

**GROUND SUBLEASE
BETWEEN
CIRRUS DESIGN
AND
THE CITY OF DULUTH**

THIS GROUND SUBLEASE (this “Agreement”) is entered into by and between the CITY OF DULUTH, a municipal corporation and political subdivision of the State of Minnesota (“City”) and CIRRUS DESIGN CORPORATION, a Wisconsin corporation (“Lessee”). City and Lessee are referred to collectively in this Agreement as the “Parties.”

RECITALS

WHEREAS, City is the fee owner of the real property legally described on the attached Exhibit A (the “Land”), but through a series of agreements, including but not limited to an Airport Ground Lease and Agreement dated August 12, 1993, recorded in the Office of the St. Louis County Registrar of Titles on August 12, 1993 as Document No. 56884 (as it may have been subsequently amended and assigned, the “Ground Lease”), attached as Exhibit A, and an Assignment of Rights and Ground Lease and Consents dated February 5, 2002, recorded in the Office of the St. Louis County Registrar of Titles on February 23, 2002 as Document No. 71830 (the “Ground Lease Assignment”), City is also the holder of a ground lessee interest in the Land; and

WHEREAS, the Duluth Airport Authority, a governmental authority organized and existing under the laws of the State of Minnesota, 1969, Chapter 577 (the “Authority”), manages the Land pursuant to rights granted to the Authority under the laws of the State of Minnesota, 1969, Chapter 577 and is the landlord under the Ground Lease; and

WHEREAS, the current term of the Ground Lease expires on December 31, 2043, at which time City, as ground lessee, has the option to renew the Ground Lease, as if affects the Land, for an additional 25-year term; and

WHEREAS, in 2001, City constructed a 79,000 square foot building on the Land (the “Incubator Building”) using a combination of its own funds, grant funds from the U.S. Economic Development Administration, and significant funding from Lessee; and

WHEREAS, Lessee, as subtenant, and City, as sublandlord, previously entered into an unrecorded Sub-lease Agreement dated October 10, 2002 (the “2002 Sublease”) for the Land and the improvements and fixtures thereon, including the Incubator Building (collectively, the “Improvements”), and the 2002 Sublease is currently on a month-to-month term; and

WHEREAS, Lessee has been in possession of the Land and the Improvements since October 10, 2002 pursuant to the 2002 Sublease; and

WHEREAS, on even date herewith, City has conveyed its interest in the Improvements, including the Incubator Building, and any personal property situated on the Land (the “Personal

Property”), to the Duluth Economic Development Authority (“DEDA”), but retained fee ownership of the Land and its ground lessee interest in the Land pursuant to the Ground Lease; and

WHEREAS, on even date herewith, DEDA has conveyed the Improvements and the Personal Property to Lessee, via a Bill of Sale dated _____, 2023 and recorded in the Office of the St. Louis County Registrar of Titles on _____, 2023 as Document No. _____; and

WHEREAS, concurrent to conveyance of the Improvements and the Personal Property to Lessee, the Parties desire to terminate the 2002 Sublease, and enter into this new ground sublease for the Land, so that Lessee may continue to use the Land for aircraft manufacturing purposes; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, City demises and subleases the Land to Lessee, and Lessee hires and takes the Land from City, subject to the Ground Lease and upon the following terms and conditions:

ARTICLE I SUBLEASE

- A. Permitted Use: The Land shall be used for aircraft manufacturing purposes, which includes without limitation, sales, administrative offices, manufacturing equipment and facilities, design and testing facilities, training and legally permitted ancillary, associated or additional uses and activities for successful business operation. As all Improvements and Personal Property are owned by Lessee, this Agreement does not include the sublease of any personal property or improvements located on the Land.
- B. Common Premises: Lessee and its employees, contractors, and customers, shall have access in common with the access granted to members of the general public to all public portions of the Duluth International Airport.
- C. Ground Lease: As it relates to Lessee’s use and operation of the Land, Lessee’s tenancy shall be subject to the terms and conditions of the Ground Lease; provided, that (i) Lessee shall not be required to make any payments of rent or otherwise under the Ground Lease or perform any obligations of the City thereunder that conflict with the terms of this Agreement, and (ii) it is the intent of City and Lessee to incorporate the Ground Lease into this Agreement by reference except as otherwise specifically provided herein. Lessee acknowledges receipt of the Ground Lease.
- D. Recording: This Agreement shall be recorded in the Office of the St. Louis County Registrar of Titles at Lessee’s expense.
- E. Representation. City represents that as of the date of this Agreement, the Ground Lease is in full force and effect and to the best of City’s actual knowledge there is no default by DAA or

City under the Ground Lease. A true, correct and complete copy of the Ground Lease is attached hereto as Exhibit A.

ARTICLE II

TERM, SURRENDER OF POSSESSION, AND TERMINATION OF 2002 SUBLEASE

- A. Initial Term: The initial term of this Agreement shall commence on the date of this Agreement and, unless earlier terminated as provided for herein, shall terminate on December 30, 2043 (the “Initial Term”).
- B. Renewal Term: In the event Lessee is not in default under this Agreement past any applicable notice and cure period, Lessee shall have the option to renew the Initial Term for an additional 25-year term (the “Renewal Term”), by delivering written notice to the City of such election not less than 180 days before the expiration of the Initial Term. If City receives such notice, City shall renew the term of the Ground Lease for an additional 25-year term and the Parties shall enter into an addendum to this Agreement solely to evidence that the term of this Agreement has been extended by the Renewal Term, for purposes of recording the Addendum in the Office of the St. Louis County Registrar of Titles. The Renewal Term, if exercised, shall terminate on December 30, 2068. If Lessee fails to timely notify City that it is exercising its option as to the Renewal Term, the term of this Agreement shall terminate on December 30, 2043. In the event City is prohibited from renewing the Ground Lease as a result of Lessee’s default under this Agreement, the term of this Agreement shall terminate December 30, 2043.
- C. Termination of 2002 Sublease: The 2002 Sublease is terminated as of the date of this Agreement.
- D. Surrender of Possession: Upon the expiration or other termination of this Agreement, Lessee's right to use the Land shall cease and Lessee shall promptly and in good condition, surrender the Land to City. In the event Lessee has in any way damaged the Land, or changed the Land in a way not approved by City, Lessee shall, prior to expiration or termination of this Agreement, return the Land to the condition it was in on October 1, 2002. If Lessee fails to return the Land to such condition, City may, at its discretion and at Lessee’s expense, return the Land to the condition it was in on October 1, 2002.
- E. Condition of Improvements: During the period between nine (9) months and six (6) months prior to the expiration or other termination of this Agreement (the “**Inspection Period**”), City shall, after coordinating such entry with Lessee, enter the Land to inspect the condition of the Improvements as set forth herein. Lessee will allow City access to the Improvements for this limited purpose. City will determine in its sole discretion whether the Improvements are in good operating condition and in compliance with all applicable laws, including statutes, regulations, ordinances, and codes. Specifically, City will inspect the following in the Incubator Building and/or any other buildings on the Land, including any building that may have replaced the Incubator Building: windows, walls, floors, doorways, ceilings, roof, building envelope, and building systems, including life safety, fire protection, mechanical,

electrical, heating and ventilation, and elevators, and, if deemed necessary for an accurate assessment, structural condition of said building(s). Lessee shall also provide not less than the last five (5) years of material maintenance, service and capital improvement records and reports for the Improvements. If all inspected areas and systems are functioning substantially as designed or need only minimal repair and, where applicable, have been maintained generally in good order and condition, City will deem that the building(s) are in good operating condition.

F. Removal of Improvements: The Parties acknowledge that none of the improvements on the Land, including the Incubator Building, are a part of the realty. If City determines the Improvements are not in good operating condition and in compliance with all applicable laws pursuant to Article II.E above, Lessee shall, at its discretion, either make all repairs or improvements necessary to bring the Improvements into such condition and in compliance with all applicable laws to City's reasonable satisfaction or remove all improvements and personal property, including the Incubator Building, from the Land prior to the expiration or other termination of this Agreement, provided that the period to complete such removal shall be extended for up to sixty (60) days if such removal cannot reasonably be completed prior to the expiration or termination of this Agreement and Lessee is diligently pursuing such removal to completion. All costs for removal of the Improvements after inspection by City, whether removal is required due to Lessee's inability or election not to bring the Improvements into good operating condition and in compliance with all applicable laws, shall be split evenly between Lessee and City. Lessee shall be responsible for removal of the Improvements and City, within sixty (60) days of receiving an invoice for its share of reasonable removal costs, shall reimburse Lessee.

G. Failure to Timely Remove Improvements: If Lessee fails to timely remove any improvements or personal property from the Land prior to the expiration or termination of this Agreement, they shall be deemed abandoned and City may, at its discretion, remove any part thereof at Lessee's expense. In the event of abandonment, Lessee shall have no further right to possession of the abandoned improvements and personal property. Lessee shall be solely responsible for all reasonable out-of-pocket costs, including employee wages and benefits (based on time spent in connection with the Land), incurred by City as a result of City's actions to restore the Land and/or remove any improvements or personal property from the Land pursuant to this Paragraph G. All amounts due City pursuant to this Paragraph G shall be due and payable promptly upon being billed by City to Lessee. This Paragraph G shall survive termination or expiration of this Agreement.

H. Exceptions: Lessee shall not be responsible for the restoration and removal requirements set forth in Paragraphs F and G above, under either of the following conditions:

1. Other Interest in the Land Acquired: Lessee has acquired a leasehold, fee ownership, or another possessory interest in the Land that allows it to continue to possess the Land and maintain its improvements and personal property on the Land after the termination or expiration of this Agreement.

