



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**October 31, 2000**

**Ordinance 13977**

**Proposed No.** 2000-0318.1

**Sponsors** McKenna, Hague and Vance

1 AN ORDINANCE authorizing the King County executive  
2 to combine two adjacent leaseholds, and execute a new  
3 thirty-five-year lease with BFI Holdings, Limited Liability  
4 Corporation, at King County International Airport/Boeing  
5 Field located in council district 5.

6  
7

8 **PREAMBLE:**

9 In accordance with K.C.C. 4.56.160B and 4.56.180A, the King County  
10 council may adopt an ordinance permitting the county, when the county  
11 determines it to be in the best public interest, to award a new lease by  
12 direct negotiation with interested parties without bidding, and where the  
13 property is to be improved and the value of the improvement will be at  
14 lease equal to the value of the property to be leased, to execute a lease, at  
15 fair market rental value, for a term not to exceed thirty-five years. The  
16 lease is substantially as in the form attached to this ordinance.

17 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

18            SECTION 1. The King County executive is hereby authorized to execute a lease  
19 agreement that is substantially the same as that attached to this ordinance with BFI  
20 Holdings, Limited Liability Corporation, for up to thirty-five years for a parcel of ground  
21 totaling approximately 169,834 square feet (3.89 acres) at King County International  
22 Airport/Boeing Field. The initial rent will be at the rate of \$0.60-0.67/foot/year for  
23 buildable land and \$0.30-0.33/foot/year for nonbuildable land which is consistent with  
24 the fair market value as determined by a recent appraisal. Subsequent rent will be  
25 adjusted triennially in accordance with future airport appraisals, the first adjustment being  
26 due in June of 2000.

27            SECTION 2. Language reflecting voluntary noise abatement procedures and  
28 protecting the county's financial interests in future subleases and assignment of leases  
29 will be added to the lease, consistent with council direction in previous lease approvals.

30            SECTION 3. In accordance with K.C.C. 4.56.160, the county has given notice of  
31 its intention to execute a lease by publishing a notice in a legal newspaper at least once a  
32 week for the term of two weeks, describing the property to be leased and containing a  
33 notice that a copy of the lease is available for public inspection at the property services  
34 division.

35            SECTION 4. BFI Holdings, Limited Liability Corporation will construct  
36 improvements on the leasehold in an amount at least equal to the value of the land which

37 is one million seven hundred thousand dollars.

38

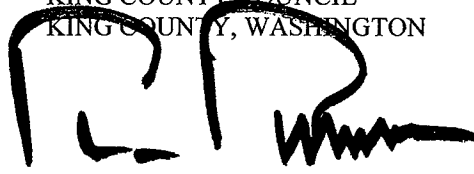
Ordinance 13977 was introduced on 6/5/00 and passed by the Metropolitan King County Council on 10/30/00, by the following vote:

Yes: 13 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz, Mr. McKenna, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Vance and Mr. Irons

No: 0


Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 3 day of NOVEMBER, 2000.



Ron Sims, County Executive

**Attachments** A. Airport Lease Agreement, B. Map of 8535 Perimeter Road, C. Map of 8555 Perimeter Road, D. King County International Airport General Terms and Conditions

D R A F T

Lease #7045

AIRPORT LEASE AGREEMENT

1. PARTIES. This Lease dated the \_\_\_\_\_ of \_\_\_\_\_, 2000, is between King County, a municipal corporation and a political subdivision of the State of Washington, and BFI Holdings, LLC, herein called "Lessee."

2. PREMISES. King County hereby leases to Lessee, upon the following terms and conditions, premises located in King County, Washington legally described as follows:

Approximately 169,834 SF  
See attached Exhibit A

3. TERM.

A. This lease term shall be for 35 years, and shall begin on the \_\_\_\_\_ day of \_\_\_\_\_, 2000, and end of the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

B. If King County is unable to deliver possession of the premises by the date specified for the commencement of the term as a result of causes beyond King County's reasonable control, King County Shall not be liable for any damage caused for failing to deliver possession, and this lease shall not be void or voidable. Lessee shall not be liable for rent until King County delivers possession of the premises to Lessee, but the term shall not be extended by the delay. If King County does not deliver possession of the premises to Lessee WITHIN SIXTY (60) days after commencement of the term, Lessee can elect to terminate this lease by giving notice to King County at any time before the date King County delivers possession of the premises to Lessee.

C. Upon execution of this lease, the two existing leases between King County and BFI Holdings will be terminated.

4. RENT. Lessee shall pay to King County a rent of \_\_\_\_\_ (\$ \_\_\_\_\_) DOLLARS payable in advance on or before the first (1st) day of each and every calendar month of the lease term. Lessee shall also pay a Leasehold Excise Tax of \_\_\_\_\_ (\$ \_\_\_\_\_) DOLLARS. The rent is adjustable as set forth in the King County General Terms and Conditions. All rents and tax shall be made payable to the KING COUNTY INTERNATIONAL AIRPORT and are to be received in the office of the:

King County International Airport  
 7233 Perimeter Road  
 Post Office Box 80245  
 Seattle, WA 98108

Said rental is exclusive of any other sale, franchise, business or occupation, or other tax based on rents. Should any such taxes apply during the life of this lease the rent shall be increased by such amount.

5. SECURITY DEPOSIT. At the time of the signing of this lease, the Lessee, shall pay the first (1st) month's rent and leasehold tax. In addition, the Lessee shall deposit with King County the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) DOLLARS as a security deposit for the payment of rent and tax. The security deposit is the only sum to be credited toward payment of the last month's rent upon Lessee's termination of the lease. The return of this deposit, or any portion of it, shall be conditioned on the performance of all the Lessee's duties. Within sixty (60) days after termination of the tenancy and vacation of the premises King County will return any sum due the Lessee from this deposit retained by King County. Further more, the Lessee understands and agrees that all rents, late charges and utility bills owing, unless paid by the Lessee, may be deducted from the deposit at the time of Lessee's vacation of the premises if any amount remains in that fund after subtraction of damage. The deposits need not be held in any special account and no interest will be paid thereon.

6. USE. Lessee shall use said premises for the following purposes and no others without prior written consent of King County:

7. LESSEE IMPROVEMENTS.

A. Lessee shall submit to King County detailed plans and specifications for proposed improvements within thirty(30) days after execution of this lease. Such improvements shall consist of:

Office/hangar facility

Lessee will begin construction of the improvements no later than \_\_\_\_\_ days after approval of the plans and specifications, and shall be completed by \_\_\_\_\_.

B. If lessee substantially fails to make the improvements or alterations required by this lease, this lease shall be terminated and all rentals paid shall be forfeited to King County.

C. Construction Bonds. Lessee shall provide Lessor with a payment bond and a performance bond, prior to executing this Lease in an amount equal to the estimated cost of all improvements.

The performance bond shall name both Lessee and, if Lessee is not itself construction the improvements, Lessee's contractor, as principal(s) and Lessor shall be named as obligee. The surety or sureties on the bond shall bind themselves, their heirs, executors, administrators, successors and assigns along jointly and severally with Lessee and Lessee's contractor, to King County, a political subdivision of the State of Washington for payment on the bond. The aforesaid bond shall remain in effect until the principal(s) has promptly and faithfully performed all obligations and duties contained in this lease referring to the construction of improvements. The bond shall be available to claimants for labor and materials in the event principal(s) fail to pay for such labor and materials in addition to the payment bond, however, such claims shall be subject and junior damage claims of the obligations and duties contained in this Lease regarding construction of improvements.

