

ORIGINAL COMPARED WITH RECORD

COLUMBIAN NATIONAL TITLE INSURANCE  
OF JOHNSON COUNTY, INC.  
POST OFFICE BOX 38  
OLATHE, KANSAS 66061  
782-0155

\$ 20,896

1442642 ✓

LEASE

BY AND BETWEEN

JOHNSON COUNTY AIRPORT COMMISSION

AND

JcAIR ASSOCIATES

DATED AS OF NOVEMBER 1, 1983

STATE OF KANSAS }  
COUNTY OF JOHNSON } ss  
FILED FOR RECORD

1983 NOV 30 P 3:56 9

RUBIE M. SCOTT  
REGISTER OF DEEDS

BY \_\_\_\_\_ DEP

# LEASE

## TABLE OF CONTENTS

	<u>Page</u>
RECITALS .....	1
 <u>ARTICLE I</u>	
Section 1.1 Granting of Leasehold .....	2
 <u>ARTICLE II</u>	
Section 2.1 Basic Rent .....	2
Section 2.2 Acquisition of Bonds .....	3
Section 2.3 Additional Rent .....	3
Section 2.4 Rent Payable Without Abatement or Setoff ...	4
Section 2.5 Prepayment of Basic Rent .....	5
Section 2.6 Designation of Fiscal Agent .....	5
 <u>ARTICLE III</u>	
Section 3.1 Disposition of Bond Proceeds; Construc- tion Fund .....	5
Section 3.2 Representations and Covenants by Tenant Relating to Section 103 of the Code.....	6
 <u>ARTICLE IV</u>	
Section 4.1 Acquisition of Such of the Improvements As Are Completed .....	6
Section 4.2 Construction Contracts .....	7
Section 4.3 Insurance During Construction .....	7
Section 4.4 Payment for Construction .....	8
Section 4.5 Construction Cost .....	9
Section 4.6 Completion of Facility .....	10
Section 4.7 Deficiency of Construction Fund .....	10
Section 4.8 Surplus in Construction Fund .....	10
Section 4.9 Right of Entry by Landlord .....	10
Section 4.10 Machinery and Equipment Purchased by Tenant.	11
Section 4.11 Facility Property of Landlord .....	11
 <u>ARTICLE V</u>	
Section 5.1 Impositions .....	11
Section 5.2 Receipted Statements .....	12
Section 5.3 Landlord May Not Sell .....	12
Section 5.4 Contest of Impositions .....	12

## ARTICLE VI

Section 6.1	Insurance .....	12
Section 6.2	Owner's Title Insurance Policy .....	15

## ARTICLE VII

Section 7.1	Use of Facility .....	15
Section 7.2	Non-discrimination .....	15
Section 7.3	Affirmative Action Program.....	16
Section 7.4	Non-Exclusive Right.....	16
Section 7.5	Provision of Services.....	17
Section 7.6	Lease Subject to Deed.....	17
Section 7.7	Lease Subordinate to Federal Requirements...	17

## ARTICLE VIII

Section 8.1	Assignment and Sublease .....	17
Section 8.2	Dissolution or Liquidation .....	18

## ARTICLE IX

Section 9.1	Repairs and Maintenance .....	18
-------------	-------------------------------	----

## ARTICLE X

Section 10.1	Alteration of Facility .....	18
--------------	------------------------------	----

## ARTICLE XI

Section 11.1	Additional Improvements .....	18
--------------	-------------------------------	----

## ARTICLE XII

Section 12.1	Securing of Permits and Authorizations .....	19
Section 12.2	Mechanics' Liens .....	19
Section 12.3	Contest of Liens .....	19

## ARTICLE XIII

Section 13.1	Utilities .....	20
--------------	-----------------	----

## ARTICLE XIV

Section 14.1	Indemnity .....	20
--------------	-----------------	----

ARTICLE XV

Section 15.1	Access to Facility .....	20
--------------	--------------------------	----

ARTICLE XVI

Section 16.1	Option to Extend Term .....	21
--------------	-----------------------------	----

ARTICLE XVII

Section 17.1	Eminent Domain or Insured Deficiency in Title of Substantially All of the Facility .....	21
Section 17.2	Eminent Domain as to Use .....	22
Section 17.3	Eminent Domain or Insured Deficiency of Title of Less Than Substantially All ....	22
Section 17.4	Damage or Destruction by Fire or Other Casualty .....	23
Section 17.5	Payment for Reconstruction .....	24
Section 17.6	Application of Insurance Moneys and Condemnation Proceeds After Payment of Bonds .....	25

ARTICLE XVIII

Section 18.1	Tenant's Options to Terminate Lease .....	26
--------------	---	----

ARTICLE XIX

Section 19.1	Default Provisions .....	27
Section 19.2	Survival of Obligations .....	30

ARTICLE XX

Section 20.1	Performance of Tenant's Obligations by Landlord .....	30
--------------	--	----

ARTICLE XXI

Section 21.1	Surrender of Possession .....	31
--------------	-------------------------------	----

ARTICLE XXII

Section 22.1	Notices .....	31
--------------	---------------	----

### ARTICLE XXIII

Section 23.1	Net Lease .....	32
Section 23.2	Funds Held by Fiscal Agent After Payment of Bonds .....	32

### ARTICLE XXIV

Section 24.1	Rights and Remedies .....	32
Section 24.2	Waiver of Breach .....	32
Section 24.3	Abandonment by Tenant .....	33
Section 24.4	Landlord Shall Not Unreasonably Withhold Consents and Approvals .....	33
Section 24.5	Independent Engineer .....	33

### ARTICLE XXV

Section 25.1	Quiet Enjoyment and Possession .....	33
Section 25.2	Due Organization and Authority of Landlord ..	33

### ARTICLE XXVI

Section 26.1	Due Organization and Authority of Tenant ...	33
Section 26.2	Financial Reports by Tenant .....	34
Section 26.3	Covenant to Reimburse .....	34
Section 26.4	Investment Tax Credit; Depreciation .....	34

### ARTICLE XXVII

Section 27.1	Amendments .....	34
Section 27.2	Security Interests .....	35
Section 27.3	Construction and Enforcement .....	35
Section 27.4	Invalidity of Provisions of Lease .....	35
Section 27.5	Covenants Binding on Successors and Assigns.	35
Section 27.6	Section Headings .....	35
Section 27.7	Execution of Counterparts .....	35
	Acknowledgments .....	37

LEASE

THIS LEASE, made and entered into as of the first day of November, 1983, by and between the JOHNSON COUNTY AIRPORT COMMISSION, a public commission of Johnson County, Kansas (the "County"), organized by the Board of County Commissioners of Johnson County, Kansas (the "Board"), under the provisions of K.S.A. 3-301 et seq., as amended (the "Landlord"), and JcAIR ASSOCIATES, a Kansas general partnership ("Tenant").

WITNESSETH:

WHEREAS, Landlord is a public commission duly organized and existing under the laws of the State of Kansas, K.S.A. 3-301 et seq., as amended, with full lawful power and authority to enter into this Lease by and through its governing body; and

WHEREAS, Landlord in furtherance of the purposes and pursuant to the provisions of the laws of the State of Kansas, K.S.A. 3-314 et seq., as amended (the "Act"), and in order to provide for the industrial development and welfare of the County and to provide employment opportunities for its citizens and to promote the welfare of the State of Kansas, has proposed and does hereby propose that it shall:

- (a) Solely from the proceeds of the sale of the Bonds pay for the purchase and construction of the buildings and improvements described in Article I hereof on the real estate described on Schedule 1 attached hereto (said real estate being hereinafter referred to as the "Land", and said buildings and improvements being hereinafter referred to as the "Improvements");
- (b) Lease the Land and the Improvements (the Land and the Improvements together being hereinafter referred to as the "Facility") to Tenant for the rentals and upon the terms and conditions hereinafter set forth; and
- (c) Cause the County to issue, for the purpose of paying the foregoing costs, its Industrial Airport Revenue Bonds, Series November 1, 1983 (JcAir Associates Project), dated November 1, 1983, in the aggregate principal amount of Three Hundred Thousand Dollars (\$300,000) (the "Bonds") under and pursuant to and subject to the provisions of the Act and authorized by a resolution

(the "Bond Resolution"), adopted by the Board of County Commissioners of the County, said Bond Resolution being incorporated herein by reference; and

WHEREAS, Tenant, pursuant to the foregoing proposals of Landlord, desires to lease the Facility from Landlord for the rentals and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, Landlord and Tenant do hereby covenant and agree as follows:

#### ARTICLE I

1.1. Granting of Leasehold. Landlord by these presents hereby rents, leases and lets unto Tenant and Tenant hereby rents, leases and hires from Landlord, for the rentals and upon and subject to the terms and conditions hereinafter set forth, the Facility described and set forth in Schedule 1 attached hereto and made a part hereof for a basic term of Twenty (20) years, commencing on the date of this Lease and ending on October 31, 2003, or such later date upon which all of the Bonds and all interest thereon shall have been paid or provision made for their payment.

#### ARTICLE II

2.1 Basic Rent. Landlord reserves and Tenant covenants and agrees to pay to the Fiscal Agent hereinafter and in the Bond Resolution designated, for the account of Landlord and during the full basic term, for deposit in the Principal and Interest Account hereinafter and in the Bond Resolution established, in monthly installments payable at the times specified below, and until the principal of and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Bond Resolution, as rent for the Facility, the aggregate of the following:

- (a) Commencing on November 1, 1983, or the date the Bonds are paid for and delivered, whichever is later, an amount equal to the pro rata amount of the principal and interest becoming due on the Bonds on February 1, 1984, plus
- (b) Commencing five business days before February 1, 1984, and five business days before the first day of every month thereafter, an amount equal to one-third (1/3) of the principal and interest becoming due on the Bonds on the next May 1, August

1, November 1, and February 1 (the "interest payment dates") thereafter

(such rent being hereinafter referred to as "Basic Rent").

If on any interest payment date the balance in the Principal and Interest Account available for the payment of principal, interest and redemption premiums on the Bonds, if any, is insufficient to make the required payments of principal, interest and redemption premiums, if any, then due and payable as above provided, then on such date Tenant will forthwith pay any such deficiency to the Fiscal Agent for deposit in the Principal and Interest Account. Any amounts held by the Fiscal Agent in the Principal and Interest Account on any interest payment date which are unrestricted as to application (except as restricted to one or more of the uses set out below), which are in excess of the principal and interest due on the Bonds on such interest payment date, and which are also in excess of the amount required for payment of (a) any Bonds theretofore matured or called for redemption which have not been presented for payment, plus (b) past due interest which has not been paid shall, as Tenant may direct, (i) be applied to and, to the extent sufficient, reduce Tenant's obligation to pay such next maturing installments of Basic Rent, or (ii) be used to call such Bonds as may be designated by Tenant for redemption and payment when the same are subject to redemption, or (iii) be used for purchasing said Bonds prior to maturity, paying the market price therefor. During such times as the amount held by the Fiscal Agent in the Principal and Interest Account and Bond Reserve Account shall be sufficient to pay, at the time required, the principal, interest and redemption premiums, if any, on all Bonds then remaining unpaid, Tenant shall not be obligated to make rental payments under the provisions of this Section.

2.2. Acquisition of Bonds. In the event Tenant acquires any outstanding Bonds, it may present the same to Landlord for cancellation, and upon such cancellation, Tenant's obligation to pay Basic Rent under Section 2.1 hereof shall be reduced accordingly, but in no event shall Tenant's obligation to pay Basic Rent be reduced in such a manner that the Fiscal Agent shall not have on hand in the Principal and Interest Account funds sufficient to pay the maturing principal of and interest on the Bonds as and when the same shall become due and payable in accordance with the provisions of the Bond Resolution.

2.3. Additional Rent. Tenant shall pay as additional rent (a) all fees, charges and expenses of the Fiscal Agent and Bond Registrar hereinafter or in the Bond Resolution designated, (b) all Impositions (as defined in Article V), (c) all amounts required under Article XXIII and all other payments of whatever

nature which Tenant has agreed to pay or assume under the provisions of this Lease, (d) all costs and expenses incident to the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs, expenses and premiums in connection with the redemption and payment of all outstanding Bonds, (e) all reasonable expenses (including attorneys' fees) incurred by Landlord in connection with the enforcement of any rights under this Lease or the Bond Resolution, all payments provided for by this Section being hereinafter referred to collectively as "Additional Rent". For purposes of this Lease, the terms "Basic Rent", "Building Rent" and "Additional Rent" are sometimes hereinafter collectively referred to as "Rent". The obligations of Section 2.1 above shall have priority over sums due pursuant to this Section.

2.4. Rent Payable Without Abatement or Setoff. Tenant covenants and agrees with and for the express benefit of the County, Landlord and the holders of the Bonds that all payments of Basic Rent and Additional Rent shall be made by Tenant as the same become due, and that Tenant shall perform all of its obligations, covenants and agreements hereunder, without notice or demand and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Improvements shall have been started or completed, or whether the County's title to the Facility or any part thereof is defective or non-existent, and notwithstanding any damage to, loss, theft or destruction of the Facility or any part thereof, any failure of consideration or commercial frustration of purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Facility, legal curtailment of the County's, Landlord's or Tenant's use thereof, the eviction or constructive eviction of Tenant, any change in the tax or other laws of the United States of America, the State of Kansas, or any political subdivision of either, any change in Landlord's or the County's legal organization or status, or any default of Landlord hereunder and regardless of the invalidity of any action of Landlord or any other event or condition whatsoever, and regardless of the invalidity of any portion of this Lease, and Tenant hereby waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Lease or which releases or purports to release Tenant therefrom. Nothing in this Lease shall be construed as a waiver by Tenant of any rights or claims Tenant may have against Landlord or the County under this Lease or otherwise, but any recovery upon such rights and claims shall be had from Landlord or the County separately, it being the intent of this Lease that Tenant shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the holders of the Bonds.

2.5. Prepayment of Basic Rent. Tenant may at any time prepay all or any part of the Basic Rent provided for hereunder.

2.6. Designation of Fiscal Agent. Landlord hereby designates MidAmerican Bank & Trust Company, in the City of Roeland Park, Kansas, as the Fiscal Agent and Bond Registrar for the Bonds (herein referred to as the "Fiscal Agent"). The term "Fiscal Agent" under this Lease shall, for the purposes of this Lease, include not only said bank, but also its successor and successors, any surviving corporation into which it may be merged, any new corporation resulting from its consolidation with any other corporation or corporations, the successor and successors of any such surviving or new corporation, and any corporation to which the fiduciary business of said bank may at any time be transferred. The Fiscal Agent shall establish and shall deposit all payments of Basic Rent in the following trust account, the amounts to be deposited in such account to be in accordance with the provisions of the Bond Resolution:

"Principal and Interest Account for Industrial Airport Revenue Bonds, Series November 1, 1983 (JcAir Associates Project), dated November 1, 1983" (herein called the "Principal and Interest Account").

The funds deposited in said account shall be used and applied by the Fiscal Agent in the manner and for the purposes set forth in the Bond Resolution. During such times as the amount in the Principal and Interest Account shall have become sufficient to pay in full the principal of (including redemption premium, if any) and interest on all outstanding Bonds, either at maturity or on earlier redemption, and all costs, expenses and premiums in connection with the call, redemption and payment of all outstanding Bonds, no Basic Rent shall be payable hereunder.

