



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**September 10, 2013**

**Ordinance 17657**

**Proposed No. 2013-0361.1**

**Sponsors McDermott**

1           AN ORDINANCE approving a long-term ground lease  
2           agreement with Galvin Aviation, LLC, at King County  
3           international airport in council district eight.

4           BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5           SECTION 1. Findings:

6           A. King County international airport provides essential aviation services to the  
7 citizens of King County.

8           B. The King County executive is authorized to lease real property in accordance  
9 with the provisions of K.C.C. 4.56.150, 4.56.160, 4.56.180 and chapter 15.72 for a term  
10 of years not to exceed thirty-five years.

11           C. The King County executive has negotiated a lease agreement providing for a  
12 fixed base operator at King County international airport.

13           SECTION 2. The King County council, having determined that the proposed  
14 lease agreement is in the best interest of the public, hereby authorizes the executive to  
15 execute the lease agreement in substantially similar form as provided in the attachment to  
16 this ordinance and to take all actions necessary to implement the lease agreement. All  
17 actions up to now taken by county officials, agents and employees consistent with the  
18 terms and purposes of the lease agreement are hereby ratified, confirmed and approved.

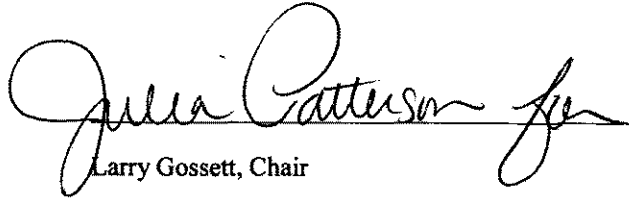
19            SECTION 3. If any one or more of the covenants or agreements provided in this  
20 ordinance to be performed on the part of the county is declared by any court of competent  
21 jurisdiction to be contrary to law, then such covenant or covenants, agreement or  
22 agreements are null and void and shall be deemed separable from the remaining

23 covenants and agreements of this ordinance and in no way affect the validity of the other  
24 provisions of this ordinance or of the lease.  
25

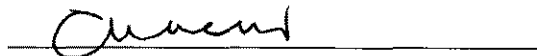
Ordinance 17657 was introduced on and passed by the Metropolitan King County Council on 9/9/2013, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Dunn, Mr. McDermott and Mr. Dembowski  
No: 0  
Excused: 1 - Mr. Gossett

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Gossett, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

APPROVED this 18 day of SEPTEMBER, 2013.

  
Dow Constantine, County Executive

RECEIVED  
2013 SEP 20 AM 9:32  
CLERK  
KING COUNTY COUNCIL

Attachments: A. Lease Agreement - Galvin Aviation, LLC

**ATTACHMENT A to ORDINANCE**  
**LEASE AGREEMENT – GALVIN AVIATION, LLC**

**KING COUNTY INTERNATIONAL AIRPORT**

7277 Perimeter Road South  
Seattle, Washington 98108  
(206) 296-7380

**LEASE AGREEMENT**

1. **PARTIES.** This Lease effective the \_\_\_ day of \_\_\_\_\_ 2013, (the "Effective Date") is between King County, a municipal corporation and a political subdivision of the State of Washington, and Galvin Aviation, LLC, a Delaware limited liability company, herein called "Lessee."

2. **PREMISES.** King County hereby rents to Lessee, upon the following terms and conditions, premises located in King County, Washington, legally described as follows (see Exhibit "A" attached), and commonly known as:

7149-7233 Perimeter Road South, Seattle WA 98108  
Approximately 347,174 square feet

3. **TERM.** The term of this Lease is for thirty-five (35) years (the "Lease Term"). The Lease Term shall commence on the date King County delivers to Lessee confirmation it has terminated all of the Existing Leases as provided in Section 7(A) below, (the "Commencement Date"), and end on the thirty-fifth (35<sup>th</sup>) anniversary of the Commencement Date. The Parties Agree that promptly following the Commencement Date they shall execute an Amendment to this Lease confirming the actual Commencement Date

4. **RENT.** Lessee shall pay to King County a rent of \$46,289.87 DOLLARS payable in advance on or before the first day of each and every calendar month of the Lease Term. Lessee shall also pay on the base rent a Leasehold Excise Tax levied pursuant to RCW Chapter 82.89A in an amount as currently levied of \$5,943.62 DOLLARS per month. The rent is adjustable as set forth in the General Terms and Conditions. All rents and taxes shall be made payable to the KING COUNTY INTERNATIONAL AIRPORT and are to be received in the office of:

King County International Airport  
7277 Perimeter Road South, Suite 200  
Seattle, Washington 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 AND DAMAGE DEPOSITS.** At the time of signing of this Lease, the Lessee shall pay the first (1<sup>st</sup>) month's rent and leasehold tax. In addition, the Lessee shall deposit with King County the sum of \$104,466.97 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

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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 (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. Furthermore, 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 for damage and cleaning at the time of Lessee's vacation of the Premises if any amount remains in that fund after subtraction of damage and cleaning costs. 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 permitted purposes and no others without prior written consent of King County:

- (a) Aircraft sales (new and used), leasing, and rental;
- (b) Aircraft fuel sales and fuel storage;
- (c) Aircraft ground handling, and maintenance service, including engine and accessory overhaul;
- (d) Flight training;
- (e) Air taxi, charter and cargo operations;
- (f) Aircraft parts and accessory sales;
- (g) Transient aircraft service;
- (h) Tie-down and hangar rental for transient and based aircraft;
- (i) Avionics sales and service;
- (j) Aviation business related office space rental;
- (k) Any other items in the future that may develop as a function of a Fixed

Based Operator or general aviation business, except that each usage must be approved by King County; and

(l) Personal or general services to aircraft customers, including catering, lounge, snack bar services, parking and car-rental services, provided said car rental services shall be conducted under separate agreement with King County identical to the terms of King County's agreement with other car rental concessions at Boeing Field/KCIA, as amended from time to time.

All services, uses, activities and operations must be approved or accredited by the F.A.A. and any other applicable permitting agency or jurisdiction, where such approval, accreditation, or permitting is necessary.

No other uses, activities or operations shall be conducted by the Lessee from the Premises without first obtaining the written consent of King County.

Lessee agrees to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; provided, that Lessee shall not be required to consult with King County in advance in establishing its pricing and the Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions, by way of example and not limitation, to volume purchasers, based aircraft, or charter customers.

So long as it is operating on the Premises, Lessee shall use the entire Premises in a businesslike and responsible manner during the entire term of this Lease.

To the best knowledge of King County, the lease of the Premises by King County to Lessee pursuant to this Lease does not violate, and complies in all material respects with all applicable subdivision laws, ordinances, rules and regulations and there are no conditions, restrictions or encumbrances to which the Premises are subject that would preclude the redevelopment and use of the Premises by Lessee as provided in this Lease. If it is hereafter alleged that the lease of the Premises by King County to Lessee pursuant hereto violates or does not comply in all material respects with an applicable subdivision law, ordinance, rule or regulation, King County shall take all commercially reasonable actions as it lawfully may to defend against such allegation and, if the allegation has a reasonable basis in fact or law, to cure such alleged violation or noncompliance.

7. EXISTING TENANTS

A. Existing Leases.

1. The Premises are currently subject to the following existing King County leases and rental agreements: (i) Leases 7049, 7252, 7006 (the "Galvin Leases"); (ii) Lease 7273 with the Aviator's Store, Inc.; (iii) Lease 7292 with the Aviation Training Center; (iv) Lease 7288 with The Jones Payne Group, Inc. and (v) Lease 7291 with National Aviation (collectively the "Existing Leases"). As soon as possible following the Execution Date King County shall proceed to deliver termination notices to all the tenants under the Existing Leases other than the Galvin Leases (the "Existing Tenants") and shall proceed to terminate said leases pursuant to the termination provisions contained therein.

2. Galvin agrees it shall execute a termination agreement with King County terminating the Galvin Leases effective upon the Commencement Date of this Lease. Galvin further agrees that it shall enter into monthly rental agreements with the Existing Tenants who choose to remain, on fair market terms, including rent, for their current premises under the Existing Leases to be effective on the Commencement Date of this Lease and shall then provide the Existing Tenants the opportunity for relocation described in Section 7(B) below.

B. Opportunity for Relocation. Lessee acknowledges a specific commitment to provide on fair market terms, including rent, adequate and reasonable office/retail space of comparable size and function to their existing premises ("Replacement Premises") to the Existing Tenants that express a desire to lease space in Lessee's completed redevelopment. Lessee shall contact said tenants within sixty days (60) days of the Commencement Date to inquire about their interest in Replacement Premises. If there is such interest, Lessee will provide a written proposal of the offered sublease terms and conditions and the prospective tenants shall be given sixty (60) days to respond to said term sheet reach a mutually acceptable agreement. If the tenants either do not respond or an agreement is not completed within said time period, Lessee shall be under no further obligation to provide Replacement Premises and may terminate the monthly rental agreements of said tenants when Lessee determines it is

necessary to do so for Lessee's redevelopment.

C. Disruption Mitigation. Lessee will undertake all commercially reasonable measures in developing and implementing the phasing and sequencing of its construction to minimize the business interruption to the Existing Tenants who are to be relocated within Lessee's redevelopment, recognizing some disruption will be inherent given the required demolition of existing facilities. Notwithstanding the foregoing, nothing in this Lease is intended to make Lessee responsible for any relocation costs and expenses or any other costs incurred or damages to the Existing Tenants caused by, or resulting from, the relocation of their facilities or termination of their existing leases.

#### 8. CONSTRUCTION OF IMPROVEMENTS.

A. King County hereby approves the construction by Lessee of an executive terminal, administrative offices, and such other ancillary or accessory facilities associated with an Fixed Based Operation together (which would include a flight training center and book store if Lessee and the current operators of such uses reach mutually agreements for Replacement Premises in accordance with the provisions of Section 7(B) above) with possible additional construction of a hangar, fuel farm and ground service equipment shop, on the Premises (the "Project"). Lessee may elect to proceed with either the redevelopment of its executive terminal facility or construction of a fuel farm as its initial phase of development provided that no more than \$2,500,000.00 of the construction costs of a fuel farm may be credited towards satisfying the minimum amount set forth in Section 8(C) below. Lessee's initial conceptual site plan for the Premises is illustrated on Exhibit "C" attached hereto.