2. Approved Sale or Rental: Lessee has (i) sold or entered into a lease or similar agreement with a third party for possession of the improvements and personal property located on the Land, (ii) such agreement has been formally approved by the Duluth City Council, to the extent necessary, and (iii) the third party to such agreement has or will acquire fee ownership, a leasehold interest, or another possessory interest in the Land that that allows it to continue to possess the Land and maintain its improvements and personal property on the Land after the termination or expiration of this Agreement.

Nothing in this Article II shall excuse Lessee from any applicable environmental remediation requirements or responsibilities relating to the Land pursuant to the terms of this Agreement.

ARTCILE III LIMITATION ON NEW CONSTRUCTION

Lessee shall not construct or cause to be constructed any additional improvements or buildings upon the Land without the express written approval of City's Director of Planning and Economic Development, subject to the approval of the Duluth Airport Authority. Unless otherwise agreed as evidenced by a fully executed agreement and approved by_____, any such new construction shall be owned by_____ (Same ownership as Article II). Nothing herein shall be deemed to limit Lessee's right, without obtaining any prior approvals, to complete alterations, improvements or replacements, including installation of trade fixtures and equipment, to the Improvements from time to time.

ARTICLE IV RENT PAYMENTS

- A. Rent: Lessee shall pay rent to the City as a condition of Lessee's use or occupancy of the Land (the "Rent"). Rent shall always be equal to the ground rent due to the Duluth Airport Authority under the Ground Lease, Exhibit A.
- B. Annual Administrative Fee: Each year during the Initial Term and, if applicable, the Renewal Term, Lessee shall pay an annual administrative fee on July 1st, beginning July 1st, 2023. The annual administrative fee will be \$500 in calendar year 2023 and will be adjusted in accordance with the increase or decrease of the Consumer Price Index annually; however, such annual increase shall not exceed three percent (3%).
- C. Additional Payments and Obligations:
 1. Janitorial Services: In the event Lessee fails to keep the Land in a neat, clean, orderly, and sanitary condition as is required by this Agreement, and such condition continues past any applicable notice and cure period herein, City may itself clean or cause to be cleaned those portions of the Land not so kept, and Lessee shall reimburse City for the reasonable out-of-pocket costs incurred by City, including employee wages and benefits (based on time actually spent in completing such cure), for the performance of said work immediately on being billed therefore by City.

2. Refuse and Garbage: Lessee shall properly dispose of all refuse and garbage generated by its operations on the Land. Lessee shall comply with all statutes, rules, and regulations of federal, state, and local government units governing the disposition of hazardous substances or materials whether now existing or hereinafter enacted. Tenant shall not cause any hazardous substances or hazardous materials to be used, stored, generated, or disposed of on the Land, except in such amounts as are customary for operating an aircraft manufacturing facility, and then only in compliance with all statutes, rules or regulations of federal, state, or local government units. Lessee shall not be responsible for any hazardous materials or substances or the remediation thereof unless such hazardous materials or substances are brought onto the Land by Lessee, its employees, contractor, licensees, invitees, or customers.
 3. Utilities: Lessee shall provide such heat, electricity, and other utilities as are reasonable and necessary for Lessee's operations upon the Land at no cost to City.
- D. Licenses, Fees, and Taxes: Lessee shall pay all licenses, fees, taxes, and assessments of any kind whatsoever which arise because of, out of, or in connection with the Land or Lessee's operations thereon during the term of this Agreement, including but not limited to property taxes. Should Lessee fail to pay such amounts, it is expressly agreed that City may pay the same on behalf of Lessee and immediately collect the same from Lessee. Failure to pay taxes, assessments, or fees when due and payable is also an act of default, unless said obligations are part of a statutorily authorized appeal or challenge.
- E. Time and Manner of Payment of Rent and other Payments:
1. Rent: Rent shall be due and payable, in advance, on the first day of each month of the Initial Term, and, if renewed, of the Renewal Term.
 2. Reimbursements: All payments of money to City required by this Agreement, other than Rent, shall be due and payable promptly upon being billed by City to Lessee.

ARTICLE V PREMISES AND MAINTAINANCE

- A. Maintenance of the Land and Signs:
1. Maintenance: Lessee shall maintain the Land in a clean, neat, and orderly condition and in compliance with all applicable laws.
 2. Signs: All signs on the Land shall conform to Duluth City Code, Chapter 50, as it may be amended or replaced from time to time, and are subject to approval by the Duluth Airport Authority.
- B. City's Fire Insurance: Lessee covenants that it will not do or permit to be done any act on the Land that:

1. Will invalidate or be in conflict with any fire insurance policies covering the Duluth Airport Authority or the Duluth International Airport or any part thereof or upon the contents of any building thereof; or
2. Will increase the rate of any fire insurance on the Duluth International Airport or upon the contents of any building thereof; or
3. In the opinion of City, will constitute a hazardous condition so as to increase the risks normally attendant upon the operations contemplated by this Agreement.

If, by any reason of Lessee's failing to comply with the provisions of this section, any fire insurance rate on the Duluth International Airport or any part thereof, or upon the contents of any building thereof, at any time, be higher than it otherwise would be, then Lessee shall, upon demand, reimburse City and Duluth Airport Authority for that part of all fire insurance premiums paid or payable by City or Duluth Airport Authority which shall have been charged because of such violation by Lessee.

ARTICLE VI INDEMNIFICATION

- A. Indemnity: Lessee agrees to defend, indemnify, and hold harmless City, DEDA and Duluth Airport Authority from and against any and all claims, demands, suits, judgments, costs, and expenses, including subrogation claims and any claims asserted by an insurer or indemnitor, asserted by any person or persons, including agents or employees of City, DEDA, Duluth Airport Authority, or Lessee, by reason of the death of or injury to any persons or the loss of or damage to property, or any other claim for damages, arising from Lessee's use of, occupancy, or operations upon the Land.
- B. Environmental Indemnity: Lessee agrees to defend, indemnify, and hold harmless City, DEDA, and Duluth Airport Authority for any condition existing on any of the Land, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Land of any element, compound, pollutant, contaminant or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to person(s) or damage to property, but only to the extent such condition was caused by Lessee's use of the Land or Lessee's generation of such substances in its operations on the Land or its occupancy of the Land. Lessee's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including reasonable attorney's fees, expenses, and the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses; the cost of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Land. Provided, however, that the indemnity provided by Lessee

to City, DEDA and Duluth Airport Authority pursuant to this paragraph is intended to run only to the benefit of City, DEDA and Duluth Airport Authority and is not intended to, nor shall it, inure to the benefit of any other third party.

- C. Indemnification Procedure: Promptly after receipt by City, DEDA, and/or Duluth Airport Authority of notice of the commencement of any action with respect to which Lessee is required to indemnify City, DEDA, and/or Duluth Airport Authority under this Agreement, City, DEDA, and/or Duluth Airport Authority, as applicable, shall notify Lessee in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Lessee shall assume the defense of the action, including the employment of counsel reasonably satisfactory to City, DEDA, and/or Duluth Airport Authority, as applicable, and the payment of expenses. In so far as such action shall relate to any alleged liability of City, DEDA, and/or Duluth Airport Authority with respect to which indemnity may be sought against Lessee, City, DEDA, and/or Duluth Airport Authority, as applicable, shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Lessee. This Article V shall survive termination of this Agreement.

ARTICLE VII INSURANCE

During the Initial Term and, if applicable, the Renewal Term, Lessee will maintain insurance that will protect Lessee, the Duluth Airport Authority, and City against risk of loss or damage to the Land, the Improvements, and the Personal Property and against claims which may arise or result from the maintenance and use of the Land, the Improvements, and the Personal Property. During the Initial Term and if applicable, the Renewal Term, Cirrus shall maintain at minimum the following coverages. City reserves the right to make and Lessee agrees to reasonable revisions upward or downward in the minimum insurance requirements set forth herein:

- A. Property Insurance: At a minimum, Lessee will maintain property insurance for the Improvements including fire and all-risk coverage, for an aggregate amount sufficient to cover site cleanup in the event the Improvements are damaged or destroyed and Lessee does not repair and Lessee does not repair, rebuild, or restore the Improvements. The Duluth Airport Authority shall be named as a loss payee under the property insurance policy for the limited purpose of site cleanup.
- B. Liability Insurance: Lessee will maintain a Commercial General policy, naming City and Duluth Airport Authority as additional insureds, with limits of not less than five million dollars (\$5,000,000) covering:
1. General liability including premises and operations coverage;
 2. Independent contractors-protective contingent liability;
 3. Personal injury;

4. Owned, non-owned and hired vehicles;
 5. Contractual liability covering the indemnity obligations set forth herein;
 6. Inventory—completed operations.
- C. Workers' Compensation: Worker's Compensation in statutory amounts with "all states' endorsement unless qualified as a self-insurer under Minnesota Law, and evidence of such qualification is furnished to City.
- D. Insurance Requirements: All insurance required under this Article shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in Minnesota. Lessee will provide City Certificates of Insurance with thirty (30) day notice of cancellation. Additionally, Lessee shall notify City at least thirty (30) days prior to any change in the policy or coverages that would reduce the coverage amounts below those specified above or cause Lessee to fail to meet its insurance obligations herein.

