CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: **Airport**

AGENDA DATE: **September 2, 2008**

CONTACT PERSON/PHONE: **Patrick T. Abeln-780-4724**

DISTRICT(S) AFFECTED: **3**

SUBJECT:
APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include $ amount if applicable.

That the City Manager be authorized to sign the new General Aviation Commercial Ground Lease by and between the City of El Paso (Lessor) and El Paso Air Limited (Lessee) for the purpose of creating a new 8 year, 8 month Lease with a 10-year option to run concurrently with the adjacent Airport lease This lease covers approximately 50,608 square feet of land at a new rental rate of $0.32 per square foot or $16,194.56 per year, an annual increase of $8,846.28 over the old lease rate.

BACKGROUND / DISCUSSION:
Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action?

The City of El Paso entered into a 25-year General Aviation Commercial Ground Lease with El Paso Air Limited located at 1740 American in July, 1990. This lease expired on June 30, 2005, and the tenant has been in holdover status while he determined how to proceed with his two separate leaseholds. El Paso Air Limited is a limited partnership, owned by the same individual that owns Air Parts of El Paso and that leases the entire building on this adjacent leasehold to the US Customs and Border Patrol. The new lease term will allow both leases to run concurrently.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one? If so, when?

Yes. The General Aviation Commercial Ground Lease Agreement between the City of El Paso (Lessor) and Ameristar Jet Charter, Inc. (Lessee) was approved by council in September 2007.

AMOUNT AND SOURCE OF FUNDING:
How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A. This is a revenue generating lease.

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BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A.

The General Aviation Commercial Ground Lease by and between the City of El Paso and El Paso Air Limited was approved by the Airport Board on July 31, 2008.

COUNCIL ACTION REQUIRED: City Council did not delegate the authority to sign airport leases, concession agreements or operating agreements.

**********************REQUIRED AUTHORIZATION**********************

LEGAL: (if required) _____ **FINANCE:** (if required) _____
Raymond L. Telles, Asst. City Attorney

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager be authorized to sign a General Aviation Commercial Ground Lease by and between the **CITY OF EL PASO** ("Lessor") and **EL PASO AIR LIMITED** ("Lessee") regarding the following premises: Parcel 2D being a portion of Lot 2, Block 4, El Paso International Airport Tract Unit 10, consisting of approximately 50,608 square feet of land, El Paso, El Paso County, Texas, municipally known and numbered as 1740 American Drive, El Paso, Texas.

APPROVED this _____ day of _____ 2008.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Patrick T. Abeln, A.A.E.
Director of Aviation

Doc. No.: 41302
Doc. Name: El Paso Air Limited-Gen. Aviation
Doc. Author: RTEL

GENERAL AVIATION COMMERCIAL GROUND LEASE

El Paso International Airport
El Paso, Texas

September 1, 2008
Effective Date

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EL PASO AIR LIMITED
Lessee

Doc. No.: 14619
Doc. Name: El Paso Air Limited 1740 American
Doc. Author: RTEL

GENERAL AVIATION COMMERCIAL GROUND LEASE
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EXHIBIT "A" - Property Description & Metes and Bounds of Premises.
EXHIBIT "B" - Aviation Specialty Area
EXHIBIT "C" - Rules, Regulations and Land Use Requirements - General Aviation Commercial Area
EXHIBIT "D" - Minimum Standards and Requirements for Commercial Aeronautical Service Providers

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GENERAL AVIATION COMMERCIAL GROUND LEASE

THIS GENERAL AVIATION COMMERCIAL GROUND LEASE AGREEMENT ("Lease") is made this _____ day of _____ 2008, by and between the **CITY OF EL PASO** ("Lessor") and **EL PASO AIR LIMITED** ("Lessee").

WHEREAS, Lessor owns and operates the El Paso International Airport, located in the County of El Paso, State of Texas, ("Airport"), which is managed by the Director of Aviation ("Director") of the City of El Paso's Department of Aviation;

WHEREAS, Lessor and El Paso Aircraft, Inc. entered into a General Aviation Commercial Ground Lease with an effective date of July 1, 1980, as subsequently amended on February 7, 1984 (collectively referred to herein as the "Original Lease"), for the property known as Parcel 2D, Block 4, El Paso International Airport Tracts, El Paso County, Texas;

WHEREAS, El Paso Aircraft, Inc. assigned all of its right title and interest as lessee under the Original Lease to Lessee pursuant to that Lessor's Approval of Assignment dated December 18, 1990;

WHEREAS, Lessee, as successor in interest, failed to exercise the option to extend the Original Lease within the allocated time and has been on a month-to-month tenancy since its expiration date;

WHEREAS, Lessee now desires to enter into a new lease covering the property as stated in the Original Lease; and

WHEREAS, Lessor deems it advantageous to itself and to its operation of the Airport to lease unto Lessee the parcel of land described herein, together with certain privileges, rights, uses and interests therein, as hereinafter set out;

NOW THEREFORE, for and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, Lessor hereby leases to Lessee and Lessee hereby hires and takes from Lessor certain real property, together with improvements thereon, and certain attendant privileges, uses and rights, as hereinafter specifically set out.

ARTICLE I – LEASE TERMINATION

1.01 Lease Termination. Upon execution of this Lease by Lessor, the Original Lease shall be terminated and the Lessee's use and occupancy of the Premises, as described in Section 2.01 below, shall be governed in all respects by the terms and conditions of this Lease.

1.02 Uninterrupted Possession. By signing this Lease, Lessee affirms that it has been in continuous possession and control of the Premises covered in the Original Lease from July 1, 1980 until the date this Lease is made effective.

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ARTICLE II - PREMISES AND PRIVILEGES

2.01 Description of Premises. The Premises hereby leased are:

Parcel 2D being a portion of Lot 2, Block 4, El Paso International Airport Tract Unit 10, consisting of approximately 50,608 square feet of land, El Paso, El Paso County, Texas, municipally known and numbered as 1740 American Drive, El Paso, Texas and more particularly described by metes and bounds on Exhibit "A", attached hereto and by this reference made a part hereof ("Premises").

2.02 Description of General Privileges, Uses and Rights. Lessor hereby grants to Lessee the following general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth and all of which shall be non-exclusive on the Airport:

A. The general use of all Public Airport Facilities and improvements, which are now or may hereafter be connected with or appurtenant to the Airport, except as hereinafter provided, to be used by Lessee and/or its sublessees for the purposes stated in Sections 2.03 and 2.04 of this article.

For the purpose of this Lease, "Public Airport Facilities" shall include all necessary landing area appurtenances including, but not limited to, approach areas, runways, taxiways, aprons, aircraft and automobile parking areas, roadways, sidewalks, navigational and avigational aids, lighting facilities, terminal facilities, or other public facilities appurtenant to the Airport.

B. The right of ingress to and egress from the Premises over and across public roadways serving the Airport for Lessee, its agents, servants, patrons, invitees and suppliers of service or furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now or may hereafter have application at the Airport.

2.03 Description of Specific Privileges, Uses and Rights. In addition to the general privileges, uses and rights hereinbefore described, and without limiting the generality thereof, Lessor hereby grants to Lessee, its tenants and sublessees, the right engage in commercial activities on the Premises as defined in Section 2.04, below, and Lessee shall be permitted to provide the following services subject to the conditions and covenants hereinafter set out.

2.04 Definition of Permitted Commercial Aviation Activities. The Lessee shall only be engaged in the business of providing permitted commercial aviation services at the Premises. The phrase "Permitted Commercial Aviation Activities" is hereby defined as those activities which involve the operation and sale of commercial aviation services by Lessee for profit. Said aviation services may include, in connection with the operation of Lessee's business:

A. Major aircraft and engine maintenance and repair;
B. Flight school and flight instruction;

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C. Avionics sales, service and installation;
D. Aircraft painting;
E. Sale of aircraft or aircraft parts and accessories;
F. Scheduled non-passenger charter services and nonscheduled charter services;
G. Aerial survey, photography, and mapping;
H. Aerial ambulance;
I. Aircraft salvage;
J. Air taxi and sightseeing services;
K. Avionics;
L. Instrument repair;
M. Flying Clubs;
N. Propeller sales and service; and
O. Any other commercial aviation use approved by the City of El Paso, except those identified in Section 2.05 below.

2.05 Excluded Operations and Concessions. The following operations and concessions and the establishment of the same shall be specifically prohibited on the Premises by this Lease:

A. Ground transportation for hire;
B. Western Union;
C. Auto rental service;
D. Food sales (except the sale of confections and refreshments through coin-operated vending machines);
E. News and sundry sales;
F. Barber, valet and personal services;
G. Sale and into-plane dispensing of aircraft fuels, propellants, and lubricants, other than Lessee's right to provide fueling services on its own aircraft with its own employees;
H. Aircraft arrival guidance on the ramp, aircraft parking, and tie-down services (except for Lessee's aircraft);
I. Hangar storage for general aviation and corporate aircraft, except for Lessee's or an approved Sublessee's aircraft;
J. Line services (minor maintenance and aircraft wash, except for Lessee's own aircraft); and
K. Flight planning and flight service facilities and pilots' lounge, except for Lessee's own use by and for its pilots.

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2.06 Restrictions on Uses and Privileges. Lessee shall not use or permit the Premises to be used in whole or in part during the term of this Lease for any purpose other than those permitted by this Lease, without the prior written consent of Lessor. Nor shall Lessee permit any use in violation of any present or then current laws, ordinances, rules and regulations, of any public or governmental authority, including, but not limited to laws, rules and regulations relating to sanitation, public health, safety or welfare, or operation and use of the Airport. Lessee hereby expressly agrees at all times during the term of this Lease, at its own cost and expense, to maintain, use and operate the Premises and all improvements, furnishings, fixtures and equipment in a clean, wholesome, and sanitary condition. Lessor expressly agrees to use its best efforts to prevent any unreasonable

inhibition or restriction of Lessee's rights hereunder. Lessee shall not at anytime during the term hereof abandon any or all of the Premises without the prior written consent of Lessor.

2.07 **Conditions of Granting Lease.** The granting of this Lease and its acceptance by Lessee is conditioned upon the following covenants:

A. That no functional alteration of the Premises shown on **EXHIBIT "A"** or **EXHIBIT "B"** or functional change in the uses of such Premises, except as reflected in said exhibits, shall be made which shall substantially adversely affect the use by Lessee of the Premises, without the specific consent of Lessee herein.

B. That the right to use Public Airport Facilities in common with others authorized so to do shall be exercised only subject to and in accordance with the laws of the United States of America, the State of Texas, and the City of El Paso; the rules and regulations promulgated by their respective authorities with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of Lessor now in force or hereafter prescribed or promulgated by charter authority or by law.

C. The Lessor has established minimum standards of building and operation for the "Aviation Specialty Area" which is comprised of Parcels 2A, 2B, 2C, 2D and 2E, Block 4, as shown on **EXHIBIT "B"**. Lessee agrees to accept and abide by these standards contained in the document entitled "Minimum Standards and Requirements for Commercial Aeronautical Service Providers at El Paso International Airport, which is attached hereto and incorporated herein for all purposes as **EXHIBIT "D"**. At Lessor's option such standards shall become covenants running with the land.

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ARTICLE III - OBLIGATIONS OF LESSOR

3.01 **Quiet Enjoyment.** Subject to those applicable provisions herein, Lessor covenants and agrees that it has good title to the Premises, free and clear of all liens and encumbrances having priority over this Lease; and that Lessor has the right and authority to lease the Premises. Lessor further covenants that all things have happened and been done to make its granting of the Lease effective and Lessor warrants to Lessee peaceful possession and quiet enjoyment of the Premises during the lease term and any extensions; provided Lessee is not in default of its obligations.

3.02 **Subordination of Lease.** All rights granted in this Lease shall be subordinate to the rights in any deed from the United States to the City of El Paso. This Lease shall further be subordinate to the provisions of any existing or future agreements between Lessor and the United States relative to the operation and maintenance of the 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 the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Premises, Lessee may cancel this Lease in its entirety.

3.03 **Condition and Maintenance of Premises.** Lessor shall have no responsibility as to the condition of the Premises and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition.

Lessor shall, however, reasonably maintain all public roads on the Airport, giving access to the Premises, in good and adequate condition for use by cars and trucks and shall reasonably maintain free and uninterrupted access to the Premises over said roads at all times.

ARTICLE IV - OBLIGATIONS OF LESSEE

4.01 **Net Lease.** The use and occupancy of the Premises by Lessee shall be without cost or expense to Lessor. It shall be the sole responsibility of Lessee to:

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A. Keep, maintain, repair and operate the Premises and all improvements located thereon in a good state of repair at all times at Lessee's sole cost and expense;

B. Pay all taxes and governmental charges of any kind whatsoever that may be assessed against the Lessee or the Lessor, with respect to the Premises, Lessee's use and/or occupancy of the Premises, or any improvements thereon, during the term of this Lease including any extensions or option periods granted thereto;

C. Pay all insurance premiums required in accordance with Article VII below; and

D. Supply to Lessor information regarding operational activities, subtenants, based aircraft, and other information as requested by the Director.

4.02 **Condition of Premises.** Lessee accepts the Premises in their present condition and, without expense to Lessor, shall repair and maintain any installations thereon and remove or cause to be removed any debris to the extent required for its use.

4.03 **Compliance with Laws.** Lessee, at Lessee's expense, agrees that it will design, construct, operate, and maintain the tenant improvements on the Premises in accordance with the Rules, Regulations and Land Use Requirements - General Aviation Commercial Area, attached as **EXHIBIT "C"**, and in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Lessor or Lessee, with respect to the use, occupation or alteration of the Premises and any improvements thereon.

Lessee, at Lessee's expense, specifically agrees to make or cause to be made any alterations to the Premises and improvements thereon including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act, as amended and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to the use or occupation of Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Lessee's use, operation, occupation or alteration of the Premises and any improvements thereon.

A. Definitions.

(1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including, but not limited to, the ambient air, ground water, surface water, and land use, including sub-strata land.

(2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and gasoline, oil, jet fuel, lubricants, and all other petroleum products.

(3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

(1) Lessee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law; it being expressly understood and agreed that Lessee will have Hazardous Materials stored on the Premises and shall do so in accordance with this Lease and all applicable laws, rules and regulations of governmental agencies exercising jurisdiction. **Without limiting the generality of any other indemnity clauses contained in this Lease, Lessee shall indemnify, defend and hold harmless Lessor, its successors and assigns, its employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions**

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brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon. This obligation includes but is not limited to all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material located on the Premises or in any improvements thereon or present in the soil or ground water on, under or about the Premises. The parties agree that Lessor's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. Lessor shall also have all other rights and remedies provided by law or otherwise provided in this Lease.