### ARTICLE III

3.1. Disposition of Bond Proceeds; Construction Fund. The proceeds of the sale of the Bonds shall be paid over to the Fiscal Agent for the account of Landlord. The Fiscal Agent shall, first, promptly pay from the proceeds of said sale of the Bonds into the Principal and Interest Account the full amount of any accrued interest and premium, if any, received upon such sale together with an additional amount which, when added to the accrued interest and premium, if any, received on the sale of the Bonds, is sufficient to pay the interest on the Bonds through April 30, 1984, representing interest to become due during the estimated period of construction of the Facility. The remainder of such proceeds shall be deposited by the Fiscal Agent in a trust account designated "Johnson County Airport Commission - JcAir Associates Construction Fund" (the

"Construction Fund"), to be used and applied as provided in Article IV and as otherwise provided in the Bond Resolution.

3.2. Representations and Covenants by Tenant Relating to Section 103 of the Code:

(a) It will not use or cause or allow more than 25 percent of the proceeds of the Bonds to be used or applied to provide a facility the primary purpose of which is retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment.

(b) It will not use or cause or allow any portion of the proceeds of the Bonds to be used or applied to provide a private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating,, skateboard and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility or racetrack.

(c) The weighted average maturity of the Bonds (determined in accordance with Section 103(b)(14) of the Internal Revenue Code), does not exceed 120 percent of the average reasonably expected economic life of the Facility (as determined in accordance with Section 103(b)(14) of the Code).

(d) Tenant covenants and agrees that it will not make or cause or permit to be made, whether by the Fiscal Agent or otherwise, any use of the proceeds of the Bonds which, if such use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended. Tenant further covenants and agrees that it will comply with and will take all action reasonably required to insure that the Fiscal Agent complies with all applicable requirements of said Section 103(c) and the rules and regulations of the United States Treasury Department thereunder for so long as any of the Bonds, including interest thereon and any applicable redemption premium, remain outstanding and unpaid.

ARTICLE IV

4.1. Acquisition of Such of the Improvements As Are Completed. Tenant shall convey or cause to be conveyed to Landlord such of the Improvements as are then completed, installed or in progress. Tenant shall also concurrently with such conveyance make provisions for the discharge of any liens or encumbrances incurred by it in connection with the construction, installation or development of the Facility.

4.2. Construction Contracts. It is recognized by the parties hereto that prior to the execution hereof Tenant leased the Land from Landlord and that during said period of ownership Tenant entered into a contract or contracts for the construction of the buildings and improvements on the Land in accordance with plans and specifications prepared by or at the direction of Tenant. Said contracts are hereinafter referred to as the "Construction Contracts". Prior to the execution hereof, certain work has been or may have been performed on and to the Facility pursuant to said Construction Contracts or otherwise. Tenant has concurrently with the execution hereof assigned, conveyed and transferred and does hereby assign, convey and transfer to Landlord all of Tenant's rights, titles, interests and estates in and to the buildings and all improvements and work performed or in progress on the Land. Said assignment, conveyance and transfer, and Landlord's acquisition from Tenant, are and shall be subject to said Construction Contracts. After the execution hereof, Tenant shall cause the Construction Contracts to be fully performed by the contractor(s) thereunder in accordance with the terms thereof, and Tenant covenants to cause said buildings and improvements to be constructed and completed in accordance with the Construction Contracts. Tenant may make minor changes in the plans and specifications, in the aggregate costing not more than \$10,000, without Landlord's consent, but major changes may be made only with the consent of Landlord. Tenant warrants that the construction of said buildings and improvements in accordance with said Construction Contracts will result in a Facility suitable for use by Tenant for its purposes.

4.3. Insurance During Construction. It is agreed that either (1) the Construction Contracts shall provide that at all times after the execution hereof the contractors shall maintain or (2) Tenant shall at all times after the execution hereof maintain in full force and effect, the following policies of insurance:

- (a) General accident and public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, or use or operation of any automobile, truck or other vehicle under which the County, Landlord and Tenant shall be named as insureds or additional named insureds, in an amount not less than \$500,000 for personal injuries (including death) to any one person, not less than \$1,000,000 for personal injuries (including death) in any one accident and not less than \$100,000 for property damage; and
- (b) Workers Compensation Insurance; and

- (c) Builder's Risk-Completed Value Form insurance insuring the Facility against fire, lightning and all other risks covered by the broadest form extended coverage endorsement then and from time to time thereafter in use in the State of Kansas to the full insurable value of the Facility (as the term is defined in Article VI) and that premium therefor be prepaid in full prior to the commencement of construction under the Construction Contracts; such policy or policies of insurance shall name the County, Landlord, Tenant and the Fiscal Agent as insureds, as their respective interests may appear, and all payments received under such policy or policies by Landlord or Tenant shall be paid over to the Fiscal Agent and be deposited in the Construction Fund; and
- (d) Performance and labor and material payment bonds with respect to the Construction Contracts and in the full amount of the Construction Contracts, made by the contractors thereunder as the principals and a surety company or companies qualified to do business in Kansas as surety. Such bonds shall name the County, Landlord, Tenant and the Fiscal Agent as obligees, and all payments received by Landlord, Tenant and/or the Fiscal Agent under said bonds shall become a part of and be deposited in the Construction Fund.

Copies or certificates of such policies shall be delivered to Landlord, Tenant and the Fiscal Agent. Any and all amounts received by Landlord and/or Tenant from any of the contractors or other suppliers by way of breach of contract, refunds or adjustments shall become a part of and be deposited in the Construction Fund.

4.4. Payment for Construction. Landlord hereby agrees to pay for the construction of the buildings and improvements aforesaid, but solely from the Construction Fund, and hereby authorizes and directs the Fiscal Agent to pay for same, but solely from the Construction Fund, from time to time, upon receipt by the Fiscal Agent of a certificate signed by Tenant and by an independent architect or engineer selected by Tenant:

- (a) Requesting payment of a specified amount of such funds and directing to whom such amount shall be paid;
- (b) Stating that the amount requested either has been advanced by Tenant, or is justly due to contractors, subcontractors, suppliers, vendors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated) who

have performed necessary and appropriate work or furnished necessary and appropriate materials, machinery or equipment in the purchase and construction of the aforesaid buildings and improvements and giving a brief description of such work and materials, machinery or equipment and the several amounts so paid or due to each of said persons in respect thereof, stating that the fair value of such work and materials, machinery or equipment is not exceeded by the amount requested to be withdrawn, and stating that such cost is one which can be capitalized for federal income tax purposes;

- (c) Stating that, except for the amounts if any stated in said certificate pursuant to the foregoing subparagraph (b), there are no outstanding statements which are then due and payable for labor, wages, materials, supplies or services in connection with the construction of said improvements which, if unpaid, might become the basis of vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Facility or any part thereof, or setting out (i) all disputed statements and the reason for such dispute, and (ii) all statements in process but not yet presented to the Fiscal Agent for payment; and
- (d) Stating that no part of the several amounts paid or due, as stated in said certificate pursuant to subparagraph (b) of this paragraph, has been or is being made the basis for the withdrawal of any monies in any previous or then pending application pursuant to this paragraph.

The sole obligation of Landlord under this paragraph shall be to cause the Fiscal Agent to make such disbursements upon receipt of such certificates. The Fiscal Agent may rely fully on any such directions and shall not be required to make any independent investigation in connection therewith.

4.5. Construction Cost. The term "Construction Cost" shall be construed to include those items subject to capitalization for federal income tax purposes, including (i) all costs and expenses necessary or incident to the acquisition of such of the Improvements as are constructed, installed or in progress at the date of such acquisition; (ii) all costs and expenses of every nature incurred in purchasing, constructing, and/or installing the Improvements and completing the Facility, and including interest paid or to be paid by Tenant during construction; (iii) any and all expenses incurred by Landlord or Tenant, including those prior to the sale of the Bonds, for

planning, development and design, and all expenses for architects' and engineering fees, the fees and expenses of Tenant's employees and consultants, title insurance, surveys, attorneys' fees, and other items necessary to the commencement of construction including advances to contractors and others by Tenant; (iv) the cost of all utility facilities on the Land; (v) all other expenses necessary or incident to the construction and completion of the Facility; (vi) any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including but not limited to underwriting expenses, bond and other printing expenses, and legal fees and expenses of counsel; and (vii) all other costs and outlays of whatever nature as may from time to time be agreed upon by Landlord and Tenant. Landlord hereby agrees to pay for, but solely from the Construction Fund, and hereby authorizes and directs the Fiscal Agent to pay for, but solely from the Construction Fund, all Construction Costs (other than those described in (ii) above, the payment of which is provided for in other portions of this Article), upon receipt by the Fiscal Agent of a certificate of Tenant, requesting a specified sum of money, describing in reasonable detail the Construction Cost which forms the basis for said request, and stating that said sums can be capitalized for federal income tax purposes. The Fiscal Agent may rely fully on any such direction and shall not be required to make any independent investigation in connection therewith.

4.6. Completion of Facility. Tenant warrants that the Facility, when completed, will be necessary or useful in its development for use by Tenant for its purposes. Landlord and Tenant each covenant and agree to proceed diligently to complete the Facility.

4.7. Deficiency of Construction Fund. If the Construction Fund shall be insufficient to pay fully all Construction Costs and to complete fully the Facility lien free, Tenant covenants to pay, in cash, the full amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials, machinery, equipment, property and services as the same shall become due, and Tenant shall save Landlord whole and harmless from any obligation to pay such deficiency.

4.8. Surplus in Construction Fund. Any amount remaining in the Construction Fund after Tenant and the aforesaid architect or engineer shall certify that the Facility has been fully completed and paid for, lien free, shall be transferred by the Fiscal Agent into the Principal and Interest Account, and may be used only to purchase Bonds on the open market or to pay the principal of Bonds as they mature or are called for redemption.

4.9. Right of Entry by Landlord. The duly authorized agents of Landlord shall have the right at any reasonable time

prior to the completion of the Facility to enter upon the same or any parts thereof, for the purpose of inspecting and supervising the acquisition and construction thereof.

4.10. Machinery and Equipment Purchased by Tenant. If no part of the purchase price of an item of machinery or equipment or personal property is paid from funds deposited in the Construction Fund pursuant to the terms of this Lease, then such item of machinery or equipment or personal property shall not be deemed a part of the Facility.

4.11. Facility Property of Landlord. All buildings, improvements and work constituting a part of the Facility, all work and materials on the Facility as such work progresses, and the Facility as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Facility, and the Facility as repaired, rebuilt, rearranged, restored or replaced by Tenant under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of Landlord.

#### ARTICLE V

5.1. Impositions. Tenant shall, during the life of this Lease, bear, pay and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Facility or any part thereof, or any improvements at any time thereon or Tenant's interest therein, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real property, and further including all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber Landlord's or the County's title to the Facility (all of the foregoing being herein referred to as "Impositions"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the life of this Lease as and when the same become due and payable. Landlord covenants that without Tenant's written consent it will not, unless required by law, take any action which may reasonably be construed as tending to cause or induce the levying or assessment of any Imposition (other than special assessments levied on account of special benefits) which Tenant would be required to pay under this Article and that should any such levy or assessment be threatened or occur Landlord shall, at Tenant's request, fully cooperate with Tenant in all reasonable ways to prevent any such levy or assessment.

5.2. Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Tenant is required to bear, pay and discharge pursuant to the terms hereof, Tenant shall deliver to Landlord a photostatic copy of the statement issued therefor duly receipted to show the payment thereof.

5.3. Landlord May Not Sell. Landlord covenants, for itself and on behalf of the County, that, without Tenant's written consent, it will not, unless required by law, sell or otherwise part with its fee or other ownership interest in the Facility at any time during the life of this Lease. Landlord further covenants that if its or the County's policy changes with regard to sales of real estate located at the Johnson County Industrial Airport, as long as this Lease or any extension thereof is in effect, upon Tenant's written demand, Tenant will be offered an option to purchase the real estate described herein on Schedule 1, upon terms similar to those offered other Industrial Airport tenants or in the event no such offer is made, Tenant is hereby granted, during the term of this Lease, a right of first refusal to purchase the Facility.

5.4. Contest of Impositions. Tenant shall have the right, in its own or Landlord's name or both, to contest the validity or amount of any Imposition which Tenant is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least Ten (10) days before the Imposition complained of becomes delinquent if, and provided, Tenant (i) before instituting any such contest, gives Landlord written notice of its intention so to do and, if requested in writing by Landlord, deposits with Landlord a bond in favor of Landlord with a surety company acceptable to Landlord as surety, or cash, in a sum of at least the amount of the Imposition so contested conditioned upon the payment if so adjudged, of the contested Imposition, together with all interest and penalties accruing thereon and costs of suit, and (ii) diligently prosecutes any such contest and at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (iii) promptly pays any final judgment enforcing the Imposition so contested and thereafter promptly procures record release or satisfaction thereof. Tenant shall hold Landlord whole and harmless from any costs and expenses Landlord may incur related to any such contest.

## ARTICLE VI

6.1. Insurance. Tenant shall and covenants and agrees that:

- (a) It will, prior to or simultaneously with the expiration of the insurance provided under the Construction Contracts and throughout the life of this Lease, at its sole cost and expense, keep the Facility constantly insured against loss or damage by fire, lightning and all other risks covered by the broadest form extended coverage insurance endorsement then in use in the State of Kansas in an amount equal to the full insurable value thereof in such insurance company or companies as it may select. The term "full insurable value" shall mean the full actual replacement cost less physical depreciation and such shall be determined from time to time at the request of Landlord, Tenant or the Fiscal Agent (but not more frequently than once in every Twenty-Four (24) months) by an architect, appraiser, appraisal company or one of the insurers, to be selected, subject to Landlord's written approval, and paid by Tenant. At or prior to the termination of the insurance provided under the Construction Contracts, and thereafter not less than Thirty (30) days prior to the expiration dates if the expiring policies, originals or certificates or acceptable binders of the policies provided for in this Article, each bearing notation evidencing payment of the premiums or other evidence of such payment satisfactory to Landlord, shall be delivered by Tenant to Landlord and, until the Bonds and interest thereon are fully paid, to the Fiscal Agent. All policies of such insurance and all renewals thereof shall name the County, Landlord, Tenant and, until the Bonds and interest thereon are fully paid, the Fiscal Agent hereunder as insureds as their respective interests may appear, shall contain a provision that such insurance may not be cancelled or amended by the issuer thereof without at least Ten (10) days' written notice to Landlord, Tenant and the Fiscal Agent, and until the Bonds and all the interest thereon have been fully paid shall be payable to the Fiscal Agent as Insurance Trustee hereunder. Landlord and Tenant hereby agree that each will do anything necessary, be it the endorsement of checks or otherwise, to cause any such payment to be made to the Insurance Trustee, as long as such payment is required by this Lease to be made to the Insurance Trustee. The proceeds of such insurance shall be held and used pursuant to Article XVII of this Lease. Any charges made by the Insurance Trustee for its services as Insurance

Trustee shall be paid by Tenant. The sole obligation of the Insurance Trustee shall be to make disbursements from the insurance proceeds in accordance with the provisions of Article XVII hereof. The cost of such insurance shall be paid in the manner provided.