ARTICLE VIII ASSIGNMENT

- A. Unauthorized Transfer Prohibited: Lessee shall not assign, transfer, sublease or subcontract this Agreement, or any rights, privileges, or duties conferred thereby without (i) the written approval of City's Director of Planning and Economic Development, and (ii) requiring that the insurance requirements of this Agreement are met by the third party receiving such interest. Such third party must agree to be subject to all of the terms and conditions of this Agreement and shall be subject thereto, and Lessee shall remain as a guarantor of the performance of the transferee, sublessee, or assignee of this Agreement.
- B. No Authorization Required: Notwithstanding the foregoing, Lessee shall have the right to assign this agreement, sublet the Land or otherwise transfer Lessee's interest under this agreement to: (i) any parent, affiliate or subsidiary entity of Lessee, (ii) any entity resulting from a merger, spin off or split up involving Lessee or its parent entity, if any, and (iii) any person or entity acquiring substantially all of Lessee's assets or stock. Any such transfer shall not be subject to the foregoing provisions of this Article VIII, be prohibited or require City's consent (including the Director of Planning and Economic Development); provided that no such transfer hereunder shall release Lessee from its underlying obligations under this agreement.
- C. City's Right to Assign: City may assign, transfer, sublease or subcontract this agreement or any rights, privileges, or duties conferred thereby to its authorities upon sixty (60) days written notice to Lessee.

ARTICLE IX

SUBORDINATION

This Agreement shall be subordinate to the Ground Lease, and to the provisions of any existing or future agreement between City or Duluth Airport Authority and the United States of America or the State of Minnesota relative to the operation or maintenance of the Duluth International Airport, execution of which has been or may be required as a written precedent to the expenditure of Federal or State funds for national security or defense, or the development or maintenance of the Duluth International Airport; provided, however, that no future agreements may conflict with the express terms and conditions of this Agreement or the Ground Lease.

ARTICLE X ATTORNEY'S FEES AND COSTS

In the event City shall prevail in any action or suit or proceeding brought by City to collect rents due or to become due hereunder, or any portion thereof, or any other payments due under this Agreement, or to take possession of the Land, or to enforce compliance with this Agreement, or for the failure to observe any of the covenants of this Agreement, Lessee shall pay City such sums as the court may adjudge reasonable as attorneys' fees and costs to be allowed in such action, suit, or proceeding.

ARTICLE XI LAWS, RULES, AND REGULATIONS

Lessee shall observe and comply with all laws, ordinances, rules, regulations, and orders of the United States of America, State of Minnesota, City of Duluth, and their respective agencies that are applicable to its business at the Duluth International Airport, including, but not limited to, all environmental laws and regulations, and shall observe and comply with all reasonable Duluth Airport Authority rules and regulations in existence at the execution of this Agreement and which may, from time to time, be promulgated by the Duluth Airport Authority governing conduct on and operations at the Duluth International Airport and the use of its facilities. Further, Lessee shall fulfill its responsibilities pursuant to the Airport Security Program approved by the Federal Aviation Administration and any amendments thereto.

ARTICLE XII CIVIL RIGHTS ASSURANCES

Lessee for itself, its agents, successors and assigns does covenant and agree that:

- A. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination in connection with Lessee's use of or operations upon the Land.

- B. Lessee shall use the Land in compliance with all of the requirements imposed by or pursuant to the Non-discrimination in Federally-assisted Programs of the Department of Transportation - Effectuation Title VI of the Civil Rights Act of 1964, 49 C.F.R. § 21 (1970) and General Terms and Conditions for Investment Assistance, Civil Rights 13 C.F.R. § 302.20 (2016), as said regulations may be amended.

ARTICLE XIII DEFAULT AND TERMINATION

- A. General: Any one of the following events shall constitute an event of default by Lessee:

1. Insolvency: Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the adjustment of its indebtedness upon the Federal bankruptcy laws, or any other law or statute of the United States or of any other state thereof, or shall consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or
2. Involuntary Bankruptcy: A petition under any part of the Federal bankruptcy laws or any action under any present or future insolvency law or statute, shall be filed against Lessee and shall not be dismissed within thirty (30) days after the filing date thereof; or
3. Transfer of Interest: Except as otherwise permitted in Article VIII B, if any interest of Lessee under this Agreement shall, without the approval of City under the conditions established under Article VIII A, be transferred or passed to or devolve upon, by operation of law, stock transfer (transfer or series of transfers of an amount or amounts totaling fifty percent (50%) or more of Lessee's outstanding floating stock to any one party or groups of parties acting in consort shall be deemed to be a transfer of Lessee's interest hereunder), assignment, sublease or otherwise, any other person, firm or corporation; or
4. Trustee in Possession: By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession of all or substantially all of the property of Lessee, and such possession or control shall continue in effect for a period of fifteen (15) days; or
5. Voluntary Abandonment: Lessee shall voluntarily abandon, desert, or vacate the Land and/or improvements thereon, including Lessee's building(s), or after exhausting or abandoning any right of further appeal, Lessee shall be prevented for a period of ninety (90) days by action of any governmental agency from using the Land and/or any improvements thereon, including Lessee's building(s), regardless of the fault of Lessee; or

6. Filing of Lien: Any lien shall be filed against the Land because of an action or omission of Lessee and shall not be discharged or contested by Lessee in good faith by proper legal proceedings within twenty (20) days after receipt of notice thereof by Lessee; or
 7. Failure to Pay Rent: Lessee shall fail to pay Rent, or any other payment of money due under this Agreement, and such default shall continue for a period of five (5) business days after written notice by City to Lessee; or
 8. Failure to Observe Sublease or Ground Lease Terms: Lessee shall fail to perform any of its other obligations as set forth in this Agreement or shall cause City to be in default under the Ground Lease, and such failure shall continue for a period of thirty (30) days after written notice by City to Lessee of such default; provided that if such default cannot be cured with such thirty (30) day period, then such cure period shall be extended if Lessee commences to cure promptly upon receipt of notice of such breach or default and to complete such cure within the period that the Executive Director, in his/her sole discretion, has granted to Lessee in writing, for the purpose of curing the breach.
 9. Violation of Restrictive Covenant: Lessee shall violate the restrictive covenant encumbering the Land, running in favor of _____ and restricting the use of the Property pursuant to 13 C.F.R. § 314.10(e), as registered in the Office of the St. Louis County Registrar of Titles on _____, 2023 and Document No. _____. Such violation shall only be a basis for termination of this Agreement if it is not cured within thirty (30) days after City's notice to Lessee of the violation. All other remedies in section B below shall be immediately available to City.
- B. City's Remedies: Except where otherwise stated, City shall have the following remedies in the event of Lessee's default:
1. Terminate this Agreement.
 2. Withhold the performance of any obligation owed under this Agreement.
 3. Seek and be entitled to direct monetary damages for any damages incurred as a result of a default, inclusive of financial obligations incurred or imposed as the result of a violation of the restrictive covenant encumbering the Land; it being agreed that Lessee shall not be liable for any consequential, indirect or special damages under this Lease.
 4. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent violation of the terms and conditions of this Agreement or to compel Lessee's performance of its obligations hereunder.
 5. Immediately enter upon the Land by summary proceeding and dispossess Lessee, and any other occupants, and re-lease the Land or any part thereof, and recover from Lessee

on a monthly basis the difference between the rent paid by the replacement tenant and the rent payable by Lessee under this Agreement, if any.

6. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available.
- C. Nonwaiver: The waiver by City of any default on the part of Lessee or the failure of City to declare default on the part of Lessee of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Lessee of the same or of any other obligation of Lessee under this Agreement. To be effective, any waiver of any default by Lessee hereunder must be in writing from City's Director of Planning and Economic Development.
- D. Remedies Cumulative: The remedies provided above shall not be exclusive but shall be cumulative upon all other remedies, legal or equitable in nature. All rights and remedies of City may be exercised and enforced concurrently and whenever and as often as the occasion therefore arises. City shall be deemed not to have terminated this Agreement in the absence of service of written notice upon Lessee.

ARTICLE XIV AMENDMENT OR MODIFICATION

This Agreement may be amended or modified only by a written agreement between the Parties that has been approved by resolution of the Duluth City Council.

ARTICLE XV NOTICES

Unless otherwise expressly provided herein, any notice or other communication required or given shall be in writing and shall be effective for any purpose if served, with delivery or postage costs prepaid, by nationally recognized commercial overnight delivery service or by registered or certified mail, return receipt requested, to the following addresses, or such other addresses as may be provided in writing by the Parties from time to time:

City:	City of Duluth 411 W First Street City Hall Room 401 Duluth MN 55802 Attn: Director of Property, Parks, and Libraries
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Lessee:	Cirrus Design Corp. 4515 Taylor Circle Duluth, MN 55811 Attn: Legal Department
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**ARTICLE XVI
GOVERNING LAW**

This Agreement, together with all of its paragraphs, terms and conditions, is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located in St. Louis County. However, litigation in the federal courts involving the Parties shall be in the appropriate federal court within the State of Minnesota.

**ARTICLE XVII
ENTIRE AGREEMENT**

It is understood and agreed that the entire agreement of the Parties including all exhibits is contained herein and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof.

**ARTICLE XVIII
SEVERABILITY**

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the Parties to this Agreement.

**ARTICLE XIX
COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in “portable document format” (“pdf”), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

**ARTICLE XX
RUNS WITH THE LAND**

This Agreement shall run with the land and shall inure to the benefit of the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and date first shown below.

CITY OF DULUTH

By: _____ Mayor

By: _____ City Clerk

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

This instrument was acknowledged before me on _____, _____, by Emily Larson, Mayor of the City of Duluth, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

This instrument was acknowledged before me on _____, _____, by Chelsea Helmer, City Clerk of the City of Duluth, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota.