(2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises, any improvements thereon, or any surrounding property, Lessee shall promptly take all actions, at its sole cost and expense, as are necessary to return the Premises, and any improvements thereon or the surrounding property to the condition existing prior to the introduction of any such Hazardous Material to the Premises, any improvements thereon or the surrounding property; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises, any improvements thereon or the surrounding property.

(3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Leased Premises, any improvements thereon or on surrounding property then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Lessor, Lessee shall promptly provide all information requested by Lessor to determine the

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applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties, which is related to environmental contamination.

(4) Lessee shall immediately notify Lessor of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises, and (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or Lessor's obligations or liabilities under the Environmental Laws.

(5) Lessee shall insert the provisions of this Section into any lease agreement or contract by which it grants a right or privilege to any person, firm or corporation under this Lease.

C. Reporting:

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At any time that Lessee submits any filing pertaining to its property, operations, or presence of the Airport with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the Federal Aviation Administration, the EPA or the TCEQ, Lessee shall provide duplicate copies of the filing(s) and all related documents to Lessor.

Upon expiration, termination or cessation of this Lease for any reason, Lessee shall provide a current Phase I environmental site assessment of the Premises acceptable to Lessor; and if, in the opinion of Lessor, the Premises shall require environmental remediation, Lessee shall perform same to return the Premises into a (like new) condition equal or better to that as of the effective date of the Lease.

4.04 **Maintenance.** Lessee shall, at its sole cost and expense, maintain the Premises and the improvements and appurtenances thereto in totality, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on the Airport. Lessee shall repair all damages to the Premises caused by its employees, patrons or its operation; shall maintain and repair all equipment on the Premises including any drainage installations, paving, curbs, islands, buildings and improvements; and shall repaint its own buildings as necessary.

Lessor shall be the sole judge of the quality of maintenance and, upon written notice by Lessor to Lessee, Lessee shall be required to perform whatever maintenance Lessor deems necessary. If maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, Lessor shall have the right to enter on the Premises and perform the necessary maintenance. Lessee shall be required to reimburse Lessor the cost of making the repairs plus ten percent (10%) as an administrative charge. Failure to make full payment to Lessor within ten (10) days shall be deemed an event of default.

4.05 **Commercial Aviation Operations by Lessee.** Lessee, its tenants, and sublessees shall have the right to and shall conduct first-class general aviation commercial services as set forth in Section 2.04, adequate at all times to meet the demands for such service on the Airport. These commercial activities are defined as "Specialized Aviation Services" in **EXHIBIT "D"**, which is attached hereto and incorporated herein for all purposes, and Lessee, its tenants, and sublessees, as a "Specialized Aviation Service Operator", agrees to conduct its business in accordance with the standards set out in **EXHIBIT "D"**.

Lessee further agrees to furnish said services on a fair, equal, and non-discriminatory basis to all users thereof, and to charge fair, reasonable and non-discriminatory prices for each unit of sale of services, provided, however, that Lessee, its tenants, and sublessees will be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

4.06 **Utilities.** Lessee shall pay for all costs or charges for utility services furnished to Lessee during the term of the Lease. Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges and hook-up fees incurred.

4.07 **Trash, Garbage, and Other Refuse.** Lessee shall provide complete and proper arrangements for the adequate sanitary handling and disposal of all trash, garbage and other refuse caused as a result of the operation of its business. Lessee shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner and make arrangements to have the garbage, trash and other refuse removed from the Airport on a regular basis. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the Premises, shall not be permitted.

4.08 **Signs.** Lessee shall not maintain upon the outside of any improvements on the Premises any billboards or advertising sign; provided however, that Lessee may maintain on the outside of said buildings its name(s) in accordance with the standards prescribed in **EXHIBIT "C"**.

4.09 **Field Use Charges.** Nothing herein shall be deemed to relieve Lessee and its patrons, invitees and others from field use charges, including fuel flowage fees, as are generally levied by Lessor directly upon the operation of aircraft.

4.10 **Right to Construct.** Lessee shall have the right and privilege to construct and maintain improvements upon the Premises subject to the terms, covenants and conditions herein contained and subject to the prior written consent of Lessor.

4.11 **Authorization to Enter Restricted Area.** Lessee agrees that all of its agents, employees, servants, subtenants, invitees or independent contractors must be authorized by the Lessor to enter restricted areas as defined in Chapter 14.16 of the El Paso City Code. Lessee agrees that no person authorized to enter a restricted area by virtue of this Lease shall permit any person, who is not otherwise authorized, to enter a restricted area unless such person is, at all times while in the restricted area, in the company of an authorized person.

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4.12 Penalties Assessed by FAA or TSA. Lessee understands and agrees that in the event the Federal Aviation Administration or Transportation Security Administration assess a civil penalty against the Lessor or Airport for any violation of 49 CFR, Part 1542 Federal Aviation Regulation Par 107, Section 107.13 or any successor or additional regulation pertaining to security at the Airport, as a result of any act or failure to act on part of Lessee, its agents, sublessees, servants, employees, invitees, or independent contractors, Lessee will reimburse the Airport in the amount of the civil penalty assessed. Failure to reimburse Lessor for penalties or repeated violations shall be considered an event of default and may result in termination of the Lease.

ARTICLE V - TERM OF LEASEHOLD

5.01 Initial Term. The Initial Term of this Lease shall commence on the Effective Date of this Lease and shall continue through **March 31, 2017**.

5.02 Option. In the event that Lessee is not in default of any terms of this Lease, Lessee shall have the option to extend this Lease for ten (10) additional years ("Option Period") by notifying Lessor in writing at least one hundred and twenty (120) days prior to the expiration of the Initial Term. In the event the election is so exercised, the Lease shall be extended for an additional ten (10) years on the same terms and conditions, except that the Ground Rental shall be adjusted in accordance with Section 6.03 below. In no event, however, shall the adjusted Ground Rental during this Option Period be less than the Ground Rental in place for the lease period immediately preceding the commencement of the Option Period.

5.03 Holding Over. It is agreed and understood that any holding over by Lessee of the Premises at the expiration or early termination of this Lease shall operate and be construed as a tenancy from month to month at a rental of one and one-half (1.5) times the current monthly installments of rental. Lessee shall be liable to Lessor for all loss or damage on account of any holding over against Lessor's will after the expiration or early termination of this Lease, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration or early termination of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

5.04 National Emergency. In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Lease may be extended by the amount of the period of such suspension.

ARTICLE VI – RENTALS AND FEES

6.01 Ground Rental. For the purpose of computing the rental payments, Lessor and Lessee agree that the Premises comprise 50,608 square feet of land. The annual Ground Rental for the

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Premises will be calculated on the basis of $0.32 per square foot per annum for the land. Therefore, the initial annual Ground Rental shall be $16,194.56 per year or $1,349.55 per month.

6.02 Commencement of Rental. Payment of Ground Rental by Lessee to Lessor as aforesaid shall commence on the Effective Date of this Lease.

6.03 Readjustment of Ground Rental.

A. The Ground Rental shall be adjusted to eight percent (8%) of the then fair market value of the Premises, disregarding the value of any Lessee-owned improvements located on the Premises, within ninety (90) days prior to or after the following dates or events: (i) April 1, 2012; (ii) commencement of the Option Period (April 1, 2017), if so exercised; and (iii) the fifth (5th) anniversary of the commencement of the Option Period (April 1, 2022), if so exercised. In no event, however, shall the readjusted Ground Rental be less than the Ground Rental for the rental period immediately preceding the beginning of the respective rental adjustment.

B. The fair market value of the Premises shall be determined by an appraisal of the Premises; however, if mutually agreeable to Lessor and Lessee, the appraisal to determine the fair market value, may be foregone under either of the following conditions:

(1) The Director and Lessee mutually agree to an increase in the Ground Rental equaling the maximum allowable percentage for rental readjustment as set forth hereinabove; or

(2) The Director and Lessee agree on the fair market value of the Premises established by a recent appraisal of similar property located in the surrounding area.

C. In the event Lessor and Lessee do not so mutually agree, Lessor shall select a qualified appraiser who shall appraise the market value of the Premises disregarding the value of any Lessee-owned improvements located on the Premises. The cost of said appraisal shall be borne by the Lessor. If Lessee does not object to said appraised value within ten (10) days of notice, the market value shall be established and basic land rental shall be adjusted accordingly. If Lessee does not concur with the market value as established by Lessor's appraisal, Lessee shall so state in written notice to Lessor within ten (10) days after receipt of notice of the new value. In such event, Lessee shall then select a qualified appraiser who shall appraise the Premises and submit its determination of the current market value in writing to both the Lessee and Lessor within thirty (30) days after notice of Lessee's original objection. The cost of this second appraisal shall be borne by Lessee. Upon receipt of Lessee's appraisal, Lessor shall call the two appraisers together in order that a fair appraisal value can be agreed upon. Once the value is established, the rental rate shall be adjusted accordingly. Such readjusted Ground Rental shall be effective as of the anniversary date for which the adjustment is being determined, without regard

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to the date actually agreed upon. Further, any appraiser designated to serve in accordance with the provisions of this Lease shall be disinterested and shall be qualified to appraise real estate of the type covered by this Lease situated in El Paso County, Texas, and shall have been actively engaged in the appraisal of real estate similar to the Premises and located in El Paso County, Texas for a period of not less than five (5) consecutive years immediately preceding his or her appointment.

6.04 **Time of Payment.** All rentals due hereunder shall be paid in twelve (12) equal monthly installments. Said monthly rental payments shall be paid, in advance, on or before the first day of each and every month during the Initial Term, Option Period or any extension of this Lease.

6.05 **Unpaid Rent, Fees and Charges.** Any installment of Ground Rental, any fees, or other charges or monies accruing under any provisions of this Lease that are not received by the twentieth (20th) day of the month in which payment is due, shall bear interest at the rate equal to the maximum allowed by law the date when the same was due according to the terms of this Lease until paid by Lessee.

6.06 **Place of Payment.** All payments provided herein shall be paid to Lessor at the following address:

Accounting Dept.
El Paso International Airport
P.O. BOX 971278
El Paso, Texas 79997-1278

6.07 **Fuel Flowage Fees.** In addition to the above referenced Ground Rentals, Lessee shall pay to Lessor a fuel flowage fee, as determined by Lessor from time to time, for each gallon of aviation fuel delivered for Lessee's or any of Lessee's tenants' consumption on the Airport. Fuel flowage fees are presently set at eight cents ($0.08) per gallon and shall be due and payable on the twentieth (20th) day of each month immediately succeeding that in which the aviation fuel was delivered to the Premises. Included with each payment Lessee shall provide to Lessor, on a form acceptable to Lessor, an accounting of all fuel delivered.

ARTICLE VII - INSURANCE AND INDEMNIFICATION

7.01 **Fire and Other Risks Insurance.** Lessee, at its sole cost and expense, shall, throughout the term of this Lease, keep or cause to be kept all improvements now or hereafter located upon the Premises insured for the mutual benefit of Lessor and Lessee against loss or damage by fire and against loss or damage by other risks embraced by "extended coverage" and against civil commotions, riots, vandalism and malicious mischief, in an amount equal to the actual replacement cost of such improvements, including costs of replacing excavations and foundation, but without deduction for depreciation ("Full Insurable Value"). In the event a dispute arises as to the Full Insurable Value, which cannot be resolved by agreement, an appraisal of the Premises and all improvements thereon shall be made by an appraiser selected by Lessee, and reasonably acceptable to Lessor, to determine the Full Insurable Value. The expense of the appraisal shall be borne by

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Lessee. The resulting determination shall be conclusive between the parties for the purpose of this Section. Should the appraiser selected by Lessee be unsatisfactory to Lessor, the carrier of the insurance then in force shall be requested to determine the Full Insurable Value.

7.02 **Liability Insurance.** Lessee, at its sole cost and expense shall, throughout the term of the Lease, provide and keep in force for the benefit of Lessor and Lessee, as their respective interests may appear, comprehensive general liability and property damage insurance as specified in **EXHIBIT "D"** attached hereto and incorporated herein by reference, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions provided for under the Texas Tort Claims Act, whichever is greater.

7.03 **Performance Bonds.** Lessee, at its own cost and expense, shall cause to be made, executed, and delivered to Lessor two (2) separate bonds, as follows:

A. Prior to the date of commencement of any construction, a contract surety bond in a sum equal to the full amount of the construction contract awarded.

This bond shall guarantee the faithful performance of necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee Lessor against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely the work described as herein provided.

B. Prior to the date of commencement of any construction, a payment bond with Lessee's contractor or contractors as principal, in a sum equal to the full amount of the construction contract awarded.

This bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction contract.

In accordance with Article 7.19-1 of the Texas Insurance Code, if a Performance bond is in an amount of excess of ten percent (10%) of the surety's capital and surplus, the Lessor will require, as a condition to accepting the bond(s), a written certification from the surety that the surety has reinsured the portion of the risk that exceeds ten percent (10%) of the surety's capital and surplus with one or more reinsurers who are duly authorized, accredited or trusted to do business in the State of Texas. If any portion of the surety's obligation is reinsured, the amount reinsured may not exceed ten percent (10%) of the reinsurer's capital and surplus

7.04 **Authorized Insurance Companies.** All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by Lessor, such approval not to be unreasonably withheld.

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Certificates of insurance shall be delivered to Lessor at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Each such certificate shall contain:

A. A statement of the coverage provided by the policy;

B. A statement of the period during which the policy is in effect;

C. A statement that the annual premium or the advance deposit premium for such policy has been paid in advance;

D. An agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days' prior written notice to Lessor; and

E. A statement certifying the Lessor has been listed as an additional named insured on the policy.

7.05 Indemnification. LESSEE AGREES TO INDEMNIFY AND HOLD LESSOR HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY, OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF LESSEE'S BUSINESS ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF LESSEE OF ANY TERMS OF THIS LEASE, OR FROM ANY ACT OR NEGLIGENCE OF LESSEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBTENANTS, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF LESSOR. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST LESSOR BY REASON OF ANY SUCH CLAIM, LESSEE, UPON NOTICE FROM LESSOR, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO LESSOR.

ARTICLE VIII - DESTRUCTION OF IMPROVEMENTS BY FIRE OR OTHER CASUALTY

8.01 Obligations of Lessee. During the term hereof, except as provided in Paragraph 8.03 below, should the improvements constructed by Lessee or Lessor upon the Premises be damaged or destroyed in whole or in part by fire or other casualty, Lessee shall give prompt notice thereof to Lessor, and Lessee, at its own cost and expense, shall promptly repair, replace and rebuild the same, at least to the same extent as the value and as nearly as practical to the character of the buildings and improvements existing immediately prior to such time. Such repairs, replacements or rebuilding shall be made by Lessee in accordance with the following terms and conditions:

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A. Prior to commencing such work, Lessee shall deliver to Lessor a set of the preliminary construction plans and specifications in accordance with the terms and provisions of **EXHIBIT "C"**. In the event the preliminary plans and specifications are disapproved, Lessee will be so notified and the notice shall specify in detail the reasons therefore and the requested modifications or alterations thereto.