- (b) It will prior to or concurrently with the issuance of the Bonds obtain general accident and comprehensive general liability insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 aggregate, and automobile liability and property damage insurance in an amount not less than \$500,000 for each person, \$1,000,000 for each occurrence and \$100,000 for property damage. The County, Landlord and the Fiscal Agent shall be named as an insured under said policies, and such policies shall properly protect and indemnify the County, Landlord and the Fiscal Agent in amounts not less than aforesaid. The policies of said insurance shall contain a provision that such insurance may not be cancelled by the Issuer thereof without at least Thirty (30) days' advance written notice to Landlord, Tenant and the Fiscal Agent. Such policies or copies or certificates thereof shall be furnished to Landlord and, until the Bonds and interest thereon are fully paid, to the Fiscal Agent.
- (c) Each policy of insurance hereinabove referred to shall be issued by a nationally recognized responsible insurance company qualified under the laws of the State of Kansas to assume the risks covered therein.
- (d) The initial premium on the policies of insurance herein provided for a period of not less than one year shall be paid by Tenant prior to or concurrently with the issuance of the Bonds, or at such later date as such policies of insurance may be required to be in force under the terms of this Article VI, and evidence of such payment shall be filed with the Fiscal Agent at or before the time the Bonds are issued. Thereafter, the requirements of subparagraph (a) of this Section 6.1 respecting delivery of originals or certificates or acceptable binders of the policies required hereunder not less than Thirty (30) days prior to the expiration of expiring policies shall be complied with respecting all policies carried pursuant to this Section 6.1.

- (e) Nothing in this Section 6.1 or any other portion of this Lease shall be construed to prevent Tenant from including the Facility under Tenant's blanket forms of insurance coverage, provided that each and all of the requirements of this Section 6.1 are complied with under Tenant's blanket forms of insurance coverage.
- (f) Each policy of insurance hereinabove referred to may be subject to a reasonable deductible in an amount approved by the Fiscal Agent.

6.2. Owner's Title Insurance Policy. Tenant shall purchase, from the Construction Fund, a policy of owner's title insurance, insuring fee simple title to the Facility in Landlord and the County in the amount of \$300,000. Landlord and Tenant agree that any and all proceeds therefrom during the life of this Lease shall be collected and disbursed in accordance with the provisions of Article XVII hereof.

#### ARTICLE VII

7.1. Use of Facility. Subject to the provisions of this Article, Tenant shall have the right to use the Facility for any and all purposes allowed by law and contemplated by the Constitution of the State of Kansas and the Act. Tenant shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Facility or to any adjoining public ways, as to the manner of use or the condition of the Facility or of adjoining public ways. Tenant shall comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of Article VI. Tenant shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of Tenant to comply with the provisions of this Article.

#### 7.2. Non-discrimination.

- (a) The Tenant, for himself, his heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for

another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all of the requirements pursuant to CFR, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as said Regulations may now exist or in the future be amended.

- (b) The Tenant, for himself, his 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 shall be excluded on the grounds of race, color or national origin from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that no person shall be excluded on the grounds of race, color or national origin from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of any improvements on, over or under such land and the furnishing of services thereon, (3) that the Tenant 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, as said Regulations may now exist or in the future be amended.

7.3. Affirmative Action Program. The Tenant assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E, on the grounds of race, creed, color, national origin or sex. The Tenant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Tenant assures that it will require that its covered suborganizations provide assurances to the Tenant that they will similarly undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

7.4. Non-Exclusive Right. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, as it may now exist or in the future be amended.

7.5. Provision of Services. Tenant agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Tenant may make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

7.6. Lease Subject to Deed. Anything to the contrary in this Lease notwithstanding, Tenant's use and occupancy of the Facility shall at all times be subject to the terms and conditions set out in that certain Quitclaim Deed dated November 19, 1973, from the United States of America to Johnson County, Kansas, pursuant to the terms of which Johnson County, Kansas, was conveyed title to the Land and certain other real estate. Landlord covenants that it will abide by all terms and conditions of the Quitclaim Deed and take all steps necessary to assure that the terms and conditions of the Quitclaim Deed are complied with.

7.7. Lease Subordinate to Federal Requirements. This Lease shall be subordinate to the provisions of any existing or future agreement between Landlord or the County and the United States of America relative to the operation or maintenance of Johnson County Industrial Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of said Airport, and it is understood and agreed that the use of the Facility is subject to any and all restrictions and conditions which may be imposed by the United States of America or its regulatory agencies, and Landlord shall not be responsible to Tenant if Tenant is deprived of the said use by the imposition of any such restrictions and conditions.

#### ARTICLE VIII

8.1. Assignment and Sublease. Tenant will not assign, mortgage, pledge, sell or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law, without the prior written consent thereto of Landlord. No assignment, mortgage, pledge, sale or other transfer, conveyance, disposition or sublease shall release or discharge Tenant from its duties and obligations under this Lease. Any consent by Landlord to any of the aforesaid acts shall be held to apply only to the specific transaction thereby authorized; such consent shall not be construed as a waiver or release of the duty of Tenant or the successors or assigns of Tenant to obtain from Landlord consent to any other such acts. Tenant shall give written notice to the Fiscal Agent of any such assignment, mortgage, pledge, sale, other transfer, conveyance, disposition or sublease.

8.2. Dissolution or Liquidation. Tenant shall not initiate any proceedings of any kind whatsoever to dissolve or liquidate without securing the prior written consent thereto of Landlord.

#### ARTICLE IX

9.1. Repairs and Maintenance. Tenant covenants and agrees that it will, during the life of this Lease, keep and maintain the Facility and all parts thereof in good condition and repair, and that during said period of time it will keep the Facility and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire.

#### ARTICLE X

10.1. Alteration of Facility. Tenant shall have and is hereby given the right, at its sole cost and expense, and with prior notification in writing to Landlord with respect to material changes, to make such additions, changes and alterations in and to any part of the Facility as Tenant from time to time may deem necessary or advisable; provided, however, Tenant shall not make any major addition, change or alteration which will adversely affect the intended use or structural strength of any part of the Facility. All additions, changes and alterations made by Tenant pursuant to the authority of this Article shall (a) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, shall be deemed a part of the Facility.

#### ARTICLE XI

11.1. Additional Improvements. Tenant shall have and is hereby given the right, at its sole cost and expense and with the prior consent in writing of Landlord, to construct on the Land or within areas occupied by the Improvements, or in air-space above the Facility, such additional buildings and improvements as Tenant from time to time may deem necessary or advisable. All additional buildings and improvements constructed by Tenant pursuant to the authority of this Article shall, during the life of this Lease, remain the property of Tenant and may be added to, altered or razed and removed by Tenant at any time during the life of this Lease. Tenant covenants and agrees (a) to make all repairs and restorations, if any, required to be made to the Facility because of the construction of, addition to, alteration or removal of, said additional buildings or improvements, (b) to keep and maintain said additional buildings and improvements in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted, (c) to promptly and with due diligence either

raze and remove from the Land, in a good, workmanlike manner, or repair, replace or restore such of said additional buildings or improvements as may from time to time be damaged by fire or other casualty, and (d) that all additional buildings and improvements constructed by Tenant pursuant to this Article which remain in place after the termination of this Lease shall, upon and in the event of such termination, become the separate and absolute property of Landlord.

## ARTICLE XII

12.1. Securing of Permits and Authorizations. Tenant shall not do or permit others under its control to do any work in or in connection with the Facility or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Facility, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of Article VI.

12.2. Mechanics' Liens. Tenant shall not do or suffer anything to be done whereby the Facility, or any part thereof, may be encumbered by any mechanics' or other similar lien and if, whenever and as often as any mechanics' or other similar lien is filed against the Facility, or any part thereof, Tenant shall discharge the same of record within Thirty (30) days after the date of filing. Notice is hereby given that neither Landlord nor the County authorizes or consents to or shall be liable for any labor or materials furnished Tenant or anyone claiming by, through or under Tenant upon credit, and that no mechanics' or similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Facility, or any part thereof.

12.3. Contest of Liens. Tenant, notwithstanding the above, shall have the right to contest any such mechanics' or other similar lien if within said Thirty (30) day period stated above it (i) notifies Landlord and the County in writing of its intention so to do, and if requested by Landlord or the County, deposits with the Fiscal Agent a bond in favor of Landlord with a surety company acceptable to Landlord and the Fiscal Agent as surety, or cash, in the amount of the lien claim so contested, indemnifying and protecting Landlord and the County from and against any liability, loss, damage, cost and expense of whatever kind or nature growing out of or in any way connected with said asserted lien and the contest thereof, and (ii) diligently prosecutes such contest, at all times effectively staying or

preventing any official or judicial sale of the Facility or any part thereof or interest therein, under execution or otherwise, and (iii) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof.

#### ARTICLE XIII

13.1. Utilities. All utilities and utility services used by Tenant in, on or about the Facility shall be contracted for by Tenant in Tenant's own name and Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith. Landlord agrees to grant such easements as are reasonably necessary to provide utility services to the Facility.

#### ARTICLE XIV

14.1. Indemnity. Tenant shall and covenants and agrees to indemnify, protect, defend and save the County, Landlord and the Fiscal Agent harmless from and against any and all claims, demands, liabilities and costs, including attorneys' fees, arising from damage or injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Facility during the life of this Lease, and upon timely written notice from the County, Landlord or the Fiscal Agent, Tenant shall defend the County, Landlord and the Fiscal Agent in any action or proceeding brought thereon; provided, however, that nothing contained in this Section shall be construed as requiring Tenant to indemnify the County, Landlord or the Fiscal Agent for any claim resulting from any act or omission of the County, Landlord or the Fiscal Agent, or their respective agents and employees.

#### ARTICLE XV

15.1. Access to Facility. Landlord, for itself and its duly authorized representatives and agents, reserves the right to enter the Facility at all reasonable times during usual business hours throughout the life of this Lease for the purpose of (a) examining and inspecting the same, (b) performing such work made necessary by reason of Tenant's default under any of the provisions of this Lease, and (c) exhibiting the Facility to prospective purchasers, lessees or mortgagees. Landlord may, during the progress of said work mentioned in (b) above, keep and store on the Facility all necessary materials, supplies and equipment and shall not be liable for necessary inconvenience, annoyances, disturbances, loss of business or

other damage suffered by reason of the performance of any such work or the storage of materials, supplies and equipment.

#### ARTICLE XVI

16.1. Option to Extend Term. Tenant shall have and is hereby given the rights and options to extend the term of this Lease for three (3) consecutive periods of ten (10) years each, ending on October 31 of the years 2013, 2023, 2033, respectively, provided that (a) Tenant shall give Landlord written notice of its intention to exercise each such option at least Ninety (90) days but not more than One Hundred Eighty (180) days prior to the expiration of the then current term of this Lease, and (b) Tenant is not in default hereunder in the payment of Basic Rent or Additional Rent at the time it gives Landlord such notice or at the time the extended term begins. In the event Tenant exercises any of such options, the terms, covenants, conditions and provisions set forth in this Lease shall be in full force and effect and binding upon Landlord and Tenant during each and all said extended terms except that there shall be no Basic Rent during any extended term herein provided for. In addition to options to extend, Tenant shall have the right of first refusal with respect to any lease of the Facility by Landlord.

#### ARTICLE XVII

17.1. Eminent Domain or Insured Deficiency in Title of Substantially All of the Facility. If during the life of this Lease, and before the Bonds and all interest thereon have been paid in full, title to substantially all of the Facility (i) be condemned by any authority having the power of eminent domain, or (ii) be found to be deficient or non-existent due to a deficiency insured against by the title insurance policy required under Section 6.2 of this Lease (hereinafter called an "insured loss of title"), this Lease shall, except as to the following provisions of this Section, terminate on the date possession of substantially all of the Facility is required to be surrendered to the condemning authority, in the case of condemnation, or on the date the issuer of said title insurance policy makes final payment pursuant to said policy respecting such insured loss of title, as the case may be. A condemnation or insured loss of title which renders the Facility untenable or impairs the efficient utilization of the Facility by Tenant, as described in Section 18.1(a) hereof, shall be deemed a condemnation or loss of title to substantially all of the Facility; provided, however, Tenant agrees to be reasonable in exercising its judgment. All awards or title insurance proceeds received on account of such condemnation or insured loss of title shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all awards

granted or title insurance proceeds received in connection with such condemnation or insured loss of title and, after deducting all attorneys' fees and other expenses and costs incurred by Landlord in connection with such condemnation or insured loss of title, such awards or proceeds shall be forthwith delivered and paid over by Landlord to the Fiscal Agent and deposited by the Fiscal Agent in the Principal and Interest Account. All of the Bonds then outstanding shall as soon thereafter as practicable be called for redemption, as provided in the Bond Resolution. All moneys then held in the Principal and Interest Account by the Fiscal Agent shall be used for the purpose of paying the principal of and all interest accrued on the Bonds so called for redemption and all costs and expenses incurred in connection with the call, redemption and payment of all outstanding Bonds. If the funds then held by the Fiscal Agent in the Principal and Interest Account are insufficient in amount for the purposes aforesaid, Tenant shall be obligated to pay, and it does hereby covenant and agree to pay to the Fiscal Agent, as Basic Rent and upon demand therefor, such further sums of money, in cash, as may be required for such purposes. Any surplus then held by the Fiscal Agent in the Principal and Interest Account after payment of the Bonds shall be distributed in accordance with the provisions of Section 17.6 hereof.

17.2. Eminent Domain as to Use. If during the life of this Lease, and before the Bonds and all interest thereon have been paid in full, the use, for a limited period, of all or part of the Facility be condemned by any authority having the power of eminent domain, this Lease shall not, unless Tenant shall elect to terminate this Lease pursuant to Section 18.1 hereof, be thereby terminated, and neither the term nor any of the obligations (including the payment of Rent) of either party under this Lease shall be reduced or affected in any way. All awards received for such condemnation of the use, for a limited period, of all or part of the Facility, whether by way of damages, rent or otherwise, shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all awards granted in connection with such condemnation and, after deducting all attorneys' fees and costs incurred by Landlord in connection with such condemnation, such awards shall be forthwith delivered and paid over to the Fiscal Agent and deposited in the Principal and Interest Account. If the period of condemnation of the use, for a limited period, of all or part of the Facility shall end before the Bonds and interest thereon have been paid in full, Tenant shall, upon being restored to possession, restore the Facility as nearly as may be possible to the condition existing immediately prior to such condemnation, subject to such alterations as Tenant shall elect to make in accordance with the provisions of Section 10.1 hereof.