Notary Public

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Its President

By: _____
Its Secretary

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____, the President of the Duluth Economic Development Authority, a public body, corporate and politic and political subdivision under Minnesota Statutes Chapter 469.

Notary Public

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

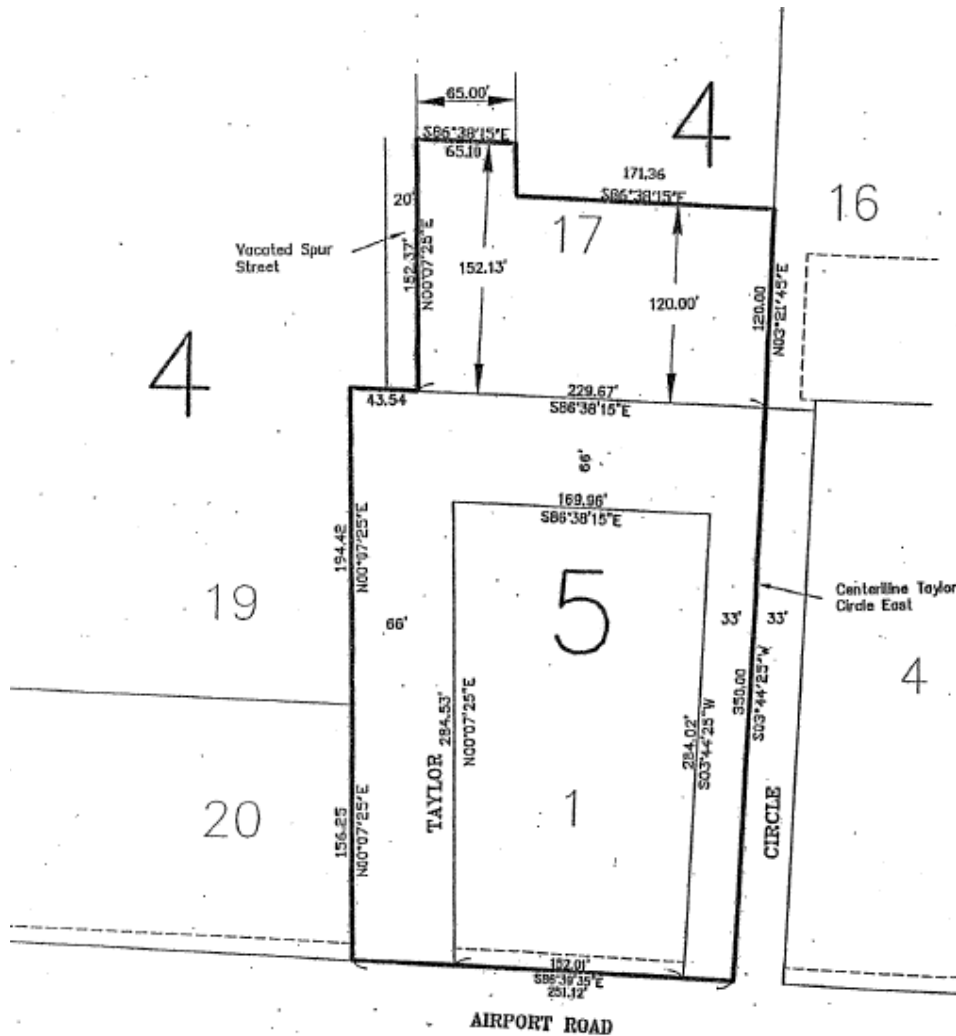
The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ the Secretary of the Duluth Economic Development Authority, a public body, corporate and politic and political subdivision under Minnesota Statutes Chapter 469.

Notary Public

This instrument was drafted by:
Office of the City Attorney
Room 410 City Hall
411 West 1st Street
Duluth, MN 55802-1198

EXHIBIT A

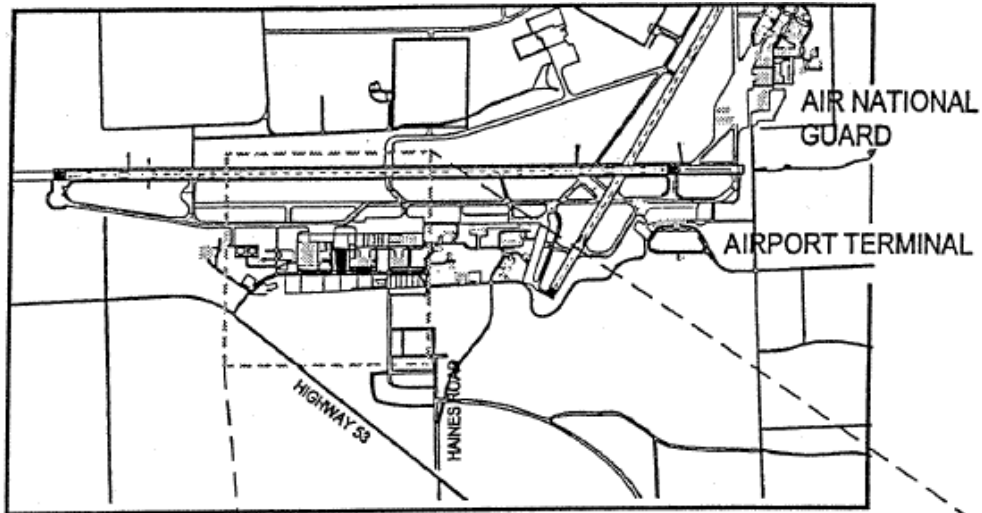
Legal Description of the Land



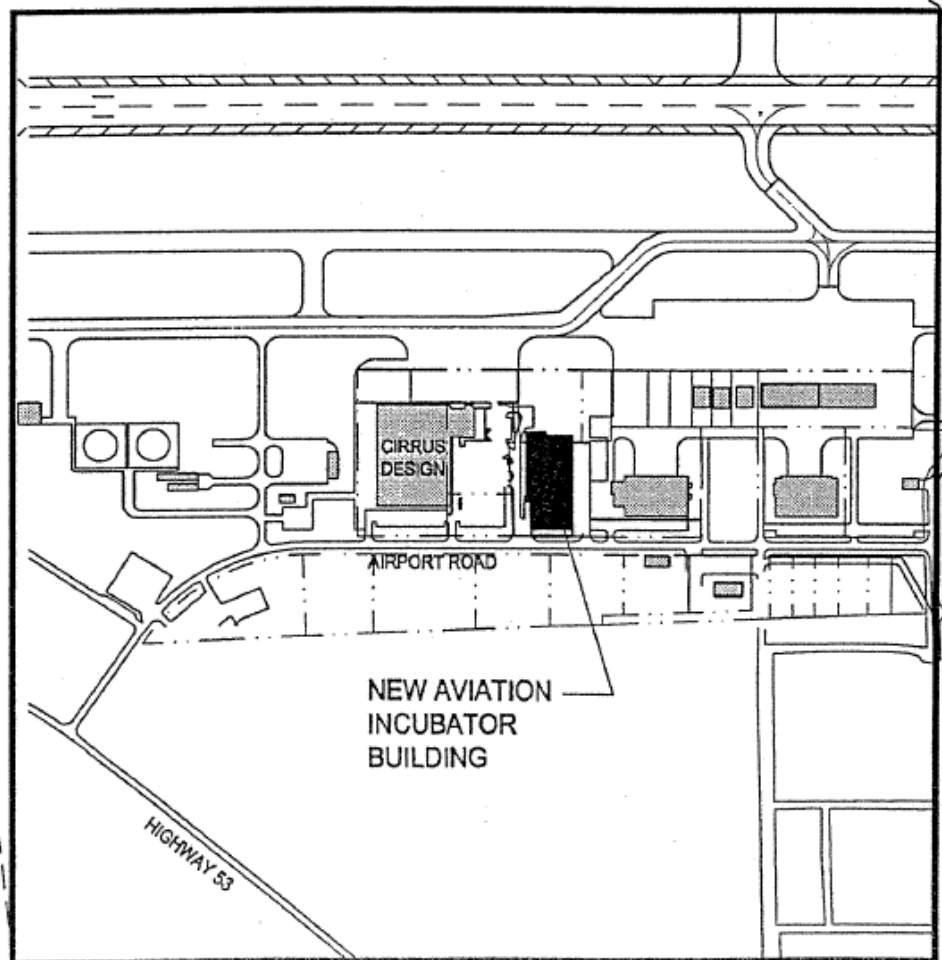
PROJECT PREMISES:

The South 120.00 feet of Lot 17, Block 4, Airport Division and also the South 152.13 feet of the West 65.00 feet of said Lot 17, Block 4, EXCEPT the vacated westerly adjacent spur street; Lot 1, Block 5, Airport Division; and the vacated Taylor Circle, as dedicated in said Airport Division, EXCEPT that part of said Taylor Circle lying easterly of the northerly extended centerline of the easterly portion of said Taylor Circle.

————— Denotes boundary of project premises.



DULUTH INTERNATIONAL AIRPORT



DULUTH AIRPORT AUTHORITY
AIRPORT GROUND LEASE AND AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY

AUGUST, 1993

THIS Document DRAFTED BY:
JEFFREY L. HESSON
HESSON & ASSOC.
NEENAH, WI

TABLE OF CONTENTS

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	<u>PAGE NUMBER</u>
Article 1. - Definitions	1
Article 2. - Lease	3
Article 3. - Plans and Construction	5
Article 4. - Term	6
Article 5. - Payments	7
Article 6. - Future Construction and Leasehold Improvements	10
Article 7. - Provision Against Liens	11
Article 8. - Maintenance of Premises	12
Article 9. - Quiet Enjoyment/Power of Attorney for Site Work	12
Article 10. - Indemnification and Insurance By Lessee	12
Article 11. - Environmental Indemnification	16
Article 12. - Default and Termination	17
Article 13. - Attorney's Fees and Costs	19
Article 14. - Surrender of Possession - Rights to Property	20
Article 15. - Laws, Rules and Regulations	20
Article 16. - Civil Rights Assurances	21
Article 17. - Subordination - Government Commitments	21
Article 18. - Amendment or Modification	22
Article 19. - Force Majeure	22
Article 20. - Notices	22
Article 21. - Applicable Law	23
Article 22. - Drugs and Alcohol	23
Article 23. - Duty to be Reasonable	23

DULUTH AIRPORT AUTHORITY**AIRPORT GROUND LEASE AND AGREEMENT****DULUTH ECONOMIC DEVELOPMENT AUTHORITY**

THIS GROUND LEASE AND AGREEMENT is entered into this 7th day of August, 1993. The Parties to this Agreement are the DULUTH AIRPORT AUTHORITY, a governmental authority organized and existing under the laws of the State of Minnesota, 1969, Chapter 577 (hereinafter referred to as "Authority"), and DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic, existing under the laws of the State of Minnesota (hereinafter referred to as "Lessee").

ACKNOWLEDGEMENTS

WHEREAS, Authority is the operator and leasing agent for properties located at Duluth International Airport in Duluth, Minnesota; and

WHEREAS, Lessee is desirous of leasing a portion of said property for the purpose of releasing and development; and

WHEREAS, Authority is desirous of leasing property to Lessee for that purpose.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

ARTICLE 1.**DEFINITIONS**

- A. **Agreement:** shall mean this Agreement, as originally executed or as it may from time to time be modified, amended or supplemented pursuant to the provisions hereof.
- B. **Airport:** shall mean the Duluth International Airport located in and adjacent to the City of Duluth, County of St. Louis, State of Minnesota.

- C. Consent or Approval of Authority and of Executive Director: Where this Agreement shall call for the consent or approval of Authority, the same shall be in the form of a resolution approved by Authority as provided for by law; where the consent or approval of the Executive Director is required, the same shall be evidenced by a written document signed by him or by a person designated by him to sign such document unless the Agreement otherwise specifically provides.
- D. C.P.I.: shall mean the annual Consumer Price Index as produced by the Department of Commerce of the Government of the United States of America. In the event that the foregoing index shall no longer be produced, the term, "C.P.I.", shall be that index determined by Authority to most accurately reflect the changes in economic values represented by the C.P.I. at the time of the signing of this Agreement; in said event Authority shall notify Lessee of the index to be used under the terms of this Agreement. (Alternate - see Attachment 1).
- E. Leased Premises: shall mean that property located at the Airport in the City of Duluth, County of St. Louis, State of Minnesota, described as Lots 18 and 19, Block 4 Airport Division, according to the recorded plat thereof and as is identified in Exhibit A attached hereto and made a part hereof.
- F. Leasehold Improvements: shall mean any improvements constructed by Lessee or any of its sub-Lessees, and the other improvements constructed, purchased or installed on the Leased Premises, including such items as buildings, structures, decorations, partitions, wiring, lighting and plumbing fixtures, piping, finished ceilings, ventilation duct work, grills, floor and wall coverings, heaters, cabinets, lockers, sinks, counters, chairs and other furniture, and signs.
- G. Expansion Premises: shall mean that property located at the Airport in the City of Duluth, County of St. Louis, State of Minnesota, described as Lots 17 and 21 Block 4 and Lot 1, Block 5 Airport Division, according to the recorded plat thereof together with that land extending westerly from Lot 21, Block 4 approximately Three Hundred

Twenty-Five (325) feet to the Airport access road and as is identified in Exhibit B attached hereto and made a part hereof.

- H. **Permitted Encumbrances:** shall mean this Agreement or the lease with Industrial Resources Corporation and its subtenants and any mortgage or mortgages and contract or contracts, deed of trust, or other proper instrument, made in connection with the construction or operation of facilities on the Leased Premises by Lessee or its sub-Lessees, or, any other encumbrances expressly permitted in writing by Authority which approval shall not be unreasonably withheld.

ARTICLE 2.

LEASE

A. **Effective Date:**

This Agreement is effective and enforceable upon full and complete execution by all Parties hereto.

B. **Leased Premises:**

Authority does hereby agree to lease and demise to Lessee, and Lessee agrees to take and lease from Authority, the Leased Premises upon the terms and conditions set forth in this Agreement.

C. **Permitted Use:**

The Leased Premises shall be used only for the those purposes permitted under existing Airport Master Plan, local zoning and Fixed Base Operator Rules as approved by the Authority and as may be reasonably amended; the Authority herewith recognizes that the Lessee and any of its sub-Lessees, as an initial use, will construct a facility which shall be used for designing, manufacturing and fabricating aircraft for sale to the general public, and for selling the same, and providing training and warranty-related service for the same, including all ancillary, associated or necessary additional uses and activities for successful business operation, during the term of this Agreement.

D. Expansion Premises:

The Authority agrees to exercise all deliberate speed and good faith to clean all soils (provided the funds are supplied by Lessees or others) on Lot 20, Block 4 within twelve (12) calendar months; and if and when said parcel is environmentally clean without encumbrances, said parcel will be added to and become part of the Expansion Premises. In consideration of Lessee advancing to or expending, on behalf of the Authority, public street and public utility improvements, the Authority does hereby agree that, if Lessee is in compliance with this Agreement, then, during the first five (5) year term of this Agreement, Lessee shall have the right to lease, under similar terms and unit rent charges, all or any portion of the Expansion Premises provided sub-Lessee has met the provisions of the Development Agreement Between Duluth Economic Development Authority And Industrial Resources Corporation, A Minnesota Corporation (herein after referred to as "Development Agreement"). In the event Lessee desires to lease less than the full Premises, Lessee shall be permitted to lease a portion Expansion Premises which shall be contiguous to Lessee's then current Leased Premises. Upon exercise of right to lease any portion including less than all of the Expansion Premises, the right to lease the remaining Expansion Premises shall be renewed for an additional five (5) year term if Lessee, or any sub-Lessee of Lessee, shall within six (6) months of the lease of said additional property, begin construction of a project on said additional property having a minimum cost of One Hundred Thousand Dollars (\$100,000) and a minimum size of six thousand (6,000) square feet; each time Lessee expands as hereinbefore provided, the right to lease the remaining portion unleased portion of the Expansion Premises shall be renewed for an additional Five (5) year period until such time as Lessee fails to timely exercise the Lease right. If Lessee fails to timely exercise the Lease right or fails to construct the minimum cost project within the time described, this right shall lapse. If Lessee desires to exercise this right, it shall give Authority ninety (90) days written notice thereof, and shall, within thirty (30) days, receive Authority's written approval or disapproval of plans as provided in this Ground Lease. In the event Lessee shall exercise its right, Lessee and Authority shall add that portion of the Expansion Premises described in the Notice to this Agreement. Any Expansion Premises currently under lease to a third party shall only become subject to this right at such time as said portion of the Expansion

Premises becomes available from said third-party lessee; Authority will not extend or renew any existing third party lessee which is part of the Expansion Premises.

E. Common Premises:

In addition to the foregoing, Authority does grant to Lessee and its sub-Lessee and their employees, customers and contractors access in common with the access granted to members of the general public, to all public portions of the Airport. Authority further agrees that its Executive Director will grant Lessee and its sub-Lessees access to runways, taxiways and ramps; provided, however, that the use of all such Airport facilities shall be subject to such terms and under such rules and regulations as may now exist or may, from time to time, be approved by Authority and shall further be subject to such reasonable charges as may be established from time to time among various classes of users at the Airport by Authority without discrimination.

ARTICLE 3.

PLANS AND CONSTRUCTION

A. Drawings and Specifications:

At the time Lessee receives them and prior to the commencement of construction of any Improvements on the Leased Premises, Lessee shall submit working drawings and specifications of the Improvements to be constructed, together with detailed site, grading, utility and landscaping plans and elevations to the Executive Director for his rejection or approval, as existing within or in violation of an existing Authority rule or regulation; such approval shall not be unreasonably withheld. All such plans, specifications and elevations shall be in conformity with this Agreement and with all applicable laws, ordinances, rules, regulations and requirements of the Authority, City of Duluth, County of St. Louis, State of Minnesota, and United States of America Authorities. Failure of the Executive Director to object within ten (10) days of receipt, shall constitute approval. If the Executive Director rejects such plans, specifications and elevations in whole or in part, and within the permitted time, Authority agrees to notify Lessee of such rejection, together with a specific reason or reasons stated therefore, and the Lessee shall be permitted to resubmit the plans in the same manner

as outlined above. No construction of the development referred to herein or of any Leasehold Improvements related thereto shall commence prior to the submission for approval of said plans, specifications and elevations. Authority acceptance of Lessee's plans, specifications and elevations shall not constitute a waiver by Authority or the City of Duluth of the building codes or ordinances or other developmental duties to be imposed in the future upon Lessee by law. Lessee expressly agrees to be solely responsible for all costs, including architectural fees, connected with the plans, specifications and elevations described herein.

B. Changes After Initial Approval:

Any material changes made to the plans by Lessee after the initial approval of the Executive Director shall be submitted to him for acceptance in the same manner as provided for in Paragraph A above.

ARTICLE 4.

TERM

A. Initial term:

The initial term of this Agreement shall commence on the date stated in Article 2, Paragraph A, and shall run until December 31, 2018 (the "Initial Term"), unless sooner terminated as hereinafter provided.

B. Option Term:

At the end of this initial term this Agreement may, at the option of Lessee, be renewed for a second term of twenty-five (25) years. In this event the rent for the second term shall be determined by a continuation of the rate setting calculation set out in this Agreement. The rental rate charged shall be for unimproved ground only, and shall not take into consideration any of the Leasehold Improvements. At the end of the first (1st) renewal term, Lessee may renew for a second (2nd) renewal term of twenty-five (25) years under the same conditions as the first (1st) renewal.

**ARTICLE 5.
PAYMENTS**

A. Rent:

Upon the signing of this Agreement, Lessee hereby agrees to pay Authority the sum of Ten Cents (\$.10) per square foot of Leased Premises for a total of Thirteen Thousand Four Hundred Ninety Dollars (\$13,490) per year as rental for Leased Premises, said sum being due and payable as provided for herein. Additionally, upon the exercise of Lessee's option to rent any of the Expansion Premises, Lessee shall be obligated to pay Authority the same per square foot rate of rental as Lessee is then paying for the Leased Premises. The amount of rental shall be adjusted as provided for in Paragraph C of this Article. Notwithstanding the Rent Abatement, the minimum rent payable hereunder shall not be less than Four Cents (\$.04) per square foot which equates to a minimum total rent of Five Thousand Three Hundred Ninety-six Dollars (\$5396) as rental for the Leased Premises; the minimum per square foot will also apply to the Expansion Property.

B. Rent Parity:

Authority agrees to charge not less than Ten Cents (\$.10) per square foot for future leases of land with access to the air operations portion of the Airport. The Authority will grant Lessee a reduction in rent should future tenants pay less than Ten Cents (\$.10) per square foot on a net comparable basis. Authority will, at lease renewals of other tenants (with access to the air operations portion of the Airport) at current lower rates, bring such tenants up to parity with the rates paid by Lessee.

C. Rent Abatement:

In consideration of Lessee's performance of all of its obligations under this Agreement, and Lessee's agreement to Authority to remove or clean unstable or environmentally contaminated soil and to indemnify the Authority from the environmental cleanup costs on the Leased Premises, Authority hereby agrees to provide Lessee a rental abatement of Sixty Percent (60%) of the annual ground rent until Lessee has recovered all unreimbursed costs of site correction and/or cleanup and utility and road improvements;

provided, Lessee has not received reimbursement from a third party and provided that if Lessee shall be in default in any of the terms and conditions of this Agreement, at the discretion of Authority, all such abated rental payments not then made shall immediately become due and payable to Authority and shall be deemed to have borne interest at the rate of five percent (5%) per annum from the date that they would have been due had said payments not been abated pursuant to the terms and conditions of this Paragraph.

D. Rental Adjustment:

The annual rent for the term of this Agreement and any renewals thereof and/or exercise of Expansion for Expansion Premises in Article 2 D shall be adjusted in accordance with the increase or decrease in the C.P.I. over the period from the beginning of this Agreement or the last date of rental adjustment. The initial adjustment shall be made and effective January 1, 1998, and shall be increased or decreased by the C.P.I. increase or decrease factor from the Effective Date of this Agreement. This adjusted rent shall be the effective rate for a period of five (5) years and shall thereafter be similarly adjusted every five (5) years during the term of this Agreement and any extensions thereof. Under no circumstances shall the adjusted annual rent be greater than the ground rent charged under leases executed or amendments executed subsequent to this Agreement, nor shall the annual increase be greater than three percent (3%). (Alternative - see Attachment 1). Authority shall have the exclusive option to use the Alternative Rental Adjustment attached as Attachment 1 and incorporated herein by reference.

E. Miscellaneous Payments and Services:

1. Airport User Charges

Lessee shall, in addition, pay all Airport usual and customary user charges for common areas, such as landing fees, tiedown fees, fuel flowage fees and any other fees associated with use of Airport facilities commonly charged to other users of the Airport without discrimination.

2. Refuse and Garbage

Lessee assumes all responsibility for the disposal of refuse and garbage generated by its operations at the Airport and agrees to absorb all costs related thereto.

3. Utilities - Right of Entry

Lessee agrees to provide such heat, air conditioning, electricity, sewer, gas and water as are reasonably necessary for Lessee's operations at no cost to Authority. Authority and its agents, assigns, or licensees, reserves an easement and license to go upon the Leased Premises to install, maintain, construct or repair any water, gas, sewer, electrical or other utilities as needed to maintain or improve utilities on the Airport; provided, however, that this right must be exercised in a reasonable manner and without cost to Lessee or damage to Lessee's property. If entry is required hereunder into any building, the appropriate confidential agreements of Lessee or sub-Lessees.

4. Licenses, Fees and Taxes

Lessee hereby agrees to pay all license, fees, taxes and assessments of any kind whatsoever which are assessed by government taxing authorities and arise because of, out of, or in the course of any operations covered by this Agreement during the term hereof. Should Lessee fail to pay such amounts, it is expressly agreed that Authority may pay the same on behalf of Lessee and immediately collect the same from Lessee.

5. Right to Contest

Lessee shall have the right to contest the validity or amount of any tax, assessment or charge, lien, or claim of any kind in respect to the Leased Premises. Lessee shall, if Authority requires the same in writing and if the taxes or other assessments have not been paid under protest or otherwise escrowed or provided for, furnish reasonable security for the payment of all liability, costs and expenses at the end of the litigation, and Lessee, so long as the matter shall remain undetermined by final judgment, shall not be considered in default hereunder by the nonpayment thereof; provided, however, that Lessee shall not, under these provisions, permit the Premises or any buildings or improvements situated thereon, to be sold or forfeited, and failure by Lessee to do

what is necessary to prevent any such sale or forfeiture within ten (10) days from the publication or receipt of notice for sale or forfeiture, shall be deemed to be a default hereunder, and Authority may, at its option, pay any such sum as may be required to avoid the sale or forfeiture and seek reimbursement for its cost from Lessee.

F. Time for Payment and Manner of Payment

1. Rental

All annual payments for rental, as provided for in Paragraph A above, shall be due and payable on the first (1st) day of the month of each Agreement year of Lessee's occupancy of the Leased Premises.

2. Airport User Fees

Lessee shall pay all Airport normal and customary user fees when Airport rules and regulations provide that such fees shall be paid, whether at the time that said user fees are incurred or when billed by the Authority, as provided for by Authority procedures and regulations.

3. Reimbursements

All reimbursements to Authority called for by this Agreement shall be due and payable promptly upon being billed by Authority to Lessee.

ARTICLE 6.

FUTURE CONSTRUCTION AND LEASEHOLD IMPROVEMENTS

A. Construction Standards and Approvals:

Any construction or Leasehold Improvements done by Lessee, or under his direction, over and above that contemplated by the Development Agreement above, shall conform to all applicable regulations, building codes, and health standards and:

1. Construction Approval

Complete contract drawings and specifications on all work, including alterations,

additions or replacements, must be submitted for and receive approval according to
Article 3 Paragraph A hereof.

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2. Construction

All work must be done by competent contractors or by Lessee itself. Lessee shall comply with the indemnity and insurance and bond requirements of this Agreement.

3. Construction Representative

An authorized representative of Lessee or sub-Lessee shall be available at all reasonable time at the site to coordinate the work of the Leasehold Improvements.

B. Construction Bonds and Insurance.

1. Bonds

During the term of this Agreement, when any Leasehold Improvements are constructed, installed or renovated, Lessee shall, or shall cause sub-Lessee, to secure bond or bonds to be conditioned for payment of claims as required and in full compliance with Minnesota Statutes Section 574.26, or such other security necessary to protect against mechanics or materialmen liens.

2. Contractor's Insurance

Lessee will provide or require its contractor or contractors to provide insurance complying with the requirements of Lessee.

ARTICLE 7.

PROVISION AGAINST LIENS

Only Permitted Encumbrances shall be allowed.

ARTICLE 8.**MAINTENANCE OF PREMISES**

Lessee agrees to maintain the Leased Premises in a clean, neat and orderly condition and in compliance with all codes for such facilities.

ARTICLE 9.**QUIET ENJOYMENT****POWER OF ATTORNEY FOR SITE WORK**

Authority covenants that Lessee, upon payment of the rentals reserved herein and the performance of each and every one of the covenants, agreements, and conditions on the part of Lessee to be observed and performed, shall and may, peaceable and quietly, have, hold and enjoy the Leased Premises for the term of aforesaid, free from molestation, eviction or disturbance. Without cost to the Authority and only after written request, the Authority grants right of entry to Lessee and a power of attorney to collect, give all notices and take all acts in the name of the Authority that Lessee deems necessary to clean the Premises, the Expansion Premises or any adjoining land where migration may be a problem.

ARTICLE 10.**INDEMNIFICATION AND INSURANCE BY LESSEE****A. Indemnity By Lessee:**

Lessee will defend, indemnify and hold Authority and City (hereinafter referred to as "City") of Duluth harmless from any loss, cost or expense in any way arising out of or resulting from any acts, omissions, negligence, or based upon the violation of any federal, state, or municipal laws, statutes, ordinances or regulations by Lessee, its agents, employees, sublessees or those under its control; in, on or about the Leased Premises; and on ten (10) days' written notice from Authority, Lessee will appear and defend all claims and lawsuits against Authority growing out of any such injury or damage. Lessee's liability hereunder shall not be limited to the extent of insurance carried by or provided by Lessee or subject to any exclusions from coverage in any

insurance policy. Lessee shall not be liable for any injury, damage, or loss occasioned by the negligence or wilful misconduct of Authority, its agents, employees or other lessees of Authority.

B. Indemnity By Authority:

Authority will defend, indemnify and hold Lessee harmless from any loss, cost or expense in any way arising out of or resulting from any acts, omissions, negligence, or based upon the violation of any federal, state, or municipal laws, statutes, ordinances or regulations by Authority, its agents, employees, licensees, successors and assigns, or those under its control, in, on or about the Leased Premises; or in connection with its use provided; and on ten (10) days' written notice from Lessee, Authority will appear and defend all claims and lawsuits against Lessee growing out of any such injury or damage. Authorities' liability hereunder shall not be limited to the extent of insurance carried by or provided by Authority or subject to any exclusions from coverage in any insurance policy. Authority shall not be liable for any injury, damage, or loss occasioned by the negligence or wilful misconduct of Lessee, its agents, employees or other lessees of Lessee.

C. Insurance:

Lessee shall cause any sublessees to provide for purchase and maintenance of such insurance as will protect Lessee, Authority and City against risk of loss or damage to the project and any other property permanently located or exclusively used at the Leased Premises and Expansion Premises and against claims which may arise or result from the maintenance and use of the premises, including operations conducted in connection with construction of improvements thereupon, including:

1. Property Insurance

Lessee will require any sub-Lessee to name the Authority as a loss payee for the limited purpose of site cleanup in any property insurance policy.

2. Liability Insurance

During the construction period (unless covered under the policies required previously) and permanently thereafter for the balance of the term of this Agreement, as extended,

Lessee shall require any sub-Lessee to procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than Five Million Dollars' (\$5,000,000) aggregate per occurrence for personal bodily injury and death, and limits of Five Million Dollars (\$5,000,000) for property damage liability. If per person limits are specified, they shall be for not less than One Million Dollars (\$1,000,000) per person and be for the same coverage. Authority and City shall be named as an additional insured therein. Insurance shall cover:

- (1) Public liability, including premises and operations coverage;
- (2) Independent Contractors - protective contingent liability;
- (3) Personal injury;
- (4) Owned, non-owned and hired vehicles;
- (5) Contractual liability covering the indemnity obligations set forth herein; and
- (6) Inventory--completed operations.

3. Workers' Compensation

Workers' Compensation Coverage in statutory amounts with "all states" endorsement unless qualified as a self-insurer under Minnesota Law, and evidence of such qualification is to be furnished to Authority by any sub-Lessee. Employees liability insurance shall be carried in limits of One Hundred Thousand Dollars (\$100,000) per employee.

4. Requirements for All Insurance

All insurance required in this Article shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in Minnesota.

5. Certifications

Lessee shall be required to supply to Authority written certifications of insurance as requested by Authority requiring the insurer to give Authority thirty (30) days' written notice prior to cancellation or modification of said insurance. In the event that the

"Accord" form of certificate is used, the words "endeavor to" shall be stricken from the notice provisions thereof.

6. Destruction or Damage

In the event that the Leasehold Improvements are destroyed or substantially damaged by fire or other casualty, Lessee shall have the option of repairing or rebuilding said improvements and the previously approved plans and specifications or constructing new improvements in conformance with the terms of this Agreement and the plans and specifications for which shall be developed and approved in conformance with this Agreement. All such work shall be performed and completed within one hundred eighty (180) days of the time of the occurrence of the aforesaid fire or other casualty and Lessee shall thereafter continue to be obligated to pay Authority rental and other charges as provided for in the Agreement until its termination in accordance with the terms thereof.

7. Modifications of Insurance

Because of the duration of this Agreement and the uncertainty as to future property values and financial risks related to death, personal injury and property damage, the parties hereto agree that Authority shall have the right to increase the levels of insurance required by this Article or to modify the form of insurance required at such times and in such a manner as is reasonably necessary to provide Authority with the level of protection provided for in this Agreement on the date of its signing.

D. Hazardous Waste:

Nothing to the contrary of the generality of the foregoing withstanding, except as provided for below, it is specifically agreed between the Parties that Lessee shall require any sub-Lessee to be responsible in all respects for the use of or generation of any substance classified as "hazardous waste" or a "pollutant" by either the Environmental Protection Agency of the Government of the United States or the Minnesota Pollution Control Agency or any other government agency that may in the future be responsible for environmental policy or enforcement. Lessee shall specifically be responsible for the disposition of all such substances and for the

cleanup of environmental condition deemed by any of those agencies to require environmental cleanup activities of any kind, which need arises, directly or indirectly, out of Lessee's operations at the Airport, regardless of where the cleanup occurs, and Lessee specifically agrees that the obligations of Paragraph A above shall apply specifically to any costs or obligations of Authority arising out of any such disposition or cleanup. Provided, however, that the Parties hereto acknowledge the probability of the existence of preexisting contamination on the Leased Premises and Option Premises. It is agreed by the Parties that it shall be the obligation of Lessee, to remediate the site conditions as otherwise provided in this Agreement.

ARTICLE 11

ENVIRONMENTAL INDEMNIFICATION

A. Lessee's Environmental Cleanup:

Lessee will exercise all deliberate speed and best efforts to clean any soil contaminated with Environmentally Regulated Substances, as defined in the Lease, on the Leased Premises and Expansion Premises to bring the soil into compliance with state, federal and local standards described in Lease and Development Agreement for soil contamination as evidenced by a site closure letter or other form of release issued from EPA or MPCA or other site control or a governmental agency. For all site and cleanup work after work on the Leased Premises, Lessee will give the Authority notice of the plan and expected costs. Lessee will have no responsibility to indemnify or hold Authority harmless if Authority brings any environmentally regulated substances onto the Leased Premises or causes further contamination after cleanup. Lessee will be reimbursed through rent abatement by Authority for the unreimbursed stated cleanup.

B. Authority's Obligations:

Authority agrees to grant the power of attorney herein and to aid Lessee in its cleanup of the Leased Premises in applications with any and all governmental authorities which govern the cleanup activities, in all reimbursement applications related to the cleanup and any legal assignment of rights necessary to obtain contribution by responsible parties other than Authority or the.

ARTICLE 12.
DEFAULT AND TERMINATION

A. General:

In the event that any one or more of the following events shall occur, then in its discretion, Authority shall have the right to terminate this Lease, or to bring action against Lessee thereafter for damages as the same may from time to time accrue.

1. Filing of Lien

Any lien shall be filed against the demised premises because of an action or omission of Lessee and shall not be discharged or contested by Lessee in good faith by proper legal proceedings within sixty (60) days after receipt of notice thereof by Lessee; or

2. Failure to Observe Lease Terms

Lessee shall fail to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement or on its part to be kept, performed or observed, and such failure shall continue for a period of more than thirty (30) days after transmission to Lessee by Executive Director of a written notice of such breach or default. Or in the event that cure cannot be completed within said thirty (30) day period, Lessee fails to commence cure promptly upon receipt of notice of such breach or default and to complete the cure thereof within the period that the Executive Director, in his sole discretion, has granted to Lessee, in writing, for the purpose of curing the breach.

B. Nonwaiver:

Any waiver of any breach of covenants herein contained to be kept and performed by Lessee, shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent Authority from declaring a forfeiture for any succeeding breach either of the same condition or covenant or otherwise.

C. Mortgage of Leasehold Interest:

Lessee shall have the right to place priority mortgage liens, (which may take the form

of a financing lease), (hereinafter referred to as "the mortgage"), upon improvements to the Leased Premises. All of the Lessee rights and obligations under this Lease shall inure to the benefit of such Lender named in said mortgage (hereinafter referred to as the "Lender") and its assignees. The Lender named in such a mortgage shall have the following rights and shall be subject to the following duties:

1. Lender Continuation

In the case of a default by the Lessee under the terms of the mortgage, a Lender shall have the right to assume the rights, benefits, duties, and obligations granted and imposed upon the Lessee under the terms of this Lease, with the right to assign the Lender's interest acquired from the Lessee under this Lease to a third party. In the event that the Lender assumes the responsibilities of the Lessee under the terms of this Lease, the aggregate and total financial obligations of the Lender assumed under the terms of this Lease shall not exceed the fair market value of the Lessee's continuing interest in the Leased Premises as if the Lessee were not in default.

2. Assignment

In the event the Lender chooses to assign its rights under this Lease to a third party, the Lender shall allow the Authority written notice and a thirty (30) day period for the Authority to pay the Lender in full the amount of indebtedness secured by Lessee or sublessees assignment to lender and receive an assignment of Lender's interest. In the event of Lender's assignment, the Lender's obligations as a substituted Lessee shall cease upon the assignment of the Lender's rights as a substitute Lessee to a third party.

3. Notice Rights Of Authority

As a condition precedent to the exercise of the right granted to Lender by this paragraph, Lender shall notify Authority of all action taken by it in the event of a default by Lessee on the mortgage. Lender shall also notify Authority, in writing, of any change in the identify or address of the Lender.

4. Notice Rights of Lender

All notices required by to be given by Authority to Lessee with regard to default or any other failure by Lessee under this Lease shall also be given to Lender at the same time and in the same manner but only after Lender has notified Authority of the request of duplicate notice. Upon receipt of such notice, Lender shall have the same rights as Lessee to correct any default.

5. Estoppel Certificate

Within ten (10) days after Lessee's request, Authority shall deliver an Estoppel Certificate, a declaration to any person designated by Lessee, (1) ratifying this Lease; (2) stating the commencement and termination dated and the rent commencement date; and (3) certifying (i) that this Lease is in full force and effect and has not been, to the knowledge of the Authority, assigned, modified, supplemented or amended (except by such writings as shall be stated); (ii) that all conditions under this Lease to be performed by Lessee have been satisfied (stating exceptions, if any) (iii) no defenses or offsets against the enforcement of this Lease by Lessee exist (or stating those claimed); (iv) the date to which rent has been paid, and such other information as Lessee reasonably requires.

ARTICLE 13.

ATTORNEY'S FEES AND COSTS

In the event Authority shall prevail in any action or suit or proceeding brought by Authority to collect the rent due or to become due hereunder or any portion thereof, or to take possession of the demised premises, or to enforce compliance with this Agreement or for failure to observe any of the covenants of this Agreement, Lessee agrees to pay Authority such sums as the court may adjudge reasonable as attorney's fees and costs to be allowed in such action, suit or proceeding. In the event Lessee shall prevail in any action or suit or proceeding brought by Lessee to enforce compliance with this Agreement or for failure to

observe any of the covenants of this Agreement, Authority agrees to pay Lessee all reasonable attorney's fees and costs for enforcing such terms of the Agreement.

ARTICLE 14.

SURRENDER OF POSSESSION - RIGHTS TO PROPERTY

Upon the expiration or other termination of this Agreement, Lessee's authority to use the Leased Premises, rights, facilities and equipment herein granted shall cease and Lessee shall, upon termination or expiration, promptly and in good condition surrender the same to Authority except as set forth below. Upon termination, any Leasehold Improvements which have become a part of the realty, including buildings and structures, and which improvements Lessee has not removed and thereafter restored the Lease Premises, shall become the property of Authority, and the same, together with the Leased Premises, shall be immediately returned to the control of Authority. Any Leasehold Improvements not a part of the realty shall be removed therefrom within sixty (60) days after the termination of this Agreement or the same shall be deemed to have been abandoned to Authority and the right of the Lessee to possession thereof shall cease.

ARTICLE 15.

LAWS, RULES AND REGULATIONS

Lessee agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota, the City of Duluth, the Duluth Airport Authority, and their respective agencies which are applicable to its business at the Airport, including, but not limited to, all environmental laws and regulations, and further agrees to observe and comply with all reasonable Airport rules and regulations in existence at the execution of this Agreement and which may, from time to time, be promulgated by Authority governing conduct on and operations at the Airport and the use of its facilities, as administered by the Executive Director. Further, Lessee agrees to fulfill its responsibilities pursuant to the Airport Security Plan approved by the Federal Aviation Administration and any amendments thereto.

ARTICLE 16.
CIVIL RIGHTS ASSURANCES

Lessee for himself, his personal representatives, successors and interests and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities.
2. That in the construction of any improvements on, over or under such land in the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.
3. That Lessee shall use the premises in compliance with all of the requirements imposed by or pursuant to Title 49 Code of Federal Regulations, Department of Transportation Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation - Effectuation Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

ARTICLE 17.
SUBORDINATION - GOVERNMENT COMMITMENTS

Nothing herein shall be construed to prevent Authority from making such commitments as it desires to the Government of the United States or to the State of Minnesota in order to qualify for the expenditure of Federal or State funds at the Airport or related in any manner to the operation thereof, and this Agreement shall be subordinate to the provisions of any existing or future agreement between Authority and the Government of the United States or of the State of Minnesota relative to the operation or maintenance of the Airport. Nothing shall hereby be interrupted to permit Authority to breach the basic intent of this Agreement to provide commercial aircraft development facilities.

ARTICLE 18.
AMENDMENT OR MODIFICATION

This Agreement may be amended or modified only by a written instrument, dated, and duly executed by the authorized representatives of each of the respective Parties. This Agreement constitutes the entire agreement of Authority and Lessee on the subject matter thereof.

ARTICLE 19.
FORCE MAJEURE

Under the terms of this Agreement, neither Authority nor Lessee shall be considered in default or in breach of any of its terms with respect to the timing of the commencement or completion of the construction or the availability of the Leased Premises for construction in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault and negligence including, but not limited to, acts of God, acts of a public enemy, acts of the federal government, fires, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for a reasonable period upon written notice from the parties seeking the extension to the other party.

ARTICLE 20.
NOTICES

Notices to be provided for herein shall be sufficient if delivered in person or sent by registered mail, postage prepaid, addressed as follows:

To the Duluth Airport Authority:
4701 Airport Drive,
Duluth International Airport,
Duluth, Minnesota, 55811;

To Duluth Economic Development Authority:

Room 402, City Hall

Duluth, Minnesota, 55802

or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

ARTICLE 21.
APPLICABLE LAW

This Agreement, together with all of its articles, terms and provisions, is made in the State of Minnesota and shall be construed and interpreted according to the laws of the State of Minnesota.

ARTICLE 22.
DRUGS AND ALCOHOL

Lessee's operations and use of the premises shall be in conformance with all federal, state, and local laws, regulations or valid orders and policies controlling drug or alcohol use or possession on the Airport.

ARTICLE 23.
DUTY TO BE REASONABLE

Wherever in this Agreement the Authority is to give its consent, approval or otherwise exercise discretion in judgment, such consent, approval or judgment shall not be unreasonably exercised or unreasonably withheld.

568874

22nd IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this
day of August, 1993.

DULUTH AIRPORT AUTHORITY

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By _____

By *Anna K. Hanson*

Approved as to Form:

Deputy City Attorney

Countersigned:

City Attorney

CITY OF DULUTH)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of August,
1993, by _____ of the Duluth Airport Authority, a governmental
authority, on behalf of the Authority.

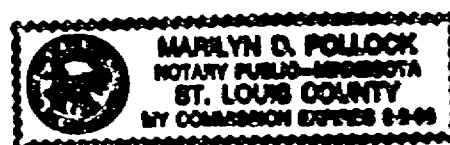
Notary Public

568874

CITY OF DULUTH)
COUNTY OF ST. LOUIS) ss.

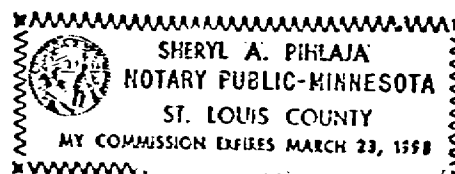
The foregoing instrument was acknowledged before me this 10th day of August, 1993, by LANCE HAZEN of the Duluth Economic Development Authority.

Marilyn D. Pollock
Notary Public



The foregoing instrument was acknowledged before me this 12th day of August 1993, by Joseph Lasky, President of the Duluth Airport Authority on behalf of the Authority.

Sheryl A. Pihlaja



568874

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this
____ day of August, 1993.

DULUTH AIRPORT AUTHORITY

By *[Signature]*
President

By *[Signature]*
Secretary

Approved as to Form:

Assistant City Attorney

Countersigned:

[Signature]
City Attorney

CITY OF DULUTH)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 12th day of August, 1993, by *Jodi Petron* and _____
~~President and Secretary~~, of the Duluth Airport Authority, a governmental authority, on behalf of the Authority.

Jodi R. Massie
Notary Public



ATTACHMENT 1ALTERNATIVE RENTAL ADJUSTMENT

Authority shall have the exclusive option to use the following rental adjustment criteria:

At each five (5) years hereunder, the annual rent shall be adjusted to equal seven percent (7%) of the fair market value of the land, exclusive of buildings, improvements and as though unencumbered by any lease, based upon agreement of the Parties or if the Parties can not agree, by an appraisal of such fair market value as of said date and such adjusted annual rent shall be applicable until the end of said five (5) year renewal term.

In making appraisals, each party shall designate an appraiser and shall notify the other party in writing of the names and address of the appraiser so designated. The Lessor shall initiate the proceeding by notifying the Lessee of the appointment of an appraiser, and within fifteen (15) days thereafter, the Lessee shall notify the Lessor of the appointment of a second appraiser. The two appraisers shall select a third appraiser. All appraisers shall be qualified as members of a nationally recognized appraisal accreditation group. Should either party fail to appoint an appraiser within fifteen (15) days from the time when such appointment should have been made, the other party may have the appointment made by the then President of the Duluth Board of Realtors (or comparable organization). Should the two appraisers fail to agree on the appointment of a third appraiser within thirty (30) days of the appointment of the last of such two appraisers to be appointed, the third appraiser shall be appointed also by the then President of said Board (or comparable organization) upon application made by the Lessor within forty-five (45) days after the three appraisers, or a majority thereof, of the fair market value of the land, the appraisers shall notify both the Lessor and the Lessee in writing and such appraisal shall be binding upon both parties in determining the rent to be paid for the particular period involved. The cost of each such appraisal shall be shared equally by the Lessor and the Lessee.

Under no circumstances shall the adjusted annual rent be greater than the ground rent charged under leases executed or amendments executed subsequent to this Agreement.

568874

OFFICE OF REGISTRAR OF TITLES
STATE OF MINNESOTA } ss.
COUNTY OF ST. LOUIS }

I hereby certify that the within
Instrument was filed in this office on

AUG 12 1993
at 1 P.M. and was duly registered
in Book 700 of Register of Titles,
page 186 ✓

MARK A. MONACELLI
Register of Titles

BY shua
Deputy

AUG 27 1993

FOR OFFICE USE ONLY

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