B. Upon approval of the preliminary plans and specifications, Lessee shall prepare or cause to be prepared final working plans and specifications in substantial conformity to the preliminary plans and specifications. Upon completion of the final working plans and specifications, Lessee shall submit the same to appropriate governmental agencies for approval. Upon approval by such agencies and the issuance of permits for the commencement of construction, Lessee shall deliver to Lessor one (1) complete set of the final working plans and specifications as approved by the governmental agencies exercising jurisdiction thereover. Changes from the preliminary plans and specifications shall be considered to be within the scope of the preliminary plans and specifications if such changes are reasonably inferable therefrom or if they are made to comply with suggestions, requests or requirements of the governmental agencies exercising jurisdiction.

C. Prior to commencing construction, Lessor shall require Lessee to furnish a performance and payment bond and, if requested, Builder's Risk Insurance.

D. Upon compliance with the foregoing, and after settlement shall have been made with the insurance company or companies and said proceeds of such insurance policy or policies shall have been paid to Lessee, Lessee shall commence such repair, replacements or rebuilding within a reasonable time and shall continue such work with reasonable diligence until completion.

8.02 Insurance Proceeds. Upon receipt by Lessee of the proceeds of the insurance policy or policies, Lessee shall deposit same in an escrow account to pay for the cost of such repair, replacement or rebuilding. Such proceeds shall be disbursed by Lessee during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, Lessee shall pay any additional sums required, and if the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be retained by Lessee.

8.03 Cancellation of Lease. Should the improvements on the Premises be damaged or destroyed, in whole or in part, by fire or other casualty during the last year of the Initial Term or last year of any option period or renewal term of this Lease, Lessee shall be relieved of the obligation to repair, replace and rebuild the same and shall have the right to cancel this Lease by giving Lessor written notice of such election within thirty (30) days after the date of any such damage or destruction. In such event, this Lease shall terminate as of the date of such destruction and the insurance proceeds received or receivable under any policy of insurance shall be paid to and retained by Lessor, unless Lessor has elected to have the Premises returned to it clear of all improvements in accordance with the provisions of this Lease, in which case Lessee shall be entitled to such insurance proceeds. All rents payable under this Lease shall be prorated and paid to

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the date of such cancellation. The receipt of insurance proceeds by Lessor will relieve Lessee from any responsibility to restore the Premises to their former condition.

ARTICLE IX - CONDEMNATION

9.01 Definitions. The following definitions apply in construing the provisions of this Lease relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

A. "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending. The taking shall be considered to take place the date actual physical possession is taken by the condemning authority.

B. "Total taking" means the taking of the fee title to all of the Premises and improvements thereon.

C. "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:

(1) The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;

(2) The conduct of Lessee's business on the Premises would be substantially prevented or impaired;

(3) The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Lessee under this Lease.

D. "Partial taking" means the taking of a fee title that is not either a total or substantial taking.

E. "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.

F. "Notice of intended taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an

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existing intention of taking, as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.

G. "Award" means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.

H. "Date of Taking" means the date that Lessee is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

9.02 Notice of Condemnation. The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

A. Notice of intended taking;

B. Service of any legal process relating to condemnation of the Premises or improvements; or

C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

9.03 Rights of Parties During Condemnation Proceeding. Lessor and Lessee shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Lease relating to the condemnation.

9.04 Taking of Leasehold. Upon a total taking, Lessee's obligation to pay rent and other charges hereunder shall terminate on the Date of Taking, but Lessee's interest in the leasehold shall continue until the taking is completed by deed, contract or final order of condemnation. If the taking is substantial under the aforementioned definition, Lessee may, by notice to Lessor within ninety (90) days after Lessee receives notice of the intended taking, elect to treat the taking as a total taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. Upon a partial taking, this Lease shall remain in full force and effect covering the balance of the Premises not so taken, except that the rent payable hereunder by Lessee shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

9.05 Total Taking. All of Lessee's obligations under the Lease shall terminate as of the Date of Taking. Upon a total taking, all sums awarded for the Lessee-owned improvements and the leasehold estate shall be disbursed to Lessee. All sums awarded for the land and the Lessor-constructed improvement as unencumbered by the Lessee-owned improvements, but subject to the Lease, shall be disbursed to Lessor.

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9.06 **Partial Taking.** Upon a partial taking, all awards shall be disbursed as follows:

A. To the cost of restoring the improvements on the Premises or property; and

B. The balance, if any, to Lessor and Lessee as follows: Lessee shall receive all sums awarded for Lessee-constructed improvements and the leasehold value of the Lease. Lessor shall receive all sums awarded for the land as unencumbered by the Lessee-owned improvements but subject to the Lease.

9.07 **Obligations of Lessee Under Partial Taking.** Promptly after any such partial taking, Lessee, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Lessee shall be relieved of the responsibility to so repair or reconstruct the Premises as aforesaid by notifying Lessor if its intention to that effect.

9.08 **Taking of Temporary Use of Premises and Improvements.** Upon any taking of the temporary use of all or any part or parts of the Premises or improvements, or both, for a period of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such taking, Lessee shall receive, hold and disburse the award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising there from, Lessee shall be entitled to any surplus and shall be liable for any deficiency.

If any such taking is for a period extending beyond the expiration date of the term, the taking shall be treated under the foregoing provisions for total, substantial and partial takings.

ARTICLE X - ENCUMBRANCES

10.01 **Encumbrance.** As used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiary under a deed of trust. Lessee may encumber its leasehold estate and its interest in the improvements constructed by Lessee on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Lessor a written notice specifying:

A. The amount of the obligation secured by the Mortgage;

B. The date of the maturity or maturities thereof; and

C. The name and mailing address of the Mortgagee.

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After receipt of such notice, Lessor shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice or demand served by Lessor upon Lessee under the terms and provisions of this Lease so long as such Mortgage is in effect.

10.02 Mortgagee's Rights. Upon receipt of a notice or demand in accordance with Section 10.01 above, Mortgagee shall have one hundred and twenty (120) days after receipt of such notice within which, at Mortgagee's election, either:

A. To cure the default if it can be cured by the payment or expenditure of money;

B. To perform such other action as may be necessary to cure the default;

C. If the default cannot be cured within one hundred and twenty (120) days, to commence performance within such period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or

D. To institute foreclosure proceedings and prosecute same diligently to conclusion.

10.03 Rights on Foreclosure. In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Lessee's interest in lieu of foreclosure shall succeed to all of Lessee's rights, interests, duties and obligations under this Lease.

ARTICLE XI - EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER

11.01 Expiration. This Lease shall expire at the end of the Initial Term, Option Period or any extension thereof.

11.02 Cancellation. Subject to the provisions of Article X above, this Lease shall be subject to cancellation by Lessor in the event Lessee shall:

A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Lessor has notified Lessee in writing that payment was not received when due;

B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Lessee's property;

C. Make any general assignment for the benefit of creditors;

D. Abandon the Premises;

E. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default

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continues for a period of thirty (30) days after receipt of written notice from Lessor to cure such default, unless during such thirty-day period, Lessee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;

F. Be adjudged a bankrupt in involuntary bankruptcy proceedings; or

G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Lessee where such receivership is not vacated within sixty (60) days after the appointment of such receiver.

In any of the aforesaid events, Lessor may take immediate possession of the Premises including any and all improvements thereon and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Lessor to declare this Lease canceled upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to cancel this Lease by reason of that or any subsequent violation of the terms of this Lease.

No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the term of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

11.03 Repossessing and Reletting. In the event of default by Lessee hereunder, which shall remain uncured after the required notices have been given pursuant to this Lease, and for such time as provided herein, Lessor may at once thereafter, or at any time subsequent during the existence of such breach or default:

A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary; and

B Either cancel this Lease by notice or without canceling this Lease, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Lessor. If Lessor shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Lessee during such month or part thereof under the terms of this Lease, Lessee shall pay such deficiency to Lessor immediately upon calculation thereof, providing Lessor has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

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11.04 Assignment and Transfer. Lessee shall have the right and privilege to assign or transfer this Lease, subject to the prior written approval of Lessor. Provided, however, that Lessor's approval shall not be required in the event of an assignment of this Lease by Lessee to the first leasehold Mortgagee.

Any person or entity to which this lease is assigned pursuant to the Bankruptcy Code U.S.C. 101, et seq., shall be deemed, without further act or deed to have assumed all the obligations arising under this Lease on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Lessor an instrument confirming such assumption.

11.05 Subleasing. Lessee shall have the right to sublease all or any part of the Premises hereunder for the same purposes permitted under the terms and provisions of this Lease. Any such sublease shall require the prior written consent of Lessor and shall be subject to the same conditions, obligations and terms as set forth herein including but not limited to all insurance requirements. Lessee shall be responsible for the observance by its sublessees of the terms and covenants contained in this Lease. Lessee shall promptly report to Lessor any subleases of the Premises and, upon request of Lessor, Lessee shall furnish Lessor with a copy of the Sublease Agreement.

11.06 Rights Upon Expiration. At the expiration or early termination of this Lease, Lessor shall be entitled to have the Premises returned to Lessor clear of all improvements. Lessee shall have one hundred and eighty (180) days after expiration or early termination to remove such improvements; provided that any occupancy by Lessee for the purposes of removal shall be subject to the Ground Rental due hereunder. If Lessee fails to so remove said improvements, Lessor may remove same at Lessee's expense.

Lessor may, at its option, take title to the improvements in lieu of removal by or for Lessee. Lessor shall notify Lessee of its election to require removal of the improvements or take possession of the improvements at least ninety (90) days prior to the beginning of the last year of this Lease; provided Lessee may request Lessor to make such election at least one hundred and eighty (180) but not more than three hundred and sixty (360) days before the beginning of the last year of this Lease or any extension or renewal thereof.

11.07 Landlord's Lien. It is expressly agreed that in the event of default in the payment of rent or any other sum due from Lessee to Lessor under the terms of this Lease, Lessor shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Lessee which are placed in, or become a part of, the Premises, as security for rent due and to become due for the remainder of the Lease term, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, but shall be in addition to that lien, and Lessee grants to Lessor a security interest in all of Lessee's personal property placed in or on the Premises for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission and any other laws pertaining thereto and the Railroad Commission of the State of Texas. Lessor agrees that Lessor will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of the Lessee. In the event Lessor exercises the

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option to terminate the leasehold as provided herein, the Lessor, after providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at public or private sale after giving Lessee reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as Lessor deems best. The proceeds of the sale shall be applied first the necessary proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this lease, with the balance, if any, to be paid to Lessee.

ARTICLE XII - GENERAL PROVISIONS

12.01 Continuity of Rules, Regulations and Land Use Requirements - General Aviation Commercial Area. This Lease is subject to the terms, covenants and conditions contained in **EXHIBIT "C"**. Lessor reserves the right to revise the standards set forth in **EXHIBIT "C"** provided, however, that such revisions will not, in Lessor's opinion, cause a substantial reduction in the value of Lessee's leasehold interest.

Lessor's right to revise the "Rules, Regulations and Land Use Requirements - General Aviation Commercial Area" contained in **EXHIBIT "C"** includes, but is not limited to, the right to revise said document because of the development of new concepts or improved construction and architectural techniques.

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

The City of El Paso reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises, to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations and any amendments or successor regulations.

The City of El Paso reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on, or taking off from, the Airport and the right to prevent any other use of said land which would constitute an airport hazard.

12.03 Time is of the Essence. Time is and shall be deemed of the essence in respect to the performance of each provision of this Lease.

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12.04 Notices. All notices provided to be given under this Lease shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

LESSOR: City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901
Attn: Mayor

COPY TO: Director of Aviation
El Paso International Airport
6701 Convair Rd.
El Paso, Texas 79925-1091

LESSEE: El Paso Air Ltd.
1776 American Dr.
El Paso, Texas 79925
Attn: Bob Larsen

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown on the return receipt for delivery, rejection, or undeliverable. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this paragraph.

12.05 Attorney's Fees. If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Lease, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

12.06 Agreement Made in Texas. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease. Venue shall be in the courts in El Paso County, Texas.

12.07 Nondiscrimination Covenant. Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:

A. That in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for the 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 Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

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B. That no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Premises.

C. That in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.

D. That Lessee shall use the Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A. Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. Lessee shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.

E. Economic Discrimination. To the extent that, under this Lease, Lessee furnishes goods or services to the public at the Airport, Lessee agrees that it shall:

1. Furnish each and every good and service on a fair, reasonable, and not unjustly discriminatory basis to all users of the Airport; and

2. Charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers as otherwise permitted under the law.

F. That, in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Lease and re-enter and repossess Premises, and hold the same as if said Lease had never been made or issued.

12.08 Affirmative Action. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the Lessor, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Lessee assures that it will require that its covered suborganizations (sublessees or otherwise) provide assurances to Lessor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their suborganizations (sublessees or otherwise) to the same effect.

12.09 Cumulative Rights and Remedies. All rights and remedies of Lessor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the

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exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

12.10 Interpretation. Words of gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

12.11 Agreement Made in Writing. This Lease is made by and between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

12.12 Paragraph Headings. The table of contents and the captions of the various articles and sections of this Lease are for convenience and ease of reference only, and do not define, limit or augment the scope, context or intent of this Lease or any part or parts of this Lease.

12.13 Severability. If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there may be added a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12.14 Successors and Assigns. All of the terms, provisions, covenants and conditions of this Lease shall inure to exclude any other right or remedy allowed by law. Likewise, the exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

12.15 Taxes and Other Charges. The Lessee shall pay all taxes and governmental charges of any kind whatsoever that may be assessed against the Lessee or the Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, or any improvements thereon, during the term of this Lease including any extensions or option periods granted thereto. Lessor is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from the Lessee's use of the property or possession of the Premises.

The Lessee in good faith may contest any tax or governmental charge; provided that the Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the Lessor, such action will not adversely affect any right or interest of the Lessor.

12.16 Authorization To Enter Lease. Each of the persons executing this Lease on behalf of Lessee warrants to Lessor that he/she has full right and authority to enter into this Lease, and is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

12.17 Survival of Certain Provisions. All Provisions of this Lease, which expressly or impliedly contemplate or require performance after the expiration or termination of this Lease for the benefit

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of Lessor hereunder, shall survive such expiration or termination of this Lease, including without limitation, the indemnification and compliance with law provisions.

12.18 Restrictions and Reservations. This Lease is subject to all rights-of-way, easements, dedications, restrictions, and other encumbrances of record and running with the land. Lessor reserves the right to grant any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances and Lessee consents to and will diligently execute all documentation necessary to complete any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances, so long as such grants do not adversely affect Lessee's use of the Premises.