A payment bond, pursuant to R.C.W. 39.08, shall be executed by Lessee and/or Lessee's contractor to assure payment for labor, materials and supplies required for performance of the lease obligations. This bond is in addition to the performance bond mentioned above.

In any action on the bond for the recovery of any claim or defect, each party shall pay its own costs and attorney's fees.

Surety or sureties on the payment and performance bonds shall waive any notice requirements for any modifications to this lease consented to by the Lessor. Lessor shall notify the surety or sureties in writing of any defects in performance. The surety's or sureties' right of subrogation to the position of Lessee shall be subject to the written consent of Lessor, though not unreasonably withheld.

8. GENERAL TERMS AND CONDITIONS. Attached hereto and incorporated herein by reference are King County General Terms and Conditions. In the event of any conflict or inconsistency between the terms of this Lease and the King County General Terms and Conditions, the terms of this Lease shall control.

9. ENTIRE AGREEMENT - AMENDMENTS. This printed lease together with the attached Terms and Conditions and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

10. NOTICES. Required notices except legal notices shall be given in writing to the following respective address:

To King County: KING COUNTY INTERNATIONAL AIRPORT

7233 Perimeter Road  
Post Office Box 80245  
Seattle, WA 98108

To Lessee: BFI Holdings, LLC  
8555 Perimeter Road  
Seattle, WA 98108

or to such other respective addresses as either party hereto may hereafter from time to time designated in writing. Notices sent by mail shall be deemed to have been given when properly mailed.

11. PERSONAL GUARANTEE. Performance and payment of all obligations of Lessee are jointly and severally guaranteed by the Individuals who sign this agreement. Said guarantor's are acting in their individual capacity, on behalf of themselves and of their marital communities consisting of themselves and their respective spouses.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

BFI HOLDINGS, LLC

KING COUNTY, a political  
subdivision of the State of WA

BY: \_\_\_\_\_

BY: \_\_\_\_\_  
Manager, Property Services

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED

BY: \_\_\_\_\_  
Airport Manager

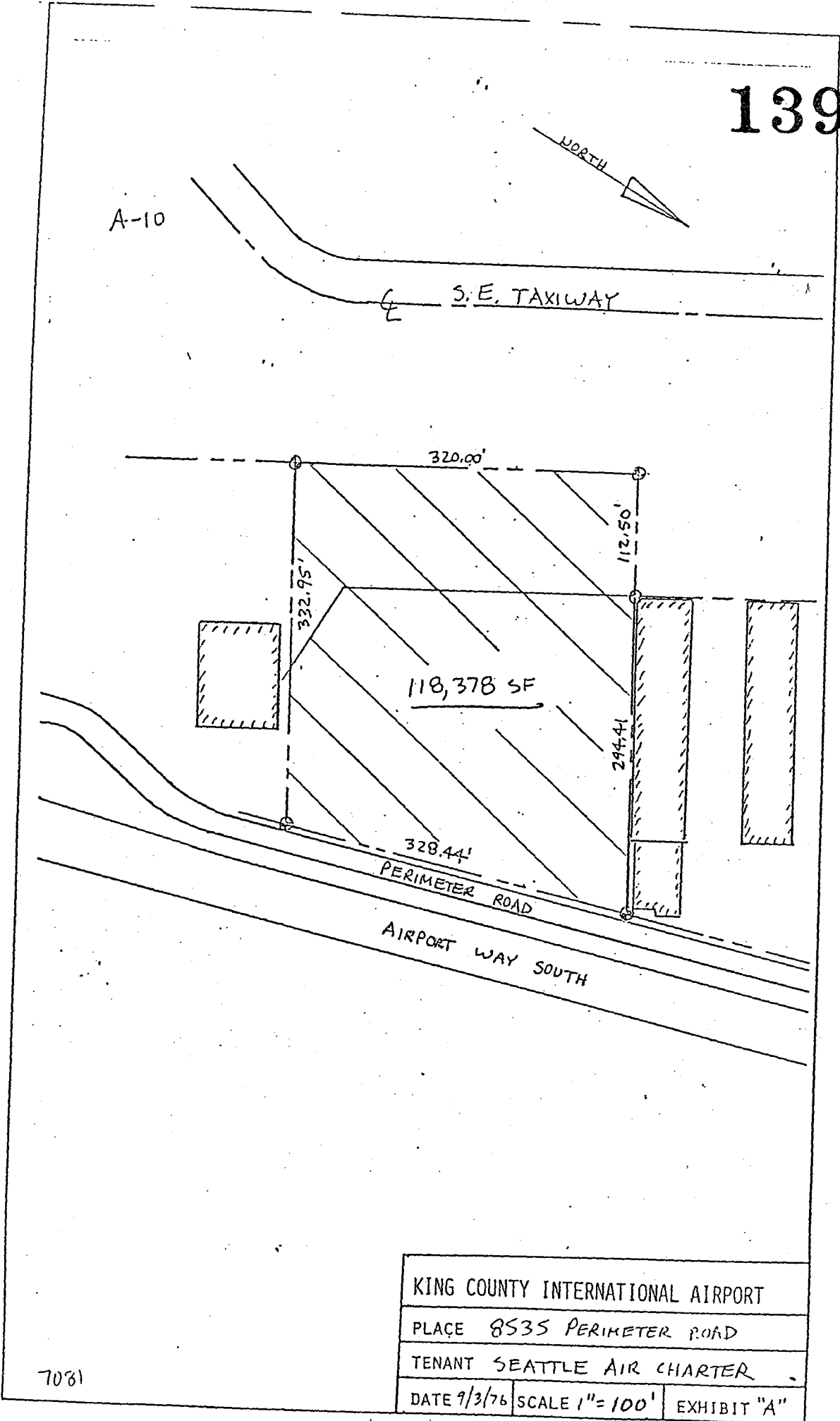
DATE: \_\_\_\_\_

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Sr. Deputy Pros. Attorney

DATE: \_\_\_\_\_

13977



KING COUNTY INTERNATIONAL AIRPORT		
PLACE 8535 PERIMETER ROAD		
TENANT SEATTLE AIR CHARTER		
DATE 9/3/76	SCALE 1"=100'	EXHIBIT "A"

