used herein), including, without limitation, the obligation to pay (a) the full rent ("Rent") for the entire term of the Lease, as the same may be renewed, modified, amended or extended by mutual agreement of Landlord and Tenant, (b) all additional rent and other sums payable to Landlord under the Lease, and (c) all damages, losses, costs, interest, charges and expenses (including, without limitation, attorney's fees) of every kind, nature and description, suffered or incurred by Landlord arising in any manner out of, or in any way connected with any default by Tenant under the Lease. Without limitation to the foregoing or to any other provision of this Guaranty, if Tenant defaults in any payment when due under the Lease, Guarantor shall, in lawful money of the United States, pay to Landlord or order on demand all sums due and owing under the Lease. If the amount outstanding and owing by the Tenant under the Lease or the Obligations is determined by a Court of competent jurisdiction, that determination shall be conclusive and binding on Guarantor, regardless of whether or not Guarantor was a party to the proceeding in which such determination was made. The obligations of

Guarantor under this Guaranty shall be continuing and irrevocable until all of the Obligations have been fully satisfied.

3. This Guaranty is continuing, and shall be effective regardless of how long before or after the date hereof any of the Obligations were incurred or accrued.

4. Guarantor agrees to make available to Landlord or its representative, at any time and from time to time, upon not less than three (3) days' notice to Guarantor, such financial information as Landlord shall reasonably require to assess the financial condition of Guarantor. Guarantor's financial information may be viewed at Guarantor's corporate offices by Landlord or its representative. Landlord or its representative shall have the right to copy any information that it may desire for review off-site. In the event that the financial information reviewed by Landlord indicates, in Landlord's sole discretion, that there has been, or will be, a material adverse change in the financial condition of Guarantor or in the operations of Guarantor which reasonably causes Landlord to believe that Guarantor's performance under the terms of this Guaranty is in doubt, then Landlord shall have the right, upon notice to Guarantor, to require that this Guaranty be secured by a cash deposit in the amount of six (6) months of the then current Rent, additional rent and all other charges reasonably payable to Landlord under the Lease (collectively, the "Deposit"). Guarantor agrees that it shall deliver the Deposit within twenty (20) days of Landlord's demand therefor. Landlord agrees that it shall hold the Deposit in an interest bearing account with a financial institution licensed to do business in the State of Delaware, with interest on the Deposit to accrue to the benefit of Guarantor, unless and until Landlord draws on the Deposit. In the event of any default or defaults in payment of any sums due Landlord under the Lease Landlord may apply the Deposit or any part thereof toward the curing of any such default or defaults. Landlord agrees that at such time as Landlord, in its sole discretion, determines that any Triggering Event has been remedied or otherwise resolved, Landlord shall release the Deposit to Guarantor; provided, however, that Landlord reserves the right to again require that Guarantor deliver a Deposit in the event that a Triggering Event subsequently occurs. Upon the yielding up of the Premises at the expiration or other termination of the Lease, if Tenant shall not then be in default or otherwise liable to Landlord, the Deposit or the unapplied balance thereof shall be returned to Guarantor. It is understood and agreed that Landlord shall always have the right to apply the Deposit or any part thereof, as aforesaid in the event of any such default or defaults, without prejudice to any other remedy or remedies which Landlord may have, or Landlord may pursue any other such remedy or remedies in lieu of applying the Deposit or any part thereof. Any failure to deliver the Deposit to Landlord shall be an event of default hereunder and shall further constitute an event of default under the Lease, entitling Landlord to exercise any and all rights and remedies set forth in the Lease in the event of Tenant's default thereunder, including, without limitation, the right to terminate the Lease and accelerate the payment of all Rent, additional rent and other sums due Landlord under the Lease.

5. Landlord may at any time and from time to time, without notice to Guarantor, take any or all of the following actions without affecting or impairing the liability and obligations of the Guarantor on this Guaranty:

(a) grant an extension or extensions of time of payment of any Guaranteed Payment;

- (b) grant an indulgence or indulgences in any Obligation;
- (c) modify or amend the Lease or any term thereof, or any obligation of Tenant arising thereunder;
- (d) consent to any assignment or assignments, sublease or subleases and successive assignments or subleases by Tenant or the Tenant's assigns or sub-leases or a change or different use of the leased premises; and/or
- (e) consent to an extension or extensions of the term of the Lease.