17.3. Eminent Domain or Insured Deficiency of Title of Less Than Substantially All. If during the life of this Lease,

and before the Bonds and all interest thereon have been paid in full, title to less than substantially all of the Facility (i) be condemned by any authority having the power of eminent domain, or (ii) be found to be deficient or non-existent due to an insured loss of title, this Lease shall not be thereby terminated, and neither the term nor any of the obligations (including the payment of Rent) of either party under this Lease shall be reduced or affected in any way. All awards or title insurance proceeds received from such condemnation or insured loss of title shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all awards granted or title insurance proceeds received in connection with such condemnation or insured loss of title. If no part of any building or improvement has been damaged as a result of such condemnation or insured loss of title, then after deducting all attorneys' fees and costs incurred by Landlord in connection with such condemnation or loss of title, such awards or title insurance proceeds shall be forthwith delivered and paid over by Landlord to the Fiscal Agent and deposited in the Principal and Interest Account. If any part of a building or improvement is condemned or damaged as a result of such condemnation or insured loss of title, Tenant shall promptly repair or rebuild the Facility, or rearrange the Facility facilities, so as to make the same suitable for its use hereunder and, after deducting all attorneys' fees and costs incurred by Landlord in connection with such condemnation or loss of title, such awards or title insurance proceeds shall be forthwith delivered and paid over to the Fiscal Agent and deposited in a special account to be designated "JcAIR Associates Construction Account" (the "Construction Account"), to be used and applied as provided in Section 17.5 hereof and in the Bond Resolution.

17.4. Damage or Destruction by Fire or Other Casualty. If at any time during the life of this Lease, and before the Bonds and all interest thereon have been paid in full, the Facility or any part thereof is damaged or destroyed by fire or other casualty, Tenant shall, unless it elects to terminate this Lease pursuant to Section 18.1 hereof, proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed Facility to as good condition as it was in immediately prior to such damage or destruction, subject to such modifications or alterations as it may elect to make as permitted in Section 10.1 hereof, and neither the term nor any of the obligations (including the payment of Rent) of either party under this Lease shall be reduced or affected in any way. All proceeds of casualty insurance with respect to any such loss to the Facility shall be paid to the Fiscal Agent, as provided in Section 6.1 hereof, and shall be deposited in the Construction Account, to be used and applied as provided in Section 17.5 hereof and in the Bond Resolution.

17.5. Payment for Reconstruction. All condemnation awards, title insurance proceeds and insurance proceeds deposited by the Fiscal Agent in the Construction Account pursuant to the provisions of Sections 17.3 and 17.4 hereof shall be applied to the reconstruction, repair or rebuilding of the Facility or the rearranging of the Facility facilities in the following manner:

Funds out of the Construction Account shall be paid from time to time upon receipt by the Fiscal Agent of a certificate signed by both Tenant and an architect or engineer selected by Tenant and approved in writing by Landlord:

- (a) requesting payment of a specified amount of such funds and directing to whom such amount shall be paid;
- (b) stating that the amount requested either has been paid by Tenant or is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated) who have performed necessary and appropriate work or furnished necessary and appropriate materials in the reconstruction, repair or rebuilding of the Facility or the rearranging of the Facility facilities, and giving a brief description of such work and materials and the several amounts so paid or due to each of said persons in respect thereof, and stating that the fair value of such work or materials is not exceeded by the amount requested to be withdrawn;
- (c) stating that, except for the amounts, if any, stated in said certificates pursuant to the foregoing subparagraph (b), to the best of their knowledge there are no outstanding statements which are then due and payable for labor, wages, materials, supplies or services in connection with the reconstruction, repair or rebuilding of the Facility or rearranging of the Facility facilities which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Facility or any part thereof, or setting out (i) all disputed statements and the reason for such dispute and (ii) all statements in process for payment but not yet presented to the Fiscal Agent for payment; and
- (d) stating that no part of the several amounts paid or due, as stated in said certificate pursuant to subparagraph (b) of this paragraph, has been or

is being made the basis for the withdrawal of any moneys in any previous or then pending application pursuant to this paragraph.

Except as provided hereafter, funds out of the Construction Account collected by the Fiscal Agent shall be paid by the Fiscal Agent upon receipt by the Fiscal Agent of the certificates described above. All moneys in the Construction Account not required to be used for such purposes shall, except those moneys attributable to buildings and improvements which are not a part of the Facility, upon receipt by the Fiscal Agent of a certificate by Tenant and the architect or engineer mentioned above to the effect that the work has been completed and that no liens exist, become the absolute property of Landlord and be forthwith transferred by the Fiscal Agent to the Principal and Interest Account. If the moneys so collected by the Fiscal Agent are insufficient in amount to pay in full the costs of the reconstruction, repair and rebuilding of the Facility or the rearranging of the Facility facilities, Tenant shall provide and furnish all other moneys necessary to fully complete all such reconstruction, repair, rebuilding and rearranging. Anything in this Article to the contrary notwithstanding, Landlord shall have the right at any time and from time to time to notify the Fiscal Agent to withhold payment of all or any part of the moneys in the Construction Account in the event (a) Tenant is in default in the payment of Rent, or (b) a default described under Section 19.1 has occurred. After receipt of such notice from Landlord, the Fiscal Agent shall not pay any part of the moneys in the Construction Account without Landlord's prior written consent. In the event Tenant shall cure the defaults specified in (a) above or the default specified in (b) above shall cease to exist, Landlord shall so notify the Fiscal Agent, and after receipt of such notice the Fiscal Agent shall make payments from the Construction Account in accordance with the provisions of this Section; provided, however, that if this Lease is terminated or Landlord otherwise re-enters and takes possession of the Facility without terminating this Lease under the provisions of Article XIX, Landlord shall direct the Fiscal Agent to deposit all of the insurance moneys then held by it in the Construction Account into the Principal and Interest Account, and upon such deposit all duties, responsibilities and obligations of the Fiscal Agent, with respect to such insurance moneys and all rights of Tenant in and to such insurance moneys shall cease.

17.6. Application of Insurance Moneys and Condemnation Proceeds After Payment of Bonds. If any such condemnation, insured loss of title, or damage or destruction to the Facility occurs during the life of this Lease but either (i) after the Bonds and interest thereon have been paid in full (or after provision has been made for the payment thereof in accordance with the terms of the Bond Resolution), or (ii) the proceeds or awards are sufficient to pay the Bonds and there is a surplus,

then all of such condemnation awards, title insurance proceeds or insurance proceeds, or such surplus, shall be apportioned between Landlord and Tenant in accordance with the respective values of the remaining term of this Lease, assuming the exercise of Tenant's options hereunder, and Landlord's reversionary interest in the Facility.

#### ARTICLE XVIII

18.1. Tenant's Options to Terminate Lease. Tenant shall have the right and option to terminate the term of this Lease at any time in the event that:

- (a) the Facility or any part thereof shall have been damaged or destroyed to such extent that in the opinion of the board of directors of Tenant expressed in a resolution and in the opinion of an Independent Engineer expressed in a certificate, in each case filed with Landlord and the Fiscal Agent, (i) the Facility cannot be reasonably restored within a period of Six (6) months to the condition it was in immediately preceding such damage or destruction, or (ii) Tenant is thereby prevented or likely to be prevented from carrying on its normal operations for a period of Six (6) months, or (iii) the cost of restoration of the Facility would substantially exceed the net proceeds of insurance required to be carried thereon pursuant to the provisions of Article VI hereof; or
- (b) title to, or the temporary use of, all or substantially all of the Facility shall have been taken under the exercise of the power of eminent domain by any governmental authority, or person, firm or corporation acting under governmental authority (including such a taking as results, or in the opinion of the board of directors of Tenant expressed in a resolution and in the opinion of an Independent Engineer expressed in a certificate, in each case filed with Landlord and the Fiscal Agent), (i) the Facility cannot be reasonably restored within a period of Six (6) months to the condition it was in immediately preceding such damage or destruction, or (ii) Tenant is thereby prevented or likely to be prevented from carrying on its normal operations for a period of Six (6) months; or
- (c) as a result of any changes in the Constitution of the State of Kansas or the Constitution of the United States of America, or as a result of

legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), this Lease shall have become void or unenforceable or impossible of performance without unreasonable delay in accordance with the intent and purposes of the parties, or shall have been declared to be unlawful, or unreasonable burdens or excessive liabilities shall have been imposed on the County, Landlord or Tenant.

To exercise such option, Tenant shall give written notice to Landlord (and the Fiscal Agent, if any of the Bonds shall then be unpaid and provision for the payment thereof has not been made in accordance with the provisions of the Bond Resolution) within one (1) year following Tenant's actual knowledge of the event authorizing the exercise of such option and shall specify therein the date of termination, which date shall be not less than Forty-Five (45) nor more than Ninety (90) days from the date such notice is given; provided, however, that prior to such termination, all of the Bonds then outstanding shall be called for redemption or provision shall be made for the call for redemption of such Bonds, and all moneys then held in the Principal and Interest Account by the Fiscal Agent shall be available for use to pay the principal of and all interest accrued on the Bonds so called for redemption and all costs and expenses incurred in connection with the call, redemption and payment of said outstanding Bonds. If the funds then held by the Fiscal Agent in the Principal and Interest Account are insufficient in amount for the purposes aforesaid, Tenant shall be obligated to pay, and it does hereby covenant and agree to pay, to the Fiscal Agent, as Basic Rent and upon demand therefor, such further sums of money, in cash, as may be required for such purposes. Upon the payment of all outstanding Bonds and interest and redemption premium, if any, this Lease shall terminate.

#### ARTICLE XIX

19.1. Default Provisions. This Lease is made on condition that if:

- (a) Tenant fails to make the installments of Basic Rent required under Section 2.1 hereof within seven days after notice is given to Tenant that any such payment is required to be made; or
- (b) There are not sufficient funds to pay principal and interest on the Bonds in the Principal and Interest Account on the date for payment of the same; or

- (c) Tenant defaults in the due and punctual payment of any other Basic Rent, Building Rent or Additional Rent; or
- (d) Tenant defaults in the keeping or performance of any other covenant or obligation herein contained on Tenant's part to be kept or performed, and Tenant fails to remedy the same within Thirty (30) days after Landlord or the Fiscal Agent has given Tenant written notice specifying such default (or within such additional period, if any, as may be reasonably required to cure such default if it is of such nature that it cannot be cured within said Thirty (30) day period because of governmental restriction or other cause beyond the control of Tenant); or
- (e) Tenant or shall (i) admit in writing its inability to pay its debts as they become due; or (ii) file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Act as now or in the future amended, or file a pleading asking such relief; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a trustee or receiver for all or a major portion of its property; or (v) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) suffer the entry of a final and non-appealable court order under any federal or state law appointing a receiver or trustee for all or a major portion of its property or ordering the winding up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Act, as now or in the future amended, which order, if not consented to by it shall not be vacated, denied, set aside or stayed within Sixty (60) days after the day of entry; or (vii) suffer the entry of a final judgment for the payment of moneys in excess of \$10,000 against it, and the same shall not be discharged or provision made for its discharge within Sixty (60) days from the date of entry thereof, or an appeal or other appropriate proceeding for review thereof shall not be taken within said period and a stay of execution pending such appeal shall not be obtained; or (viii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within Sixty (60) days after the final entry or levy, or after

any contest is finally adjudicated or any stay is vacated or set aside;

(each of the events described in this subparagraph being deemed a default under the provisions of this Lease);

then Landlord may at Landlord's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Bond Resolution) then or at any time thereafter, and while such default shall continue, take any one or more of the following actions: (i) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Bond Resolution, or (ii) give Tenant written notice of its intention to terminate this Lease on a date specified therein, which date shall not be earlier than Ten (10) days after such notice is given and, if all defaults have not then been cured on the date so specified, Tenant's rights to possession of the Facility shall cease, this Lease shall thereupon be terminated, and Landlord may re-enter and take possession of the Facility as of Landlord's former estate; or (iii) without terminating the term hereof, or this Lease, reenter the Facility or take possession thereof pursuant to legal proceedings or pursuant to any notice provided for by law, and having elected to re-enter or take possession of the Facility without terminating the term or this Lease, Landlord shall use reasonable diligence to relet the Facility, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as Landlord may deem advisable, with the right to make alterations and repairs to the Facility, and no such re-entry or taking of possession of the Facility by Landlord shall be construed as an election on Landlord's part to terminate this Lease, and no such re-entry or taking of possession by Landlord shall relieve Tenant of its obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Lease, all of which shall survive such re-entry or taking of possession, and Tenant shall continue to pay the Basic Rent, Building Rent and Additional Rent provided for in this Lease until the end of the term and whether or not the Facility shall have been relet, less the net proceeds, if any, of any reletting of the Facility after deducting all of Landlord's expenses in or in connection with such reletting, including without limitation, all repossession costs, brokerage commissions, legal expenses, expenses of employees alteration costs and expenses of preparation for reletting. Said net proceeds of any reletting shall be deposited in the Principal and Interest Account. Having elected to re-enter or take possession of the Facility without terminating the term of this Lease, Landlord may (subject, however, to any restrictions against termination of this Lease in the Bond Resolution), by notice to Tenant given at any time thereafter

while Tenant is in default in the payment of Basic Rent, Building Rent or Additional Rent or in the performance of any other obligation under this Lease, elect to terminate this Lease on a date to be specified in such notice, which date shall be not earlier than Ten (10) days after the giving of such notice, and if all defaults shall not have then been cured on the date so specified, this Lease shall thereupon be terminated. If, in accordance with any of the foregoing provisions of this Article, Landlord shall have the right to elect to re-enter and take possession of the Facility, Landlord may enter and expel Tenant and those claiming through or under Tenant and remove the property and effects of both or either (forcibly if necessary) without being guilty of any manner of trespass and without prejudice to any remedies for arrears of Rent or preceding breach of covenant. Landlord may take whatever action at law or in equity which may appear necessary or desirable to collect Rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Tenant under this Lease.

19.2. Survival of Obligations. Tenant covenants and agrees with Landlord and the holders of the Bonds that until the Bonds and the interest thereon and redemption premium, if any, are paid in full or provision made for the payment thereof, its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that Tenant shall continue to pay Basic Rent, Building Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

## ARTICLE XX

20.1. Performance of Tenant's Obligations by Landlord. If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Landlord may (but shall not be obligated to do so) upon the continuance of such failure on Tenant's part for Thirty (30) days after notice of such failure is given Tenant by Landlord or the Fiscal Agent and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Landlord and all necessary or incidental costs and expenses incurred by Landlord in performing such obligations shall be deemed Additional Rent and shall be paid to Landlord on demand, and if not so paid by Tenant within Ten (10) days of demand, Landlord shall have the same rights and remedies provided for in Article XIX in the case of default by Tenant in the payment of Basic Rent.

## ARTICLE XXI

21.1. Surrender of Possession. Upon accrual of Landlord's right of re-entry because of Tenant's default hereunder or upon the cancellation or termination of this Lease by lapse of time or otherwise, Tenant shall peacefully surrender possession of the Facility to Landlord in good condition and repair, ordinary wear and tear excepted; provided, however, Tenant shall have the right, prior to the termination of this Lease, to remove from or about the Facility the buildings and improvements and personal property, the furniture and trade fixtures which Tenant owns under the terms of this Lease. All repairs to and restorations of the Facility required to be made because of such removal shall be made by and at the sole cost and expense of Tenant. All machinery, equipment, personal property, furniture, trade fixtures, buildings and improvements owned by Tenant and which are not so removed from or about the Facility prior to the termination of this Lease shall become the separate and absolute property of Landlord.