7081

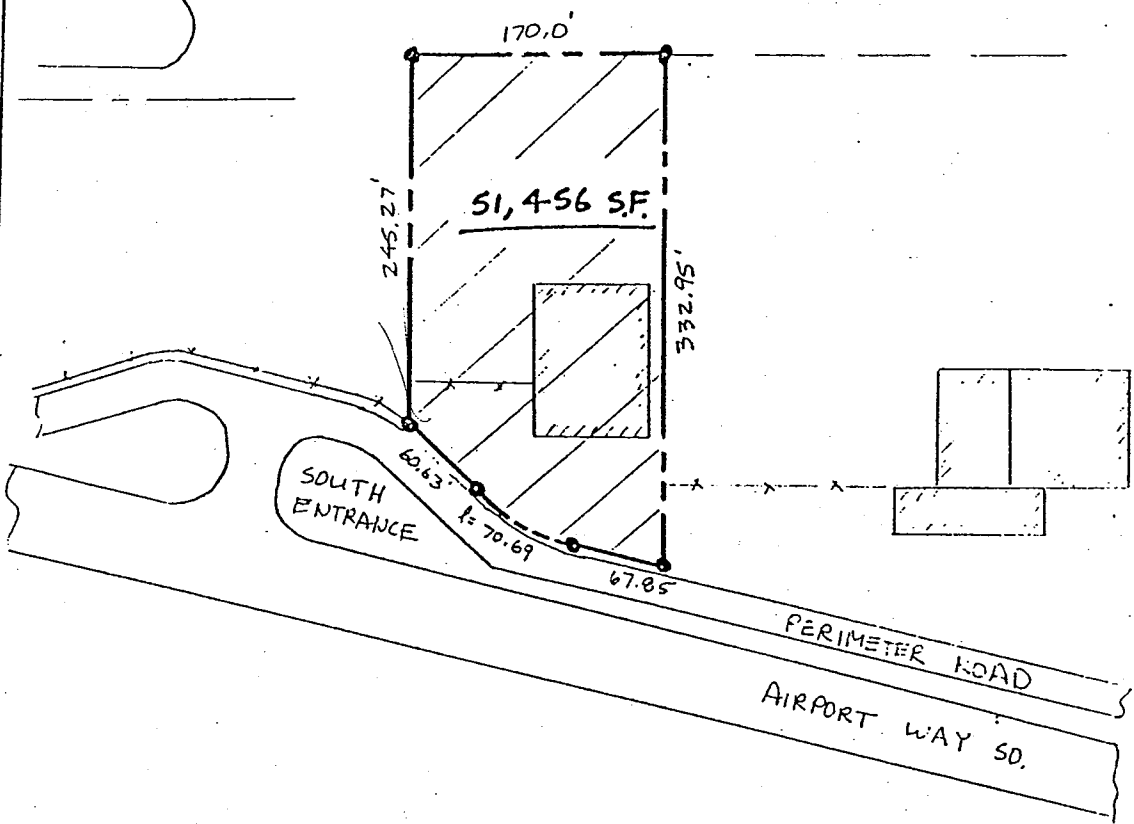




13977

A-10

S.E. TAXIWAY



KING COUNTY INTERNATIONAL AIRPORT		
PLACE 8555 PERIMETER ROAD		
TENANT <del>PURET SOUND FLIGHT CENTER, INC.</del> HERO FLIGHT		
DATE 10/24/20	SCALE 1"=100'	EXHIBIT "A"

7045

**KING COUNTY INTERNATIONAL AIRPORT (KCIA) GENERAL TERMS AND CONDITIONS****1. LATE PAYMENT, TAXES, LICENSES, FEES AND ASSESSMENTS.**

- A. **LATE PAYMENTS.** Lessee acknowledges that the late payment by Lessee to King County of any rent or other sums due under this Lease will cause King County to incur administrative, collection, processing and accounting costs and expenses not contemplated under this Lease, the exact amounts of which are extremely difficult and impractical to fix. Therefore, if any rent or other sum due under this Lease is not received by King County from Lessee by the tenth calendar day of the month in which said rent or other sum is due (**“the Delinquency Date”**), Lessee shall immediately on the Delinquency Date pay to King County a late charge equal to the greater of (i) five percent (5%) of the amount of such rent or other sum, or (ii) Fifty Dollars (\$50.00). King County and Lessee agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to King County for its loss caused by Lessee’s nonpayment. Should Lessee pay said late charge but fail to pay contemporaneously therewith all unpaid amounts of rent or other sums due under this Lease, King County’s acceptance of this late charge shall not constitute a waiver of Lessee’s default with respect to Lessee’s nonpayment or prevent King County from exercising all other rights and remedies available to King County under this Lease or under law. Additionally, all such delinquent rent or other sums, and all late charges not paid when due, shall bear interest for each day following their Delinquency Date until paid at a percentage rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted under applicable laws. Waiver of the late charge or interest with respect to any delinquent payment will not be deemed to constitute a waiver of the late charge or interest with respect to any subsequent delinquent payment. Any payments of any kind returned for insufficient funds will be subject to an additional charge of \$25.00 payable by Lessee to King County. In addition, if payments are received by check or draft from Lessee, and two (2) or more of such checks or drafts are dishonored by the bank or other financial institution they were drawn upon in any twelve (12) month period, King County may thereafter require all rent and other payments due hereunder from Lessee to King County to be made by bank cashier’s or bank certified check or other similar means of payment and King County shall not be required to accept any checks or drafts of Lessee which do not comply with such requirements.
- B. **LEASEHOLD TAX.** A Leasehold Excise Tax, if applicable, is levied pursuant to the Revised Code of Washington (R.C.W.) Chapter 82.29A. The Lessee agrees to pay this tax to King County. If the State of Washington changes the Leasehold Excise Tax or if King County receives authorization to levy this tax, the tax payable shall be correspondingly changed.
- C. **LICENSE, TAXES AND FEES.** Lessee shall pay throughout the term of this Lease all applicable taxes and all license and excise and other applicable fees including, but not limited to, fuel flowage fees and landing fees, covering the business conducted on the Premises as provided for in King County Code Title 15 as now existing and as it may be amended.

**D. MITIGATION ASSESSMENTS.**

- 1) KCIA is developing for future implementation a plan for mitigation of existing noise, surface and groundwater, safety, and traffic conditions. This plan, subject to King County Council adoption, will be financed from mitigation fees which will be assessed to all Boeing Field users in proportion to their contribution to the circumstance which is being mitigated and/or their proportionate use of the improvement requiring mitigation investment.
- 2) Lessee shall pay any mitigation assessments now in effect, or hereafter established by the County according to King County Council Motion #9523 dated March 28, 1995. This Lease shall be considered a "new lease" for purposes of said Motion #9523, and Lessee shall pay all such mitigation assessments commencing with the effective date of such assessments as promulgated by the County.

E. OTHER CONSIDERATION. No offset, reduction, or credit toward rent shall be allowed unless it is in writing and signed by the Manager of the Property Services Division of King County.

2. RENT ADJUSTMENT. To ensure a fair rent based upon the fair market value of the Premises, King County may adjust the rent to the then current Fair Market Value every three years. The first adjustment will occur on \_\_\_\_\_. Subsequent adjustments will take effect on the third anniversary of the previous adjustment. The date on which a rent adjustment becomes effective is referred to hereafter as "**the Rent Adjustment Date**". The three year period commencing on the Rent Adjustment Date is referred to hereafter as "**the Succeeding Period**".

A. FAIR MARKET RENTAL VALUE DEFINED. For all purposes required under this Lease, "**Fair Market Rental Value**" is defined as: An amount in the competitive market that a well-informed and willing lessor, who desires but is not required to lease, would accept, and which a well-informed and willing lessee, who desires but is not required to lease, would pay for the use of the Premises, after due consideration of all the elements reasonably affecting value.

B. NOTICE OF RENTAL ADJUSTMENT. When it elects to adjust the rent, King County will give Lessee at least thirty days written notice of the adjusted rent for the Succeeding Period. The rent as adjusted shall take effect on the Rent Adjustment Date specified in the notice. Unless Lessee, within thirty days following receipt of notice from King County, gives King County written notice of its rejection of the adjusted rent together with Lessee's statement of the amount Lessee considers to be the Fair Market Rental Value, the rent as adjusted by King County will become the rent for the Succeeding Period. If Lessee so notifies King County of its rejection of the adjusted rent, the parties will negotiate in good faith in an attempt to agree upon the rent adjustment.