12.19 Subordination of Lease. All rights granted in this Lease shall be subordinate to the rights in any deed from the United States to the City of El Paso. This Lease shall further be subordinate to the provisions of any existing or future agreements between Lessor and the United States relative to the operation and maintenance of the 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 the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Premises, Lessee may cancel this Lease in its entirety.

12.20 Waiver of Warranty of Suitability. LESSOR DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY OTHERWISE HAVE ARISEN BY OPERATION OF LAW. LESSOR DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS IN THE FACILITIES THAT ARE VITAL TO LESSEE'S USING THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE AND THAT THESE ESSENTIAL FACILITIES WILL REMAIN IN A SUITABLE CONDITION. LESSEE LEASES THE PREMISES "AS IS", WHETHER SUITABLE OR NOT, AND WAIVES THE IMPLIED WARRANTY OF SUITABILITY.

12.21 Effective Date. Regardless of the date signed, this Lease shall be effective as of the date first noted on the title page.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

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APPROVED on the date first noted above.

LESSOR: CITY OF EL PASO

_____

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____

Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____

Patrick T. Abeln, A. A. E.
Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2008, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso** (Lessor).

_____

Notary Public, State of Texas

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

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LESSEE: EL PASO AIR LIMITED

By: _____
Printed Name: Robert F. Larsen Jr.
Title: Managing Partner

ACKNOWLEDGMENT

THE STATE OF PENNSYLVANIA)
COUNTY OF CLINTON)

This instrument was acknowledged before me on this 5th day of AUGUST, 2008, by ROBERT F. LARSEN JR. as MANAGING PARTNER of **El Paso Air Limited** (Lessee).

Maria C. Gentzyel
Notary Public, State of PA

NOTARIAL SEAL
MARIA C. GENTZYEL, NOTARY PUBLIC
CITY OF LOCK HAVEN, CLINTON COUNTY
MY COMMISSION EXPIRES JULY 13, 2010

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PREPARED FOR: El Paso International Airport
Being a Portion of Lot 2, Block 4,
El Paso International Tracts Unit 10

PARCEL 2D

PROPERTY DESCRIPTION

Description of a parcel of land being a portion of Lot 2, Block 4, El Paso International Airport Tracts, Unit 10, El Paso County, Texas and being more particularly described by metes and bounds as follows:

Beginning at a City Monument located at the intersection of centerlines of American Drive and Piper Court, El Paso International Airport Tracts, Unit 10, El Paso County, Texas; thence South 1° 01' 53" East along the centerline of American Drive, a distance of 200.00 feet; thence North 88° 58' 07" East a distance of 34.00 feet to a point in the easterly right-of-way of said American Drive; thence along said right-of-way, 93.61 feet along the arc of a curve to the left whose interior angle is 7° 07' 23", whose radius is 752.96 feet and whose chord bears South 4° 35' 34" East a distance of 93.55 feet to THE POINT OF BEGINNING;

Thence South 89° 19' 17" East, a distance of 256.14 feet;

Thence 161.20 feet along the arc of a curve to the left whose interior angle is 24° 14' 14", whose radius is 381.07 feet and whose chord bears South 11° 26' 24" East a distance of 160.00 feet;

Thence South 66° 26' 30" West a distance of 228.24 to a point in the easterly right of way of said American Drive;

Thence along said right of way North 22° 32' 14" West a distance of 75.01 feet;

Thence along said right of way, 189.01 feet along the arc of a curve to the right whose interior angle is 14° 22' 58", whose radius is 752.96 feet and whose chord bears North 15° 20' 45" West a distance of 188.52 feet to THE POINT OF BEGINNING and containing in all 50,607.697 square feet or 1.162 acres of land more or less.

Donald T. Cremans, P.E.
CREMANS, INC.

October 17, 1979

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EXHIBIT A(pg 1 of 2)

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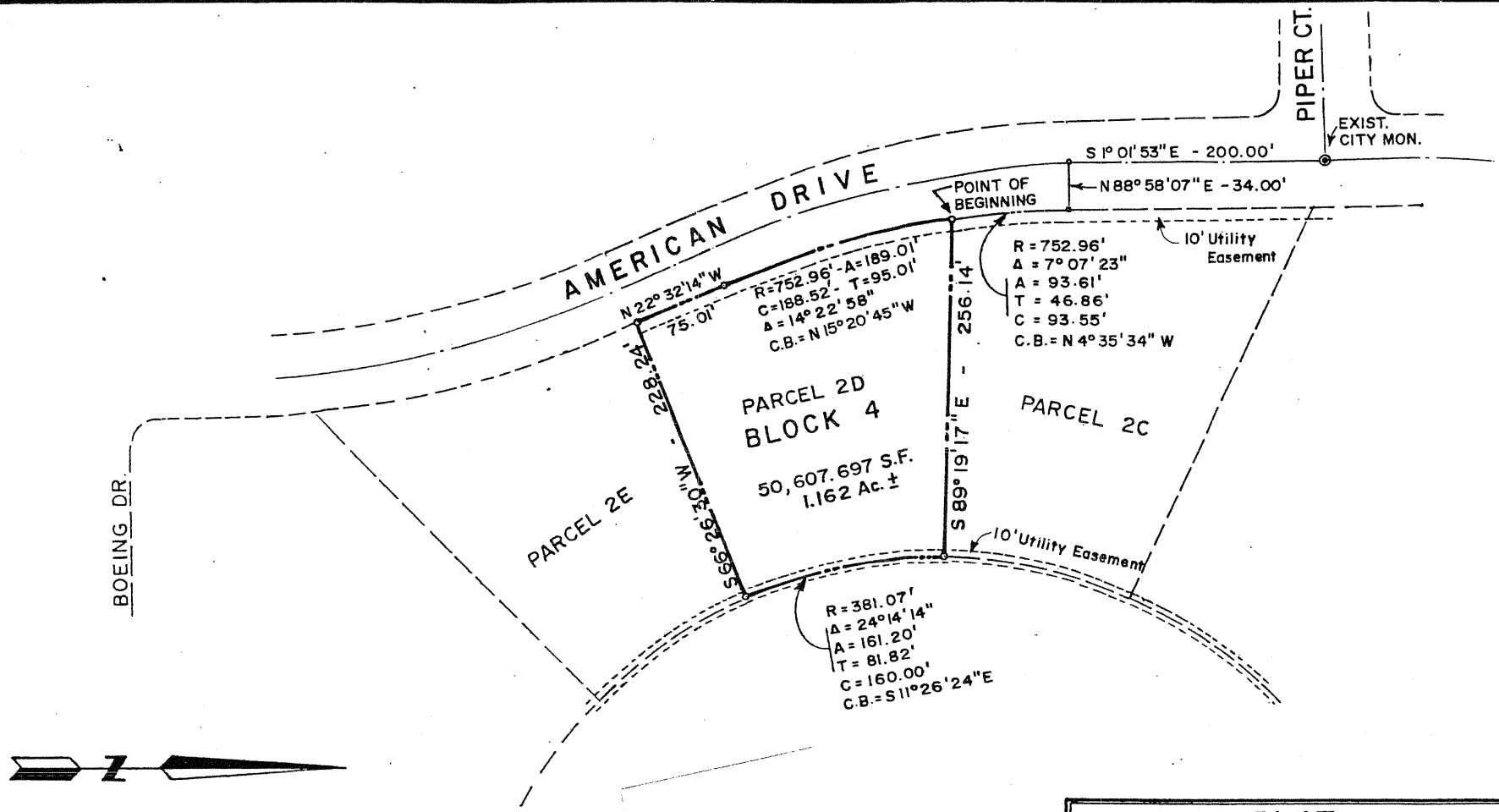
EXHIBIT A (pg 2 of 2)



PLAT

PARCEL 2D; BEING A PORTION OF LOT 2, BLOCK 4
EL PASO INTERNATIONAL AIRPORT TRACTS, UNIT 10
EL PASO COUNTY, TEXAS

DATE: OCT. 17, 1979 SCALE: 1" = 100'

CREMANS INC.
ENGINEERS PLANNERS
EL PASO, TEXAS

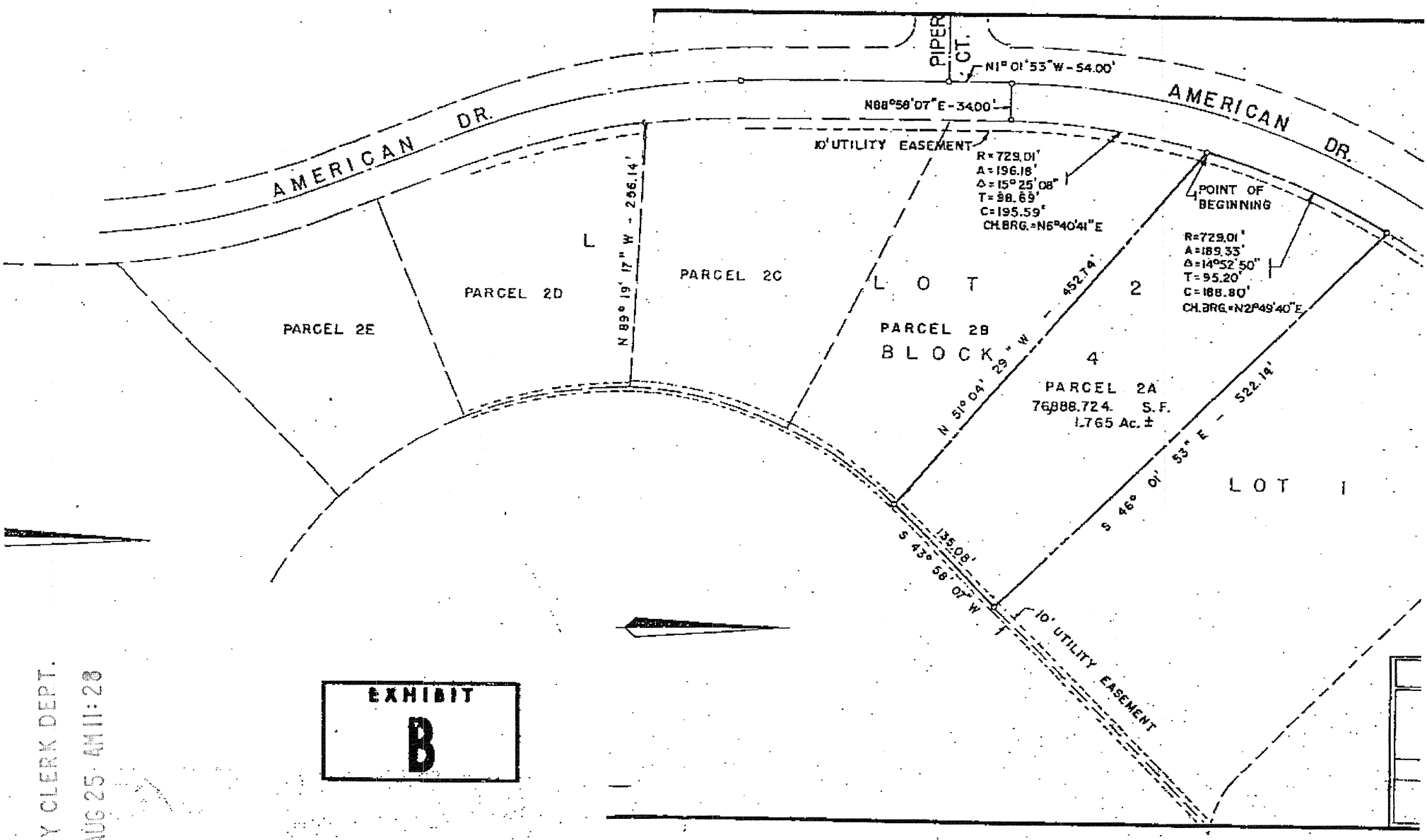


EXHIBIT
B

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EXHIBIT C

RULES, REGULATIONS AND LAND USE REQUIREMENTS

GENERAL AVIATION COMMERCIAL AREA

El Paso International Airport

El Paso, Texas

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RULES, REGULATIONS AND LAND USE REQUIREMENTS
GENERAL AVIATION COMMERCIAL AREA

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EXHIBIT "C"

RULES, REGULATIONS AND LAND USE REQUIREMENTS

GENERAL AVIATION COMMERCIAL AREA

The City of El Paso hereby declares that the property, more particularly described hereinafter, is, and shall be, held and conveyed subject to the rules, regulations and requirements hereinafter set forth, each and all of which are for the benefit of each tenant of any portion of said property, each and all of which shall inure to, and pass with, each and every parcel of said property, and each and all of which shall apply to and bind the respective successors in interest of said property and any portion thereof, as follows:

ARTICLE I - PROPERTY

The real property, subject to these rules, regulations and land use requirements is situated on the El Paso International Airport and is more particularly described in Exhibit A of the Lease to which these Rules, Regulations and Land Use Requirements are attached.

ARTICLE II - DEFINITIONS

Wherever used in this document, the following terms shall have the following meanings:

A. **"BUILDING"** shall include both the main portion of such building and all projections or extensions therefrom, including garages, outside platforms and docks, carports, canopies and porches. Ground cover shall not be included.

B. **"BUILDING SITE"** shall mean the entire lot or lots (if contiguous) leased by one tenant and as shown as "leased premises" in Exhibit A of the Lease to which these Rules, Regulations and Requirements are attached.

C. **"CITY"** shall mean the City of El Paso, Texas, its duly elected Council, or any duly constituted agent/committee appointed through said Council to fulfill the obligations herein required.

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D. **"DIRECTOR OF AVIATION"** or **"DIRECTOR"** shall mean the Director of Aviation of the El Paso International Airport.

E. **"FRONT LOT LINE"** shall mean the property line which faces the Apron.

F. **"PROPERTY LINE"** shall mean those boundaries of the leased premises, as set out in Exhibit "A" of the Lease to which this document is attached.

G. **"REAR LOT LINE"** shall mean the property line which faces the Street.

H. **"SETBACK"** shall mean the distance a building must be set back from the property line of the parcel.

I. **"STREET"** shall mean any street, highway, or other thoroughfare shown on the map entitled "El Paso International Airport Tracts," as filed with the County Clerk, County of El Paso, Texas.

ARTICLE III - PERMITTED USES

No building, structure, or land shall be used for any purpose other than those purposes set out in the Lease attached hereto.

ARTICLE IV - PERFORMANCE STANDARDS

No land or structure shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable conditions, which may affect any other property, including, but not limited to:

Fire, explosive or other hazard;
Noise, vibration, or shock;
Smoke, dust, odor or other forms of air pollution;
Heat or glare;
Electrical or other disturbance;
Liquid or solid refuse or wastes;
Other substance, condition, or element in such manner or in such amount as to affect the surrounding area or adjoining premises.

Lessee shall comply with all environmental ordinances and environmental state and federal laws.

A. **FIRE AND EXPLOSIVE HAZARDS.** No activity shall be undertaken involving fire or explosive hazard which shall endanger the property, improvements, or employees of any other property owner or lessee.