B. Attached hereto as Exhibit "D" is a Development Schedule for Lessee's redevelopment of the Premises (the "Development Schedule"). Lessee shall diligently pursue the redevelopment of the Premises in accordance with the Development Schedule proceeding sequentially and commencing the preliminary design process within fourteen (14) days of the Commencement Date. Lessee shall also use commercially reasonable efforts to obtain all permits for the Project (in final, unappealable form) from agencies with jurisdiction (the "Project Approvals") no later than the date specified in Development Schedule (the "Outside Permit Date"), and shall commence demolition as required, at Lessee's sole expense, of existing improvements on the Premises within 30 days of the date all Project Approvals are obtained (the "Demolition Commencement Date"). Prior to demolition, Lessee shall provide Lessor reasonable access to the structure set for demolition for the purposes of identifying and removing any fixtures or equipment owned by Lessor and deemed necessary or valuable by Lessor. Lessee shall thereafter undertake and complete the permitted improvements within a commercially reasonable amount of time following the Demolition Commencement Date. The Development Schedule shall be adjusted on a per diem basis if the time periods for the approvals that are not within Lessee's control including King County design approval and Project Approvals exceed the periods allotted for such approvals on Exhibit "D." Should the total value of the improvements constructed in the initial phase of the redevelopment of the Premises not meet the minimum amount set forth in Section 8(C) below, Lessee agrees it shall develop a second phase of improvements in accordance with the Development Schedule proceeding sequentially and commencing the preliminary design



process of the second phase within six (6) months of substantial completion of construction of the initial phase.

If within the required time periods identified in the Development Schedule, as it may be adjusted as provided above and subject to force majeure extensions, Lessee fails to substantially complete the improvements required by this Lease, and fails to cure such lack of substantial completion within ninety (90) days after written notice from King County, then at the election of King County, this Lease may be terminated and all rentals paid shall be forfeited to King County, including funds expended by Lessee for the demolition of the existing hangar.

C. The total value of the improvements described in this paragraph, as may be evidenced by a certification of total (hard and soft costs) construction costs incurred, shall be at least \$6,900,000.00.

9. SHULTZ FUEL FARM ENVIRONMENTAL OBLIGATION. On September 11, 2012, the Washington State Department of Ecology issued Notice Letters to Lessee's affiliate, Galvin Flying Services, Inc., and to Shultz Distributing, Inc. and King County setting forth required actions for the release of Hazardous Materials on the Shultz Fuel Farm facility (Lease #7088), which is located at King County International Airport and has been utilized in conjunction with Lessee's use of the Premises under its previous lease. In the event that Galvin Flying Services, Inc., or its successors or assigns, fails to pay its equitable share under applicable Environmental Laws of remedial action costs relating to the Shultz Fuel Farm facility following a final determination of equitable shares by future agreement, an allocation process, and/or cost recovery litigation, and King County therefore is required to pay some amount of Galvin Flying Services, Inc.'s equitable share of such remedial action costs (the "Unpaid Portion"), Lessee, or its successors or assigns, shall be responsible for paying the Unpaid Portion. The terms "Hazardous Materials" and "Environmental Laws" have the meanings set forth in Exhibit "B" to this Lease Agreement.

10. GENERAL TERMS AND CONDITIONS. Attached hereto as Exhibit "B" and incorporated herein by reference are King County General Terms and Conditions.

11. LEASEHOLD MORTGAGE ADDENDUM. The Leasehold Mortgage Addendum ("Addendum") attached hereto as Exhibit "E" is hereby incorporated herein by this reference and forms a part hereof. To the extent of any inconsistency between the Addendum and the provisions of this Lease, the Addendum shall control.

12. ENTIRE AGREEMENT AMENDMENTS. This printed Lease with the attached General 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, current or past representations, 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.

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

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To King County:      Manager, Real Estate Services  
King County  
King County Administration Building  
500 Fourth Avenue, Room 830  
Seattle, WA 98104-2337

Airport Director  
King County International Airport  
7277 Perimeter Road South, Suite 200  
Seattle, WA 98108

To Lessee:              Galvin Aviation, LLC  
c/o Galvin Flying Services, Inc.  
7149 Perimeter Road South, Seattle, Washington 98108  
Facsimile: (206) 762-1981

with a copy to:

WR/QFS FBO Holdings, LLC  
175 Ammon Drive  
Manchester, NH 03103  
Facsimile: (603) 472-8444

and a copy to:

WR Capital Partners  
330 South Street  
Morristown, NJ 07962  
Facsimile: (973) 993-2915

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

14. RECORDATION OF MEMORANDUM. King County shall execute and deliver to Lessee for recordation at Lessee's sole cost, promptly following delivery thereof to King County, a memorandum of this Lease prepared by Lessee in form and substance reasonably satisfactory to King County.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

LESSEE:

Galvin Aviation, LLC  
a Delaware limited liability company,

By: *[Signature]*

Its: CFO

Date: 7/23/13

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Ian Taylor  
Sr. Deputy Pros. Attorney

Date: \_\_\_\_\_

LESSOR:

King County, a Political Subdivision of the a  
State of Washington

By: \_\_\_\_\_  
Stephen L. Salyer, Manager  
Real Estate Services Section

Date: \_\_\_\_\_

APPROVED BY CUSTODIAL AGENCY:  
King County International Airport

By: \_\_\_\_\_  
Robert I. Burke, AAE  
Director

Date: \_\_\_\_\_

STATE OF WASHINGTON)

) ss.  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Stephen L. Salyer, to me known to be the Manager of the Real Estate Section, King County, a Political Subdivision of the State of Washington, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that said person was authorized to execute the said instrument for King County.


WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Printed Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF NEW HAMPSHIRE)  
) ss.  
COUNTY OF HILLSBOROUGH)

On this 23rd day of July, 2013, before me, the undersigned, a Notary Public in and for the State of New Hampshire, duly commissioned and sworn, personally appeared Blake C. Fish to me known to be the CEO of Galvin Aviation, LLC a Limited Liability Corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that said person was authorized to execute the said instrument for Galvin Aviation, LLC.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

  
Printed Name: Linda M. Dunton  
NOTARY PUBLIC in and for the State of  
New Hampshire, residing at 25 English Village Road Unit 209, Manchester, NH 03102  
My Commission Expires: \_\_\_\_\_

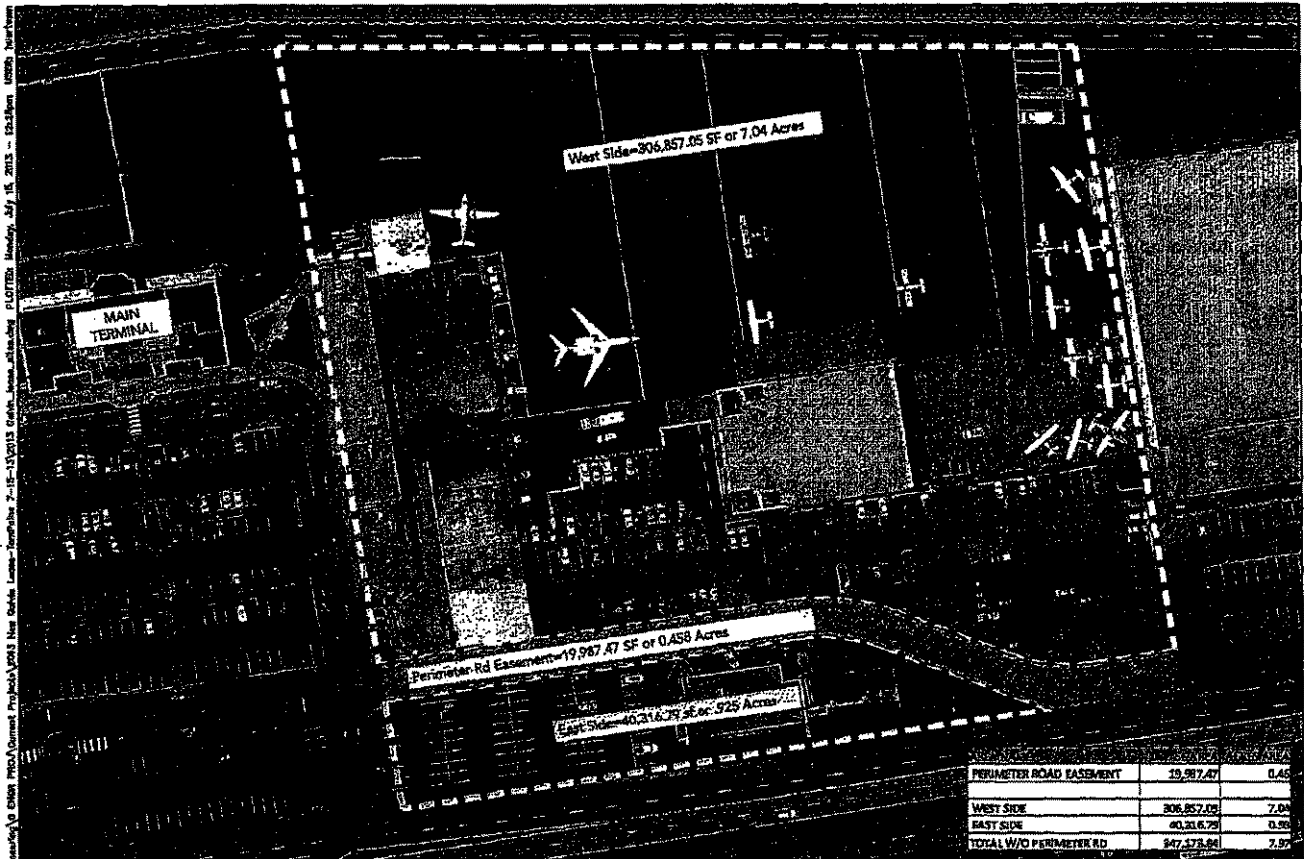
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LINDA M. DUNTON, Notary Public  
My Commission Expires September 3, 2013

**EXHIBIT A**

**LEGAL DESCRIPTION OF PREMISES UNDER LEASE**

[See following page]



FILE MAILED BY: [unclear] PROJECT: GALVIN AVIATION LEASE # 7049 JULY 2013

**GALVIN AVIATION**    SCALE: 1" = 100'  
**LEASE # 7049**  
**JULY 2013**



EXHIBIT B

**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. Subject to the terms of the following sentence, the Lessee agrees to pay this tax to King County. If the State of Washington changes the Leasehold Excise Tax or collects the tax directly from Lessee or if King County receives authorization to levy this tax, the tax payable shall be correspondingly changed.

C. LICENSE, TAXES AND FEES. Throughout the term of this Lease, Lessee shall pay all applicable taxes and all license and excise and other applicable fees and charges 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 condition and/or 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.

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 Rental Value (as defined below) every three years. The first adjustment will occur in 2015 on the anniversary of the lease Commencement Date. 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". King County is considering an amendment to the County Code applicable to all new leases of County property, which would provide for annual rent escalations based on a designated Consumer Price Index (a "CPI Rent Adjustment") for those years in between appraisal based Rent Adjustment Dates. In the event such a



code amendment is adopted by the County and becomes effective prior to the 2015 Rent Adjustment Date of this Lease, the parties agree to enter into an amendment of this Lease to provide for such a CPI Rent Adjustment consistent with the requirements of the adopted County Code amendment.