6. Guarantor hereby waives (i) all defenses whatsoever to Guarantor's liability hereunder except the defense of payments made on account of the Lease; and (ii) all claims, counterclaims and set-offs of any kind or nature, arising directly or indirectly from the present or future lack of validity, binding effect and/or enforceability of the Lease or this Guaranty; and (iii) any defense arising by reasons of any claim or defense based upon an election of remedies by Landlord and/or any other rights of Guarantor to proceed against any other guarantor, or against any other person or entity or any collateral. Guarantor waives all diligence in collection or in protection of any security, presentment, protest, demand, notice of dishonor or default, notice of acceptance of this Guaranty, notice of any extension granted or other action taken in reliance hereon, notices of the existence, creation or incurring of new or additional obligations, and all demand and notices of any kind in connection with this Guaranty or any Guaranteed Payment. Guarantors hereby irrevocably waive all legal and equitable rights to recover from Tenant any sums paid by Guarantor under the terms of this Guaranty, including, without limitation, all rights of subrogation and all other rights that would result in Guarantor being deemed a creditor of Tenant under any federal or state, insolvency or other similar law now or hereafter in effect.

7. It is hereby expressly agreed, that Guarantor and all endorsers hereof, jointly and severally, authorize and empower any Clerk, Prothonotary or Attorney of any Court of Record in the State of Delaware, or elsewhere, with or without process, to appear from it, and to confess judgment against it, its successors or assigns, in favor of Landlord, its successors or assigns, on the Obligations, with interest, costs and reasonable attorneys' fees not to exceed twenty percent (20%) of the amount of the Obligations outstanding and interest, at any time and from time to time after the date hereof, with stay of execution until the day payment is due, and hereby release all and all manner of errors in such judgment(s) and execution(s) to be issued thereon.

8. Guarantor acknowledges that this Guaranty and the Guarantor's obligations under this Guaranty are and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to this Guaranty and the obligations of the Guarantor under this Guaranty or the obligations of any other person or party (including, without limitation, the Tenant) relating to this Guaranty or the obligations of the Guarantor hereunder or otherwise with respect to the Lease. This Guaranty shall not in any way be affected by or contingent or conditional upon (i) any action taken under the Lease or the exercise of any right or power thereby conferred, (ii) any failure or omission to enforce any right thereby conferred, or any demand or attempt to collect from, or other action or inaction with respect to Tenant

under the Lease or any attempt to realize upon any security provided by Tenant, Guarantor or others, (iii) the existence, non-existence, validity, value, exchange or surrender of any security or collateral securing the Obligations or the obligations of Guarantor hereunder, (iv) the liquidation or dissolution of Tenant, or the merger or consolidation of Tenant into or with any other entity, or any sale or transfer by Tenant of all or any part of its property or assets, (v) the bankruptcy, receivership, insolvency, reorganization or similar proceedings involving or affecting Tenant, Guarantor or others, (vi) any modification, alteration, amendment or addition of or to the Lease whether with or without Guarantor's knowledge and/or consent, or (vii) any other action, inaction or circumstance whatsoever (with or without notice to or knowledge of Guarantor) that may or might in any manner or to any extent vary the risks of Guarantor or might otherwise constitute a legal or equitable discharge of any surety or a guarantor or otherwise, it being the purpose and intent of this Guaranty that the obligations of Guarantor hereunder shall be absolute and unconditional, present and continuing, under any and all circumstances.

9. Guarantor acknowledges that no oral or other agreements, understandings, representations or warranties exist with respect to this Guaranty or with respect to the obligations of the Guarantor under this Guaranty, except as specifically set forth in this Guaranty.

10. An event of default under this Guaranty shall further constitute an event of default under the Lease, entitling Landlord to exercise any and all rights and remedies set forth in the Lease in the event of Tenant's default thereunder, including, without limitation, the right to terminate the Lease and accelerate the payment of all Rent, additional rent and other sums due Landlord under the Lease.

11. At the option of Landlord, from time to time and for so long as Landlord may elect, this Guaranty may be treated as a guaranty or as a suretyship. In any event, Landlord shall have the right to proceed against the Guarantor (or any one of the Guarantors) without first proceeding against Tenant or any other guarantor of, or security for, the Obligations.