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B. **NOISE.** No noise, other than from the operation of motor vehicles or aircraft, which is objectionable to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line.

C. **AIR POLLUTION.** No activity of any type shall be conducted or permitted on the Premises, which violates any applicable federal, state or local law, rule or regulation.

D. **DUST CONTROL.** All ground areas not covered by structures shall be landscaped or surfaced with concrete, asphaltic concrete, asphalt oil or other comparable dust-free surfacing; shall be maintained in good condition, free of weeds, dust, trash, and other debris; and shall be properly drained and graded.

E. **HEAT OR GLARE.** Any operation producing intense glare or heat shall be performed within an enclosed or screened area in such manner that the glare or heat emitted will not be discernible from the property line.

F. **ILLUMINATION.**

1. Exterior Lighting. The design and location of exterior lighting shall comply, in all respects, to the requirements of the City, the Federal Aviation Administration or any successor agencies, and other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from and around the Airport.

2. Interior Lighting. The source of illumination of any kind within any building on the site shall not be visible at the property line except for normal installation of standard interior lighting fixtures within buildings.

G. **SIGNS.** The number, size, design, and location of all signs displayed for observation from outside a building whether displayed on, near, or within a building shall be subject to prior written approval by the Director of Aviation. All signs shall comply with any applicable sign ordinances and building codes of the City of El Paso and with all rules and regulations of the Federal Aviation Administration and its successor. Signs on the Premises shall be limited to those identifying the uses conducted on the site, to those necessary for directional purposes, and to those required for temporary advertising of the rental of the Premises. Outdoor advertising, billboards or flashing lighting shall not be permitted.

H. **REFUSE OR TRASH.** No refuse or trash shall be kept, stored or allowed to accumulate on any building site except in accordance with Article IV, Section 4.07 of the Lease to which this document is attached.

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I. **STORAGE.** All storage of every type, except of autos or aircraft, shall be within buildings or enclosures formed by a tight, painted board fence. Storage of aircraft parts, service equipment or similar items shall be expressly prohibited outside buildings or such enclosures. Storage of motor vehicles, other than aircraft, is not permitted; provided, however, that motor vehicle parking for reasonable periods of time in designated areas for such, is permitted.

J. **SEWAGE DISPOSAL SYSTEMS.** No cesspool, septic tank or other sewage disposal system or device shall be installed, maintained or used upon any parcel without the approval of the El Paso City-County Health District.

ARTICLE V - DEVELOPMENT OF SITE - REQUIRED IMPROVEMENTS

A. **OFFSTREET PARKING.** All provisions for automobile parking for employees and visitors of the Lessee shall be placed on the lot(s) leased. No parking whatsoever shall be permitted on the streets.

All parking areas shall be in rear setback areas and shall be paved to provide dust-free, all-weather surfaces.

Offstreet parking facilities shall be provided generally in accordance with the City of El Paso Offstreet Parking Ordinance No. 1653 and any amendments or successor ordinances thereto and shall be sufficient for the parking of all automobiles necessary to the conduct of the business.

Each parking space shall be designated by white lines painted upon the paved surface.

B. **AIRCRAFT PARKING AND SERVICING.** Except for routine parking and servicing of transient aircraft on a specifically designated transient parking apron, all provisions for parking of all aircraft of Lessee and its patrons, if any, shall be on the lot(s) leased. Parking of aircraft in areas other than the lot(s) leased or on transient parking aprons specifically designated by the City is expressly prohibited.

C. **VEHICLE LOADING.** All provisions for the loading and maneuvering of vehicles incidental to the operation of the business shall be placed on lot(s) leased; on-street vehicle loading shall not be permitted.

D. **SETBACKS.** All buildings shall be set back a minimum of twenty-five (25) feet from the front lot line and twenty-five (25) feet from the rear lot line. Side setbacks shall be a minimum of fifteen (15) feet.

One hundred percent (100%) of the required rear setback area shall be landscaped and planted, unless covered by paving.

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E. **LANDSCAPING.** A reasonable amount of landscaping, including the planting of ground covers, shrubs and trees, shall be required, such landscaping to be in accordance with standards established by the City. The first phase of such landscaping, as approved, shall be installed within a period not to exceed one hundred eighty (180) days after the notice of completion has been filed on the initial building.

Setback areas shall be landscaped to the minimum extent outlined in Paragraph D above. In addition, paving or landscaping shall extend from the property line to the curb, such paving or landscaping to be compatible with treatment for this area on other lots in the same Block.

All trees shall be limited to a height of thirty-five (35) feet above the curb line.

Tenants are encouraged to expand landscape development plans to include such elements as fountains, sculpture, rock arrangements, sheltered outdoor seating areas, all subject to design approval by the City, or its representative consultants before installation.

F. **BUILDING HEIGHTS.** All building heights shall conform to FAA rules and regulations, and any amendment and successor rules and regulations. The term building height shall include any building equipment, extrusions, etc.

G. **SITE COVERAGE.** All buildings and structures, or portions thereof, placed on the lot(s) shall not cover more than fifty percent (50%) of the total lot area.

H. **TYPE OF CONSTRUCTION.** All buildings shall be framed with reinforced concrete or masonry, structural steel or structural aluminum. Siding shall be masonry, glass, or enameled steel. Concrete or masonry units shall be kept neatly painted, if used.

All structures for the storage of gasoline, jet fuel, or other petroleum products shall be screened from public view; of a state of the art design and construction; and shall conform to applicable laws, ordinances and regulations of the EPA and TCEQ. All buildings, structures and improvements shall conform to applicable laws, ordinances and building codes.

All buildings shall conform to applicable laws, ordinances and building codes of the City of El Paso.

I. **STORAGE.** All storage, except of autos or aircraft, shall be within buildings or an enclosure.

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J. **PIPES.** No water pipe, gas pipe, sewer pipe or drainage pipe (other than those within structures) shall be installed or maintained upon any building site above the surface of the ground, except hoses and movable pipes used for irrigation or similar purposes, as approved by the City.

K. **FENCING.** Construction of fencing between buildings of all lessees on all lots shall be required, unless approved by El Paso International Airport with the consent of any adjoining tenant. The placement and design of such construction shall be in accordance with plans and specifications prescribed by the City, or its authorized agent, for the General Aviation Commercial area and shall be uniform throughout the area.

ARTICLE VI - PREPARATION AND SUBMISSION OF PLANS FOR IMPROVEMENTS

A. **GENERAL.** All plans for improvements shall be prepared by registered engineers and architects, shall be of contemporary design, and shall require prior written approval by the Director of Aviation, or his/her authorized agent, before any application for a building permit and before any construction can take place. Said approval shall be based on the general conformity with the lease provisions and these Rules, Regulations and Land Use Requirements.

The following plans, if applicable, shall be submitted to the Director of Aviation for review:

1. A plot plan at a scale not smaller than 1 inch equals 100 feet showing the relationship of the proposed improvements to the building site and to the improvements on adjacent lots, utilities and access thereto, curbs, walks, driveways, parking areas, etc.

2. Building Plans and Specifications of sufficient detail to permit the City, or its authorized agent, to determine compliance with all applicable laws and ordinances and with the restrictions herein. These plans and specifications may be manufacturers' standard plans, if such are sufficient as aforesaid.

3. Ground cover plans, including landscaping.

4. A true architectural rendering of the proposed buildings, including the proposed exterior color scheme, style, materials, and design and placement of signs.

5. Any other plans, specifications, or design features which the City or its authorized agent may deem necessary and request.

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B. **FORM AND CONTENT OF PLANS.** The City may promulgate rules governing the form and content of plans to be submitted for its approval and may issue statements of its policy with respect to approval or disapproval of architectural styles, details or other matters pertaining to the plans.

Such rules and such statements of policy may be amended or revoked by the City at any time; and no inclusion in, omission from, or amendment of any such rule shall be deemed thereafter to bind the City to its future approval or disapproval of any matter subject to its approval or to waive the exercise of the City's discretion as to any such matter.

C. **CODES AND REGULATIONS.** All improvements shall be planned and constructed in accordance with rules and regulations prescribed by the City, with the laws and ordinances of the City of El Paso, with applicable building codes, and in compliance with the rules and regulations of the Federal Aviation Administration or any successor agencies, where applicable.

D. **APPROVAL OF PLANS.** Approval of plans and specifications shall be at the sole discretion of the City. If the City or its authorized agent fails to approve or disapprove such plans and specifications within sixty (60) days after submission thereof, said plans and specifications, as pertaining to these Rules, Regulations and Land Use Requirements, shall be deemed approved as submitted.

Approval of said plans and specification may be withheld because of:

1. Failure to comply with any of these restrictions.
2. Failure to include such information as may be reasonably requested.
3. Reasonable objection to the design and appearance of the proposed structure.
4. Failure to conform with existing structures upon other parcels.
5. The disapproval of the location, grading plan, color scheme, finish, design, proportions, style or architecture, height, or appropriateness of the proposed structure or because of any other matter which, in the judgment of the City, would render the proposed structure inharmonious with the general plan for improvement of the Airport.

   Approval of any plans or specifications for use on any one parcel shall not be deemed a waiver of the City's right, in its discretion, to disapprove the same plans or specifications if such plans or specifications are subsequently submitted for approval for use on any other parcel or parcels.

E. **COMMITMENT TO CONSTRUCT.** Upon approval by the City of plans for construction of any structure, a copy of the approved plans shall be deposited for permanent record with the City, and a copy of such plans bearing the written

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approval of the City shall be returned to the owner of the parcel upon which such structure is or will be placed.

Approval of these plans by the City shall constitute a commitment on the part of the Lessee to erect and maintain the improvements as proposed and approved within a reasonable time period, such period to be determined jointly by the City and the Lessee and to be set forth in writing by the City.

F. **CONSTRUCTION WITHIN TIME SPECIFIED.** Any approved construction shall be prosecuted diligently in accordance with the approved plans and specifications and shall be completed within the time period specified. Failure to complete such work in the time specified shall cause such approval to be automatically withdrawn, unless the City grants written extension of such approval. After such automatic withdrawal of approval, the Lessee shall be considered in default of its Lease for such property, and the City may terminate such Lease in accordance with the provisions set forth in that document.

G. **LANDSCAPING PLANS.** Trees, shrubs, fences, hedges or other landscaping shall not be planted, placed or maintained upon any parcel until a complete plan thereof has been submitted to, and approved by, the City, in a manner similar to that required for architectural plans.

H. **PLANS FOR ALTERATIONS IN IMPROVEMENTS.** All plans for alterations to the building site, either for the construction of additional facilities or alterations to existing buildings, shall be prepared, submitted and approved, as outlined in Paragraphs A through G above, and shall be subject to the same restrictions as herein provided. This paragraph shall apply only to exterior or structural changes; alterations to the interior of buildings shall not be considered, unless they affect the performance standards set forth in Article IV.

I. **CONSTRUCTION WITHOUT APPROVAL.** If any structure shall be altered, erected, placed or maintained upon any parcel, other than in accordance with plans and specifications approved by the City, such alterations, erection and maintenance shall be deemed to have been undertaken without the approval required herein. This restriction shall be applicable to landscaping plans, as well as architectural plans.

In the event of such construction without approval, the Lessee shall be considered in default of the Lease for such property, and the City may terminate the Lease in accordance with the provisions set forth in that document.

J. **FEE FOR EXAMINATION OF PLANS AND SPECIFICATIONS.** The City may charge and collect a fee of not more than Two Hundred Fifty Dollars ($250.00) for the examination of any plans and specifications submitted for approval pursuant to this Article. Such fee shall be payable at the time such plans and specifications are submitted.

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The amount of such fee shall not exceed the actual cost to the City of making such examination, including the cost of any architect's or engineer's fees incurred in connection therewith.

K. **RIGHT OF ENTRY AND INSPECTION.** Any authorized agent of the City may, at any reasonable time and without notice, enter upon and inspect any parcel for the purpose of ascertaining whether the maintenance of such parcel and the maintenance, construction, or alteration of structures thereon are in compliance with the provisions hereof; and neither the City nor such authorized agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VII - GENERAL PROVISIONS

A. **CUTTING AND FILLING.** The City or any authorized agent thereof may at any time make such cuts and fills upon any parcel or other part of said property and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the streets in, or adjacent to, any property and to drain surface waters therefrom; provided, however, that after the principal structure upon a parcel shall have been completed in accordance with approved plans, the rights of the City under this paragraph shall terminate with respect to such parcel, except that the City shall thereafter have the right to maintain existing streets and drainage structures.

B. **HOUSEKEEPING.** If accumulations of weeds, rubbish, or items of equipment or supplies are permitted to remain on a parcel more than ten (10) days after a request in writing from the City to have them removed has been received by Lessee, the City, or its authorized agent, may enter upon any parcel for the purpose of removing same by whatever means it deems necessary. Such entry shall not be deemed a trespass and the City shall not be subject to any liability therefore. The cost of such work shall be borne by the Lessee.

C. **MAINTENANCE OF LANDSCAPING.** If landscaping areas are not maintained in accordance with the standards prescribed by the City and the condition is not corrected within ten (10) days after receipt of written notice from the City, the City, or its authorized agent, shall have the right to enter on any of the lot(s) leased and plant or replant such areas, without being deemed guilty of trespass. The costs therefore, as determined by the City, shall be paid by the Lessee.

D. **USE PERMITS.** Such use and occupancy permits as may be required by the Building Code of the City of El Paso shall be maintained in force at all times by each Lessee.

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E. **FAILURE TO ENFORCE A RESTRICTION.** The City or Airport may fail to enforce any restriction herein specified, but in no event should this be deemed a waiver of these Rules, Regulations and Land Use Requirements or the right to enforce any restriction at a later date.

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EXHIBIT D

MINIMUM STANDARDS AND REQUIREMENTS FOR COMMERCIAL AERONAUTICAL SERVICE PROVIDERS AT EL PASO INTERNATIONAL AIRPORT

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DEPARTMENT OF AVIATION
MINIMUM STANDARDS AND REQUIREMENTS
FOR COMMERCIAL AERONAUTICAL SERVICE PROVIDERS AT
EL PASO INTERNATIONAL AIRPORT

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DEPARTMENT OF AVIATION
MINIMUM STANDARDS AND REQUIREMENTS
FOR COMMERCIAL AERONAUTICAL SERVICE PROVIDERS AT
EL PASO INTERNATIONAL AIRPORT

I. DEFINITIONS

A. **Airport** means El Paso International Airport.

B. **City** means the City of El Paso, a Texas home-rule municipal corporation.

C. **Commercial Aeronautical Service** means a service which involves, makes possible, or is required for the operation of aircraft, or which contributes to, or is required for the safe conduct and utility of such aircraft operations, and includes those services provided by either a Fixed Base Operator or a Specialized Aviation Service Operator.