- 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 temporary use of the Premises (excluding improvements to the Premises that currently exist or are constructed at Lessee's expense during the initial term of the lease), after due consideration of all the elements reasonably affecting value. Fair Market Rental Value may be more or less than the rent then in effect for the Premises.
- B. NOTICE OF RENTAL ADJUSTMENT. 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 with jurisdiction, 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 as defined in King County Code 4.56.010. The decision of a majority of the arbitrators will bind both Lessee and King County. Both King County and the Lessee agree that all non-mandatory provisions of RCW 7.04A are waived and that, unless requested by a majority of the arbitration panel, no formal hearing will be held, no witnesses will testify, no attorneys will participate in the arbitration, and the arbitrators will be the final determiners of both fact and law. 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, and any other of its representatives and/or experts that may be required to prepare for or, in the event it is requested by the arbitration panel, participate in the arbitration. Each party shall also 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 substantially observe and promptly comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. The Lessee specifically agrees to promptly 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, sanitary sewer, storm drainage 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. Except as approved by King County under Section 8 of the Lease Agreement or otherwise contemplated in the Lease Agreement, and other than alterations, improvements and fixtures located entirely inside improvements constructed by Lessee in accordance with the provisions of the Lease Agreement, Lessee shall make no significant 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 prior written approval from King County, approval which will not be unreasonably denied or delayed.

B. All improvements and alterations erected or made on the Premises by Lessee shall be and remain the property of Lessee during the term of this Lease. Unless otherwise stipulated, all improvements or alterations erected or made on the Premises (not including personal property, equipment and removable fixtures, which shall remain the property of Lessee) 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 provided King County shall give Lessee written notice of its intention to require such removal at least three (3) years in advance of the lease termination date. Removal of improvements, if required by King County, shall be completed by Lessee no later than sixty (60) days after the expiration or early termination of the Lease.

C. Lessee agrees to comply with the notification and review requirements contained in Part 77 of the Federal Aviation Regulations in the event that any future structure or building is planned for the Premises, or in the event of any modification or alteration of any future building or structure situated on the Premises.

D. Lessee covenants and agrees that no equipment or fixtures shall be installed or operated on the Leased Premises which would produce

electromagnetic radiation or radio signals, telecommunication signals, or the like, that would violate any FAA rules and regulations.

**6. CONDITION OF PREMISES.**

- A. Lessee has inspected and knows the condition of the Premises, and except as provided in Section 6(F) below, accepts the Premises "AS IS".
- B. Notwithstanding the provisions of Section 34(B)(6) of this document, Lessee acknowledges that the Premises may contain Hazardous Materials, as defined in Section 34 of these General Terms and Conditions, and Lessee except as provided in Section 6(F) below, 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 34 of these General Terms and Conditions.
- C. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS SECTION 6 OR OTHERWISE IN THE LEASE AGREEMENT, 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, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LEASE AGREEMENT, 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. Except as provided in Section 6(F) below, King County shall not have any obligation to Lessee to make any changes or improvements, or to incur any expenses whatsoever for the maintenance, monitoring, repair or

remediation of the Premises, unless mandated by applicable Environmental Law.

E. Except as provided in Section 6(F) below, Lessee acknowledges and agrees that King County shall have no liability to Lessee 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.

F. Existing Contamination.

1) A Phase II Environmental Site Assessment dated June 20, 2012 prepared by Madison Environmental for Lessee and a November, 13, 2012 report prepared by URS for Lessor has identified the existence of Hazardous Materials in the soil and groundwater located on the Premises not associated with any use or activities of the Lessee prior to the commencement of this Lease (the "Existing Contamination").

2) King County may elect but shall not be required to conduct necessary remedial actions required under applicable Environmental Laws for the Existing Contamination prior to the Commencement Date. The Existing Contamination is located in an area of the Premises that Lessee may in the initial phase of redevelopment continue to use as a surface parking lot so that the Existing Contamination may not need to be disturbed by Lessee's initial redevelopment. However at such time as it is required, necessary remedial actions shall promptly be undertaken by King County in compliance with applicable Environmental Laws. In the event that all remedial actions have not been completed and a No Further Action determination from the Washington State Department of Ecology obtained prior to the Commencement Date, King County shall provide indemnification for the Existing Contamination pursuant to the Certification and Indemnity Agreement Regarding Hazardous Substances attached hereto as Exhibit "F" which shall be executed by the parties of even date herewith.

G. King County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or opinions of Lessee, and without interference or hindrance by Lessee. (FAA Order 5190.6B - AGL-600).

H. King County reserves the right, but shall not be obligated to Lessee, 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 Lessee in this regard. (FAA Order 5190.6B - AGL-600). Provided, however, that if King County fails to maintain and keep in repair the landing area of the Airport in a manner consistent with current conditions as of the date of this Lease and such failure results in a material adverse effect on Lessee's use or enjoyment of the Premises, Lessee shall have the right to terminate this Lease by written notice to King County and upon 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 2(A) 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 2(C).

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. Throughout the term of this Lease, Lessee shall, 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) and subject to the other terms of this Lease relating to termination upon damage and destruction.

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 agents, successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and its employees and agents, from and against liability for all claims, demands, suits, and judgments, including costs of defense and attorney fees 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, including attorney fees;
- 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.

Lessee agrees to hold harmless and indemnify King County for any and all costs associated with damage to owned, non-owned or hired aircraft in the Tenant's care, custody and control.

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. Further, Lessee agrees to defend, indemnify, and hold the County harmless for claims by Lessee's employees and agrees to waive, as respects the County only, its immunity under Title 51 R.C.W., which waiver has been mutually negotiated by the parties.

Lessee shall include the same indemnification language in this Section 9 in its sub-leases protecting, indemnifying and defending King County, its appointed and elected officials, and its employees and agents.

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. **INSURANCE REQUIREMENTS – LESSEE/LEASHOLD.** 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 insurance required to be provided by Lessee under this Lease may be provided under blanket policies that cover Lessee and the Premises as well as other entities and properties. The cost of such insurance shall be paid by or on behalf of 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, with regard to limits, scope and types of insurance, 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.

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.

A. **MINIMUM SCOPE AND LIMIT OF INSURANCE.** The Lessee shall obtain and maintain the minimum insurance set forth below. By requiring such minimum insurance, King County shall not be deemed or construed to have assessed the risks that may be applicable to the Lessee under this Contract. The Lessee shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, errors and omissions and environmental impairment, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, the Lessee warrants continuation of coverage, either through policy renewals

or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of termination of this lease. Insurance coverage shall be at least as broad as stated below and with limits no less than:

**1) Commercial General Liability (Aviation General Liability).**

Coverage in the amount of \$5,000,000 combined single limit per occurrence, and for those policies with aggregate limits, a \$5,000,000 aggregate limit shall be maintained.

**2) Aircraft Liability. (Owned, Leased and Non-owned Aircraft) Aircraft liability for bodily injury, death, property damage, contractual and passenger liability.**

Aircraft Liability (combined single-limit per occurrence other than passenger liability in accordance with the following table)

Maximum Gross Take-off Weight	Minimum Requirement: (each Occurrence)
Over 25,000 lbs.	\$25,000,000
15,001 -25,000	\$15,000,000
10,001 - 15,000 lbs.	\$10,000,000
5,000 - 10,001 lbs.	\$5,000,000
Under 5,000 lbs.	\$1,000,000

**3) Aircraft Hull and Machinery.** Lessee agrees to insure owned and/or leased aircraft commensurate with the value of the aircraft and machinery and waive all rights of subrogation against the Lessor.

**4) Liquor Liability.** Required if alcoholic beverages are sold or distributed, a limit of \$1,000,000 per occurrence and for those policies with aggregate limits, a \$1,000,000 limit.

**5) Automobile Liability.** Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9. \$5,000,000 combined single limit per accident. If the work involves the transport of pollutants (as defined by the standard auto policy exclusion of pollution) the auto policy shall be endorsed to include endorsement CA 9948 (or its equivalent) and MCS 90.

**6) Workers' Compensation.** Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "other States" State Law.

7) **Employer's Liability or "Stop Gap"**. Coverage shall be at least as broad as 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.

8) **Hangar Keepers Liability**. Bailee's coverage for non-owned aircraft held in the Lessee's care, custody and control at a limit equal to maximum value of aircraft hangared at any one time per occurrence, and in the aggregate.

9) **Environmental Impairment**. Pollution coverage for all clean-up and remediation costs and expense arising out of Lessee's use of leased Premises for both sudden and accidental discharges or gradual or repeated contamination. \$1,000,000 per claim and in the aggregate.

10) **Property Insurance**. The Lessee will carry "All Risk" property insurance in an amount equal to the full replacement value of all improvements, structures, and buildings located on the premises and business interruption coverage to provide for the continued payment of rent to the owner, in an amount equal to twelve month's rental payment obligation. Coverage shall include the perils of earthquake and flood provided the limits of flood coverage may be a reasonable amount that is less than full replacement value. King County will not carry insurance on Lessee's property or business personal property. Waiver of subrogation must be shown on evidence of insurance. King County shall be named as loss payee on Lessee's property insurance as its interests may appear.

B. **DEDUCTIBLES AND SELF-INSURED RETENTIONS**. Any deductibles or self-insured retentions must be declared to 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.

C. **OTHER INSURANCE PROVISIONS**. The insurance policies required in this Lease are to contain or be endorsed to contain the following provisions:

- 1) All liability policies except workers compensation:
  - 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 below those required by this Lease, without replacement of the coverage in question with insurance that satisfies the requirements of the Lease until after thirty (30) days prior written notice has been given to the County.

D. 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.

E. 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.

F. MUTUAL RELEASE AND WAIVER. To the extent a loss is covered by 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 property 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.

11. **INSURANCE REQUIREMENTS - BUILDINGS/STRUCTURES/FACILITIES UNDER CONSTRUCTION.**

Prior to commencement of any construction and until construction is complete and accepted by the Lessee, the Lessee shall cause its construction contractor(s) to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to said construction. The cost of such insurance shall be paid by the Lessee and/or any of the Lessee's contractors.

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.

A. **MINIMUM SCOPE AND LIMIT OF INSURANCE.** The Lessee shall obtain and maintain the minimum insurance set forth below. By requiring such minimum insurance, King County shall not be deemed or construed to have assessed the risks that may be applicable to the Lessee under this Contract. The Lessee shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, the Lessee warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Lease. Insurance coverage shall be at least as broad as stated below and with limits no less than:

1) **General Liability.** Coverage shall be at least as broad as Insurance Services Office form number CG 00 01 covering **COMMERCIAL GENERAL LIABILITY**. \$5,000,000 combined single limit per occurrence, and for those policies with aggregate limits, a \$5,000,000 aggregate limit. Coverage shall not exclude explosion collapse and underground damage (XCU).

2) **Automobile Liability.** Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9. \$5,000,000 combined single limit per accident. If the work involves the transport of pollutants (as defined by the standard auto policy exclusion of pollution) the auto policy shall be endorsed to include endorsement CA 9948 (or its equivalent) and MCS 90.

**3) Workers' Compensation. Statutory requirements of the State of residency.** Coverage shall be at least as broad as Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "other States" State Law.

**4) Employer's Liability or "Stop Gap".** Coverage shall be at least as broad as 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.