C. ARBITRATION.

1) If, thirty days after King County receives Lessee's notice of its rejection of the rent as adjusted by King County, Lessee and King County cannot agree upon the rent adjustment, the rent for the Succeeding Period will be adjusted by arbitration. Lessee and

King County will each select one disinterested arbitrator, and the two selected arbitrators will select a third.

- 2) King County will give Lessee written notice of the name and address of its selected arbitrator and his or her qualifications. Unless otherwise agreed in writing by King County, Lessee shall give King County written notice of the name and address of Lessee's selected arbitrator and his or her qualifications within thirty days after Lessee's receipt of King County's notice. If Lessee fails to so provide its written notice to King County, Lessee shall be deemed to waive its right to arbitration, the arbitration shall not proceed, and the rent as adjusted by King County shall become the rent for the Succeeding Period.
- 3) If the two arbitrators have not selected a third arbitrator within thirty days after the selection of the last selected of the two, either Lessee or King County will apply to the Presiding Judge of the Superior Court in King County for the appointment of a third arbitrator.
- 4) Each arbitrator will be a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, or other appraisal society or association having equivalent ethical and professional standards. If, in the future, a licensing requirement for real estate appraisers is imposed by any legislative body, each arbitrator shall also be licensed. The arbitrators shall not only be impartial, but also shall not have been an employee of, or retained under contract by, either party for a period of one year before the arbitration, and shall have no financial interest in the subject of the arbitration. Each party shall have the right to disqualify any arbitrator who does not meet the requirements of this section by sending a written notice to the other party and to all the arbitrators stating the grounds for disqualification. If the disqualified arbitrator is a party-appointed arbitrator, then that party shall, within fourteen days after its receipt of the other party's notice of disqualification, appoint another arbitrator who meets the requirements of this section to serve in place of the party's disqualified arbitrator. If the disqualified arbitrator is the third arbitrator, then the two party-appointed arbitrators shall, within fourteen days after their receipt of a party's notice of disqualification, select a third arbitrator who meets the requirements of this section to serve in place of the disqualified arbitrator.
- 5) The arbitrators shall give the parties sixty days notice in writing of the date on which the arbitration is to commence. Unless otherwise agreed in writing by King County and Lessee, each party shall, no later than thirty days before the arbitration is scheduled to commence, provide the other party with a copy of an appraisal report prepared by a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, or other appraisal society or association having equivalent ethical and professional standards, that supports that party's claim of Fair Market Rental Value. If Lessee fails to so provide a copy of its appraisal report to the County, Lessee shall be deemed to waive its right to arbitration, the arbitration shall not proceed, and the rent as adjusted by King County shall become the rent for the Succeeding Period.
- 6) The three arbitrators will determine a fair rent for the premises for the Succeeding Period based upon the Fair Market Rental Value; but the arbitrators may not reduce the

rent below the sum fixed for the immediately preceding period. The decision of a majority of the arbitrators will bind both Lessee and King County. At the conclusion of the arbitration, the arbitrators will submit a written report in counterpart copies to Lessee and King County, which shall state their determination of the rent to be paid by Lessee for the Succeeding Period. The report shall contain all pertinent evidence that led to their conclusion together with an explanation of their reasoning for such conclusion.

D. COST OF ARBITRATION. Each party shall pay for its appraisal and shall bear the expense of its own counsel or other representative, experts, and preparation and presentation of matters to the arbitrators. Each party shall pay the fees and expenses of its selected arbitrator. The fees and expenses of the third arbitrator and all other costs of the arbitration will be divided equally between Lessee and King County.

E. RENT PENDING ADJUSTMENT AND RETROACTIVITY. In the event resolution of the rental adjustment is not completed either by negotiation or arbitration prior to the Rent Adjustment Date:

- 1) Lessee shall, pending resolution of such rent adjustment, continue to pay King County the rent then in effect;
- 2) The adjusted rent, as determined either by negotiation or arbitration, shall be retroactive to the Rent Adjustment Date; and
- 3) King County, at its option, may elect to require Lessee to pay interest in the amount of twelve percent per annum commencing on the Rent Adjustment Date on any sum due as a result of a retroactive increase.

3. COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Premises, Lessee will comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. The Lessee specifically agrees to comply and pay all costs associated with achieving such compliance without any notice from King County, and further agrees that King County does not waive this section by giving notice of demand for compliance in any instance.

4. UTILITIES. Lessee shall pay for all costs, expenses, fees, services, and charges of all kinds for heat, light, water, gas, and telephone, and for all other public utilities used on said Premises so that the same shall not become a lien against the leased Premises.

5. IMPROVEMENTS AND ALTERATIONS.

- A. Lessee shall make no alterations or improvements to or upon the Premises, or install any fixtures (other than trade fixtures which can be removed without injury to the Premises) without first obtaining written approval from King County.
- B. Unless otherwise stipulated, all improvements or alterations erected or made on the Premises shall, upon expiration or earlier termination of this Lease, belong to King County without compensation to the Lessee; however, King County shall have the option, to be exercised on expiration or earlier termination of the Lease, to require the Lessee, at Lessee's expense, to remove any or all such improvements or alterations.

6. **CONDITION OF PREMISES.**

- A. Lessee has inspected and knows the condition of the Premises.
- B. Lessee acknowledges that the Premises may contain Hazardous Materials, as defined in Section 31 of these General Terms and Conditions, and Lessee accepts the Premises "AS IS", including, without limitation, the presence of any Hazardous Materials, underground storage tanks or contaminated soil, or the actual or threatened release, deposit, seepage, migration or escape of Hazardous Materials at, from or into the Premises, and the compliance or noncompliance of the Premises with applicable federal, state, county and local laws and regulations including, without limitation, the Environmental Laws as defined in Section 31 of these General Terms and Conditions.
- C. KING COUNTY DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PREMISES, AND NO OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF KING COUNTY IS AUTHORIZED OTHERWISE. WITHOUT LIMITATION, THE FOREGOING SPECIFICALLY EXCLUDES WARRANTIES WITH RESPECT TO THE CONDITION OF THE PREMISES FOR DEVELOPMENT AND/OR USE BY LESSEE, THE PRESENCE OF ANY HAZARDOUS MATERIALS, UNDERGROUND STORAGE TANKS OR CONTAMINATED SOIL, OR THE ACTUAL OR THREATENED RELEASE, DEPOSIT, SEEPAGE, MIGRATION OR ESCAPE OF HAZARDOUS MATERIALS AT, FROM OR INTO THE PREMISES, AND THE COMPLIANCE OR NONCOMPLIANCE OF THE PREMISES WITH APPLICABLE FEDERAL, STATE, COUNTY AND LOCAL LAWS AND REGULATIONS, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL LAWS.
- D. King County shall not have any obligation to make any changes or improvements, or to incur any expenses whatsoever for the maintenance, monitoring, repair or remediation of the Premises.
- E. Lessee acknowledges and agrees that King County shall have no liability for, and that Lessee shall have no recourse against King County for, any defect or deficiency of any kind whatsoever in the Premises without regard to whether such defect or deficiency was discoverable by Lessee or King County.

7. **CONSTRUCTION DEFECTS.** King County shall not be liable to the Lessee for claims or damages arising from any defect in the construction of or the present condition of the Premises, whether known or unknown, or for damage by storm, rain, or leakage or any other occurrence.