D. **Director** means the Director of Aviation for the City of El Paso's Department of Aviation, or authorized designee.

E. **FAA** means the Federal Aviation Administration of the United States Department of Transportation (USDOT).

F. **Fixed Base Operator or FBO** means a Person maintaining facilities at the Airport for the purpose of: (1) engaging in the retail sale of aviation fuels; (2) performing other aircraft line services; and (3) providing aircraft airframe and engine repair and maintenance services. Section VI of these Minimum Standards specifies the minimum services which FBOs must provide. In addition to those required services, an FBO may provide any or all of the services of an SASO.

G. **Improvements** includes, without limitation, any buildings, hangars, paved areas such as parking lots, ramp, or apron, or other improvements constructed or installed by an Operator on its Premises.

H. **Operator** means either a Fixed Base Operator, or a Specialized Aviation Service Operator, or both, as the context indicates.

I. **Person** means a natural person, corporation, partnership, trust, association, political subdivision, agency of the State, or other legal entity, but does not include the City.

J. **Premises** means a defined area on the Airport which the City has either leased to an Operator, or has granted an Operator the preferential right to use, by lease or other written agreement to provide its Commercial Aeronautical Services.

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K. **Specialized Aviation Service Operator or SASO** is a Person maintaining facilities at the Airport for the purpose of providing one or more of the following services: (1) specialized aircraft repair services (radios, painting, upholstery, propellers, instruments, accessories, etc.); (2) aircraft airframe and powerplant maintenance and repair; (3) flight training; (4) aircraft sales; (5) aircraft rental; and/or (6) aircraft charter and air taxi service. Aircraft fueling may not be performed as a Specialized Aviation Service; only those Operators that provide each of the Minimum Services required in Section VI will be authorized to perform aircraft fueling. Section VII of these Minimum Standards sets out additional specific standards for SASOs.

II. APPLICABILITY

The City, acting by and through its Department of Aviation, owns and operates the Airport. To encourage growth and development of the Airport and to facilitate the development of adequate aeronautical services and facilities for Airport users, the City has established these standards and requirements (the "Minimum Standards") for provision of certain commercial aeronautical services at the Airport. These Minimum Standards may be amended by the City as conditions require, or to establish Minimum Standards for additional aeronautical services.

Pursuant to Title 14 of the El Paso Municipal Code, no Person may conduct or operate a business at the Airport except as authorized by the Director. These Minimum Standards establish the criteria by which the Director shall consider requests from prospective Commercial Aeronautical Service providers to do business at the Airport. These Minimum Standards shall apply to all Fixed Base Operators Lease and Operating Agreements ("Lease") and Commercial Operating Permits ("Permit") granted or renewed after the effective date of these rules. The provisions of the Lease or Permit will be compatible with the Minimum Standards herein contained and will not change or modify the Minimum Standards themselves. To the extent consistent with the terms of the Lease or Permit, these rules shall apply to all currently existing Leases and Permits.

The Minimum Standards do not apply to the City itself, to certified air carriers operating from the Airport, or to persons operating aircraft on the Airport who perform services on their own aircraft with their own regular employees and equipment in accordance with applicable Airport rules and regulations and applicable contract, permit, or lease provisions. These Minimum Standards are not intended to be all-inclusive; the Operator will be subject additionally to applicable federal, state and local laws, codes, ordinances and other similar laws or regulations including Airport Rules and Regulations pertaining to all such services.

III. STATEMENT OF POLICY

In establishing these Minimum Standards, the City's goal is to assure an adequate minimum level of quality of service to General Aviation users, to foster competition at the

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Airport, and to avoid unfair or prohibited discrimination among similar Commercial Aeronautical Service providers. The minimum standards shall be applied objectively and uniformly.

The standards and requirements in this policy are minimums. All Operators will be encouraged to exceed the minimum.

Contingent upon its qualifications, its meeting the Minimum Standards, the execution of a Lease or Permit, and the payment of the applicable rentals, fees and charges, the Operator shall have the right and privilege of providing the Commercial Aeronautical Service(s) for which it made application on the Airport, as specified in its Lease or Permit. The Operator may not provide any Commercial Aeronautical Service other than that authorized in its Lease or Permit.

The granting of such right and privilege, however, shall not be construed in any manner as affording the Operator any exclusive right of use of the premises and facilities and the Airport, other than those premises which may be leased exclusively to it, and then only to the extent provided in a written agreement. The City reserves and retains the right for use of the Airport by others who may desire to use the same, pursuant to applicable federal, state and local laws, ordinances, codes, minimum standards and other regulatory measures pertaining to such use. The City further reserves the right to designate the specific Airport areas in which the specific aeronautical services may be conducted, and to relocate existing Operators to another location on the Airport. Such designation shall give consideration to the nature and extent of the operation and the land and improvements available for such purpose, consistent with the orderly and safe operation of the Airport.

If the City determines there are more qualified applicants seeking to provide a particular Commercial Aeronautical Service than there is space or demand at the Airport for such service, the City may select the Commercial Aeronautical Service provider through a competitive solicitation or request for proposals.

These Minimum Standards are subordinate and subject to the provisions of any agreement between the City and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been, or may in the future be, required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes, or the expenditure of federal funds for the development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended. The issuance of a Final Agency Order finding a provision of these Minimum Standards inconsistent with such agreement shall operate to invalidate such provision. The invalidity or unenforceability of any provision of these Minimum Standards shall not affect validity or enforceability of any other provision of these Minimum Standards, and the remainder shall be construed and enforced as if the invalid or unenforceable provision were never included in the Minimum Standards.

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IV. APPLICATION REQUIREMENTS

A. **Application**. To operate a Commercial Aeronautical Service at the Airport, a Person shall submit a written application to the Director, which shall include the following information and, thereafter, shall provide such additional information as may be requested by the Director.

1) Intended Scope of Services. The prospective Operator must submit a detailed description of the scope of the proposed operation, and the means and methods to be employed to accomplish the contemplated operation, including, at a minimum, the following:

a) The name, address and telephone number of the applicant. If the applicant is a corporation, include the name, address, and telephone number of the corporation's officers and directors. If the applicant is a partnership, provide the name, address, and telephone number of all general partners. Also provide the name, address, and telephone number of any Person that holds a controlling interest, directly or indirectly, in the applicant. Applicant must disclose if any officer, director, partner, or Person having a controlling interest in applicant is also an officer, director, partner, or a Person holding a controlling interest in another Commercial Aeronautical Service provider at the Airport.

b) The requested or proposed date for commencement of the service and the term of conducting the same.

c) The services to be offered.

d) The amount, size and location of land required.

e) The size, type, and location of the building(s) to be constructed or leased.

f) The number and type of aircraft to be parked, serviced, or provided (as applicable).

g) The number of persons to be employed (including the names, titles and qualifications of key employees).

h) The hours of proposed operation.

i) A list of material assets, goods and equipment necessary or required to perform the proposed services that owned, leased, or under purchase contract by the applicant. Copies

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of such leases and contracts shall be provided to the Director upon request.

j) Copies of all licenses, certifications and permits possessed by the applicant, or its key employees to be based at the Airport, that are necessary or required to perform the proposed services.

k) Such other or additional information as may be required under Sections VI and VII of these Minimum Standards, or that the Director may reasonably require to evaluate the application.

2) Financial and Managerial Responsibility and Capability. The prospective Operator must provide a statement, satisfactory to the City, in evidence of its financial responsibility, from a recognized financial institution or from such other source that may be acceptable to the City and readily verified through normal banking channels, together with copies of audited financial statements, SEC Form 10-K's, and annual reports for the prospective Operator for the previous three years. The prospective Operator must also demonstrate financial capability to initiate operations, to construct proposed improvements, and to provide working capital to carry on the contemplated operations. The demonstration of financial and managerial capability shall include a cash flow and a profit and loss projection for the first five years of the proposed operation.

3) Experience. The prospective Operator shall furnish the City with a statement of its qualifications and past experience in providing the proposed aviation services, together with a statement that it or its principals have the managerial ability to perform the selected services. The prospective Operator shall meet the applicable minimum experience qualification requirements under Sections VI or VII. The prospective Operator shall include resumes of its key employees engaged in the management and operation of the proposed aeronautical services at the Airport.

B. **Annual Reporting Requirement and Notification of Changes.** Operators shall report annually, by the anniversary date of the Effective Date of their Lease or Permit, that information listed above, and shall provide the Director with three weeks advance notice of its intention to start up or discontinue an authorized commercial aeronautical service. In addition, all Operators must file updated FAA certificates and ratings (their own and their employees') annually when received, and must file within two weeks of receipt any changes in their own and their employees' FAA certificates or ratings.

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C. **Grounds for Denial of an Application**. The Director shall consider the application once the prospective Operator has submitted a complete application. A delay to implement a competitive process to select an Operator is not unreasonable. Grounds for denial of an application include the following:

1) The applicant does not, for any reason, fully meet the qualifications, standards and requirements established in these Minimum Standards.

2) The applicant's proposed operation or construction would create a safety hazard on the Airport.

3) The granting of the application will require the Airport to expend funds, or supply labor or materials, in connection with the proposed activity or operation that the Airport is unwilling to spend or supply, or the proposed activity or operation will result in a financial loss to the Airport.

4) No appropriate, adequate, or available land, space, or building exists at the Airport to accommodate the entire operation of the applicant at the time of application, and none is contemplated to be available within a reasonable time thereafter.

5) The proposed operation, development, or construction does not comply with the most recently FAA approved Airport Master Plan or Airport Layout Plan.

6) The proposed operation, development or construction will result in congestion of aircraft or buildings, or will result in undue interference with the operations of any present Operator at the Airport, or with adequate access to a present Operator's leased premises.

7) The applicant has intentionally or unintentionally misrepresented or omitted any material fact in the application or supporting documents, or has failed to make full disclosure in the application or supporting documents.

8) The applicant, or any officer, director, key employee, or Person having a controlling interest in the applicant, has a record of (a) violating the laws, rules and regulations applicable to the Airport or any other airport, including but not limited, to civil air regulations and FAA regulations, (b) having defaulted in the performance of a lease, license, permit, or similar agreement at the Airport or any

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other airport, or (c) having been convicted of any felony or misdemeanor involving moral turpitude.

9) The applicant, in the opinion of the Director, has not provided verified evidence of adequate financial responsibility or does not exhibit the experience to undertake the proposed operation or activity based on the information provided with the application.

10) The applicant cannot provide the required performance and other bonds, security deposits, or other acceptable surety in the amount required by the Airport for the proposed operation, activity or construction.

V. REQUIREMENTS APPLICABLE TO ALL OPERATORS

The following standards apply to all FBOs and SASOs, unless otherwise explicitly provided. Additional standards specific to each type of operation can be found in Sections VI and VII of these Minimum Standards.

A. Requirement of a Written Agreement

1) Before beginning operations, the prospective Operator must enter into a written Lease or Permit with the City reciting the terms and conditions under which it will do business on the Airport, including but not limited to, the term of agreement, the rentals, fees, and charges, the rights, privileges and obligations of the respective parties, and other relevant provisions. Such agreement shall be consistent with these Minimum Standards.

2) Such Lease or Permit shall contain, or adopt by reference, all provisions required by the applicable law, including, without limitation, regulations promulgated by the FAA, and assurances or agreements entered into by the City as a condition of any Federal Grant to the City for the Airport. The Lease or Permit shall be subordinate to any existing or future Federal grant assurances.

3) If an Operator desires to sublease space to another Operator, the Operator must obtain the written approval from the City to sublease the space, and if applicable, subcontract the function. The sublessee must apply for and obtain a Permit to operate at the Airport, and must satisfy the applicable Minimum Standards to provide sublessee's proposed Commercial Aeronautical Service.

B. Site Development Standards

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1) Location. FBOs and SASOs may be situated only in those areas of the Airport specified for such use by the Department of Aviation in conformance with the Airport's long term plans and objectives.

2) Space Requirements. The minimum space requirements as provided in Sections VI and VII of these Minimum Standards shall be satisfied. The City will consider reduction in minimum space requirements for combined operations in a common location (e.g., an SASO that wishes to operate a flight training school and aircraft rental facility need have only one office, one set of restrooms, one customer lounge, etc.). An applicant who proposes combined operations in a common location shall provide a building layout or similar plan that demonstrates functional compliance with the applicable Minimum Standards.

3) Airport Design Criteria. All construction of Improvements and infrastructure must conform to and comply with the approved plans and specifications submitted by Operator and approved by the City and the Director, the applicable statutes, ordinances, building codes, rules and regulations of City and the FAA and such other authorities as may have jurisdiction over the Airport, the Premises or Operator's operations herein. The height of any structure on the Premises must be within the limits of the FAA regulations governing objects affecting airspace, as set forth in 14 C.F.R., Part 77. Any structure that violates these requirements shall be subject to removal or remediation at the Operator's expense. The Director will have the right to review all plans and specifications for any Improvements to be constructed on the Premises to determine compliance with such regulations. The approval by the Director shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain with the Operator.

4) Design/Construction Review. Operator shall not construct, install, remove, or modify any Improvements on the Premises without the prior written approval of the Director, or his designated representative, of Operator's plans and specifications for the proposed project. All plans shall be complete and submitted in accordance with the applicable provisions of the Lease or Permit.

5) Bonds and Insurance. Operator shall provide or cause to be provided to the City prior to the commencement of any construction of any Improvements, a valid performance bond and payment bond, each in the amount of the maximum estimated hard construction costs, for the successful construction of its Improvements. Said bonds shall be maintained and kept in full

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force and effect until work items called for in the Operator's agreement with the City are complete. The bonds shall be conditioned to ensure performance and payment by the Operator and its construction contractor of all Improvements required and proposed by the Operator, and to stand as security for the successful completion of the built Improvements on the Premises and for payment of any valid claim by the City against the Operator or its Contractor associated with the construction of the improvements. The bonds shall be in a form acceptable to the City and shall be issued by a surety that complies with the requirements of the Texas Insurance Code, as amended. If Operator engages any contractors and/or subcontractors to construct Improvements on the Premises, the contractors and subcontractors must carry appropriate builders risk and commercial general liability policies as is required at that time for construction projects on City property.

7) Landscaping. Landscaping of facilities is required. Each FBO or SASO will be required to provide a plan for landscaping its area to be approved by the City and maintained by the FBO or SASO in a neat, clean and aesthetically pleasing manner, all in accordance with the Lease or Permit.

C. **Maintenance Responsibilities**. Operator shall, at its sole cost and expense, maintain, repair and keep in good condition all of its Improvements on the Premises, as hereinafter described:

1) Operator shall maintain pavement, landscaping, lighting and all equipment on the Premises.

2) Operator shall maintain the interior and exterior of all Improvements, to include electrical, mechanical, plumbing, fire protection system(s), roof, floors, load-bearing and exterior walls, utilities, and HVAC system(s).