## ARTICLE XXII

22.1. Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes (a) upon Landlord, if delivered in person to its Executive Director, the Chairman of the Johnson County Airport Commission, and the Chairman of the Board of County Commissioners of Johnson County, Kansas, or if a copy thereof be mailed by certified or registered mail, postage prepaid, addressed to Landlord at One Industrial Parkway, Industrial Airport, Kansas 66031, or at such other place as Landlord from time to time may designate in writing to Tenant and the Fiscal Agent; and (b) upon Tenant if delivered in person to any executive officer of Tenant or if a copy thereof be mailed by certified or registered mail, postage prepaid, addressed to Tenant at 400 Industrial Parkway, Industrial Airport, Kansas 66031, or at such other place as Tenant from time to time may designate in writing to Landlord and the Fiscal Agent. Copies of all notices given to Landlord or Tenant hereunder shall, while any Bond or interest remains unpaid, be mailed to the Fiscal Agent by certified or registered mail, postage prepaid, addressed to the Fiscal Agent at 4700 W. 50th Terrace, Roeland Park, Kansas 66201, or at such other place as the Fiscal Agent may from time to time designate in writing to Landlord and Tenant. All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed.

#### ARTICLE XXIII

23.1. Net Lease. The parties hereto agree (a) that this Lease is intended to be a net lease, (b) that the payments of Basic Rent are designed to provide the County, Landlord and its Fiscal Agent with funds adequate in amount to pay all principal of and interest on the Bonds as the same become due and payable and to pay and discharge all of the other duties and requirements set forth in Section 2.1 hereof, and (c) that to the extent that the payments of Basic Rent are not sufficient to provide Landlord and its Fiscal Agent with funds sufficient for the purposes aforesaid, Tenant shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, such further sums of money, in cash, as may from time to time be required for such purposes.

23.2. Funds Held by Fiscal Agent After Payment of Bonds. If, after the principal of and interest on the Bonds and all costs incident to the payment of Bonds have been paid in full, the Fiscal Agent holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, except as otherwise provided in this Lease and the Bond Resolution and after payment therefrom to Landlord of any sums of money then due and owing by Tenant under the terms of this Lease, be the absolute property of and be paid over forthwith to Tenant.

#### ARTICLE XXIV

24.1. Rights and Remedies. The rights and remedies reserved by Landlord and Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Landlord and Tenant shall each be entitled to specific performance, and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

24.2. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

24.3. Abandonment by Tenant. If Tenant vacates or abandons the Facility, Landlord shall have all the same rights and remedies against Tenant by reason thereof as are herein granted to Landlord upon and by reason of a default of Tenant.

24.4. Landlord Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that Landlord shall, may or must give its approval or consent, or execute supplemental agreements, exhibits or schedules, Landlord shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements, exhibits or schedules.

24.5. Independent Engineer. "Independent Engineer" means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of Kansas and who or which is not a full-time employee of either Landlord or Tenant and who shall be reasonably satisfactory to Tenant.

#### ARTICLE XXV

25.1. Quiet Enjoyment and Possession. Landlord covenants that so long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Facility and that Landlord will defend Tenant's enjoyment and possession thereof against all parties.

25.2. Due Organization and Authority of Landlord. Landlord covenants that it is a public commission duly organized and existing under the laws of the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officials.

#### ARTICLE XXVI

26.1. Due Organization and Authority of Tenant. Tenant covenants that it is a general partnership duly organized and existing under the laws of the State of Kansas, duly authorized and qualified to do business in the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized partners. The execution of this Lease and the performance of the terms of this Lease by Tenant will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which Tenant is a party or by which it or any of its property is bound, or the Tenant's Partnership Agreement, or any order, rule or regulation applicable to Tenant or its property of any court or other governmental body.

26.2. Financial Reports by Tenant. As soon as practicable after the end of each of its fiscal years, and in any event within 120 days thereafter, Tenant shall file a copy of its financial statement and a copy of the personal financial statement of each of the partners of the Tenant with the Landlord, the Fiscal Agent, and the original purchaser of the Bonds. Such financial statements shall set forth in comparative form the figures for the previous fiscal year and shall be prepared in accordance with generally accepted accounting principles consistently applied (except for any change in accounting principles with which the Fiscal Agent concurs). Tenant shall also make such financial statements available to any bondholder, prospective bondholder, or agent thereof, upon request.

26.3. Covenant to Reimburse. Tenant will reimburse Landlord for any and all obligations reasonably assumed or incurred by Landlord under this Lease.

26.4. Investment Tax Credit; Depreciation. Tenant shall be entitled to claim the full benefit of (1) any investment credit against federal or state income tax allowable with respect to expenditures of the character contemplated hereby under any federal or state income tax laws now or from time to time hereafter in effect, and (2) any deduction for depreciation of the Improvements to be constructed or purchased hereunder from federal or state income taxes. Landlord agrees that it will upon Tenant's request execute all such elections, returns or other documents which may be reasonably necessary or required to more fully assure the availability of such benefits to Tenant.

#### ARTICLE XXVII

27.1. Amendments. This Lease may be amended, changed or modified in the following manner:

- (a) With respect to any amendment, change or modification which will materially adversely affect the security or rights of the holders of any of the Bonds, by an agreement in writing executed by Landlord and Tenant and consented to in writing by the holders of sixty-six and two-thirds percent (66 2/3%) of the aggregate principal amount of the Bonds then outstanding;
- (b) With respect to any amendment, change or modification which reduces the Basic Rent or Additional Rent, or any amendment which reduces the percentage of bondholders whose consent is required for any such amendment, change or modification, by an agreement in writing executed by Landlord and Tenant and consented to in writing by the holders

of One Hundred percent (100%) of the aggregate principal amount of the Bonds then outstanding; and

- (c) With respect to all other amendments, changes, or modifications, by an agreement in writing executed by Landlord and Tenant.

At least Thirty (30) days prior to the execution of any agreement pursuant to (c) above, Landlord and Tenant shall furnish the Fiscal Agent and the original purchaser of the Bonds with a copy of the amendment, change or modification proposed to be made.

27.2. Security Interests. Landlord and Tenant agree to enter into all instruments (including financing statements and statements of continuation) necessary for perfection of and continuance of the perfection of the security interests of Landlord in the property hereby leased. The Fiscal Agent shall file or cause to be filed all such instruments required to be so filed and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be outstanding.

27.3. Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of Kansas. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

27.4. Invalidity of Provisions of Lease. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

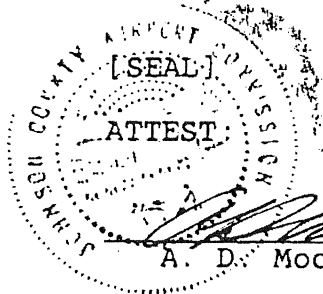
27.5. Covenants Binding on Successors and Assigns. The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

27.6. Section Headings. The section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof. The reference to section numbers herein or in the Bond Resolution shall be deemed to refer to the numbers preceding each section.

27.7. Execution of Counterparts. This Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

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

JOHNSON COUNTY AIRPORT COMMISSION



A. D. Moore, Secretary

By James F. Pilley  
James F. Pilley, Chairman

"LANDLORD"

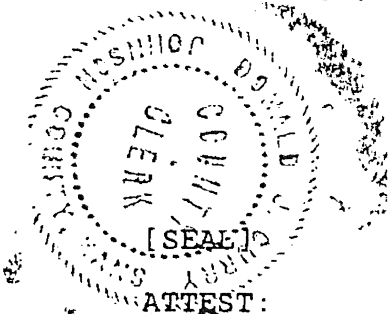
JcAIR ASSOCIATES

By Paul L. Rothman  
Partner

By Jim S. Sander  
Partner

"TENANT"

Approved and, to the extent necessary to create and fully implement the foregoing Lease, joined into by the Board of County Commissioners of Johnson County, Kansas, this \_\_\_\_ day of November, 1983.



Donald J. Curry, County Clerk

BOARD OF COUNTY COMMISSIONERS  
OF JOHNSON COUNTY, KANSAS

By William E. Franklin  
William E. Franklin,  
Chairman

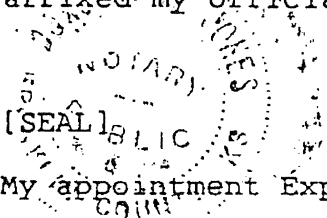
"COUNTY"

ACKNOWLEDGMENTS

STATE OF KANSAS       )  
                              ) SS  
COUNTY OF JOHNSON    )

BE IT REMEMBERED that on this 8 day of November, 1983, before me, a notary public in and for said county and state, came JAMES F. PILLEY, Chairman of the Johnson County Airport Commission, a public commission duly authorized and existing under and by virtue of the Constitution and laws of the State of Kansas, and A. D. MOORE, Secretary of said Commission, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said Commission, and such persons duly acknowledged the execution of the same to be the act and deed of said Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



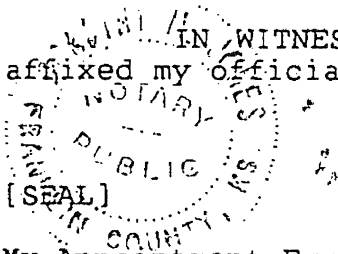
Dorothy M. Jones  
Notary Public

My Appointment Expires: My Appointment Expires Sept. 2, 1987

STATE OF KANSAS       )  
                              ) SS  
COUNTY OF JOHNSON    )

BE IT REMEMBERED that on this 8 day of November, 1983, before me, a notary public in and for said county and state, came JIM E. SANDERSON and PAUL LEWAYNE ROTHERS, Partners of JcAir Associates, a general partnership authorized to engage in business in the State of Kansas, who are personally known to me to be the same persons who executed, in such capacities, the within instrument on behalf of said partnership, and such persons duly acknowledged the execution of the same to be the act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Dorothy M. Jones  
Notary Public

My Appointment Expires: My Appointment Expires Sept. 2, 1987

STATE OF KANSAS       )  
                              ) SS.  
COUNTY OF JOHNSON    )

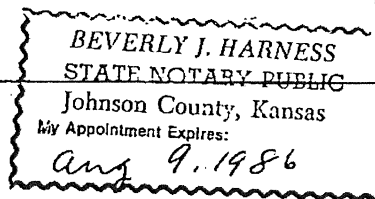
BE IT REMEMBERED, that on this 8<sup>th</sup> day of November, 1983, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WILLIAM E. FRANKLIN, Chairman of the Board of County Commissioners of Johnson County, Kansas, a political subdivision existing under and by virtue of the laws of the State of Kansas, and DONALD J. CURRY, County Clerk of said County, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed as such officers, the within instrument on behalf of said County, and such persons duly acknowledged the execution of the same to be the act and deed of said County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Beverly J. Harness  
Notary Public  
Beverly J. HARNESS

[SEAL]

My Appointment Expires:



SCHEDULE 1

TO LEASE DATED AS OF NOVEMBER 1, 1983, BY AND BETWEEN THE  
JOHNSON COUNTY AIRPORT COMMISSION AND JcAIR ASSOCIATES

=====

- (a) Commencing at the Northwest corner of Section 19, Township 14, Range 23, Johnson County, Kansas; thence North 88°04'16" East along the North line of said Section 19, a distance of 2,815.00 feet; thence North 1°55'02" West, a distance of 18.77 feet to the Point of Beginning; thence North 1°55'02" West, a distance of 205.00 feet; thence North 88°04'58" East, a distance of 143.87 feet; thence South 44°53'10" East, a distance of 285.04 feet; thence South 45°06'50" West, a distance of 245.00 feet; thence North 44°53'10" West, a distance of 233.10 feet to the Point of Beginning.

Subject to: (i) easements, restrictions and reservations now of record, (ii) the rights of the public in and to any part of the premises lying or being in public roads, alleys or highways, and (iii) taxes and assessments, general and special, not now due or payable; and

- (b) The buildings and improvements constructed or located thereon pursuant to Article IV of said Lease.

COLUMBIAN NATIONAL TITLE INSURANCE  
OF JOHNSON COUNTY, INC.  
POST OFFICE BOX 38  
OLATHE, KANSAS 66061  
782-0155

SERVICE AGREEMENT

THIS AGREEMENT, made and entered into on this first day of November, 1983, by and between the JOHNSON COUNTY AIRPORT COMMISSION, a public commission of Johnson County, Kansas, organized by the Board of County Commissioners of Johnson County, Kansas, under the provision of K.S.A. 3-301 et seq. (the "Commission"), and JcAIR Associates, a General Partnership (the "Tenant").

WITNESSETH:

WHEREAS, concurrently herewith the Commission and the Tenant have entered into a Lease dated contemporaneously herewith, pursuant to said Lease the Commission has leased to Tenant 1.80 acres of land located at the Johnson County Industrial Airport, and agreed to construct an industrial facility thereon for the Tenant out of the proceeds of \$300,000.00 principal amount of Industrial Airport Revenue Bonds, Series November 1, 1983 (JcAIR Associates Project), dated November 1, 1983, of Johnson County, Kansas, and

WHEREAS, certain municipal services are being performed for said property by the Commission and the Tenant desires to have the Commission continue to perform such services for said property.

NOW, THEREFORE, it is agreed between the parties hereto as follows:

1. In consideration of the Commission's furnishing and providing services to the premises leased by the Tenant and

road maintenance on roads servicing such premises, the Tenant agrees to pay the Commission monthly during the term of this Agreement, the following sums (hereinafter referred to as "Service Charges"). The amounts are due and payable on the first day of each month during the term of this lease and all extensions thereto:

<u>Nov. 1, 1983</u> to <u>Oct. 1, 1988</u> :	\$ 392.04/month; \$ 4,704.48/year	6
<u>Nov. 1, 1988</u> to <u>Oct. 1, 1993</u> :	\$ 457.38/month; \$ 5,488.55/year	7
<u>Nov. 1, 1993</u> to <u>Oct. 1, 1998</u> :	\$ 522.72/month; \$ 6,272.64/year	8
<u>Nov. 1, 1998</u> to <u>Oct. 1, 2003</u> :	\$ 588.06/month; \$ 7,056.72/year	9
<u>Nov. 1, 2003</u> to <u>Oct. 1, 2013</u> :	\$ 653.40/month; \$ 7,840.80/year	10
<u>Nov. 1, 2013</u> to <u>Oct. 1, 2023</u> :	See Notes 1,3	
<u>Nov. 1, 2023</u> to <u>Oct. 1, 2033</u> :	See Notes 2,3	

Note 1: At least \$653.40/month; \$7,840.80/year but not more than \$849.42/month; \$10,193.04/year.

Note 2: At least the monthly and yearly rates for the period Nov. 1 2013 to Oct. 1 2023 but not more than \$1,045.44/month; \$12,545.28/year.

Note 3: The Service Charges for the terms Nov. 1 2013 to Oct. 1 2023 and Nov. 1 2023 to Oct. 1 2033 will be computed by multiplying the service charge for the previous 10 year term by the change in the Consumer Price Index between the beginning and end date of that term but will not be more than an increase of \$0.03 per square foot per year. The Consumer Price Index is the Consumer Price Index (United States City Average for urban wage earners and clerical workers) - All items (reference base 1967 = 100) as published by the Department of Labor, or such comparable index or measure of change in the purchasing power of the dollar as may then be in common usage for payments of rents or wages if the Consumer Price Index is then no longer being reported.