8. **MAINTENANCE.**

- A. Lessee shall throughout the term of this Lease without cost or expense to King County, keep and maintain the leased Premises and all improvements, landscaping, fixtures and equipment which

may now or hereafter exist thereon, in a neat, clean, and sanitary condition and shall, except for reasonable wear and tear, at all times preserve the Premises in good and safe repair. Upon the expiration or sooner termination of the Lease, Lessee shall forthwith return the same in as good condition as existed at the commencement of occupancy (ordinary wear and tear excepted).

- B. If, after thirty (30) days' notice from King County, Lessee fails to maintain or repair any part of the leased Premises or any improvement, landscaping, fixtures or equipment thereon, King County may, but shall not be obligated to, enter upon the leased Premises and perform such maintenance or repair, and Lessee agrees to pay the costs thereof to King County upon receipt of a written demand. Any unpaid sums under this paragraph shall be payable as additional rent on the next rent payment date due following the written demand and will bear interest at a percentage rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted under applicable laws.

9. **INDEMNITY AND HOLD HARMLESS.** The Lessee agrees to indemnify and hold King County harmless as provided herein to the maximum extent possible under law. Accordingly, the Lessee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Lessee's exercise of rights and privileges granted by this Lease, except to the extent of King County's sole negligence. The Lessee's obligations under this section shall include:

- A. The duty to promptly accept tender of defense and provide defense to the County at the Lessee's own expense;
- B. Indemnification of claims made by the Lessee's own employees or agents; and,
- C. Waiver of the Lessee's immunity under the industrial insurance provisions of Title 51 R.C.W. but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this section, all such fees, expenses and costs shall be recoverable from the Lessee.

In the event it is determined that R.C.W. 4.24.115 applies to this Lease, the Lessee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Lessee's negligence. Lessee agrees to defend, indemnify, and hold harmless the County for claims by

Lessee's employees and agrees to waiver of its immunity under Title 51 R.C.W., which waiver has been mutually negotiated by the parties.

The provisions of this Section 9, Indemnity and Hold Harmless, shall survive the expiration or termination of this Lease with respect to any event that occurs prior to, or on the date of, such expiration or termination.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.

#### **10. FIRE INSURANCE.**

##### **(If K.C. Insures for Fire)**

- A. No use shall be made or permitted to be made of the Premises, nor acts done which will increase the existing rate of insurance upon the Premises, or cause the termination of any insurance policy covering the Premises or any part thereof, nor shall Lessee sell or permit to be kept, used, or sold in or about the Premises, any article which may be prohibited by the standard form of fire insurance policies. Lessee shall at its sole cost and expense, comply with any and all requirements pertaining to the Premises. Lessee agrees to pay to King County as additional rent, any increase in premiums on policies which may be carried by King County on the Premises covering damages and loss of rent caused by fire and the perils normally included in extended coverage above the rates for the least hazardous type of occupancy for industrial, warehousing, office and distribution operations.

##### **(If K.C. doesn't insure for fire)**

- B. The Lessee will carry fire and extended coverage insurance with rent interruption endorsement in an amount equal to the full insurable value of all improvements, structures, and buildings located on the Premises. The policy shall include King County as an insured for its vested interest in the property. A certificate of insurance must be provided to King County. King County will not carry insurance on Lessee's property.
- C. In the event of the total or partial destruction by fire, regardless of origin, or otherwise of the building, structures, or facilities currently on the Premises or subsequently constructed by the Lessee, the Lessee shall have the obligation to reconstruct such facilities to their original condition within six (6) months after their destruction.

- 11. INSURANCE REQUIREMENTS.** By the date of execution of this Lease, the Lessee shall procure and maintain for the duration of this Lease, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with exercise of the rights and privileges granted by this Lease, by the Lessee, its agents, representatives, employees/subcontractors. The cost of such insurance shall be paid by the Lessee. If there is any inconsistency between the minimum insurance requirements set forth below in this Lease and the insurance required by King County in any other Airport agreement to which the Lessee is a party, the Lessee shall maintain the most stringent insurance required.

**In consideration of the duration of this Lease, the parties agree that the Insurance Requirements Section herein, at the discretion of the King County Risk Manager, may be reviewed and adjusted with each amendment and within 90 days of the end of the first 3 year period of the Lease Term and the end of each successive 3 year period thereafter.**

**Any adjustments made as determined by the King County Risk Manager, shall be in accordance with reasonably prudent risk management practices and aviation insurance**



**industry standards and shall be effective on the first day of each successive 3 year period.**

**Adjustment, if any, in insurance premium(s) shall be the responsibility of the Lessee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.**

For all coverages: Each insurance policy shall be written on an "Occurrence" form.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) **Aviation General Liability:**  
Coverage shall include but not be limited to the following:
  - \* Aircraft liability for bodily injury, death, property damage, contractual and passenger liability.
  - \* Airport general liability for bodily injury, death, property damage (including explosion, collapse and underground), contractual, personal injury, liquor liability (if alcoholic beverages are sold or distributed), products/completed operations and hangar keepers liability.
- (2) **Automobile Liability:**  
Insurance Services Office form number (CA 00 01 ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.
- (3) **Workers Compensation:**  
Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.
- (4) **Employers Liability or "Stop Gap";**  
The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.

B. Minimum Limits of Insurance

The Lessee shall maintain limits no less than, for:

- (1) **Aviation General( Liability; combined single-limit in accordance with the following table:**

Maximum Gross Landing Weight	Minimum Requirement: (each Occurrence)
Over 15,000 lbs.	\$25,000,000
10,001 - 15,000 lbs.	\$15,000,000
5,000 - 10,001 lbs.	\$10,000,000
Under 5,000 lbs.	\$5,000,000

- (2) Automobile liability: \$5,000,000 combined single limit.
- (3) Workers Compensation: Statutory limits.
- (4) Employers Liability or "Stop Gap": \$1,000,000

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and or self-insured retention of the policies shall not limit or apply to the Lessee's liability to the County and shall be the sole responsibility of the Lessee.

D. Other Insurance Provisions

The insurance policies required in this Lease are to contain or be endorsed to contain the following provisions:

(1) Aviation Liability and Automobile Liability

- a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Lessee in connection with this Lease.
- b. The Lessee's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the Lessee's insurance or benefit the Lessee in any way.
- c. The Lessee's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(2) All Policies:

- a. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid,

until after forty-five (45) days prior written notice has been given to the County.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated with Bests' with minimum surpluses, the equivalent of Bests' surplus size VIII. If at any time, any of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Lessee shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements for approval.

F. Verification of Coverage

Lessee shall furnish the County with certificate(s) of insurance and endorsement(s) required by this Lease. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and are to be received and approved by the County prior to the commencement of activities associated with the Lease. The County reserves the right to require complete certified copies of all required insurance policies at any time.

G. By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Lessee under this Lease. The Lessee shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

H. Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.

**12. MUTUAL RELEASE AND WAIVER.** To the extent a loss is covered by property insurance in force, King County and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Lessee.

**13. SURRENDER OF PREMISES.** At the expiration or earlier termination of this Lease, Lessee shall promptly surrender possession of the Premises to King County, and shall deliver to King County all keys that it may have to any and all parts of the Premises.

**14. DEFAULT AND RE-ENTRY.** If any rents above reserved or other obligations provided herein, or any part thereof shall be and remain unpaid when the same shall become due, or if Lessee shall violate or default on any of the covenants and agreements herein contained, then King County may

terminate this Lease upon giving the notice required by law and re-enter said Premises using such force as may be required. Notwithstanding such re-entry by King County, the liability of the Lessee for the rent provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee covenants and agrees to make good to King County any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. The Lessee shall pay such deficiency each month as the amount thereof is ascertained by King County. In the event it becomes reasonably necessary to make any changes, alterations, or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Lessee shall also be responsible for such cost.