3) Operator shall clean debris and trash from driveway, taxiways, aprons, and sidewalks to maintain safe, clear, unobstructed access to the Improvements at all times for authorized users and emergency vehicles.

4) Operator shall maintain all hangar and overhead doors and door operating systems, including weather stripping and glass replacement.

5) Operator shall maintain electric loads within the designed capacity of the system. Any change to such designed capacity will require the prior written consent of the Director.

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6) Operator shall install and maintain hand-held fire extinguishers in the interior of all buildings, aircraft shops, aircraft parking and tie-down areas, and fuel storage areas, pursuant to fire and safety codes.

7) Operator shall have the necessary utility meters installed, as required by the utility company(s), at Operator's expense. Operator shall pay all utility charges, including, but not limited to, electricity, water, wastewater, natural gas, and telephone. Operator shall maintain and repair all utility service lines and fixtures, including lighting fixtures, within the Premises to the extent utility company providing such utility service does not perform such maintenance or repair.

9) Operator shall provide, at its sole cost and expense, necessary arrangements for adequate sanitation, handling and disposal from the Airport of all trash, garbage and other refuse which results from Operator's business operations, including receptacles for the deposit of such trash, garbage and other refuse.

10) Operator will not permit any action on the Premises that has an adverse effect, or interferes with the proper function of any drainage system, sanitary sewer system, or any facility provided for the operation or protection of Airport.

D. **Personnel**. The Operator shall employ a fully qualified, competent, experienced, full-time, on-site manager who shall supervise and direct the performance of all Commercial Aeronautical Services provided by the Operator, and one or more qualified assistant managers to act for the manager in his or her absence. During all operating hours, the Operator shall employ and have on duty trained personnel in such numbers and with such certificates and ratings as are required to meet the Minimum Standards, in an efficient manner, for all Commercial Aeronautical Services being provided by the Operator. Operator's employees shall, at all times, be neat and courteous, and shall wear an identification badge that displays the employee's name and the name of the Operator. Operator's employees may not use or possess alcohol, illegal drugs, controlled substances, or firearms at the Airport. Operator shall closely monitor its employees to insure consistent, high quality service.

E. **Security**.

1) Operator, its employees, agents, customers, and contractors, shall comply fully with the Airport Security Plan.

2) If the Premises are located in a restricted area accessible only to those persons displaying a security badge issued by the Airport,

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each person working on the Premises must wear the badge at all times while at the Airport.

3) To control access to the air operations area ("AOA"), Operator will provide written notice to the Director of the names, addresses, telephone number(s), and contact persons for each contractor employed by Operator that will require access to the AOA for the benefit of Operator within five (5) days after the execution of the contract with such person.

4) Operator shall control the Premises so as to prevent unauthorized access to the AOA. Operator shall comply with all applicable federal regulations relating to aviation security, and Operator's security system must be approved by the Director. The City reserves the right to install security devices in or on the Premises as it deems necessary at City's cost.

F. **Indemnification**. **Operator shall protect, defend, and hold City and its officials, agents or employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the leased premises or the acts or omissions of Operator's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, provided, however, that the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action suit or liability resulting from the sole negligence of City, its officers, agents or employees and provided, further, that the indemnity provided for in this paragraph shall not apply to the extent and degree that the negligence of City or its agents, officers or employees, is a contributing and proximate cause of any particular injury, death or damage. The City shall give to Operator reasonable notice of any such claims or actions. The Operator shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this agreement.**

G. **Insurance**. The following requirements pertain to all Operators. See Articles VI or VII for specific insurance requirements applicable to the specific FBOs and SASOs on the Airport.

1) General Requirements. Operator shall not commence operations or construction until Operator has obtained the types and amounts of

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required insurance indicated below and until such insurance has been reviewed by the City or a Certificate of Insurance is received indicating required coverage. If the coverage period ends during the term of Operator's Lease or Permit, Operator must, prior to the end of the coverage period, forward a new Certificate of Insurance to City as verification of continuing coverage for the duration of the term of the Lease or Permit. Operator must submit certificates of insurance for all subcontractors to the City prior to them commencing work on the project.

a) Approval of insurance by the City and the required minimums shall not relieve or decrease the liability or responsibility of the Operator hereunder and shall not be construed to be a limitation of liability on the part of the Operator.

b) Operator's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policy is issued and shall be written by companies with an A.M. Best rating of B+VII or better. Hazardous materials insurance, if required, shall be written by companies with A.M. Best ratings of A- or better. The City shall accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

c) All endorsements naming the CITY as additional insureds, waivers of subrogation, and notices of cancellation endorsements as well as Certificates of Insurance shall indicate:

City of El Paso
Department of Aviation
6701 Convair Road
El Paso, Texas 79925-1091
Attn.: Director of Aviation

d) The "other" insurance clause shall not apply to the City where the City of El Paso is an additional insured shown on any policy. It is intended that policies required in this Agreement covering the City and the Operator, shall be considered primary coverage as applicable.

e) If insurance policies are not written for amounts specified below, the Operator shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If

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Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

f) The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

g) The City reserves the right to review insurance requirements set forth during the term of this Agreement and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Operator.

h) The Operator shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement or as required in the Agreement.

i) Operator shall provide all deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificates of Insurance.

j) Insurance provided by an Operator pursuant to this Minimum Standards shall cover and protect the City, and its elected and non-elected officials, officers, agents, employees, contractors, successors, and assigns, as their interests may appear.

2) Specific Insurance Requirements. The Operator shall obtain, and maintain throughout the term of its Lease or Permit, the following insurance coverages, and furnish certificates of insurance and policy endorsements as evidence thereof:

a) Workers' Compensation and Employers Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401.) and minimum policy limits for employers liability of $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease

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each employee. The following endorsements shall be added to the policy:

i) A Waiver of Subrogation in favor of the City of El Paso;

ii) A thirty (30) day Notice of Cancellation/Material Change in favor of the City;

b) Property insurance coverage on an "All Risk of Physical Loss" form for 100% of the value of all improvements leased from the City, or constructed by or for Operator on the Airport. Coverage shall include but not be limited to fire, wind, hail, theft, vandalism and malicious mischief. The coverage shall be written on a replacement cost basis. The proceeds from such insurance shall be used to restore the improvements to their original condition in the event of a covered loss.

c) Liability insurance in the specific types and amounts specified in Sections VI or VII, as applicable for the proposed Commercial Aeronautical Service.. Where more than one Commercial Aeronautical Service is proposed, the minimum limits will vary (depending upon the nature of individual services in such combination) but will not necessarily be cumulative in all instances. Because of these variables, the applicable minimum insurance coverage on combinations of services will be finalized with the prospective Operator at the time of its application or otherwise during lease negotiations.

H. **Compliance With Laws**. The FBO will abide by all applicable federal, state and municipal laws, regulations, ordinances and standards currently in existence or which may hereafter be promulgated, including all environmental laws and regulations, the Airport's Rules and Regulations, the requirements and recommendations of National Fire Protection Association (NFPA), the latest FAA Advisory Circulars, and other standards established by recognized authority, all as set out in the Lease or Operating Permit.

I. **Certifications**. The Operator shall obtain and maintain in full force and effect all FAA and other certificates and licenses necessary for the work being performed at the Airport, and shall provide a copy of such certificates to the Director upon request.

J. **Motor Vehicles on Airport**. The Operator shall control the on-Airport transportation of pilots and passengers of transient general aviation aircraft using the Operator's facilities and services. Customer motor

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vehicles are not permitted on the Air Operations Area (AOA). The Operator-owned or operated motor vehicles driven on the AOA shall do so only in strict accordance with Airport Rules and Regulations, applicable federal, state and municipal laws, ordinances, codes or other similar regulatory measures now in existence or as may be hereafter modified or amended. The Airport may impose training and licensing requirements and charge a fee for AOA driving privileges.

K. **Reporting.** An Operator shall:

1) Provide to the Director promptly on request, such information on operations at the Airport as the Director shall from time to time request, including but not limited to, passenger, cargo, and operations statistics, data on aircraft as it relates to the Airport by type, and arrival and departure information. The Director shall have the right, during reasonable times and upon reasonable notice, to audit and examine books, records and other data which pertain to the Operator's use of the Airport, and its performance of the requirements of these minimum standards.

2) Provide promptly to the Director the result of any FAA inspections.

3) Ensure that any employee performing weight and balance calculations is certified to do so.

4) Ensure the proper licensing and certification of employees with copies maintained in the Operator's personnel record files regarding Federal Communications Commission (FCC) requirements, Texas driver's license of the proper class, and FAA license, if required.

5) Ensure that all employees operating vehicles on the airfield have the appropriate Airport certification.

VI. REQUIREMENTS APPLICABLE TO FIXED BASE OPERATORS

The following standards apply to Fixed Base Operators.

A. **Services**.

1) Minimum Services. Each Fixed Based Operator shall provide the following minimum services:

a) Aircraft Fueling Services. Each FBO shall provide into-aircraft retail delivery of AV gas and jet aviation fuel, motor oil, and lubricants as required by the types of aircraft

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normally utilizing the Airport. The Operator shall clearly and prominently post its fuel prices on the Ramp in a public place with signage approved by the Director. The Operator shall provide proper fuel dispensing equipment to service aircraft, including mobile fuel dispensing trucks to service commercial passenger and cargo aircraft operating at the Airport. All fuel handling and storage facilities, equipment and procedures shall strictly comply with all applicable Federal, State, City and local laws, rules and regulations, including without limitation, the most current rules and regulations promulgated by the USDOT and FAA. Fueling personnel shall be properly trained and qualified to perform their assigned duties. The Operator shall ensure that only clean fuel, free of water or other contaminants, is delivered into the aircraft serviced. The Operator shall maintain current fuel reports on file and available for review at anytime by the Director. Fueling service by the FBO shall be in full compliance with all applicable federal, state and local safety laws and regulations, including proper fire protection and electrical grounding of aircraft during fueling operations. All FBO fueling services and systems shall be subject to inspection for fire and other hazards by the Director or other Airport representative and by the appropriate State and City fire officials. The FBO shall maintain a spill prevention and control plan in accordance with applicable Federal, State, City, and Airport laws, rules and regulations.

b) Aircraft Line Services. Each FBO shall provide:

i) Suitable hard surface aircraft parking, tie-down, and hangar storage facilities; adequate tie-down facilities and equipment, including ropes, chains and other types of restraining devices, and wheel chocks for the typical number and type of aircraft simultaneously using the FBO during a peak period; and adequate loading, unloading and towing equipment to safely and efficiently move aircraft and store them in times of all reasonably expected weather conditions.

ii) Adequate ground equipment, including but not limited to, ground power and starting equipment, fire extinguishers, oxygen carts, portable compressed air, towing equipment, disabled recovery equipment, washing and cleaning facilities, and such other equipment, supplies and spare parts as may be reasonably required to service all general aviation

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aircraft at the Airport in accordance with manufacturers recommendations, including such services as repairing and inflating aircraft tires, servicing struts, changing engine oil, servicing oxygen systems, washing and cleaning of the interior and exterior of aircraft and aircraft windows, and recharging or energizing discharged aircraft batteries and starter.

iii) Conveniently located, heated and air-conditioned lounge(s), briefing room(s), restrooms, and telephone facilities.

iv) A flight planning facility equipped with direct telephone communication to an FAA Flight Service Station, local navigation charts, and flight planning materials during hours of control tower operations.

v) Sales counter to offer a variety of pilot supplies, navigation and flight planning materials.

vi) Access to weather information via computer available during hours of control tower operations.

2) Optional Services. In addition to the Minimum Services, an FBO may also provide any Specialized Aeronautical Service for which it is qualified under these Minimum Standards, and is authorized to perform under its Lease with the City. Optional Specialized Aeronautical Services ("Optional Services") include aircraft engine and frame maintenance and repair, specialized aircraft parts maintenance and repair, aircraft sales, charter and air taxi services, and flight training.

3) Subcontracting. An FBO may provide any Minimum or Optional Service using its own resources and personnel, or with the prior written consent of the Director, it may provide such Service through a subcontractor subleasing space from the FBO, in accordance with the Minimum Standards and Lease terms applicable to subleasing and subcontracting. The FBO shall remain primarily responsible for any services performed by a subcontractor, and the compliance by such subcontractor with these Minimum Standards.

4) Rates and Charges. The FBO's rates or charges to General Aviation users for its services shall be determined by the FBO, subject to the requirement that all such rates or charges shall be reasonable and equally and fairly applied to all users of the services. All rates and charges for such services shall be filed with the Director. In addition,

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the FBO shall prominently post its fuel prices on exterior ramp side signage as approved by the Director.

5) Hours of Operation. The FBO must make all of its required services, its aircraft fueling services and its aircraft line services available twenty-four (24) hours per day, seven (7) days per week. Unless expressly provided otherwise by these minimum standards, this requirement can be met by means of a prompt on-call system outside of the Operator's regularly scheduled hours.

6) Staffing. During all operating hours, the FBO shall employ and have on duty trained personnel in such numbers and with such certificates and ratings as are required to meet the Minimum Standards, in an efficient manner, for all Minimum and Optional Services being provided by the FBO, including appropriate supervisory and managerial personnel. The FBO shall employ personnel who will offer prompt, courteous and efficient services.

7) Field Use Charges. If so directed by the Airport, the FBO shall collect all landing, parking and other fees and charges assessed by the Airport from a non-tenant air carrier prior to providing services to such air carrier.

B. **Minimum Space Requirements**

1) Leased Premises. The minimum amount of land to be leased for a Fixed Base Operation shall be ten (10) acres.

2) Aircraft Parking. On the Leased Premises, the FBO must operate and maintain a minimum of 6.5 acres of paved apron parking for aircraft parking and tie-downs with taxi-out capability, including sufficient taxi clearance, in accordance with applicable FAA regulations.

3) Facilities. The FBO shall provide a minimum of 16,000 square feet of facilities including 12,000 square feet of hangar space and 4,000 square feet of office space. The facility shall include air-conditioned space for crew and passenger lounge facilities, public restrooms, training, flight planning and office space. Restrooms shall be conveniently located, free of charge, accessible to passengers and crews, and maintained in a clean and sanitary manner. At least one working telephone shall be provided for public use.

4) Automobile Parking. The FBO must provide sufficient paved and striped parking to accommodate FBO, and FBO subtenant

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customers, passengers, and employees on a daily basis, in accordance with applicable City Code requirements.

C. **Term**. The term of a Lease with an FBO shall be as agreed between the City and the Operator up to a maximum of thirty (30) years unless the Operator can demonstrate to the Director that a longer term is necessary to finance and construct the necessary Improvements required to operate its business at the Airport in accordance with these Minimum Standards. In no event may the term of any Lease exceed forty (40) years, including renewals.

D. **Minimum Experience.** The Operator shall have a minimum of five (5) years of experience in operating a full service Fixed Base Operator facility at an airport similar, in levels and type of service and traffic, to the Airport.