**5) Professional Liability Errors and Omissions.** In the event that services delivered pursuant to this Contract either directly or indirectly involve or require Professional services, Professional Liability Errors and Omissions coverage shall be provide at a limit of \$1,000,000 per claim and in the aggregate..

**6) Builder's Risk/Installation Floater.** Lessee or Contractor shall procure and maintain during the life of the Contract, or until acceptance of the project by King County, whichever is longer, "All Risk" Builders Risk or Installation Floater Insurance at least as broad as ISO form number CP0020 (Builders Risk Coverage Form) with ISO form number CP0030 (Causes of Loss – Special Form) including coverage for collapse, theft, off-site storage and property in transit. The coverage shall insure for direct physical loss to property of the entire construction project, for 100% of the replacement value thereof and include earthquake and flood. The policy shall be endorsed to cover the interests, as they may appear, of King County, Contractor and subcontractors of all tiers with King County and sub-contractors listed as a Named Insured. In the event of a loss to any or all of the work and/or materials therein and/or to be provided at any time prior to the final close-out of the Contract and acceptance of the project by King County, the Contractor shall promptly reconstruct, repair, replace or restore all work and/or materials so destroyed. Nothing herein provided for shall in any way excuse the Contractor or its surety from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the Contract.

**7.) Contractor's Pollution Liability.** \$1,000,000 per claim/aggregate. Lessee and/or contractor shall provide contractor's pollution liability coverage to cover sudden and non-sudden bodily injury and/or property damage to include the destruction of tangible property, loss of use, clean up costs and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead or PCB's are a potential

exposure, such insurance shall not exclude pollution arising out of such substances.

- B. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to 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.
- C. OTHER INSURANCE PROVISIONS. The insurance policies required in this Lease are to contain or be endorsed to contain the following provisions:
- 1) All liability policies except workers compensation and professional 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 contractor'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 contractor'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 below those required by this Lease, without replacement of the coverage in question with insurance that satisfies the requirements of the Lease until after thirty (30) days prior written notice has been given to the County.
- D. 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.

E. VERIFICATION OF COVERAGE. Prior to commencement of construction 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.

F. MUTUAL RELEASE AND WAIVER. To the extent a loss is covered by 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 property 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.

12. CONTRACTOR'S SURETY BOND. Prior to commencing construction of any of Lessee's Improvements, Lessee shall furnish to King County a Contractor's Performance and Payment surety bond in the amount of the total estimated construction costs of the subject Improvements. The surety bond shall be acceptable to the King County in its commercially reasonable discretion and shall state the following:

- (i) Lessee and King County shall be named as dual obligee on described surety bond.
- (ii) That it is conditioned to secure the completion of the proposed construction, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and material suppliers.
- (iii) That the construction work shall be fully and faithfully performed by Lessee, the general contractor, or, on their default, the surety.
- (iv) That in default of such completion and payment, such part of the amount of the bond as shall be required to complete the work shall be paid to King County as liquidated and agreed damages for the nonperformance of this Agreement; it being agreed that the amount of King County's damages is extremely difficult to ascertain and determine.



That the surety will defend and indemnify King County against all loss, costs, damage, expense, claims, and liabilities arising out of or connected with the construction by Lessee.

In lieu of a surety bond, Lessee may provide construction surety bonds supplied by Lessee's general contractor or contractors, provided such bonds contain the same conditions, are issued jointly to Lessee and King County, and are in an amount equal to the total estimated construction cost of the Improvements.

Should Lessee act as owner/builder then all subcontractors shall provide construction surety bonds on the same condition as above stated for construction surety bonds to be provided by Lessee's general contractor.

All Surety Bonds must be issued by a surety company licensed to do business in the State of Washington, acceptable to King County in its commercially reasonable discretion, and shall remain in effect until the entire cost of the subject Improvements shall have been paid in full and the new Improvements shall have been insured as provided in this Lease.

In lieu of the above surety bond, Lessee may provide some other instrument satisfactory to King County or cash deposit which shall guarantee to King County completion of the subject Improvements.

13. **PROPERTY RECONSTRUCTION FOLLOWING CASUALTY.** In the event of the total or partial destruction by casualty 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 former condition and usability and proceed with reasonable diligence to prepare plans and specifications for and carry out, all work necessary (a) to repair and restore the building and/or improvements on the Premises damaged by the casualty to their former condition, or (b) to replace said building and/or improvements with a new building and/or improvements on the Premises of a like quality and usefulness of the building and/or improvements which were damaged. The foregoing notwithstanding, if, upon completion of the repair and reconstruction required by this section, there would be five (5) or fewer years remaining in the term of the Lease, Lessee shall have the right to elect, by written notice given to King County within ninety (90) days after the casualty, not to repair or reconstruct the building, structures and facilities on the Premises, provided, however, that Lessee has maintained the property insurance required by Section 10(A) above. If, under the preceding sentence, Lessee timely and validly elects not to repair or reconstruct the building, structures and facilities on the Premises after a casualty, (1) the Lease shall terminate on the date Lessee gives notice of its election or upon such later date as Lessee may specify in such notice (not to be more than ninety (90) days after such notice is given) and (2) Lessee shall assign to King County all proceeds of Lessee's property insurance payable in respect of the casualty in question and deliver to King County all of such

proceeds received by Lessee and not applied to the preservation and protection of the building, structures and facilities on the Premises prior to the date on which the Lease terminates.

14. **SURRENDER OF PREMISES.** Upon expiration or termination as contemplated herein, Lessee shall surrender to Lessor the Premises and Improvements, structures, fixtures and building equipment supplied by Lessee as part of the Premises and Improvements, together with all alterations and replacements thereof without compensation, allowance or credit, subject to Lessee's covenants to maintain and repair accruing to the date of expiration or termination of the Term as provided in this Lease. Upon expiration or termination, all right, title and interest to the Premises and Improvements shall vest in Lessor, free and clear of any liens and encumbrances.
  
15. **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 and said defaults remain uncured following the cure periods specified below then King County may terminate this Lease upon giving ten (10) days' notice (in the case of monetary defaults) and thirty (30) days' notice (in the case of non-monetary defaults). Lessee may cure any such default by its payment or performance within said periods, provided that if a non-monetary default cannot be cured within said 30-day period, then Lessee shall not be in default if Lessee commences its cure within said 30-day period and takes actions and steps to cure the non-monetary default within a commercially reasonable amount of time. Upon an uncured default, King County may 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. The foregoing notwithstanding, and without limiting any other rights or remedies of King County under the Lease or at law or in equity, King County shall not exercise its right to terminate the Lease by reason of Lessee's failure to pay its monetary obligations hereunder unless and until the amount of such obligations in arrears exceeds Fifty Thousand Dollars (\$50,000). If King County terminates the Lease by reason of Lessee's default, Lessee shall be entitled to a credit against the damages for which Lessee is liable to King County by reason of such default and termination equal to the lesser of (a) the then-existing unamortized balance of Lessee's Investment (as defined below) as reflected on Lessee's books and records and (b) the then-fair market value of all

Included Property (as defined in Section 22(D) below) acquired by King County by reason of the termination of the Lease. As used herein, "Lessee's Investment" shall mean the sum of (a) the cost and expenses identified in Section 22(F) below plus (b) the aggregate of all sums invested by Lessee, both hard and soft costs, in acquiring, developing, constructing, altering and improving the Included Property acquired by King County by reason of the termination of the Lease. Unless King County and Lessee agree upon the fair market value of such Included Property, the procedures set forth in Section 2(C), "Arbitration" shall be followed to determine the fair market value.

16. **ASSURANCE OF PERFORMANCE.** In the event a default in the performance of any obligation under this Lease which remains uncured for a period longer than specified in Section 13 above, 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.

Prior to commencing construction of any of Lessee's Improvements, Lessee shall furnish to King County a surety bond in the amount of the total estimated construction costs of the subject Improvements. The surety bond shall be acceptable to the King County in its commercially reasonable discretion and shall state the following:

- (a) That it is conditioned to secure the completion of the proposed construction, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and material suppliers.
- (b) That the construction work shall be fully and faithfully performed by Lessee, the general contractor, or, on their default, the surety.
- (c) That in default of such completion and payment, such part of the amount of the bond as shall be required to complete the work shall be paid to King County as liquidated and agreed damages for the nonperformance of this Agreement; it being agreed that the amount of King County's damages is extremely difficult to ascertain and determine.
- (d) That the surety will defend and indemnify King County against all loss, costs, damage, expense, claims, and liabilities arising out of or connected with the construction by Lessee.

In lieu of a surety bond, Lessee may provide construction surety bonds supplied by Lessee's general contractor or contractors, provided such bonds contain the same conditions, are issued jointly to Lessee and King County, and are in an amount equal to the total estimated construction cost of the Improvements.

Should Lessee act as owner/builder then all subcontractors shall provide construction surety bonds on the same condition as above stated for construction surety bonds to be provided by Lessee's general contractor.

All Surety Bonds must be issued by a surety company licensed to do business in the State of Washington, acceptable to King County in its commercially reasonable discretion, and shall remain in effect until the entire cost of the subject Improvements shall have been paid in full and the new Improvements shall have been insured as provided in this Lease.

In lieu of the above surety bond, Lessee may provide some other instrument satisfactory to King County or cash deposit which shall guarantee to King County completion of the subject Improvements.

17. **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, but is not obligated to, 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. Failure to comply with this Section 17 will result in a Lease default subject to the terms and conditions set forth in Section 15 "Default and Re-entry."
18. **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.
19. **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.

20. **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 give Lessee not less than twenty four (24) hours prior notice (except in an emergency, in which case King County shall give such advance notice as is practicable under the circumstances), shall not interfere unduly with Lessee's operations and shall use reasonable efforts to cooperate with any security measures Lessee may then have in effect. 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.

21. **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.

22. **ASSIGNMENTS.**

A. Lessee shall not assign or transfer this Lease or any interest therein, nor grant an option for such an assignment or transfer for the whole or any part of the Premises, nor shall this Lease or any interest hereunder 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, conditioned or delayed. If Lessee is a corporation, partnership, limited liability company or other entity, 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, partnership interests, membership interests or other equity interests of Lessee's corporation, partnership, limited liability company or other form of entity shall belong to any stockholders, partners, members or other owners, as the case may be, other than those who own one-half (1/2) or more of the outstanding shares of that class of stock, partnership interests, membership interests or other equity interests at the time of the execution of this Lease, such change in the ownership shall be deemed an assignment of this Lease within the meaning of this paragraph.