15. **ASSURANCE OF PERFORMANCE.** In the event a default in the performance of any obligation under this Lease which remains uncured for more than ten (10) days after demand, King County may request and the Lessee shall provide adequate assurance of the future performance of all obligations under this Lease. The adequacy of any assurance shall be determined according to commercially reasonable standards for lessors of real property in the County of King, State of Washington. Adequate assurance shall include, but not be limited to, a deposit in escrow, a guarantee by a third party acceptable to King County, a surety bond, or a letter of credit. Lessee's failure to provide adequate assurance within twenty (20) days of receipt of a request shall constitute a material breach and King County may in its discretion terminate this Lease.
16. **ADVANCES BY KING COUNTY FOR LESSEE.** If Lessee fails to pay any fees or perform any of its obligations under this Lease other than payment of rent, King County will mail notice to Lessee of its failure to pay or perform. Twenty (20) days after mailing notice, if Lessee's obligation remains unpaid or unperformed, King County may pay or perform these obligations at Lessee's expense. Upon written notification to Lessee of any costs incurred by King County under this paragraph, Lessee will reimburse King County within twenty (20) days.
17. **NON-WAIVER.** It is hereby agreed that no waiver of any condition or covenant in this Lease or any breach thereof, shall be taken to constitute waiver of any subsequent breach.
18. **SIGNS.** No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by Lessee on any part of the outside of the Premises without the prior written consent of King County, provided that such consent shall not be unreasonably withheld. If Lessee violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the Lessee provided, however, King County shall give Lessee written notice of Lessee's violation of this provision and Lessee shall have forty-eight (48) hours after receiving said notice to comply with the terms of this provision. All signs erected or installed by Lessee shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.
19. **INSPECTION AND "FOR RENT" SIGNS.** King County reserves the right to inspect the Premises at any and all reasonable times throughout the term of this Lease, provided that King County shall not interfere unduly with Lessee's operations. The right of inspection reserved to King County hereunder shall impose no obligation on King County to make inspections to ascertain the condition of the Premises, and shall impose no liability upon King County for failure to make such inspections. King County shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for thirty (30) days prior to the expiration or sooner termination of this Lease.

20. **LIENS.** It is understood and agreed that this Lease is executed and delivered upon the express condition that the Lessee will not and cannot contract any debt or debts for labor, materials, services, or otherwise which will or may become a lien against the interest of King County in the Premises, and King County hereby denies to Lessee any right, power, or authority to do any act, or contract any obligation or liability which would in any way subject the interest of King County in the Premises to any lien, claim, or demand whatsoever.

21. **ASSIGNMENT OR SUBLEASE.**

- A. Lessee shall not assign or transfer this Lease or any interest therein, nor sublet the whole or any part of the Premises, nor grant an option for assignment, transfer or sublease for the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law, or by any process or proceeding of any court or otherwise without the prior written consent of King County, which consent shall not be unreasonably withheld. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this Lease one-half (1/2) or more of the outstanding shares of any class of stock of Lessee's corporation shall belong to any stockholders other than those who own one-half or more of the outstanding shares of that class of stock at the time of the execution of this Lease, or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this Lease within the meaning of this paragraph. If King County shall give its consent to any assignment, transfer or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment, transfer or sublease shall be made without the County's consent.
- B. If Lessee desires to assign, transfer, or sublease, or grant an option for assignment, transfer or sublease, for the whole or part of the Premises, or any portion of this Lease or any interest therein, Lessee shall notify King County in writing of said desire and the details of the proposed agreement at least sixty (60) days prior to the proposed date of assignment, transfer, or sublease, or grant of an option therefor, to a third party. The notification shall include but not be limited to a financial statement of the third party, including but not limited to a full disclosure of the monetary payment or any other considerations involved, and an affidavit from the third party stating it has examined this Lease, and, understanding this Lease, agrees to assume and be bound by all of the Lessee's obligations and covenants under this Lease, the same as if it were the original Lessee hereunder, and the proposed date of assignment, transfer or sublease, or grant of an option therefor.
- C. King County reserves the right of first refusal in the event Lessee attempts to assign, transfer or sublease, or grant an option therefor, any portion of the leased premises to any party independent of itself unless the new assignment is necessary for purposes of financing. Lessee shall provide with its notice of intent to transfer, sublease or assign, or grant an option therefor, a pro-ration of value as to "Included Property" as defined below and the value of the leased Premises. Should the parties be in dispute of this pro-ration, Paragraph 2C of these General Terms and Conditions, ARBITRATION, shall prevail.
- D. If Lessee assigns or transfers its interest, other than to a subsidiary, affiliate or parent company of Lessee; Lessee (Assignor) shall pay King County, as Additional Rent, at least Seventy-five percent (75%) of the Assignment Premium derived from that assignment or transfer.

**"Assignment Premium"** shall mean all rent, additional rent, and/or other moneys, property, and other consideration of every kind whatsoever received by Lessee (Assignor) from the assignee/transferee for, or by reason of, the assignment or transfer (including all amounts received by Lessee (Assignor) for any Included Property). If lessee subleases, other than to a subsidiary, affiliate or parent company of Lessee, Lessee shall pay King County, as Additional Rent, Seventy-five percent (75%) of the Sublease Premium derived from that sublease.

**"Sublease Premium"** shall mean all rent, additional rent, and/or other moneys, property, and other consideration of every kind whatsoever received by Lessee from the sublessee for, or by reason of, the sublease (including all amounts received by Lessee for any Included Property).

**"Included Property"** means only the leasehold improvements added by the Lessee, and any non-removable fixtures purchased by the Lessee attached thereto, that are transferred to the assignee, transferee or sublessee as part of the transaction. Lessee shall pay the Assignment Premium or Sublease Premium to King County as and when Lessee receives payment from such assignee, transferee or sublessee.

- E. Credits. The following shall be subtracted from what otherwise would be owed for a Sublease Premium or Assignment Premium:
- 1) Any costs, fees or commissions actually paid by Lessee (Assignor) to procure the assignment, transfer or sublease, amortized over the term of the assignment, transfer or sublease, including, without limitation, fees and commissions paid to attorneys and licensed real estate brokers;
  - 2) The actual cost of leasehold improvements undertaken by Lessee solely to prepare the space for the assignee, transferee or sublessee (amortized over the term of the assignment, transfer or sublease commencing with the date on which the assignment, transfer or the sublease term commences);
  - 3) The unamortized cost of Included Property, if any, determined on a straight-line basis over the term of the original lease, not the assignment, transfer or sublease, as certified to King County by Lessee's independent certified public accountant (at Lessee's expense, the cost of which may be deducted from the Sublease or Assignment Premium);and
  - 4) Fixed rent and additional rent allocable to the space covered by such sublease.
- F. King County will review the request and respond with either an approval or disapproval of the request not later than ten (10) days prior to the proposed date. Disapproval of any such request shall be final and binding on the Lessee and not subject to any arbitration, provided that any approval will not be unreasonably withheld. King County shall charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any assignment, transfer or sublease, or grant of an option therefor. Lessee may assign this Lease to any wholly owned subsidiary without obtaining King County's consent or payment of fees.