12. Guarantor hereby represents and warrants that the following are true and accurate as of the date of this Guaranty and shall be true at all times in the future while this Guaranty is outstanding:

(a) Guarantor has sufficient net worth and sufficient liquidity of assets to enable Guarantor to perform promptly all of the Obligations as and when they are due;

(b) Landlord has made no representation to Guarantor as to the credit worthiness or financial condition of Tenant;

(c) Guarantor has carefully read and negotiated all provisions of this Guaranty and has consulted with competent legal counsel in connection therewith;

(d) Guarantor is immediately aware of Tenant's business and financial condition and has conducted a thorough investigation of all material factors regarding the making of the Lease and this Guaranty;

(e) Guarantor has the resources, access, and opportunity to remain informed at all times of the financial status of Tenant and of all other material

information relative to the Lease and Guarantor's obligations under Guaranty and covenants to remain informed relative to all such matters as long as this Guaranty remains in effect;

(f) Guarantor has full power and right to enter into this Guaranty and carry out the transactions contemplated hereby. This Guaranty has been duly executed and delivered by Guarantor, duly authorized by all necessary actions and approvals with respect to Guarantor and constitutes a valid and binding agreement of Guarantor enforceable in accordance with its terms. Neither the execution and delivery of this Guaranty nor the consummation of the transactions contemplated hereby will constitute a violation or breach by Guarantor of any law, ordinance, agreement, instrument, judgment, order or injunction to which Guarantor is a party or by which Guarantor is bound.

13. This Guaranty contains the entire agreement among the parties to this Guaranty with respect to the subject matter of this Guaranty, is intended as a final expression of such parties' agreement with respect to the subject matter of this Guaranty, is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understandings, agreements, representations and warranties, if any, with respect to such subject matter, which proceed or accompany the execution of this Guaranty. No course of conduct among the parties, no custom or practice in the industry, and no parol or extrinsic evidence of any kind or nature shall be used in the interpretation of this Guaranty nor used to alter, supplement, or modify any of the terms of this Guaranty. There are no conditions to the effectiveness or enforceability of this Guaranty or any provision hereof, except (if any) as specifically set forth in this Guaranty.

14. Each provision of this Guaranty shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Guaranty or the application of any provision to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Guaranty, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

15. All notices or other communications required or permitted to be given to a party to this Guaranty shall be in writing and shall be personally delivered, sent by certified mail, postage pre-paid, return receipt requested, or sent by an overnight express courier service that provides written confirmation of delivery, to such party at its address as set forth above in the introductory paragraph of this Guaranty. Each such notice or other communication shall be deemed given, delivered and received upon its actual receipt, except that it is sent by mail in accordance with this paragraph, then it shall be deemed given, delivered and received three days after the date such notice or other communication is deposited with the respective Postal Service in accordance with this Paragraph. Any party to this Guaranty may give a notice of a change of its address to the other party(ies) to this Guaranty.

16. Each party to this Guaranty and its legal counsel have reviewed this Guaranty. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Guaranty or of any

amendments or exhibits to this Guaranty.

17. Guarantor agrees that this Guaranty shall inure to the benefit of and may be enforced by Landlord and Landlord's transferees, successors and assigns and any mortgagee of the real property of which the premises demised by the Lease are a part. This Guaranty shall not be assigned in whole or in part by Guarantor without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion.

18. This Guaranty shall be governed by the laws of the State of Delaware. Guarantor hereby consents to the jurisdiction and venue of the courts of said state for all matters arising hereunder. Guarantor hereby (a) appoints the Secretary of State of the State of Delaware as its registered agent for service of process in the event that such Guarantor is not a Delaware corporation; (b) submits to the nonexclusive jurisdiction of the courts of the State of Delaware and the United States District Court for the District of Delaware for the purposes of all legal proceedings arising out of or relating to this Guaranty; and (c) irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such court and any claim that any such proceeding brought in such court has been brought in an inconvenient forum. Notwithstanding anything herein to the contrary, nothing herein to the contrary, nothing herein shall limit the right of Landlord to bring proceedings against Guarantor in the courts of any other jurisdiction.

19. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Lease.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

GUARANTOR:

WITNESS:

\_\_\_\_\_  
(SEAL)

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

# **EXHIBIT E**