1) The foregoing notwithstanding, the following (each, an "Exempt Transfer") shall not be deemed an assignment for purposes of Section 22(A) and shall not require King County's consent: (a) a

transfer of stock, partnership interests, membership interests or other equity interests in Lessee (i) by reason of the death of the person holding such interests or (ii) to any member or members of the immediate family of a person holding such interests or to trusts for their benefit; (b) a transfer of stock or other equity interests that are publicly traded on a recognized exchange; (c) an assignment of the Lease or transfers of stock, partnership interests, membership interests or other equity interests in Lessee to any entity that controls, is controlled by or is under common control with Lessee (as "control" is defined in Section 22(A)(2) below); (d) an assignment of the Lease or transfer of stock or other equity interests in Lessee in connection with the acquisition, by purchase of equity interests or assets, merger or otherwise, of the principal business engaged in by Lessee and the other entities that control, are controlled by or are under common control with Lessee; so long as the Lease does not represent all or substantially all of the value of the business; (e) an assignment of the Lease for collateral purposes to a recognized lending institution in connection with the financing of King County-approved redevelopment of the Premises or the lending institution's subsequent realization on such collateral assignment in keeping with the Leasehold Mortgage Addendum attached to this Lease; or (f) an assignment of stock or other equity interests in Lessee for collateral purposes to a recognized lending institution in connection with the acquisition, by purchase of equity interests or assets, merger or otherwise, of the principal business engaged in by Lessee and the other entities that control, are controlled by or are under common control with Lessee or the lending institution's subsequent realization on such collateral assignment.

- 2) As used in this Section 22, "control" (and derivatives thereof) shall mean either or both of (a) the direct or indirect ownership of more than fifty percent (50%) of the issued and outstanding voting equity interests in an entity and/or (b) the right to direct the affairs of an entity, whether through contractual arrangements, being or, directly or indirectly owning one hundred percent (100%) of the outstanding equity interests of, the general partner or manager of such entity (if such entity is, respectively, a partnership or limited liability company), holding the right to appoint a majority of the board of directors (if such entity is a corporation) or otherwise,
- 3) If King County shall give its consent to any assignment or transfer, this paragraph shall nevertheless continue in full force and effect and no further assignment or transfer shall be made without the County's consent.

- B. If Lessee desires to assign or transfer, or grant an option for assignment or transfer, for the whole or part of the Premises, or any portion of this Lease or any interest herein, and such assignment or transfer requires King County's consent under Section 22(A) above, 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 or transfer, 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 consideration 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 grant of an option therefor. Lessee shall also provide any financial or other information regarding the proposed assignment or the assignee reasonably requested by King County.
- C. King County reserves the right of first refusal in the event Lessee attempts to assign or transfer this Lease or any interest herein, or grant an option therefor, in a transaction that, under Section 22(A) above requires King County's consent. If King County exercises the right of first refusal, Lessee shall assign or transfer to King County, and King County shall acquire, the Lease or the interest therein, or the option therefor, on and subject to all of the terms and conditions of the proposed assignment or transfer or option therefor.
- D. If Lessee assigns or transfers its interest, Lessee (Assignor) shall pay King County seventy-five percent (75%) of the Assignment Premium derived from that assignment or transfer. "Assignment Premium" shall mean (1) 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), less (2) the credits detailed in Section E of this Section 22. "Included Property" means only the leasehold improvements and fixtures and all machinery, equipment, furniture, furnishings, supplies, inventory and other personal property, tangible and intangible, owned by the Lessee that are transferred to the assignee or transferee as part of the transaction. Lessee shall pay the Assignment Premium to King County as and when Lessee receives payment from such assignee or transferee.
- E. Credits. The following shall be subtracted from the consideration that otherwise would be included in the calculation of the Assignment Premium:

- 1) Any transactional costs, fees or commissions actually paid by Lessee (Assignor) to procure the assignment or transfer, including, without limitation, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County;
- 2) The actual cost of alterations and leasehold improvements undertaken by Lessee, or undertaken by the transferee or assignee to the extent paid for or reimbursed by Lessee, solely to prepare the space for the assignee or transferee, including, without limitation, costs of planning, design, permitting and construction, including labor, materials and Washington state sales and use taxes, (amortized, if the consideration for the assignment or transfer is to be paid in installments, over the period of payment, commencing with the date on which the assignment or transfer commences);
- 3) The greater of either: a) the unamortized cost of the Included Property determined on a straight-line basis over the original term of the Lease as certified to King County by Lessee's independent certified public accountant; or b) the fair market value of the Included Property as determined by an appraisal conducted by an independent and certified appraiser. Lessee shall pay the cost of such certification or appraisal and may deduct such costs from the Assignment Premium. If King County disputes the unamortized cost or fair market value of the Included Property as determined by the certified public accountant or appraiser, the procedures set forth in Section 2(C), Arbitration, of these General Terms and Conditions, shall be followed to determine the appropriate cost or fair market value;
- 4) The unamortized transactional costs, fees or commissions, determined on a straight-line basis over the original term of the Lease, actually paid by Lessee (Assignor) to procure the Lease itself (or, if only an interest in the Lease is being assigned or transferred, a ratable portion of such costs, fees and commissions), including, without limitation and without duplicating any of the costs included in Section 22(E)(1) above, fees and commissions



paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County; and

- 5) The "Goodwill Value" or Going Concern Value" of any business being sold or transferred as a part of the assignment. Unless otherwise agreed to by Lessee and King County, "Goodwill Value" or "Going Concern Value" shall be determined by a qualified valuation expert employing standard and generally recognized methods of business valuation. Lessee shall pay the cost of such valuation and may deduct such costs from the Assignment Premium.

- F. Once King County has received all necessary information and documentation pursuant to this Section 22 of this Lease, King County will review the request and respond with either an approval or disapproval of the request (or, if King County so elects, King County's exercise of the right of first refusal provided for in Section 22(C) above) not later than ten (10) days prior to the proposed date of the assignment or transfer. 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 and Lessee may in good faith dispute the reasonableness of King County's disapproval of a request. King County has the option, in its sole discretion, to charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any requests for assignment or transfer pursuant to this section, not to exceed, however, \$1,500.00.

23. SUBLEASES.

- A. Unless the sublease sought to be entered into is (i) to an entity that controls, is controlled by or is under common control with Lessee or (ii) for a portion of the Premises for hangar space, tie down space, office space or other aircraft support or FBO services made by Lessee in the regular course of its business as a Fixed Based Operator (an "Exempt Sublease"); Lessee shall not sublet the whole or any part of the Premises, nor grant an option for sublease for the whole or any part of the Premises without the prior written consent of King County, which consent shall not be unreasonably withheld, conditioned or delayed. King County shall not

withhold its consent to a proposed sublease or grant of an option for sublease on the ground of the subtenant's proposed use if such use is identified as a permitted use in the Master Lease. If King County shall give its consent to any sublease, this paragraph shall nevertheless continue in full force and effect and no further sublease shall be made without the County's consent.

- B. Except with respect to an Exempt Sublease, if Lessee desires to sublease, or grant an option for 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 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, the proposed date of the sublease, and a copy of the sublease agreement between the Lessee and new tenant. Lessee shall also provide any financial or other information regarding the proposed sublease or the sublessee reasonably requested by King County.
- C. Anything in Sections 22(A) or 22(B) to the contrary notwithstanding, if King County shall consent to a sublease to a subtenant that engages in the business of letting office space, hangar space and/or tiedown spaces to third parties, no further notice to or consent from King County shall be required in connection with any such lettings, but Lessee shall provide or cause such subtenant to provide King County upon request with the names and addresses of the third parties to which such subtenant is then letting office space, hangar space and/or tiedown space.
- D. King County acknowledges that Lessee may enter into subleases for pad and hangar space comprised of portions of the Premises. At such time as Lessee enters into a pad or hangar sublease, upon request therefor, King County shall execute a nondisturbance agreement for the benefit of Lessee and the subtenants in the form attached hereto as Exhibit "G". King County acknowledges that such nondisturbance shall constitute King County's consent and that subleases subject to such nondisturbance agreements shall not require further King County consent or trigger King County's recapture, assignment premium or similar rights under Section 22 of these General Conditions.
- E. Credits. The allocable portion of the credits set forth in Section 22(E)(2), (3) and (5) above, as applicable, and without duplicating any such allocable portion, the following shall be subtracted from what otherwise would be included in the consideration used to calculate the Sublease Premium:

- 1) Any costs, fees or commissions actually paid by Lessee (Sublessor) to procure the sublease, including, without limitation, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to procuring the sublease in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County;
  - 2) An allocable portion (based on the square footage subject to the proposed Ground Sublease as compared to the square footage of the entire Premises) of the unamortized transactional costs, fees or commissions, determined on a straight-line basis over the original term of the Lease, actually paid by Lessee (Assignor) to procure the Lease itself, including, without limitation, fees and commissions paid to attorneys, professionals and other consultants (such as real estate advisors, aviation industry experts, environmental consultants, surveyors, certified public accountants, civil and other engineers and architects) and licensed real estate brokers, together with Lessee's actual internal costs and expenses reasonably allocable to the transaction in accordance with sound accounting practices, as itemized in a written report thereof provided by a certified public accountant in form and substance reasonably satisfactory to King County; and
  - 3) The Base Rent, other amounts payable under the Lease as rent and leasehold excise tax allocable to the space covered by such Ground Sublease (as reasonably determined by King County) and paid by Lessee to King County after the date of such Ground Sublease.
- F. Once King County has received all necessary information and documentation pursuant to this Section 22 of this Lease, 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 of the sublease. 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 and Lessee may in good faith dispute the reasonableness of King County's disapproval of a request. King County, at its sole discretion, may charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any sublease, or grant of an option therefor, not to exceed \$1500.00.

24. 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 or threat thereof 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 or threat thereof for a period which will end on or extend beyond the expiration of the term of this Lease, and such taking results, at Lessee's determination, in a material adverse effect on Lessee's use or enjoyment of the Premises, Lessee may choose to terminate this Lease as of the date the condemnor takes possession. If Lessee does not elect 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, Lessee may choose to terminate this Lease. If Lessee elects 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 Lessee does not elect 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."

25. **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 2(A) 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 2(C).

26. **NON-DISCRIMINATION.**

- A. Lessee shall not discriminate against any person on the basis of race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expressions, age (except by minimum age and retirement provisions), or presence of any sensory, mental or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits. The Lessee shall comply fully with all applicable federal, state, and local laws, ordinances, executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 of the Revised Code of Washington, and Titles VI and VII of the Civil Rights Act of 1964.
- B. The Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as 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 said property described in this Lease for a purpose for which a U.S. Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49

CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

- C. The Lessee, for itself, its 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, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expressions, age (except by minimum age and retirement provisions), or presence of any sensory, mental or physical disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereof, no person on the grounds of race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expressions, age (except by minimum age and retirement provisions), or presence of any sensory, mental or physical shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the 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.
- D. The Lessee assures that in its use of the Premises it will substantially observe and promptly comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expressions, age (except by minimum age and retirement provisions), or presence of any sensory, mental or physical disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the Lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.
- E. In addition, this Lease is subject to certain grant assurances resulting from King County's receipt of funding from the federal government. In accordance with those grant assurances, in furnishing services to the

public at the Airport, the Lessee shall furnish said services on a reasonable and not unjustly discriminatory basis to all users of the Airport and shall charge reasonable and not unjustly discriminatory prices for each unit or service; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions, by way of example and not limitation, to volume purchasers, based aircraft, or charter customers.