E. **Liability Insurance**. FBOs shall carry and maintain throughout the term of their Lease the following coverages:

1) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $10,000,000 product/completed operations limit of liability. The policy shall contain:

   a) Independent Contractors coverage
   b) Ground Hangarkeepers Liability with a limit of $2,000,000
   c) Blanket contractual liability coverage for liability assumed under the Lease or Permit
   d) Medical expense coverage with a limit of $5,000 any one person
   e) City of El Paso listed as additional insured,
   f) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
   g) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

2) If the FBO operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $5,000,000 for bodily injury and property damage. The policy shall contain:

   a) City of El Paso named as additional insured
   b) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

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3) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage Bodily Injury and Property Damage, and $10,000,000 for Personal and Advertising Injury. The policy shall contain:

a) Non-Owned Aircraft Liability with a minimum limit of $10,000,000
b) Blanket contractual liability coverage for liability assumed under the Lease or Permit
c) Medical expense coverage with a limit of $5,000 any one person
d) City of El Paso as additional insured
e) Thirty (30) day Notice of Cancellation in favor of the City
f) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso

VII. STANDARDS APPLICABLE TO SPECIALIZED AERONAUTICAL SERVICE PROVIDERS.

The following standards apply to Specialized Aviation Service Operators. SASOs provide one or more of the following services and shall comply with the Minimum Standards described in this section. The term of a Lease with an SASO shall be as agreed between the City and the Operator up to a maximum of ten (10) years unless the Operator can demonstrate to the Director that a longer term is necessary to finance and construct the necessary Improvements required to operate its business at the Airport in accordance with these Minimum Standards. In no event may the term of any Lease exceed thirty (30) years, including renewals. If an Operator is not leasing land from the City, but is leasing from another Airport tenant, and shall operate under a Permit, the term of such Permit shall be for one year, and month to month thereafter, unless the Operator can demonstrate to the Director that a longer term is necessary to operate its business at the Airport in accordance with these Minimum Standards.

A. **Aviation Shop Repair Services**. (Radios, Painting, Upholstery, Propellers, Instruments, Accessories, etc.) An Aviation Shop Repair Services Operator is a Person engaged in the business of operating a shop, or a combination of FAA certified shops for the repair of aircraft radios, propellers, instruments, and accessories for general aviation aircraft. The Operator may furnish one, or if desired, any combination of these services. This category includes sale of new and/or used aircraft radios, propellers, instruments and accessories.

1) Minimum Standards. The Operator shall maintain, as necessary, the repair station certificates required by the FAA which are applicable to the operation or operations contemplated. The avionics portion of the services offered must maintain current the qualifications of Class I

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and Class II FAA designated repair station. The Operator shall have in its employ, and on duty during the required operating hours, trained personnel currently certified as FAA radio, instrument or propeller repairmen in such numbers as are required to meet the minimum standards set forth for this category in an efficient manner.

2) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land upon which all required Improvements shall be located, including adequate (a) hangar or shop space for aircraft maintenance and repair and parts and equipment storage, (b) air conditioned space for office, restrooms, lounge and telephone facilities for customer use, (c) paved aircraft apron space to accommodate the maximum number and type of aircraft that Operator can service at any one time, and (d) paved motor vehicle parking facilities to accommodate Operators customers and employees on a daily basis. If painting operations are contemplated, the Operator shall provide a separate paint shop that meets all applicable safety and air quality and other environmental requirements.

3) Hours of Operation. The Operator shall operate business hours of 8:00 am to 5:00 pm, Monday through Friday of each week or on a schedule previously approved in writing by the Director. The Operator shall have personnel available upon two hours notice on an on-call basis at all times outside of the Operator's regularly scheduled business hours for emergency services.

4) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

5) Liability insurance. The Operator shall carry and maintain the following insurance coverages:

a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $10,000,000 product/completed operations limit of liability. The policy shall contain the following provisions:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person

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iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $5,000,000 for bodily injury and property damage. The policy shall contain:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage Bodily Injury and Property Damage and $10,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City
v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso
vi) Non-owned aircraft liability with a minimum limit of $10,000,000

6) Independent Repair Service Technicians. An independent repair service technician may provide aircraft repair services at the Airport if the independent technician applies for, and is granted, an Independent Repair Service Technician Permit in accordance with these Minimum Standards. The independent repair service technician must pay the applicable permit fee, and provide proof of proper and current required FAA certifications for the type of repair services offered, and liability insurance as specified above in Section VI.A.5). Independent repair service technicians are not subject to the Minimum Space and Hours of Operation requirements of this Section. Repair services may be performed only

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in areas of the Airport designated by the Director as suitable for such work.

B. **Aircraft Airframe And Powerplant Repair and Maintenance**. The Operator is a Person engaged in the business of providing aircraft airframe and powerplant repair and maintenance services, including the non-exclusive right to sell aircraft parts and accessories.

1) Minimum Standards. The Operator shall apply for Part 145 Repair Station Certification from the FAA, and shall provide a true copy of the Certificate to the Director when granted. Failure to obtain Repair Station Certification within six months of application shall be a violation of these Minimum Standards, unless the Operator can demonstrate the failure is attributable to FAA delays, and not the fault of Operator. Operator shall employ a sufficient number of FAA certified mechanics with airframe, powerplant and inspector ratings to properly and safely perform the work performed by Operator, including and at least one FAA certified airframe and powerplant mechanic on duty during normal business hours. Operator shall have all necessary tools, equipment, supplies, and parts necessary to perform its repair and maintenance services in accordance with manufacturer's recommendations and applicable FAA regulations.

2) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land upon which all required Improvements shall be located, in accordance with the requirements of Part 145, including (a) one or more hangars adequate for aircraft maintenance and repair and parts and equipment storage, (b) air conditioned space for office, restrooms, customer lounge and telephone facilities for customer use office, (c) paved aircraft apron space to accommodate the maximum number and type of aircraft that Operator can service at any one time, and (d) paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis. If painting operations are contemplated, the Operator shall provide a separate paint shop that meets all applicable safety and air quality and other environmental requirements.

3) Hours of Operation. The Operator shall have personnel available upon two hours' notice on an on-call basis at all times outside of the Operator's regularly scheduled business hours for emergency services.

4) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

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5) Liability Insurance. The Operator shall carry and maintain the following insurance coverages:

a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $10,000,000 product/completed operations limit of liability. The policy shall contain:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person
iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $5,000,000 for bodily injury and property damage. The policy shall contain the following provisions:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $10,000,000 for coverage Bodily Injury and Property Damage, and $10,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City

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v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso

vi) Non-owned aircraft liability with a minimum limit of $10,000,000

C. **Flight Training and Ground School.** A flight training and ground school Operator is a Person engaged in the business of instructing pilots in dual and solo flight operations, in fixed and/or rotary wing aircraft, and such related ground school instruction as is necessary to prepare persons for taking a written examination and flight check for the category or categories of pilots' licenses and rating involved.

1) Minimum Standards. The Operator shall obtain and maintain an FAA certificate under FAR Part 61 or 141, as applicable to its operation. The Operator shall employ at a sufficient number of instructors to provide the type of flight and ground training offered. All instructors shall be fully trained and properly certificated by the FAA. Flight instructors shall have a current pilot's license and, to the extent required by applicable regulations, medical certificate. The Operator shall own or lease and have available for use in flight training at least one properly certified aircraft appropriate to the type of flight instruction offered. The Operator shall have appropriate training equipment and instructional materials to provide proper and effective flight training, including adequate mock-ups, pictures, slides, films or other visual aids. All equipment and materials must comply with applicable FAA requirements for the training offered.

2) Minimum Space Requirements. The Operator shall lease or sublease (a) a sufficient amount of hangar or tie-down space for all aircraft used for flight instruction at the Airport, (b) air conditioned space for classroom, office, briefing room, restrooms, and telephone facilities for customer use, and (c) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis. Ground instruction may not be provided in public areas of the Airport.

3) Hours of Operation. A minimum of eight (8) hours per day, five (5) days per week.

4) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

5) Liability Insurance. The Operator shall carry and maintain the following insurance coverages:

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a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $1,000,000 product/completed operations limit of liability. The policy shall contain:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person
iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 for bodily injury and property damage. The policy shall contain the following provisions:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage Bodily Injury and Property Damage, and $1,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City
v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso

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vi) Non-owned aircraft liability with a minimum limit of $1,000,000

6) Independent Flight Instructors. An independent flight instructor may provide aircraft flight instruction at the Airport if the independent instructor applies for, and is granted, an Independent Flight Instructor Permit in accordance with these Minimum Standards. The independent flight instructor must pay the applicable permit fee, and provide proof of proper and current pilot's license, required FAA certifications for the type of instruction offered, and liability insurance as specified above in Section VI.C.5). Independent flight instructors are not subject to the Minimum Space and Hours of Operation requirements of this Section. Ground school and briefing/debriefing may be provided off-airport or on-airport in leased or subleased space, but such instruction may not be provided in public areas of the Airport.

D. **Aircraft Sales**. An aircraft sales Operator is a Person engaged in the business of selling new or used aircraft through franchises, or licensed dealership or distributorship (either on a retail or wholesale basis) of an aircraft manufacturer or otherwise; and providing such repair, services and parts as necessary to meet any guarantee or warranty on new or used aircraft sold.

1) Minimum Standards. The Operator shall have at least one full time authorized agent to transact sales, and at least one fully licensed and certificated pilot with ratings appropriate for the types of aircraft to be demonstrated. All dealers shall be properly bonded and licensed in accordance with applicable Federal, State, City, and local laws, rules and regulations. A new aircraft sales Operator shall have available or on call at least one current model of the aircraft made by the manufacturer the Operator represents, and shall provide for demonstrations of additional models of such manufacturer. The Operator shall provide all parts, equipment and services required to repair and service aircraft sold by the Operator during applicable warranty periods. Warranty service facilities may be provided through written agreement with an FBO or other repair shop Operator at the Airport.

2) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its projected inventory of aircraft, (b) air conditioned space for salesroom, office, restrooms, and telephone facilities for customer use, (c) if the Operator is providing warranty maintenance itself, sufficient additional space to provide warranty maintenance and service for aircraft and

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for parts storage, and (d) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.

3) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

4) Liability Insurance. The Operator shall carry and maintain the following insurance coverages:

a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $1,000,000 product/completed operations limit of liability. The policy shall contain:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person
iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 for bodily injury and property damage. The policy shall contain the following provisions:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage

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Bodily Injury and Property Damage and $1,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City
v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso
vi) Non-owned aircraft liability with a minimum limit of $1,000,000

E. **Aircraft Rental**. An aircraft rental Operator is a Person engaged in the business of renting aircraft to the public.

1) Minimum Standards. The Operator shall own or lease and have available for rental, either owned or under written lease to Operator, a sufficient number of airworthy aircraft properly certificated to handle the proposed scope of its operation. Operator shall employ at least one person having current FAA pilot's license appropriate for the each of the aircraft models offered for rental. The Operator shall develop and implement written policies to ensure that only properly qualified and licensed Persons may rent aircraft, and shall provide a copy of such policies to the Director.

2) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its projected inventory of rental aircraft, (b) air conditioned space for office, restrooms, and telephone facilities for customer use, and (c) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.

3) Hours of Operation. A minimum of a minimum of eight (8) hours per day, six (6) days per week.

4) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

5) Liability Insurance. The Operator shall carry and maintain the following insurance coverages:

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a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury); and $1,000,000 product/completed operations limit of liability. The policy shall contain:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person
iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $1,000,000 for bodily injury and property damage. The policy shall contain the following provisions:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $1,000,000 for coverage Bodily Injury and Property Damage and $1,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City
v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso.

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vi) Non-owned aircraft liability with a minimum limit of $1,000,000

F. **Aircraft Charter and Air Taxi Service**. An aircraft charter and air taxi Operator is a Person engaged in the business of providing air transportation to the public for hire, either on a charter basis or as an air taxi Operator, as defined in the Federal Aviation Act of 1958, or as said Act may be amended from time to time. Non-scheduled air carrier companies providing service to and from the Airport, but not based on the Airport, are exempt from these Minimum Standards.

1) Minimum Standards. The Operator must hold a valid current FAA Air Charter and Taxi Certificate under FAR Part 135, with appropriate ratings and licenses for the services to be provided at the Airport. All pilots must be fully qualified and certificated for air charter and air taxi service. The Operator must own or lease and have available under its exclusive control at least one airworthy and fully certificated multi-engine all-weather aircraft. The Operator shall have available sufficient trained personnel for checking in and ticketing passengers, and handling luggage.

2) Minimum Space Requirements. The Operator shall lease or sublease a sufficient amount of land to include (a) an adequate amount of paved aircraft ramp or apron space to accommodate its fleet of aircraft based at the Airport, (b) air conditioned space for office, customer lounge, cargo and luggage storage and handling space, restrooms, and telephone facilities for customer use, and (c) sufficient paved motor vehicle parking facilities to accommodate Operator's customers and employees on a daily basis.

3) Hours of Operation. A minimum of a minimum of eight (8) hours per day, five (5) days per week and shall be available on two hours' notice on an on-call basis after Operator's regularly scheduled business hours.

4) Minimum Experience. The Operator shall have a minimum of two (2) years of experience in providing the Commercial Aeronautical Service specified in this section.

5) Liability Insurance. The Operator shall carry and maintain the following insurance coverages:

a) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $20,000,000 for coverage A (Bodily Injury and Property Damage) and coverage B (Personal and Advertising Injury);

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and $20,000,000 product/completed operations limit of liability. The policy shall contain the following provisions:

i) Independent Contractors Coverage
ii) Blanket contractual liability coverage for liability assumed under the Lease or Permit
iii) Medical expense coverage with a limit of $5,000 any one person
iv) Ground Hangarkeepers Liability with a limit of $2,000,000
v) City of El Paso listed as additional insured
vi) Thirty (30) day Notice of Cancellation in favor of the City of El Paso
vii) Waiver of Transfer of Right of Recovery Against Others in favor of the City of El Paso

b) If Operator operates any motor vehicle in the Air Operations Area of the Airport, Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of $5,000,000 for bodily injury and property damage. The policy shall contain the following provisions:

i) City of El Paso named as additional insured,
ii) Thirty (30) day Notice of Cancellation in favor of the City of El Paso

c) Aircraft Liability Insurance for all Operator owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of $20,000,000 for coverage Bodily Injury and Property Damage and $20,000,000 for Personal and Advertising Injury. The policy shall contain:

i) Contractual liability coverage for liability assumed under the Lease or Permit
ii) Medical Expense coverage with a limit of $5,000 any one person
iii) City of El Paso as additional insured
iv) Thirty (30) day Notice of Cancellation in favor of the City
v) Waiver of Transfer of Rights of Recovery Against Others in favor of the City of El Paso
vi) Non-owned aircraft liability with a minimum limit of $20,000,000

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