2. It is agreed between the parties that the use of the property shall be limited to aviation oriented industry or facilities.

3. That at the termination of the Service Agreement, the Tenant shall have the right of first refusal for additional extended terms pursuant to Article 16.1 of the long-Term Facility Lease.

4. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and the owners and lessees of said real estate.

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

JOHNSON COUNTY AIRPORT COMMISSION

By James F. Pilley  
James F. Pilley, Chairman

ATTEST:

A.D. Moore  
A.D. MOORE, SECRETARY

( S E A L )

JcAir Associates, a General Partnership

By Paul L. Johnson  
Partner

By Jim S. Saut  
Partner

SCHEDULE 1

TO LEASE DATED AS OF NOVEMBER 1, 1983, BY AND BETWEEN THE  
JOHNSON COUNTY AIRPORT COMMISSION AND JcAIR ASSOCIATES

=====

- (a) Commencing at the Northwest corner of Section 19, Township 14, Range 23, Johnson County, Kansas; thence North 88°04'16" East along the North line of said Section 19, a distance of 2,815.00 feet; thence North 1°55'02" West, a distance of 18.77 feet to the Point of Beginning; thence North 1°55'02" West, a distance of 205.00 feet; thence North 88°04'58" East, a distance of 143.87 feet; thence South 44°53'10" East, a distance of 285.04 feet; thence South 45°06'50" West, a distance of 245.00 feet; thence North 44°53'10" West, a distance of 233.10 feet to the Point of Beginning.

Subject to: (i) easements, restrictions and reservations now of record, (ii) the rights of the public in and to any part of the premises lying or being in public roads, alleys or highways, and (iii) taxes and assessments, general and special, not now due or payable; and

- (b) The buildings and improvements constructed or located thereon pursuant to Article IV of said Lease.

LEASE AND SERVICE AGREEMENT MODIFICATION AGREEMENT

THIS LEASE AND SERVICE AGREEMENT MODIFICATION AGREEMENT, made and entered into on this 22nd day of August, 1989, by and between JcAir Associates, a general partnership (hereinafter "TENANT") and the Johnson County Airport Commission (hereinafter "LANDLORD").

WITNESSETH:

WHEREAS, the parties hereto have previously entered into a Lease Agreement and Service Agreement dated the 1st day of November, 1983, (hereinafter respectively "Lease Agreement" and "Service Agreement") for the purpose of leasing land for TENANT'S facility; and

WHEREAS, the parties hereto have discovered that due to the location of the building and proposed future facility expansion, further land is needed by the TENANT, and the LANDLORD is agreeable to leasing further land,

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, and in consideration of the mutual covenants, agreements and considerations hereinafter stated, and previously stated in the Lease Agreement and Service Agreement aforementioned, it is agreed as follows:

1. Lease of Additional Property. LANDLORD hereby leases to the TENANT, and the TENANT hereby leases from the LANDLORD the premises further described as Exhibit A, attached hereto, and incorporated by reference herein as if fully set forth. The premises described are in addition to those previously leased by virtue of the aforementioned Lease Agreement.
2. Term. The term of this Modification Agreement, leasing additional land, shall be for a period of 14.33 years, commencing July 1, 1989, and ending October 31, 2003. Pursuant to the Service Agreement and Paragraph 16.1 of the aforementioned

Lease Agreement, TENANT is granted the same renewal options with this additional land, described in Exhibit A, as with the land which was leased pursuant to the Lease Agreement and covered by the Service Agreement.

3. Amendment to Service Agreement. TENANT shall pay to the LANDLORD for the additional premises described in Exhibit A, the additional sum set out as Exhibit B, incorporated by reference herein as if fully set forth, which shall be the same rate TENANT is currently paying LANDLORD for the land currently under the Service Agreement and Lease Agreement. Any options to renew shall be at the same price per square foot per year.
4. FAA Approval. This Lease and Service Agreement Modification Agreement is subject to and contingent upon approval, in writing by the Federal Aviation Administration (hereinafter referred to as "FAA"), which shall be effective upon receipt in writing, by the Executive Director of the LANDLORD. If that approval is not received by the LANDLORD within one hundred eighty (180) days from the date of execution hereof, this Lease and Service Agreement Modification Agreement shall be considered voidable by LANDLORD, at which time there would exist neither a right nor obligation on the part of any party to continue this Modification Agreement, which would be considered as terminated.
5. Sanitary Sewer Connections. This Lease and Service Agreement Modification Agreement is subject to Kansas Department of Health and Environment (hereinafter "KDHE") Order 88-E-10, dated February 24, 1989, and if additional connections to the sanitary sewer system are required, this Agreement is contingent upon approval by KDHE.

TENANT represents that, at the time of execution of this Agreement, it will not request additional connections to the sanitary sewer system and will not complete unauthorized connections to the sanitary sewer service system.

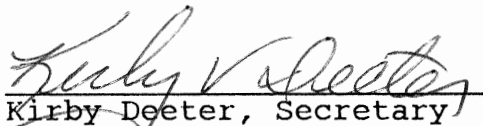
All other provisions of the Lease Agreement and Service Agreement dated November 1, 1983, are unmodified, unchanged, except to the extent to give meaning to this Lease and Service Agreement Modification Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1989.

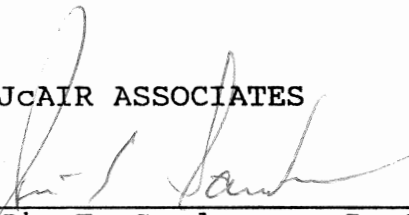
JOHNSON COUNTY AIRPORT  
COMMISSION

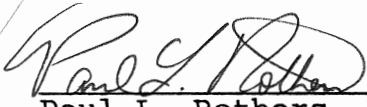
  
Paul W. Walter, Chairman

ATTEST:

  
Kirby Deeter, Secretary

JCAIR ASSOCIATES

  
Jim E. Sanderson, Partner

  
Paul L. Rothers, Partner

STATE OF KANSAS       )  
                                  )ss:  
COUNTY OF JOHNSON    )

BE IT REMEMBERED, that on this 11 day of July, 1989, before me, the undersigned, a notary public in and for the county and state aforesaid, came Paul W. Walter, Chairman and Kirby Deeter, Secretary of the Johnson County Airport Commission, who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

*Dorothy M. Jones*  
Notary Public

My commission expires:

My Appointment Expires Sept. 2, 1991

STATE OF KANSAS           )  
                                  )ss:  
COUNTY OF JOHNSON       )

BE IT REMEMBERED, that on this 22nd day of August, 1989, before me, the undersigned, a notary public in and for the county and state aforesaid, came Jim E. Sanderson and Paul L. Rother, general partner(s) of JcAir Associates, who is/are personally known to me to be the same person(s) who executed the within instrument of writing, and such person(s) duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

*Carol Dees Swenson*  
Notary Public

My commission expires: 11-04-91

STATE OF KANSAS           )  
                                  )ss:  
COUNTY OF JOHNSON       )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, the undersigned, a notary public in and for the county and state aforesaid, came \_\_\_\_\_, general partner(s) of JcAir Associates, who is/are personally known to me to be the same person(s) who executed the within instrument of writing, and such person(s) duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my notarial seal the day and year last above writ-  
ten.

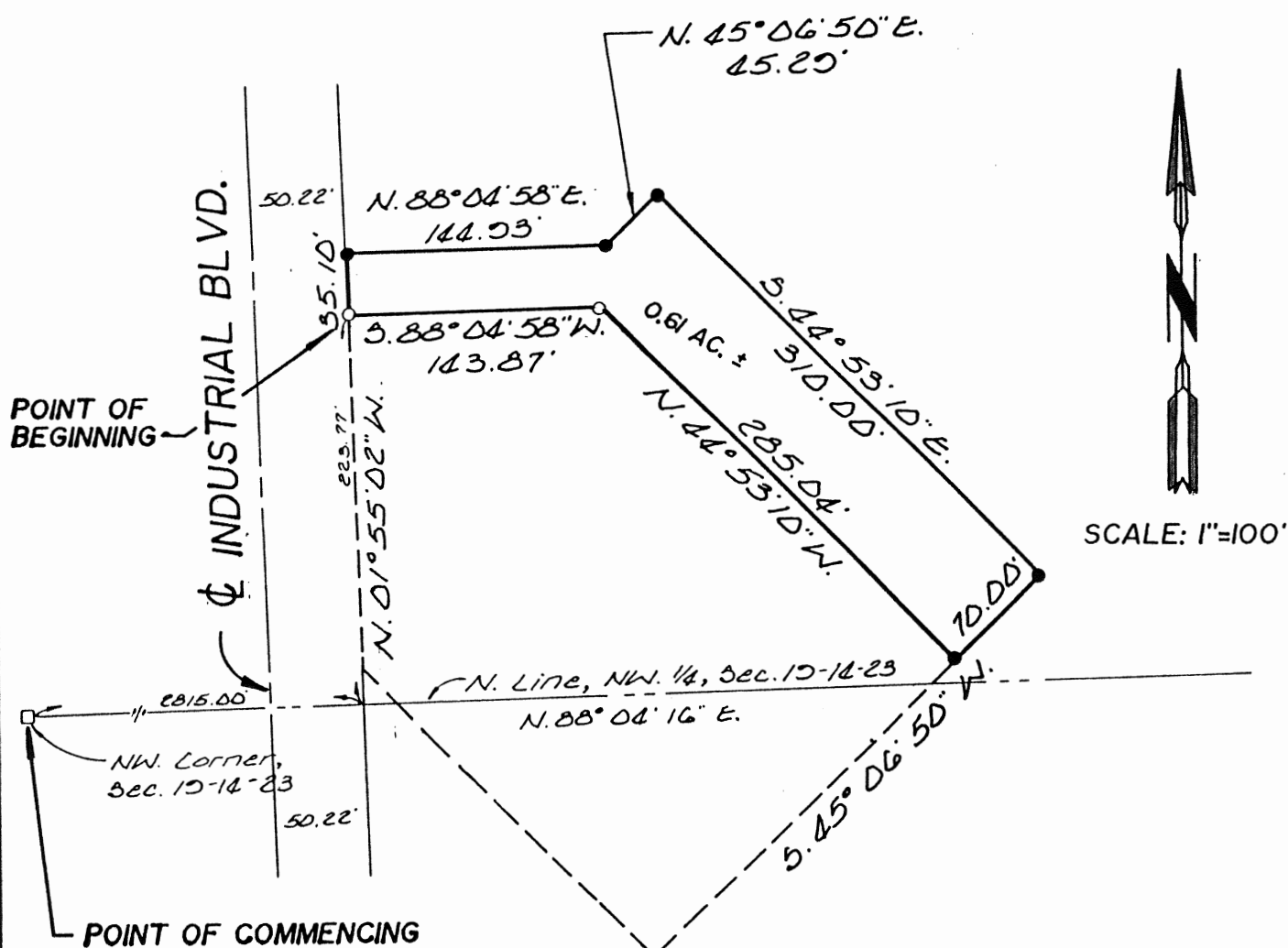
\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

# CERTIFICATE OF SURVEY

DATE MAY 25, 1989NUMBER 5143ORDERED BY: OLATHE INDUSTRIAL AIRPORT  
ATTN: LEE METCALFSECTION 19 TWP. 14 RG. 23 CO. JOHNSON STATE KANSAS

DESCRIPTION: SEE ATTACHED SHEET



- DENOTES IRON BAR FOUND  
● DENOTES IRON BAR SET

NO TITLE POLICY FURNISHED THIS SURVEY.  
NO EASEMENTS SHOWN.

ALLENBRAND, DREWS & ASSOCIATES  
OLATHE, KANSAS 913-764-1076

I HEREBY CERTIFY THAT THIS IS A TRUE AND  
ACCURATE PLAT OF SURVEY

BY



**LEGAL DESCRIPTION:**

Commencing at the Northwest corner of Section 19, Township 14, Range 23, Johnson County, Kansas; thence North 88°04'16" East, along the North line of the Northwest Quarter of said Section 19, a distance of 2815.00 feet to a point on the East right-of-way line of Industrial Boulevard; thence North 01°55'02" West, along said East right-of-way line, a distance of 223.77 feet to the Point of Beginning; thence continuing North 01°55'02" West, along said East right-of-way line, a distance of 35.10 feet; thence North 88°04'58" East, a distance of 144.93 feet; thence North 45°06'50" East, a distance of 45.29 feet; thence South 44°53'10" East, a distance of 310.00 feet; thence South 45°06'50" West, a distance of 70.00 feet; thence North 44°53'10" West, a distance of 285.04 feet; thence South 88°04'58" West, a distance of 143.87 feet, to the Point of Beginning, containing 0.61 acres, more or less, of unplatted land.

	<u>Month</u>	<u>Year</u>
July 1, 1989 to October 31, 1993	\$132.85	\$1594.20
November 1, 1993 to October 31, 1998	154.99	1859.90
November 1, 1998 to October 31, 2003	177.13	2125.60
November 1, 2003 to October 31, 2013	199.27	2391.30
November 1, 2013 to October 31, 2023	See Notes 1 and 3	
November 1, 2023 to October 31, 2033	See Notes 2 and 3	

Note 1: At least \$199.27/month; \$2391.30/year, but not more than \$287.84/month; \$3454.10/year

Note 2: At least the monthly and yearly rates for the period November 1, 2013 to October 31, 2023 but not more than \$354.26/month; \$4251.20/year

Note 3: The Service Charges for the terms November 1, 2013 to October 1, 2023 and November 1, 2023 to October 1, 2033 will be computed by multiplying the service charge for the previous 10 year term by the change in the Consumer Price Index between the beginning and end date of that term but will not be more than an increase of \$0.03 per square foot per year. The Consumer Price Index is the Consumer Price Index (United States City Average for urban wage earners and clerical workers) - All items (reference base 1967 = 100) as published by the Department of Labor, or such comparable index or measure of change in the purchasing power of the dollar as may then be in common usage for payments of rents or wages if the Consumer Price Index is then no longer being reported.

1

LEASE AND SERVICE AGREEMENT MODIFICATION AGREEMENT

THIS LEASE AND SERVICE AGREEMENT MODIFICATION AGREEMENT, made and entered into on this 13<sup>th</sup> day of NOVEMBER, 1990, by and between JcAir Associates, a general partnership (hereinafter "TENANT") and the Johnson County Airport Commission (hereinafter "LANDLORD").