- F. Lessee will include the provisions of this Section 26, "Non-Discrimination", in all subleases of all or part of the Premises, and in all agreements at any tier for the use of all or part of the Premises.
- G. Any violation of this Section 26, "Non-Discrimination", 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.
27. **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.
28. **CAPTIONS.** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
29. **"LESSEE" INCLUDES LESSEES.** It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessees under this agreement.
30. **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.
31. **CUMULATIVE REMEDIES.** No provision of this Lease precludes King County from pursuing any other remedies for Lessee's failure to perform his obligations.
32. **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.

33. **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.

34. **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 substantially observe and, at the Lessee's own expense, promptly 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 substantially observe and promptly 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 other than those commonly used in the general aviation industry in compliance with applicable Environmental Laws. 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. King County hereby approves the use by Lessee at the Premises of the Hazardous Materials identified on Exhibit "B" hereto.
- 3) The Lessee shall not cause or with its knowledge 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 following written notice to Lessee 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 34, 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 and arises from the Lessee's use or occupancy of 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 (i) because of the deposit, spill, discharge or other release of Hazardous Materials at or from the Premises or (ii) 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 following such notice, 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, provided, with respect clause (i) above, that the deposit,

spill, discharge or other release of Hazardous Materials arises from the Lessee's use or occupancy of the Premises. 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 during its occupancy of the Premises or for any cleanup or remediation costs and expenses for contamination existing or present on that portion of the Property covered by the prior lease, (Lease #7049) The Lessee shall indemnify, defend, and hold 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 in or about the Premises or the Public Areas during its occupancy of the Premises, or from the Lessee's failure to provide all information, make all submissions, and/or take all steps required as a result of Lessee's use of the Premises, 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 34(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 34, Hazardous Materials and Environmental Compliance, and the expiration of the notice and cure period provided in Section 13 above, Default and Re-Entry, 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 pursuant to Section 25, above, but effective immediately; and/or,
- 2) At the County's option, to perform such reasonable 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, reasonable 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 expiration or 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 ("Termination Cleanup"). The process for such Termination Cleanup is subject to the County's prior written approval not to be unreasonably withheld or delayed. 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 reasonable 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 34, Hazardous Materials and Environmental Compliance, shall survive the expiration or termination of this Lease.
- I. Existing Contamination. Other than the definitions of capitalized terms which are referenced, the parties acknowledge and agree that the provisions of this Section 34 shall not be applicable to the Existing Contamination as defined in Section 6(F) above, and with regard to such Existing Contamination, the provisions of Section 6(F) and the Certification and Indemnity Agreement Regarding Hazardous Substances shall control.

35. 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.

36. RIGHT OF FLIGHT. There is hereby reserved to Lessor, 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 Leased Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Airport.

The right of free passage of aircraft shall be in the airspace over the above described property at the height prescribed by Part 77 to an infinite height above said mean sea level and shall be for the exclusive benefit of Lessor, its successors and assigns (the "Aviation Right of Way"). Further, the rights granted pursuant to this section shall include the right to cause or deposit in all airspace above the surface of the Leased Premises and on the Leased Premises such noise, vibrations, fumes, dust, fuel particles and other effects that may be caused by the passage of the aircraft over the Leased Premises or adjoining property; and by the operation of the aircraft landing at, or taking off from, or otherwise operating at or on said Airport. Lessee does hereby waive, remise and release any right or cause of action which it now has or may have in the future against Lessor, its successors and assigns, due to such noise, vibrations, fumes, dust, fuel particles and all other surface effects that may be caused or may have been caused by the operation of aircraft passing over the Leased Premises or adjoining property, or landing at, or taking off from, or otherwise operating at or on said Airport.

Lessor shall have the continuing right to prevent the erection or growth upon the Leased Premises of any building, structure, trees or any other object extending into the airspace above said surface at the height prescribed by Part 77 and to remove from said airspace, or at the sole option of Lessor, to mark and light as obstructions to air navigation, any such building, structure, trees or other objects now upon, or which in the future may be upon the Leased Premises, together with the right of ingress to and egress from and passage over all the Leased Premises (airspace and surface space) for such purposes.

In the event Lessee (or anyone holding through Lessee) interferes with Lessor's right of free passage, Lessor reserves the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.

Lessee by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, Lessor reserves the right to enter upon the Leased Premises and cause the abatement of such interference at the expense of Lessee.

37. **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.
38. **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.

39. **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 Superior Court, Seattle, Washington.
40. **QUIET ENJOYMENT.** So long as Lessee is not in default under this Lease, subject to Paragraph A and B of this Section 40, King County shall at all times during the term and subject to the provisions of this Lease ensure that Lessee shall peacefully and quietly have and enjoy the possession of the Premises without any encumbrance or hindrance.
- A. This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.
- B. This Lease shall be subordinate to the provisions of and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation, or maintenance of the Airport. (FAA Order 5190.6AB- AGL-600).
41. **ESTOPPEL CERTIFICATES.** At any time and from time to time, within twenty (20) days after notice of request by either party, the other party shall execute, acknowledge and deliver to the requesting party, or to such other recipient as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect, or if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement. The statement shall also state the dates to which the rent and any other charges have been paid in advance. The statement shall be such that it can be relied on by any auditor, creditor, commercial banker of either party or by any prospective purchaser or encumbrances of the Premises or Improvements, or of all or any part of Lessee's interest under this Lease. Either party's failure to execute, acknowledge and deliver such a certified statement within the specified time shall constitute acknowledgement by that party to all persons entitled to rely on the statement that this Lease is unmodified and in full force and effect and that the rent and other charges have been duly and fully paid up to and including the respective due dates immediately preceding the date of the request.
42. **FORCE MAJEURE.** In the event that either party shall be delayed hindered in or prevented from doing or performing any act or thing required hereunder by reason of strikes, lock-outs, casualties, Acts of God, labor troubles, inability to procure materials, failure of power, governmental laws or regulation, riots, insurrection, war, terrorism, or other cause beyond the reasonable control of either party, then either party shall not be liable or responsible for any such delays and the doing or performing of such act or thing shall be excused for the period of

the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

43. **PERFORMANCE UNDER PROTEST.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of the party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

**END OF GENERAL TERMS AND CONDITIONS**



**EXHIBIT C**

**CONCEPTUAL SITE PLAN**

**[See following page]**



**EXHIBIT D**

**DEVELOPMENT SCHEDULE**

- Documents (total duration: 26 – 36 weeks)
  - a. Preliminary Design: 2 - 4 weeks
  - b. Schematic Design: 4 – 6 weeks
  - c. King County Approval of Design 2-4 weeks
  - d. Design Development: 8 – 12 weeks
  - e. Construction Documents (to permit submittal): 12 – 14 weeks
- Permitting (total duration: 8 – 12 months – assuming concurrent review of applications)
  - a. Site Development Permit (Pre-app Meeting, Intake Meeting, and Permit Review): 8 – 12 months
  - b. Building Permits – assuming one building permit application (Pre-app Meeting, Intake Meeting, and Permit Review): 6 – 8 months
- Construction
  - a. Assumes Construction is Phased in order to maintain operation out of the current Galvin FBO, while the new one is being constructed. The existing FBO would be demolished and ramp completed once Galvin is operating out of the new FBO.
- Estimated Construction duration: 10 – 11 months
- Estimated Total Project Duration: 26 -36 months.

EXHIBIT E

**LEASEHOLD MORTGAGE ADDENDUM**

This Leasehold Mortgage Addendum (this "Addendum") is a part of that certain Lease (the "Lease") dated as of \_\_\_\_\_, 2013, between KING COUNTY, a political subdivision of the State of Washington, as "Lessor" and GALVIN AVIATION, LLC, a Delaware limited liability company as "Lessee." Capitalized terms used but not defined in this Addendum have the same meanings as those terms have in the Lease.

1. Leasehold Mortgages.

1.1 Notwithstanding the provisions set forth in Section 22 of the General Conditions of the Lease regarding any assignment of the Lease, but subject to the provisions of this Addendum, Lessee shall have the right at any time and from time to time to encumber the leasehold estate created by the Lease and any improvements on the Premises by mortgage, deed of trust or other security instrument to secure repayment of a loan (and associated obligations) made to Lessee by an Institutional Investor (as defined below) for the purpose of financing the construction of any improvements made pursuant to the terms of the Lease ("Improvements") or for the long-term financing of any such Improvements. Lessee shall deliver to Lessor promptly after execution by Lessee a true and verified copy of any Leasehold Mortgage (as defined below), and any amendment, modification or extension thereof, together with the name and address of the owner and holder thereof.

1.2 For purposes of this Addendum: "Institutional Investor" shall mean any national bank organized under the laws of the United States or any commercial bank licensed in the state of Washington, or any savings and loan association, savings bank, trust company or insurance company organized under the laws of the United States or any state of the United States, or any pension, retirement or welfare trust or fund supervised by the United States or any government authority of any state of the United States; "Leasehold Mortgage" shall mean a mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits, which constitutes a lien on the leasehold estate created by the Lease and on the fee interest of Lessee in any Improvements during the term of the Lease; and "Lender" shall mean an Institutional Investor who is the owner and holder of the Leasehold Mortgage having superior lien priority over all other Leasehold Mortgages, provided, however, that Lessor shall have no duty or obligation whatsoever to determine independently the relative priorities of any Leasehold Mortgages, but shall be entitled to rely absolutely upon a preliminary title report current as of the time of any determination of such priorities and prepared by a generally-recognized title insurance company doing business in the state of Washington.

1.3 During the continuance of any Leasehold Mortgage until such time as the lien of any Leasehold Mortgage has been extinguished, and if a true and verified copy of such Leasehold Mortgage shall have been delivered to Lessor together with a written notice of the name and address of the owner and holder thereof as provided in Section 1.1 of this Addendum:

(a) Lessor shall not agree to any mutual termination nor accept any surrender of the Lease (except upon the expiration of the term of the Lease) without the prior written consent of Lender, nor shall Lessor consent to any material amendment or modification of the Lease without the prior written consent of Lender, which shall not be unreasonably withheld or delayed.

(b) Notwithstanding any default by Lessee in the performance or observance of any covenant, condition or agreement of the Lease on the part of Lessee to be performed or observed, Lessor shall have no right to terminate the Lease even though a default under the Lease shall have occurred and be continuing, unless and until Lessor shall have given Lender written notice of such default and Lender shall have failed to remedy such default or to acquire Lessee's leasehold estate created hereby or to commence foreclosure or other appropriate proceedings in the nature thereof, all as set forth in, and within the time specified by, this Addendum.

(c) Lender shall have the right, but not the obligation, at any time prior to termination of the Lease and without payment of any penalty, to pay all of the rents due hereunder, to provide any insurance, to pay any taxes and make any other payments, to make any repairs and improvements and do any other act or thing required of Lessee under the Lease, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the covenants, conditions and agreements of the Lease in order to prevent the termination of the Lease. All payments so made and all things so done and performed by Lender shall be as effective to prevent a termination of the Lease as the same would have been if made, done and performed by Lessee instead of by Lender.