## **22. CONDEMNATION.**

- A. King County and Lessee will immediately notify the other in writing of the receipt of notice of

any proceedings with respect to a condemnation or intent of any authority to exercise the power of eminent domain.

- B. If all of the Premises are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, this Lease terminates as of the date condemnor takes possession, and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any improvement taken by the condemnor made to the Premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.
- C. If part of the Premises is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, King County or Lessee may choose to terminate this Lease as of the date the condemnor takes possession. If neither King County nor Lessee elects to terminate this Lease, the rent will be reduced in the same proportion that the value of the portion of the Premises to be taken bears to the value of the entire Premises as of the date condemnor takes possession. Lessee will have no claim or interest in or to any award of just compensation or damages except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the part taken by the condemnor of any improvements made to the Premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.
- D. If temporary use of all or a portion of the Premises is taken by any lawful authority for a period which would reduce the leasehold and, consequently, would cause the Premises to be untenable for the use by Lessee for the purposes set forth in the section of this Lease titled "Use," then, at Lessee's determination, King County or Lessee may choose to terminate this Lease. If King County or Lessee elect to terminate the Lease, the Lease will terminate the date the condemnor takes possession and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any improvements made to the Premises by the Lessee. If neither King County nor Lessee elects to terminate this Lease, the Lease will continue in full force and Lessee will be entitled to receive any award from the condemnor for the use of all or part of the Premises, EXCEPT that Lessee may elect to have the rents reduced by the amount proportionally attributable to any partial temporary taking, in which event Lessee shall not be entitled to any portion of the award attributable to said use.
- E. It is understood and agreed that Lessee shall not be party to any negotiation or proceedings at law wherein King County claims compensation other than that which is defined statutorily as constituting "just compensation."

**23. TERMINATION BY KING COUNTY.** King County reserves the right to terminate this Lease upon twelve (12) months notice in writing to the Lessee or the persons in possession of the Premises if the Premises are required by King County for the improvement or development of KCIA for public airport uses and purposes, and under such termination the Lessee or persons in possession of Premises shall be reimbursed by King County for the fair market value, as defined in Section 2A of this document, of any improvements placed on the Premises by the Lessee in accordance with the terms of this Lease. In the event that King County and Lessee cannot agree upon the value of said

improvements, King County and Lessee shall submit to have the fair market value adjusted by arbitration in the manner described in Section 2C.

24. **ANTI-DISCRIMINATION.** In all services or activities and all hiring or employment made possible by or resulting from this Lease, Lessee shall comply with all applicable federal, state, King County and local laws and regulations regarding non-discrimination, and the requirements of all authorities having jurisdiction regarding non-discrimination. Any violation of this provision shall be considered a default of this Lease and, in addition to any other remedies available to the County, shall be grounds for termination of this Lease by the County, and may result in ineligibility for further County agreements.
25. **HEIRS, AGENTS, AND ASSIGNS.** Without limiting any provisions of this Lease pertaining to assignment, transfer and subletting, the provisions of this Lease bind the heirs, successors, agents and assigns of the parties to this Lease.
26. **CAPTIONS.** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
27. **TIME IS OF THE ESSENCE.** Time is of the essence of this Lease, and in the event of the failure of Lessee to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, the Lessee shall be in default.
28. **CUMULATIVE REMEDIES.** No provision of this Lease precludes King County from pursuing any other remedies for Lessee's failure to perform his obligations.
29. **ATTORNEY'S FEES/DEFAULT CHARGE.** In the event legal action is brought by either party to enforce any of the terms, conditions, or provisions of this Lease, the prevailing party shall recover against the other party in addition to the costs allowed by law, its litigation expenses and such sum as the court may adjudge to be a reasonable attorney's fee. In addition to all other charges, Lessee shall pay a charge of \$150.00 to King County for preparation of a notice of default.
30. **HOLDING OVER.** If the Lessee holds over after the expiration or earlier termination of this Lease, Lessee shall become a tenant from month-to-month at a rental rate equal to one hundred-fifty percent (150%) of the rent in effect upon the date of such expiration or termination, and otherwise subject to the terms, covenants, and conditions of this Lease, except those clearly inapplicable to the month-to-month tenancy. Acceptance by King County of rent after such expiration or earlier termination shall not result in a renewal of this Lease, nor affect King County's right of re-entry or any rights of King County hereunder or as otherwise provided by law. If Lessee fails to surrender the Premises upon the expiration of this Lease despite demand to do so by King County, Lessee shall indemnify and hold King County harmless from all loss or liability including, without limitation, any claim made by any succeeding Lessee founded on or resulting from such failure to surrender, together with interest, reasonable attorney's fees, costs, and expenses.
31. **HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.**
- A. Definitions.** "Hazardous Materials" as used herein shall mean:



- (1) Any toxic substances or waste, sewage, petroleum products, radioactive substances, heavy metals, medical, corrosive, noxious, acidic, bacteriological or disease-producing substances; or
- (2) Any dangerous waste or hazardous waste as defined in:
  - a. Washington Hazardous Waste Management Act as now existing or hereafter amended (RCW Ch. 70.105); or
  - b. Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or
  - c. Resource Conservation and Recovery Act as now existing or hereafter amended (42 U.S.C. Sec. 6901 et seq.); or
- (3) Any hazardous substance as defined in:
  - a. Comprehensive Environmental Response, Compensation and Liability Act as now existing or hereafter amended (42 U.S.C. Sec. 9601 et seq.); or
  - b. Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or
- (4) Any pollutants, contaminants, or substances posing a danger or threat to public health, safety or welfare, or the environment, which are regulated or controlled as such by any applicable federal, state or local laws, ordinances or regulations as now existing or hereafter amended.

## **B. Environmental Compliance.**

(1) In the conduct of its business at the Airport, and in its use and occupancy of the Premises and the areas of the Airport outside the Premises that are available for use by the Lessee and others (“**the Public Areas**”), the Lessee shall, at the Lessee's own expense, comply with all federal, state and local laws, ordinances and regulations now or hereafter in effect related to Hazardous Materials and the environment, including, but not limited to, laws and regulations pertaining to stormwater discharges as set by the U.S. Environmental Protection Agency and the Washington Department of Ecology, as well as such rules concerning environmental matters as may be promulgated by the Airport Manager (“**the Environmental Laws**”). The Lessee warrants that its business and all its activities to be conducted or performed in, on, or about the Premises and the Public Areas shall comply with all of the Environmental Laws. The Lessee agrees to change, reduce, or stop any non-complying activity, or install necessary equipment, safety devices, pollution control systems, or other installations as may be necessary at any time during the term of this Lease to comply with the Environmental Laws.

(2) The Lessee shall not without first obtaining the County’s prior written approval use, generate, release, handle, spill, store, treat, deposit, transport, sell or dispose of any

Hazardous Materials in, on, or about the Premises or the Public Areas. In the event, and only in the event, that the County approves any of the foregoing, the Lessee agrees that such activity shall occur safely and in compliance with the Environmental Laws.

(3) The Lessee shall not cause or permit to occur any violation of the Environmental Laws on, under, or about the Premises and the Public Areas, or arising from the Lessee's use or occupancy of the Premises and the Public Areas.