WITNESSETH:

WHEREAS, the parties hereto have previously entered into a Lease Agreement and Service Agreement dated the 1st day of November, 1983, (hereinafter respectively "Lease Agreement: and "Service Agreement") for the purpose of leasing land for TENANT's facility; and

WHEREAS, due to proposed future facility expansion, further land is needed by the TENANT, and the LANDLORD is agreeable to leasing further land; and

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, and in consideration of the mutual covenants, agreements and considerations hereinafter stated, and previously stated in the Lease Agreement and Service Agreement aforementioned, it is agreed as follows:

1. Lease of Additional Property. LANDLORD hereby leases to the TENANT, and the TENANT hereby leases from the LANDLORD the premises further described as Exhibit A, a certificate of survey attached hereto, and incorporated by reference herein as if fully set forth. The premises described are in addition to those previously leased by virtue of the aforementioned Lease Agreement.
2. Term. The term of this Modification Agreement, leasing additional land, shall be for the same period as the Lease term and extended terms, commencing September 1, 1990. Pursuant to the Service Agreement and the aforementioned Lease Agreement, TENANT is granted the same renewal options with this additional land, described in Exhibit A, as with the land which was leased pursuant to the Lease Agreement and covered by the Service Agreement.

3. Amendment to Service Agreement. TENANT shall pay to the LANDLORD for the additional premises described in Exhibit A, the additional sums set out as Exhibit B, incorporated by reference herein as if fully set forth, which shall be the same rate TENANT is currently paying LANDLORD for the land currently under the Service Agreement and Lease Agreement. Any options to renew shall be at the same price per square foot per year as set forth in the payment schedules in the Service Agreement and Lease.
4. Additional Rent. In addition to the basic rent as set out in the Lease, TENANT shall, during the life of this Agreement pay and discharge, general and special taxes, if any which may be lawfully taxed, charged, levied assessed or imposed upon or against or be payable in respect of the land, or any part thereof, or any improvements at any time thereon, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real property, and further including all water and sewer charge, assessment, and other governmental charges and impositions whatsoever, foreseen or unforeseen (all of the foregoing being herein referred to as "Impositions") which Impositions shall be in addition to basic rent. In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, TENANT shall be required to pay only such installments when the same become due and payable.
5. FAA Approval. This Lease and Service Agreement Modification Agreement is subject to and contingent upon approval, in writing by the Federal Aviation Administration (hereinafter referred to as "FAA"), which shall be effective upon receipt in writing, by the

Executive Director of the LANDLORD. If that approval is not received by the LANDLORD within one hundred eighty (180) days from the date of execution hereof, this Lease and Service Agreement Modification Agreement shall be considered voidable by LANDLORD, at which time there would exist neither a right nor obligation on the part of any party to continue this Modification Agreement, which would be considered as terminated.

6. KDHE Approval. This lease and Service Agreement Modification Agreement is subject to Kansas Department of Health and Environment Order 88-E-10, dated February 24, 1989, and TENANT agrees that if additional connections to sanitary sewer system are required, it will request and receive Kansas Department of Health and Environment approval, or this Agreement is voidable at the option of either part.

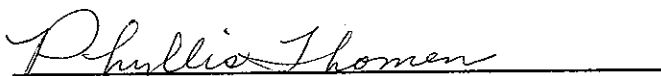
All other provisions of the Lease Agreement and Service Agreement dated November 1, 1983, are unmodified, unchanged, except to the extent to give meaning to this Lease and Service Agreement Modification Agreement.

Dated this 13<sup>th</sup> day of November, 1990.

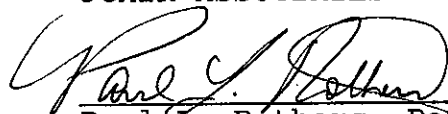
JOHNSON COUNTY AIRPORT COMMISSION

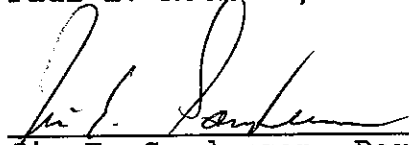
  
Benjamin D. Craig, Chairman

ATTEST:

  
Phyllis Thomen, Secretary

JCAIR ASSOCIATES

  
Paul L. Rothers, Partner

  
Jim E. Sanderson, Partner

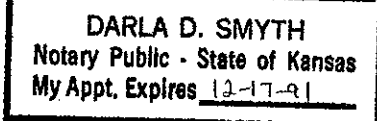
ATTEST:

\_\_\_\_\_  
Secretary

STATE OF KANSAS            )  
                                  )ss:  
COUNTY OF JOHNSON        )

BE IT REMEMBERED, that on this 13<sup>th</sup> day of November, 1990, before me, the undersigned a notary public in and for the county and state aforesaid, came Benjamin D. Craig, Chairman and Phyllis Thomen, Secretary of the Johnson County Airport Commission, who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



Darla D. Smyth  
Notary Public

My commission expires:

12-17-91

STATE OF KANSAS            )  
                                  )ss:  
COUNTY OF JOHNSON        )

BE IT REMEMBERED, that on this 13<sup>th</sup> day of November, 1990, before me, the undersigned, a notary public in and for the county and state aforesaid, came , Paul L. Rothers and Jim E. Sanderson, Partners of JcAir Associates and none, Secretary of JcAir Associates, who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Carol Lee Swenson  
Notary Public

My commission expires:

11-04-91

EXHIBIT "B"

Service Charges for Additional Land

Tract "C" (12,828 sq. ft.)

Oct. 1, 1990 to Oct. 1, 1993:     \$ 74.83/month;     \$ 897.96/year

Nov. 1, 1993 to Oct. 1, 1998:     \$ 85.52/month;     \$1,026.24/year

Nov. 1, 1998 to Oct. 1, 2003:     \$ 96.21/month;     \$1,154.52/year

Nov. 1, 2003 to Oct. 1, 2013:     \$106.90/month;     \$1,282.80/year

Nov. 1, 2013 to Oct. 1, 2023:         See Notes 1, 3

Nov. 1, 2023 to Oct. 1, 2033:         See Notes 2, 3

Note 1:     At least \$106.90/month; \$1,282.80/year but not more than  
              \$138.97/month;     \$1,667.64/year.

Note 2:     At least the monthly and yearly rates for the period Nov.  
1, 2013 to Oct. 1, 2023 but not more than \$171.04/month;  
\$2,052.48/year.

Note 3:     The Service Charges for the terms Nov. 1, 2013 to Oct. 1,  
2023 and Nov. 1, 2023 to Oct. 1, 2033 will be computed by  
multiplying the Service Charge for the previous 10 year  
term by the change in the Consumer Price Index between  
the beginning and end date of that term but will not be  
more than an increase of \$0.03 per square foot per year.  
The Consumer Price Index is the Consumer Price Index  
(United States City Average for urban wage earners and  
clerical workers) - All items (reference base 1967 = 100)  
as published by the Department of Labor, or such  
comparable index or measure of change in the purchasing  
power of the dollar as may then be in common usage for  
payments of rents or wages if the Consumer Price Index is  
then no longer being reported.

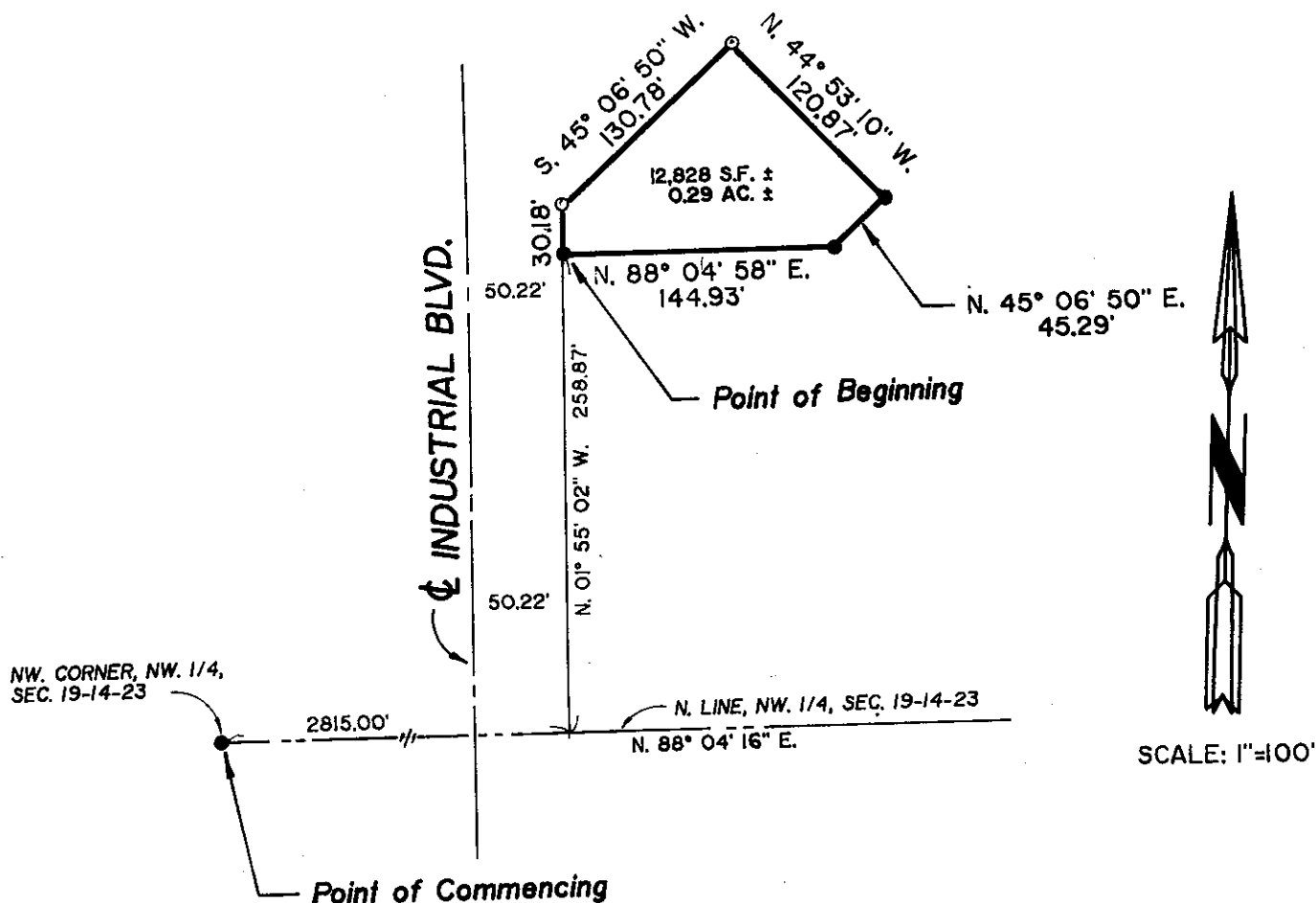
# CERTIFICATE OF SURVEY

DATE DECEMBER 7, 1990NUMBER 6428

ORDERED BY: LEE METCALF  
c/o JOHNSON COUNTY AIRPORT COMMISSION  
ONE INDUSTRIAL PARKWAY  
INDUSTRIAL AIRPORT, KANSAS 66031  
782-5335

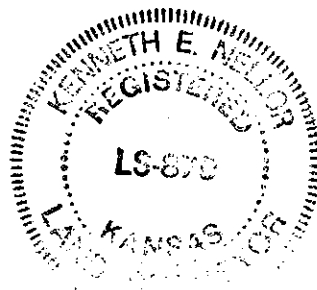
SECTION 18 TWP. 14 RG. 23 CO. JOHNSON STATE KANSAS

DESCRIPTION: SEE ATTACHED SHEET



- DENOTES IRON BAR FOUND
- DENOTES IRON BAR SET

NO TITLE POLICY FURNISHED THIS SURVEY.  
NO EASEMENTS SHOWN.



ALLENBRAND, DREWS & ASSOCIATES  
OLATHE, KANSAS 913-764-1076

I HEREBY CERTIFY THAT THIS IS A TRUE AND  
ACCURATE PLAT OF SURVEY

BY

Part of the Southwest Quarter of Section 18, Township 14, Range 23, Johnson County, Kansas, more particularly described as follows: Commencing at the Southwest corner of the Southwest Quarter of said Section 18; thence North  $88^{\circ} 04' 16''$  East, along the South line of said Section 18, a distance of 2815.00 feet; thence North  $01^{\circ} 55' 02''$  West, a distance of 258.87 feet to the Point of Beginning; thence North  $88^{\circ} 04' 58''$  East, a distance of 144.93 feet; thence North  $45^{\circ} 06' 50''$  East, a distance of 45.29 feet; thence North  $44^{\circ} 53' 10''$  West, a distance of 120.87 feet; thence South  $45^{\circ} 06' 50''$  West, a distance of 130.78 feet; thence South  $01^{\circ} 55' 02''$  East, a distance of 30.18 feet to the Point of Beginning, containing 12,828 square feet, more or less = 0.29 acres, more or less, of unplatted land.

## AMENDMENT OF LEASE AND SERVICE AGREEMENT

THIS AMENDMENT OF LEASE AND SERVICE AGREEMENT ("Amendment") is made and entered into as of the 23 day of October, 2013, by and between the JOHNSON COUNTY AIRPORT COMMISSION ("Landlord"), a public commission of Johnson County, Kansas (the "County") organized by the Board of County Commissioners of Johnson County, Kansas, under the provisions of K.S.A. 3-301 *et seq.*, and the ACDC Investments, LLC, a Kansas Limited Liability Company ("Tenant").

WITNESSETH:

WHEREAS, Landlord and JcAir Associates ("JcAir") entered into that certain Lease dated November 1, 1983 (the "Base Lease"), wherein Landlord leased to JcAir certain real property at New Century AirCenter, Johnson County, Kansas, which is more fully described in the Base Lease as amended; and on Exhibit A attached hereto; and

WHEREAS, Landlord and JcAir entered into that certain Service Agreement dated November 1, 1983 (the "Service Agreement"), wherein Landlord agreed to continue providing maintenance services on the roadways servicing the leased real property as described in the Base Lease as amended; and

WHEREAS, the Base Lease and the Service Agreement were thereafter amended by that certain Lease and Service Agreement Modification Agreement dated August 22, 1989 and that certain Lease and Service Agreement Modification Agreement dated November 13, 1990 (the Base Lease as amended hereinafter referred to as the "Lease"); and

WHEREAS, the Lease and Service Agreement were assigned by JcAir to Tenant pursuant to that certain Assignment and Assumption of Leases and Service Agreement dated August 26, 2011; and

WHEREAS, Landlord and Tenant mutually desire to amend certain terms and conditions of the Lease and Service Agreement as more fully set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, Landlord and Tenant do hereby agree as follows:

1. The Lease is hereby amended by deleting Article 16.1 and replacing it with the following:

16.1. Option to Extend Term. Tenant shall have and is hereby given the rights and options to extend the term of this Lease for six (6) consecutive periods of ten (10) years each, ending on October 31 of the years 2013, 2023, 2033, 2043, 2053, 2063, respectively, provided that (a) Tenant shall give Landlord written notice of its intention to exercise each such option at least Ninety (90) days but not more than One Hundred Eighty (180) days prior to the expiration of the then current term of this Lease, and (b) Tenant is not in default hereunder in the payment of Basic Rent or Additional Rent at the

time it gives Landlord such notice or at the time the extended term begins. In the event Tenant exercises any of such options, the terms, covenants, conditions and provisions set forth in this Lease shall be in full force and effect and binding upon Landlord and Tenant during each and all said extended terms except that there shall be no Basic Rent during any extended term herein provided for. In addition to options to extend, Tenant shall have the right of first refusal with respect to any lease of the Facility by Landlord.