(d) Should any default under the Lease occur which default is not cured within any applicable grace period or cure period under the Lease, Lender shall have thirty (30) days after receipt of notice from Lessor setting forth the nature of such default, and, if the default is such that possession of the Premises under the Lease may be reasonably necessary to remedy the default, a reasonable time after the expiration of such thirty (30) day period, within which to remedy such default; provided that (i) Lender shall have fully cured any default in the payment of any monetary obligations of Lessee under the Lease within such thirty (30) day period and shall continue to pay currently such monetary obligations as and when the same are due, and (ii) Lender shall have acquired Lessee's leasehold estate created hereby or commenced foreclosure or other appropriate proceedings in the nature

thereof within such thirty (30) day period or prior thereto, and shall be diligently and continuously prosecuting any such proceedings to completion. All rights of Lessor to terminate the Lease as the result of the occurrence of any such default shall be subject to and conditioned upon Lessor having first given Lender written notice of such default and Lender having failed to remedy such default or acquire Lessee's leasehold estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time period specified by this subparagraph (d).

(e) A default under the Lease which in the nature thereof cannot be remedied by Lender shall be deemed to be remedied if (i) within sixty (60) days after receiving written notice from Lessor setting forth the nature of such default, Lender shall have acquired Lessee's leasehold estate created hereby or commenced foreclosure or other appropriate proceedings in the nature thereof, (ii) Lender shall diligently and continuously prosecute any such proceedings to completion, (iii) Lender shall have fully cured any default in the payment of any monetary obligations of Lessee under the Lease which do not require possession of the Premises within such thirty (30) days after receipt of such written notice and shall thereafter continue to faithfully perform all such monetary obligations which do not require possession of the Premises, and (iv) after gaining possession of the Premises, Lender shall perform all of the obligations of Lessee hereunder as and when the same are due.

(f) If Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy, debtor rehabilitation or insolvency proceedings involving Lessee from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in subparagraphs (d) and (e) above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided that Lender shall have fully cured any default in the payment of any monetary obligations of Lessee under the Lease and shall continue to pay currently such monetary obligations as and when the same fall due, and provided that Lender shall diligently attempt to remove any such prohibition.

(g) Lessor shall deliver to Lender by reliable overnight courier a duplicate copy of any and all notices of default, or any notice of any fact or circumstance, which, with the passage of time or failure to heed, would constitute a default under the Lease, which Lessor may from time to time give to or serve upon Lessee pursuant to the provisions of the Lease; and no notice by Lessor to Lessee hereunder shall be deemed to have been given unless and until a copy thereof has been delivered to Lender.

(h) Foreclosure of a Leasehold Mortgage or any sale there under, whether by judicial proceedings or by virtue of any power of sale contained in the Leasehold

Mortgage, or any conveyance of the leasehold estate created hereby from Lessee to Lender by virtue or in lieu of foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Lessor or constitute a breach of any provision of or a default under the Lease. Upon such foreclosure, sale or conveyance, Lessor shall recognize Lender, or any other foreclosure sale purchaser, as Lessee hereunder; provided, however, that in the event there are two or more Leasehold Mortgages or foreclosure sale purchasers (whether of the same or different Leasehold Mortgages), Lessor shall have no duty or obligation whatsoever to determine the relative priorities of such Leasehold Mortgages or the rights of the different holders thereof and/or foreclosure sale purchasers. In the event Lender becomes Lessee under the Lease or under any new lease obtained pursuant to subparagraph (i) below, Lender shall be liable for the obligations of Lessee under the Lease or such new lease only for the period of time that Lender is the lessee under the Lease or the new lease, as applicable. In the event Lender subsequently assigns or transfers its interest under the Lease after acquiring the same by foreclosure or by an acceptance of a deed in lieu of foreclosure or subsequently assigns or transfers its interest under any such new lease, and in connection with any such assignment or transfer Lender takes back a mortgage or deed of trust encumbering such leasehold interest to secure a portion of the purchase price given to Lender for such assignment or transfer, then such mortgage or deed of trust shall be considered a Leasehold Mortgage as contemplated under this Addendum and Lender shall be entitled to receive the benefit of this Addendum and any other provisions of the Lease intended for the benefit of the holder of a Leasehold Mortgage.

(i) Should Lessor terminate the Lease by reason of any default by Lessee hereunder, Lessor shall, upon written request by Lender to Lessor received within sixty (60) days after such termination, execute and deliver a new lease of the Premises to Lender for the remainder of the term of the Lease with the same covenants, conditions and agreements (except for any requirements which have been satisfied by Lessee prior to termination) as are contained herein; provided, however, that Lessor's execution and delivery of such new lease of the Premises shall be made without representation or warranty of any kind or nature whatsoever, either express or implied, including, without limitation, any representation or warranty regarding title to the Premises or any Improvements or the priority of such new lease. Together with the execution and delivery of such new lease of the Premises, Lessor shall convey to Lender title to any Improvements by quitclaim deed for the term of such new lease. Lessor's delivery of any Improvements to Lender pursuant to such new lease shall be made without representation or warranty of any kind or nature whatsoever, either express or implied; and Lender shall take any Improvements "as-is" in their then current condition. Upon execution and delivery of such new lease, Lender, at its sole cost and expense, shall be responsible for taking such action as shall be necessary to cancel and discharge the Lease and to remove Lessee named herein and any other occupant from the Premises. Lessor's obligation to enter into such

new lease of the Premises with Lender shall be conditioned as follows: (i) Lender has remedied and cured all monetary defaults hereunder and has remedied and cured or has commenced and is diligently completing the cure of all nonmonetary defaults of Lessee susceptible to cure by any party other than by the original Lessee, (ii) that if more than one holder of a Leasehold Mortgage requests such new lease Lessor shall have no duty or obligation whatsoever to determine the relative priority of such Leasehold Mortgages, and, in the event of any dispute between or among the holders thereof, Lessor shall have no obligation to enter into any such new lease if such dispute is not resolved to the sole satisfaction of Lessor within ninety (90) days after the date of termination of the Lease, and (iii) that Lender pays all costs and expenses of Lessor, including, without limitation, reasonable attorneys' fees, real property transfer taxes and any escrow fees and recording charges, incurred in connection with the preparation and execution of such new lease and any conveyances related thereto.

(j) Notwithstanding the provisions of the Lease, Lessor will not require any assurance of performance so long as Lender cures any monetary default by Lessee under the Lease within the time period given Lender under this Addendum.

1.4 Lessor and Lessee shall cooperate in including in the Lease by suitable amendment from time to time any provision which may be requested by any proposed Lender, or may otherwise be reasonably necessary, to implement the provisions of this Addendum; provided, however, that any such amendment shall not in any way affect the term hereby demised nor affect adversely in any material respect any rights of Lessor under the Lease.

1.5 Nothing contained herein or in any Leasehold Mortgage shall be deemed or construed to relieve Lessee from the full and faithful observance and performance of its covenants, conditions and agreements contained herein, or from any liability for the non-observance or non-performance thereof, or to require or provide for the subordination to the lien of such Leasehold Mortgage of any estate, right, title or interest of Lessor in or to the Premises or the Lease.

1.6 No foreclosure of any Leasehold Mortgage shall trigger any right of first refusal granted to Lessor under the Lease.

1.7 Any demand or notice made or to be given hereunder by either party shall be effective on the earlier of (a) three (3) days after being mailed by registered or certified mail, return receipt requested, or dispatched by public or private courier service to the address of the other as set forth above or to the address at which Tenant customarily or last communicated with Landlord, or (b) when delivered personally to the other's agent for receipt of such notices.

2. Lessor Estoppel Certificate. At the written request of Lessee in connection with the execution of any Leasehold Mortgage by Lessee, Lessor will execute in favor of any Leasehold Mortgagee, an estoppel certificate in form required by the Leasehold

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Mortgagee and reasonably acceptable to Lessor, which certificate shall include the following provisions (if and to the extent then true):

2.1 Representations and Warranties. Lessor represents and warrants to Lender the following:

(a) Lease. A true, correct and complete copy of the Lease is attached hereto, and the Lease has not been amended or modified except as may be shown on the copy of the Lease attached hereto. The Lease is in full force and effect and constitutes the entire agreement between Lessor and Lessee with respect to the Premises and the Lease. The Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

(b) Ownership. Lessor is the sole record owner of the fee interest in the Premises, and holder of the landlord's interest in, to and under the Lease.

(c) Rent. The minimum rent payable under the Lease currently is described in Section 4 "Rent" of the Lease.

(d) Term. The current term of the Lease expires as described in Section 3 "Term" of the Lease.

(e) Defaults: Offsets. Neither Lessor nor, to the actual knowledge of Lessor, Lessee is in default under the Lease. Lessor has no knowledge of the existence of any event which, with the giving of notice, the passage of time, or both, would constitute a default by Lessor or, to the actual knowledge of Lessor, Lessee under the Lease. To the actual knowledge of Lessor, Lessee has no offsets, counterclaims, defenses, deductions or credits with respect to the Lease. To Lessor's actual knowledge, all monetary obligations due from Lessee under the Lease to date have been fully and currently paid.

(f) No Mortgages on Fee Interest. Lessor has not assigned, transferred, sold, encumbered or mortgaged its interest in the Lease or the Premises (or any part thereof), and there currently are no mortgages, deeds of trust or other security interests encumbering Lessor's fee interest in the Premises (or any part thereof).

(g) Premises. Lessor has not received written notice that it or the Premises is in violation of any laws applicable to it or the Premises or its operation thereon, including, without limitation, any environmental laws.

(h) Construction of Improvements. All obligations of Lessee regarding construction of any improvements on the Premises have been fully performed.

(i) Eminent Domain; Violations of Law. Lessor has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against Lessee's or Lessor's interest in the Premises. Lessor has not received written notice that it or the Premises is in violation of any laws

applicable to it or the Premises or its operation thereon, including, without limitation, any environmental laws.

(j) Construction of Improvements. All obligations of Lessee regarding construction of any improvements on the Premises have been fully performed.

**LESSEE:**

GALVIN AVIATION, LLC,  
a Delaware limited liability company

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**LESSOR:**

KING COUNTY, a political subdivision of  
the State of Washington

BY: \_\_\_\_\_  
Stephen L. Salyer, Manager  
Real Estate Services Section

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

**CONSENT:**

KING COUNTY INTERNATIONAL  
AIRPORT

BY: \_\_\_\_\_  
Robert I. Burke, AAE, Director

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

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
Ian Taylor, Senior Deputy  
Prosecuting  
Attorney

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

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Stephen L. Salyer, to me known to be the Manager of the Real Estate Services Section, King County, a political subdivision of the State of Washington, who executed the foregoing instrument and acknowledge the said instrument to be the free and voluntary act and deed of King County, for the uses and purposes therein mentioned, and on oath stated that said person was authorized to execute said instrument on behalf of King County.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

PUBLIC in and for the State of

Printed Name: \_\_\_\_\_  
NOTARY

Residing at \_\_\_\_\_  
My commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Galvin Aviation, LLC, who executed the foregoing instrument and acknowledge the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that said person was authorized to execute said instrument on behalf of Galvin Aviation, LLC.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

PUBLIC in and for the State of

Printed Name: \_\_\_\_\_  
NOTARY

Residing at \_\_\_\_\_  
My commission Expires: \_\_\_\_\_

**EXHIBIT F**

**CERTIFICATE AND INDEMNITY AGREEMENT  
REGARDING HAZARDOUS SUBSTANCES**

**THIS CERTIFICATE AND INDEMNITY AGREEMENT** is made as of \_\_\_\_\_, 2013, by KING COUNTY, a political subdivision of the State of Washington ("Owner" or "Indemnitor") for the benefit of GALVIN AVIATION, LLC, a Delaware limited liability company ("Galvin"). Galvin, any financial institution or entity which finances in whole or in part the acquisition of Galvin or the development of the Property (as defined below) ("Lender"), and any subtenants or occupants of the Property or a portion of the Property shall collectively be referred to herein as the "Indemnitees."

**RECITALS**

A. Galvin proposes to construct, operate and maintain and executive terminal and other improvements (the "Project") located on certain real property owned by Owner more particularly described on Exhibit A (the "Property") and leased by Owner to Galvin under that certain Airport Lease Agreement dated \_\_\_\_\_, 2013 (the "Lease").

B. Pursuant to the Lease, Owner agreed to provide indemnification for environmental contamination associated with the Property as described in Section 6 of the General Conditions of the Lease.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the covenants contained herein, for the benefit of the Indemnitees, their successors and assigns, Owner agrees, represents and warrants as follows:

1. **Definition.** For purposes of this Agreement, "Hazardous Substance" means any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) poly-chlorinated biphenyls, (iv) mold; (v) defined as a "hazardous waste", "extremely hazardous waste", "restricted hazardous waste" or "hazardous substance" under RCW Chapter 70.105 (Hazardous Waste Management) or RCW Chapter 70.105D (Hazardous Waste Cleanup--Model Toxics Control Act), (vi) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §1251 et seq. (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317), (vii) defined as a "hazardous waste"

pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6903), or (viii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq. (42 U.S.C. §9601), all as amended, replaced or succeeded, and any other substance or matter defined as a toxic or hazardous substance or material or pollutant or contaminant under any other federal, state or local laws, ordinances or regulations or under any reported decision of a state or federal court, or any substance or matter imposing liability for clean-up costs or expenses on any person or entity under any statutory or common law theory.

2. **Indemnification.** The Indemnitor agrees to indemnify, protect, defend (with counsel satisfactory to Indemnitees) and hold Indemnitees, and Indemnitees' successors and assigns, and the directors, officers, shareholders, employees, agents and contractors of Indemnitees, and of Indemnitees' successors and assigns, harmless from any claims (including without limitation third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including both formal and informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), interest or losses, including reasonable attorneys' and paralegals' fees and expenses (including any such fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder), consultant fees, and expert fees, together with all other costs and expenses of any kind or nature (collectively, the "Costs") that arise directly or indirectly from or in connection with the presence, suspected presence, release or suspected release of any Hazardous Substance in the Property or in or into the air, soil, groundwater or surface water at, on, about, above, under or within the Property, or any portion thereof which originated or migrated from that certain property owned by Owner as has been otherwise identified in that certain Phase II Environmental Site Assessment Report prepared by Madison Environmental Group, dated June 20, 2012 as it may be supplemented by Owner's further investigation (the "Identified Contamination"). In the event Indemnitees shall suffer or incur any such Costs, Owner shall pay to Indemnitees the total of all such Costs suffered or incurred by Indemnitees upon demand therefor by Indemnitees. Without limiting the generality of the foregoing, the indemnification provided by this paragraph 2 shall specifically cover Costs, including capital, operating and maintenance costs, incurred in connection with any investigation or monitoring of site conditions, any clean-up, containment, remedial, removal or restoration work required or performed by any federal, state or local governmental agency or political subdivision or performed by any nongovernmental entity or person because of the presence, suspected presence, release or suspected release of any Hazardous Substance in the Property or in or into the air, soil, groundwater or surface water at, on, about, above, under or within the Property (or any portion thereof) and any claims of third parties for loss or damage due to such Hazardous Substance. In addition the indemnification provided by this paragraph 2 shall include, without limitation all loss or damage sustained by Indemnitees or any third party due to any Hazardous Substance originating or migrating from the source of the Identified Contamination: (i) that is present or suspected to be present in the Property or in the air, soil, groundwater or surface water at, on, about, above, under or within the

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Property (or any portion thereof) on or before the date of this Agreement, or (ii) that migrates, flows, percolates, diffuses or in any way moves onto, into or under the air, soil, groundwater or surface water at, on, about, above, under or within the Property (or any portion thereof) after the date of this Agreement.

3. **Remedial Work.** In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "Remedial Work") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreements affecting the Property because of, or in connection with any occurrence or event described in paragraph 2 above, Owner shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, order or agreement; provided, that Owner may withhold such compliance pursuant to a good faith dispute regarding the application, interpretation or validity of the law, regulation, order, or agreement, subject to the requirements of paragraph 4 below. All Remedial Work shall be performed by one or more contractors, selected by Owner. All costs and expenses of such Remedial Work shall be paid by Owner. In the event Owner shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, or Galvin desires to proceed with the construction and redevelopment of the Property prior to Owner's completion of such Remedial Work, Indemnitees may, but shall not be required to, cause such Remedial Work to be performed, provided such work does not duplicate, supplant, or otherwise interfere with, any on-going Owner contracts for Remedial Work in place at such time. Owner agrees to cooperate and to make such requested reasonable adjustments as can be made to any on-going Owner contracts for Remedial Work that are necessary to accommodate or facilitate Galvin's construction and redevelopment of the Property. All costs and expenses of Remedial Work undertaken by Indemnitees, or incurred in connection therewith, shall be Costs within the meaning of paragraph 2 above so long as Remedial Work is undertaken consistent with a work plan approved in advance by Owner and provided that Owner shall only be responsible for the incremental costs and expenses attributable to the Hazardous Substances or Remedial Work associated therewith. All such Costs shall be due and payable upon Indemnitees submittal to the Owner of a complete cost accounting demonstrating that the requested costs are reasonable considering the estimated costs approved with the work plan, and reflect the increased cost and expenses associated with the Remedial Work. Owner's approval of a work plan for such Remedial Work to be performed by Indemnitees shall not be unreasonably withheld or delayed taking into consideration the Project's construction schedule and generally accepted industry standards and practices for environmental remediation.

4. **Permitted Contests.** Notwithstanding any provision of this Agreement to the contrary, Owner will be permitted to contest or cause to be contested subject to compliance with the requirements of this paragraph, by appropriate action any Remedial Work requirement, and Indemnitees shall not perform such requirement on its behalf, so long as Owner has given Indemnitees written notice that Owner is contesting

or shall contest or cause to be contested the same and Owner actually contests or causes to be contested the application, interpretation or validity of the governmental law, regulation, order or agreement pertaining to the Remedial Work by appropriate proceedings conducted in good faith with due diligence; provided, such contest shall not subject Indemnitees or any assignee of their respective interests (including any person having a beneficial interest) in the Loan, the Loan Documents, the Lease or the Property to civil liability and does not jeopardize any such party's lien upon or interest in the Property or affect in any way the payment of any sums to be paid under the Loan, the Loan Documents, the Lease or the Property. Owner shall give such security or assurances as may be reasonably required by Indemnitees to insure compliance with the legal requirements pertaining to the Remedial Work (and payment of all costs, expenses, interest and penalties in connection therewith) and to prevent any sale, forfeiture or loss by reason of such nonpayment or noncompliance.

5. **Subrogation of Indemnity Rights.** If Indemnitor fails to perform its obligations under this Agreement, Indemnitees shall be subrogated to any rights Indemnitor may have under any present, future or former Indemnitors, tenants, occupants or other users of the Property (or any portion thereof), relating to the matters covered by this Agreement.

6. **Assignment by Indemnitees.** No consent by Indemnitor shall be required for any assignment or reassignment of the rights of Indemnitees hereunder to a Lender, successor lenders, lessees, or sublessees of the Property, or any portion thereof.

7. **Merger, Consolidation or Sale of Assets.** In the event of a dissolution of Indemnitor or other disposition involving Indemnitor to one or more persons or entities, the surviving entity or transferee of assets, as the case may be, shall: (i) be formed and existing under the laws of a state, district or commonwealth of the United States of America, and (ii) deliver to Indemnitees an acknowledged instrument in recordable form assuming all obligations, covenants and responsibilities of such Indemnitor under this Agreement.

8. **Independent Obligations; Survival.** The obligations of Owner under this Agreement shall survive the consummation of the Loan transaction described above and the repayment of the Loan and reconveyance or foreclosure of the Deed of Trust. The obligations of Owner under this Agreement are separate and distinct from the obligations of Owner under the Loan Documents and the Lease. This Agreement may be enforced by Indemnitees without regard to any other rights and remedies Indemnitees may have against Owner under the Loan Documents or the Lease and without regard to any limitations on Indemnities' recourse as may be provided in the Loan Documents or the Lease. Enforcement of this Agreement by either judicial or non-judicial action shall not be deemed to constitute an action for recovery of the Loan indebtedness nor for recovery of a deficiency judgment against Owner following foreclosure of the Deed of Trust.



9. **Default Interest.** Any Costs and other payments required to be paid by Owner to Indemnitees under this Agreement which are not paid on demand therefor shall thereupon be considered "Delinquent". In addition to all other rights and remedies of Indemnitees against Owner as provided herein, or under applicable law, Owner shall pay to Indemnitees, immediately upon demand therefor, interest at the "Default Rate" of the lesser of 18% per annum or the maximum rate permitted by law ("Default Interest") on any such payments which are or have become Delinquent. Default Interest shall be paid by Owner from the date such payment becomes Delinquent through and including the date of payment of such Delinquent sums.

10. **Attorneys' fees.** In the event any action or proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover, as a part of the prevailing party's costs, a reasonable attorneys' fee at trial, in bankruptcy proceedings and on appeal, the amount of which shall be fixed by the court and made a part of any judgment rendered.

11. **Miscellaneous.** If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable, the remainder of this Agreement and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. This Agreement shall be binding upon, inure to the benefit of and be enforceable by Owner and Indemnitees, and their respective successors and assigns, including (without limitation) any assignee or purchaser of all or any portion of Indemnitees' interest in: (i) the Loan, (ii) the Loan Documents (as defined either herein or in the Deed of Trust), (iii) the Lease or (iv) the Property. As used in this Agreement, the plural form shall include the singular form and the singular form shall include the plural form as and where required by the context of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington.

DATED as of the day and year first above written.

**PLEASE BE ADVISED THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE UNENFORCEABLE UNDER WASHINGTON LAW.**

INDEMNITOR:

OWNER:

**KING COUNTY,  
a political subdivision of the State of  
Washington**

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