(4) The Lessee shall, in a timely manner and at the Lessee's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental or regulatory authorities ("**the Authorities**" or "**Authority**") with jurisdiction under the Environmental Laws. If the Lessee fails to fulfill any duty imposed under this paragraph within the time specified by applicable law, or if no time is specified within a reasonable time, the County may take action; and in such case, the Lessee shall cooperate with the County in order to prepare all documents the County deems necessary or appropriate to determine the applicability of the Environmental Laws to the Premises and/or the Public Areas and the Lessee's use thereof, and for compliance with the Environmental Laws, and the Lessee shall execute all documents promptly upon the County's request. No such action by the County and no attempt made by the County to mitigate damages shall constitute a waiver of any of the Lessee's obligations under this Section 31, Hazardous Materials and Environmental Compliance.

(5) Should any Authority demand that a cleanup or remediation plan be prepared and that a cleanup or remediation be undertaken because of any deposit, spill, discharge or other release of Hazardous Materials that occurs during the term of this Lease at or from the Premises, or which arises at any time from the Lessee's use or occupancy of the Premises and/or the Public Areas, then the Lessee shall, in a timely manner and at the Lessee's own expense, prepare and submit the required plans and all related bonds and other financial assurances; and the Lessee shall carry out all such cleanup or remediation plans. Any such cleanup or remediation plans are subject to the County's prior written approval. Although the County reserves the right to review and approve such cleanup or remediation plans, the County assumes no responsibility for such plans or their compliance with the Environmental Laws.

(6) If King County determines in its sole discretion that an emergency exists because of the deposit, spill, discharge or other release of Hazardous Materials at or from the Premises or which arises from the Lessee's use or occupancy of the Premises and/or the Public Areas, King County will take such action as King County, in its sole discretion, considers reasonable to contact the Lessee and advise it of the emergency situation. If the Lessee is unreachable, or is unwilling to take immediate action, King County may, but is not required to, take immediate action to address the emergency situation, and Lessee will reimburse the County for all of its costs and expenses related thereto. The fact that King County takes immediate action shall not relieve Lessee of any of its responsibilities under this Lease and the Environmental Laws including, without limitation, Lessee's responsibility for complying with reporting requirements.

### **C. Indemnification.**

(1) The Lessee shall be fully and completely liable to the County for any and all cleanup and/or remediation costs and expenses, and any and all other charges, expenses, fees,

penalties (civil and criminal) imposed by any Authority arising out of the Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials in or about the Premises or the Public Areas. The Lessee shall indemnify, defend, and save the County harmless from any and all of the costs, expenses, fees, penalties, and charges assessed against or imposed upon the County (as well as the County's reasonable attorney's fees, costs and expenses) by any Authority as a result of the Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials, or from the Lessee's failure to provide all information, make all submissions, and/or take all steps required by all Authorities under the Environmental Laws.

(2) The Lessee shall indemnify and hold the County harmless from any and all claims, liabilities, lawsuits, damages, costs and expenses, including reasonable attorney's fees, for injuries to persons or death, property damage, loss or costs caused by or arising from: (a) the use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials by the Lessee or any of its agents, representatives or employees in, on, or about the Premises or the Public Areas, and (b) King County's immediate emergency action as described in Section 31.B(6) above.

**D. Reporting Requirements.** The Lessee shall comply with the Environmental Laws requiring the submission, reporting, or filing of information concerning Hazardous Materials with the Authorities, and shall provide to the County a full copy of any such submission, filing or report as submitted within 15 days of such submission.

**E. Right to Check on the Lessee's Environmental Compliance.** The County expressly reserves the right to conduct, and the Lessee shall fully cooperate in allowing, from time to time, such examinations, tests, inspections, and reviews of the Premises as the County, in its sole and absolute discretion, shall determine to be advisable in order to evaluate any potential environmental problems.

**F. Remedies.** Upon any default by the Lessee under this Section 31, Hazardous Materials and Environmental Compliance, the County shall be entitled to the following rights and remedies in addition to any other rights and remedies that may be available to the County:

(1) At the County's option, to terminate this Lease immediately; and/or,

(2) At the County's option, to perform such response, remediation and/or cleanup as is required to bring the Premises and any other areas of the Airport affected by the Lessee's default into compliance with the Environmental Laws and to recover from the Lessee all of the County's costs and expenses in connection therewith; and/or

(3) To recover from the Lessee any and all damages associated with the default, including but not limited to, response, remediation and cleanup costs, expenses and charges, civil and criminal penalties and fees, adverse impacts on marketing the Premises or any other areas of the Airport, loss of business and sales by the County and other lessees of property at the Airport, diminution of value of the Premises and/or other areas of the Airport, the loss of or restriction of useful space in the Premises and/or other areas of the Airport, and any and all damages and claims asserted by third parties, and the County's reasonable attorneys' fees, costs and expenses.

**G. Remediation on Termination of Lease.** Upon the termination of this Lease, the Lessee shall remove, remediate or clean up any Hazardous Materials on, or emanating from, the Premises caused by Lessee as required by applicable laws, and the Lessee shall undertake whatever other action may be necessary to bring the Premises into full compliance with the Environmental Laws ("**Termination Cleanup**"). The process for such Termination Cleanup is subject to the County's prior written approval. Although the County reserves the right to review and approve the Termination Cleanup process, the County assumes no responsibility for it or its compliance with the Environmental Laws.

If the Lessee fails or refuses to commence the Termination Cleanup process, or fails to reasonably proceed toward completion of such process, within the time specified by law or within a reasonable time if no time is specified, the County may elect to perform such Termination Cleanup after providing the Lessee with written notice of the County's intent to commence Termination Cleanup, and after providing the Lessee a reasonable opportunity, which shall not be less than ninety (90) days after such notice (unless the County is given notice by a government or regulatory agency with jurisdiction over such matter that Termination Cleanup must commence within a shorter time), to commence or resume the Termination Cleanup process. If the County performs such Termination Cleanup after said notice and the Lessee's failure to perform same, the Lessee shall pay all of the County's costs and expenses.

**H. Survival.** The Lessee's obligations and liabilities under this Section 31, Hazardous Materials and Environmental Compliance, shall survive the expiration or termination of this Lease.

**32. PUBLIC USE AIRPORT.** The Premises and KCIA are subject to the terms of certain sponsor's assurances made to guarantee the public use of the public airport area of KCIA as incidental to grant agreements between King County and the United States of America; provided, that in the event at any time during the term of this Lease the terms of such assurances should effectively prohibit Lessee's use of the Premises in the general manner contemplated by the parties to this Lease, then such effective prohibition shall be considered as taking by the public and the Lessee or person or persons in lawful possession of the Premises may, upon thirty (30) days prior written notice given to King County, terminate this Lease.

**33. RIGHT OF FLIGHT.** There is hereby reserved to King County, its successors and assigns, for the use and benefit of King County and the public a right of flight for the passage of aircraft in the air-space above the surface of the Premises herein leased, together with the right to cause in said air-space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air-space or landing at, taking off from and operating aircraft on or over KCIA all in accordance with applicable safety and operating regulations of said Airport and the Federal Aviation Administration.

**34. EMPLOYEE CONDUCT.** Lessee shall require and be responsible for the full compliance by its officers, agents, employees, customers and guests with the rules and regulations of the Federal Aviation Administration and KCIA.

**35. SEVERABILITY.** If any term or provision of this Lease or the application of any term or provision

to any person or circumstance is invalid or unenforceable, the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.

36. **GOVERNING LAW/VENUE**. This Lease shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Venue for any legal proceeding shall be exclusively in King County, Washington.

**END OF GENERAL TERMS AND CONDITIONS**