2. The Service Agreement is hereby amended by deleting Section 1 of the Service Agreement and replacing it with the following:

1. In consideration of the Commission's furnishing and providing services to the premises leased by the Tenant and road maintenance on roads servicing such premises, the Tenant agrees to pay the Commission monthly during the term of this Agreement, the following sums (hereinafter referred to as "Service Charges"). The amounts are due and payable on the first day of each month during the term of this lease and all extensions thereto:

Nov. 1, 1983 to Oct. 1, 1988: \$ 392.04/month; \$ 4,704.48/year  
Nov. 1, 1988 to Oct. 1, 1993: \$ 457.38/month; \$ 5,488.55/year  
Nov. 1, 1993 to Oct. 1, 1998: \$ 522.72/month; \$ 6,272.64/year  
Nov. 1, 1998 to Oct. 1, 2003: \$ 588.06/month; \$ 7,056.72/year  
Nov. 1, 2003 to Oct. 1, 2013: \$ 653.40/month; \$ 7,840.80/year  
Nov. 1, 2013 to Oct. 1, 2023: \$ 653.40/month; \$ 7,840.80/year  
Nov. 1, 2023 to Oct. 1, 2033: See Note 3  
Nov. 1, 2033 to Oct. 1, 2043: See Note 3  
Nov. 1, 2043 to Oct. 1, 2053: See Note 3  
Nov. 1, 2053 to Oct. 1, 2063: See Note 3

Note 3: The Service Charges for the terms Nov. 1, 2023 to Oct. 1, 2033; Nov. 1, 2033 to Oct. 1, 2043; Nov. 1, 2043 to Oct. 1, 2053; and Nov. 1, 2053 to Oct. 1, 2063 will be computed by multiplying the service charge for the previous 10 year term by the change in the Consumer Price Index between the beginning and end date of that term but will not be more than an increase of \$0.03 per square foot per year. The Consumer Price Index is the Consumer Price Index (United States City Average for urban wage earner and clerical workers) - All items (reference base 1967 = 100) as published by the Department of Labor, or such comparable index or measure of change in the purchasing power of the dollar as may then be in common usage for payments of rents or wages if the Consumer Price Index is then no longer being reported.

3. The Service Agreement is hereby amended by deleting Section 2 of the Service Agreement.

4. Except as expressly modified by this Amendment, the terms and provisions of the Lease and Service Agreement shall remain unchanged and in full force and effect.

THIS AMENDMENT OF LEASE AND SERVICE AGREEMENT is executed as of the date first written above.

ACDC INVESTMENTS, LLC

By: [Signature]

Printed Name: David G. Cox

Title: Owner

STATE OF KANSAS            )  
  )ss:  
COUNTY OF JOHNSON    )

BE IT REMEMBERED, that on this 11 day of November, 2013, before me, the undersigned, a notary public in and for the county and state aforesaid, came David collis, Manager/Member of ACDC INVESTMENTS, LLC, who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

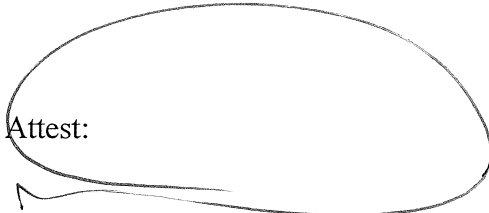
[Signature]  
Notary Public

My commission expires:

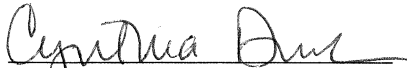
**LINDA DAWNYE SPRINKLES**  
Notary Public-State of Kansas  
My Appt. Exp. 11-30-16

JOHNSON COUNTY AIRPORT COMMISSION

By:   
Michael Moore, Chairman

Attest:   
Dave Webb, Secretary

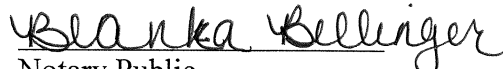
APPROVED AS TO FORM:

  
Cynthia Dunham  
Deputy Director of Legal

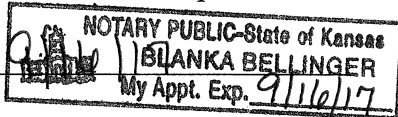
STATE OF KANSAS            )  
  )ss:  
COUNTY OF JOHNSON    )

BE IT REMEMBERED, that on this 13 day of December, 2013, before me, the undersigned, a notary public in and for the county and state aforesaid, came Michael Moore, Chairman, and Dave Webb, Secretary, of the Johnson County Airport Commission, who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

  
Notary Public

My commission expires:



## EXHIBIT A

### LEGAL DESCRIPTION

#### Parcel 1

Commencing at the Northwest corner of Section 19, Township 14, Range 23, Johnson County, Kansas; thence North 88°04'16" East along the North line of said Section 19, a distance of 2,815.00 feet; thence North 1°55'02" West, a distance of 18.77 feet to the POINT OF BEGINNING; thence North 1°55'02" West, a distance of 205.00 feet; thence North 88°04'58" East, a distance of 143.87 feet; thence South 44°53'10" East, a distance of 285.04 feet; thence South 45°06'50" West, a distance of 245.00 feet; thence North 44°53'10" West, a distance of 233.10 feet to the POINT OF BEGINNING.

Subject to: (i) easements, restrictions and reservations now of record, (ii) the rights of the public in and to any part of the premises lying or being in public roads, alleys or highways, and (iii) taxes and assessments, general and special, not now due or payable; and

#### Parcel 2

Commencing at the Northwest corner of Section 19, Township 14, Range 23, Johnson County, Kansas, thence North 88°04'16" East, along the North line of the Northwest Quarter of said Section 19, a distance of 2815.00 feet to a point on the East right-of-way line of Industrial Boulevard; thence North 01°55'02" West, along said East right-of-way line, a distance of 223.77 feet to the POINT OF BEGINNING; thence continuing North 01°55'02" West, along the East right-of-way line, a distance of 35.10 feet; thence North 88°04'58" East, a distance of 144.93 feet; thence North 45°06'50" East, a distance of 45.29 feet; thence South 44°53'10" East, a distance of 310.00 feet; thence South 45°06'50" West, a distance of 70.00 feet; thence North 44°53'10" West, a distance of 285.04 feet; thence South 88°04'58" West, a distance of 143.87 feet, to the POINT OF BEGINNING, containing 0.61 acres, more or less, of unplatted land.

#### Parcel 3

Part of the Southwest Quarter of Section 18, Township 14, Range 23, Johnson County, Kansas, more particularly described as follows: Commencing at the Southwest corner of the Southwest Quarter of said Section 18; thence North 88°01'16" East, along the South line of said Section 18, a distance of 2815.00 feet; thence North 01°55'02" West, a distance of 258.87 feet to the POINT OF BEGINNING; thence North 88°04'58" East, a distance of 144.93 feet; thence North 45°06'50" East, a distance of 45.29 feet; thence North 44°53'10" West, a distance of 120.87 feet; thence South 45°06'50" West, a distance of 130.78 feet; thence South 01°55'02" East, a distance of 30.18 feet to the POINT OF BEGINNING, containing 12,828 square feet, more or less = 0.29 acres, more or less, of unplatted land.

Parcel 1, Parcel 2 and Parcel 3 shall further be deemed to include all buildings and improvements constructed or located thereon pursuant to Article IV of the Lease.

## AMENDMENT OF LEASE AND SERVICE AGREEMENT

THIS AMENDMENT OF LEASE AND SERVICE AGREEMENT ("Amendment") is made and entered into as of the 27th day of September, 2017, by and between the JOHNSON COUNTY AIRPORT COMMISSION ("Landlord"), a public commission of Johnson County, Kansas (the "County") organized by the Board of County Commissioners of Johnson County, Kansas, under the provisions of K.S.A. 3-301 *et seq.*, and EMPIRE US, LLC, a Kansas Limited Liability Company ("Tenant").

WITNESSETH:

WHEREAS, Landlord and JcAir Associates ("JcAir") entered into that certain Lease dated November 1, 1983 (the "Base Lease"), wherein Landlord leased to JcAir certain real property at New Century AirCenter, Johnson County, Kansas, which is more fully described in the Base Lease as amended; and

WHEREAS, Landlord and JcAir entered into that certain Service Agreement dated November 1, 1983 (the "Service Agreement"), wherein Landlord agreed to continue providing certain services; and

WHEREAS, the Base Lease and the Service Agreement were thereafter amended by that certain Lease and Service Agreement Modification Agreement dated August 22, 1989 ("1989 Agreement"), whereby an additional tract of land was leased for an additional rent amount as more fully described in the 1989 Agreement; and

WHEREAS, the Base Lease and the Service Agreement were thereafter amended by that certain Lease and Service Agreement Modification Agreement dated November 13, 1990 ("1990 Agreement"), whereby an additional tract of land was leased for additional rent amount as more fully described in the 1990 Agreement; and

WHEREAS, the Base Lease, Service Agreement, the 1989 Agreement, and the 1990 Agreement were assigned by JcAir to ACDC Investments, LLC, pursuant to that certain Assignment and Assumption of Leases and Service Agreement dated August 26, 2011; and

WHEREAS, the Base Lease and the Service Agreement were thereafter amended by that certain Amendment to Lease and Service Agreement dated October 23, 2013 ("2013 Amendment"), whereby certain option terms and the payment terms under the Service Agreement were modified as more fully described in the 2013 Amendment; and

WHEREAS, the Base Lease, the Service Agreement, the 1989 Agreement, the 1990 Agreement, and the 2013 Amendment were assigned by ACDC Investments, LLC to Tenant pursuant to that certain Assignment and Assumption of Leases and Service Agreement dated December 10, 2013; and

WHEREAS, Landlord and Tenant mutually desire to amend certain terms and conditions of the Base Lease, the Service Agreement, the 1989 Agreement, the 1990 Agreement, and the 2013 Amendment as more fully set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, Landlord and Tenant do hereby agree as follows:

1. The 1989 Agreement is hereby amended by deleting Exhibit B to the 1989 Agreement and replacing it with the following Exhibit B:

EXHIBIT B to the 1989 Agreement:

July 1, 1989 to Oct. 31, 1993:	\$ 132.85/month;	\$ 1594.20/year
Nov. 1, 1993 to Oct. 31, 1998:	\$ 154.99/month;	\$ 1859.90/year
Nov. 1, 1998 to Oct. 31, 2003:	\$ 177.13/month;	\$ 2125.60/year
Nov. 1, 2003 to Oct. 31, 2013:	\$ 199.27/month;	\$ 2391.30/year
Nov. 1, 2013 to Oct. 31, 2023:	\$ 199.27/month;	\$ 2391.30/year
Nov. 1, 2023 to Oct. 31, 2033:	See Note 3	
Nov. 1, 2033 to Oct. 31, 2043:	See Note 3	
Nov. 1, 2043 to Oct. 31, 2053:	See Note 3	
Nov. 1, 2053 to Oct. 31, 2063:	See Note 3	

Note 3: The Service Charges for the terms Nov. 1, 2023 to Oct. 31, 2033; Nov. 1, 2033 to Oct. 31, 2043; Nov. 1, 2043 to Oct. 31, 2053; and Nov. 1, 2053 to Oct. 31, 2063 will be computed by multiplying the service charge for the previous 10 year term by the change in the Consumer Price Index between the beginning and end date of that term but will not be more than an increase of \$0.03 per square foot per year. The Consumer Price Index is the Consumer Price Index (United States City Average for urban wage earner and clerical workers) - All items (reference base 1967 = 100) as published by the Department of Labor, or such comparable index or measure of change in the purchasing power of the dollar as may then be in common usage for payments of rents or wages if the Consumer Price Index is then no longer being reported.

2. The 1990 Agreement is hereby amended by deleting Exhibit B to the 1990 Agreement and replacing it with the following Exhibit B:

EXHIBIT B to the 1990 Agreement:

Oct. 1, 1990 to Oct. 1, 1993:	\$ 74.83/month;	\$ 897.96/year
Nov. 1, 1993 to Oct. 1, 1998:	\$ 85.52/month;	\$ 1026.24/year
Nov. 1, 1998 to Oct. 1, 2003:	\$ 96.21/month;	\$ 1154.52/year
Nov. 1, 2003 to Oct. 1, 2013:	\$ 106.90/month;	\$ 1282.80/year
Nov. 1, 2013 to Oct. 1, 2023:	\$ 106.90/month;	\$ 1282.80/year
Nov. 1, 2023 to Oct. 1, 2033:	See Note 3	
Nov. 1, 2033 to Oct. 1, 2043:	See Note 3	
Nov. 1, 2043 to Oct. 1, 2053:	See Note 3	
Nov. 1, 2053 to Oct. 1, 2063:	See Note 3	

Note 3: The Service Charges for the terms Nov. 1, 2023 to Oct. 1, 2033; Nov. 1, 2033 to Oct. 1, 2043; Nov. 1, 2043 to Oct. 1, 2053; and Nov. 1, 2053 to Oct. 1, 2063 will be computed by multiplying the service charge for the previous 10 year term by the change in the Consumer Price Index between the beginning and end date of that term but will not be more than an increase of \$0.03 per square foot per year. The Consumer Price Index is the Consumer Price Index (United States City Average for urban wage earner and clerical workers) - All items (reference base 1967 = 100) as published by the Department of Labor, or such comparable index or measure of change in the purchasing power of the dollar as may then be in common usage for payments of rents or wages if the Consumer Price Index is then no longer being reported.

3. The parties acknowledge and agree that Tenant shall have the same renewal options for the additional land leased under the 1989 Agreement and the 1990 Agreement as for the land leased under the Base Lease and Service Agreement. Specifically, the option provisions of Section 16.1 of the Based Lease, as modified in the 2013 Amendment, shall apply to the additional land leased under the 1989 Agreement and the 1990 Agreement.

4. Except as expressly modified by this Amendment, the terms and provisions of the Base Lease, Service Agreement, the 1989 Agreement, the 1990 Agreement, and the 2013 Amendment shall remain unchanged and in full force and effect.

THIS AMENDMENT OF LEASE AND SERVICE AGREEMENT is executed as of the date first written above.

EMPIRE US, LLC

By:

Kory Bestwick

Printed Name: Kory Bestwick

Title:

Principal

STATE OF KANSAS            )  
  )ss:  
COUNTY OF JOHNSON        )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a notary public in and for the county and state aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of EMPIRE US, LLC, who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public

My commission expires:

\_\_\_\_\_

JOHNSON COUNTY AIRPORT COMMISSION

By:

Bradley Weisenburger  
Bradley Weisenburger, Chairman

Attest:

John Wittenborn  
Secretary

APPROVED AS TO FORM:

Cynthia Dunham  
Cynthia Dunham  
Deputy Director of Legal

STATE OF KANSAS            )  
  )ss:  
COUNTY OF JOHNSON    )

BE IT REMEMBERED, that on this 27th day of September, 2017, before me, the undersigned, a notary public in and for the county and state aforesaid, came Bradley Weisenburger, Chairman, and John Wittenborn, Secretary, of the Johnson County Airport Commission, who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Tracy L Fiorini  
Notary Public

My commission expires:

