

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2013

COUNCIL BILL NO. CB13-0593
COMMITTEE OF REFERENCE:
BUSINESS, WORKFORCE, & SUSTAINABILITY

A BILL

For an ordinance approving a proposed Office Space Lease between the City and County of Denver and Prospect International Airport Services, Inc. concerning leasing space for an office at Denver International Airport.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The proposed Office Space Lease between the City and County of Denver and Prospect International Airport Services, Inc. (201309825) in the words and figures contained and set forth in that form of Lease available in the office and on the web page of City Council, and to be filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, under City Clerk's Filing No. 2013-0833, is hereby approved.

COMMITTEE APPROVAL DATE: September 5, 2013

MAYOR-COUNCIL DATE: September 10, 2013

PASSED BY THE COUNCIL: _____, 2013

_____- PRESIDENT

APPROVED: _____ - MAYOR _____, 2013

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2013; _____, 2013

PREPARED BY: Skip Gray, III, Assistant City Attorney DATE: September 12, 2013

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Douglas J. Friednash, City Attorney for the City and County of Denver

BY: _____, Assistant City Attorney DATE: September 12, 2013

OFFICE SPACE LEASE

between

CITY AND COUNTY OF DENVER

and

PROSPECT INTERNATIONAL AIRPORT SERVICES, INC.

at

DENVER INTERNATIONAL AIRPORT

LEASE FOR OFFICE SPACE

SUMMARY PAGE

This Summary Page, consisting of one page, is attached to and made a part of that certain Office Space Lease made and entered into as of the date stated on the signature page, between the City and County of Denver and the Tenant listed below.

TENANT: Name	<u>Prospect International Airport Services, Inc.</u>
Address	<u>2130 S. Wolf Rd.</u>
City, State and Zip	<u>Des Plaines, Illinois 60018</u>
Contact	<u>Larry Massaro</u>
Trade Name	
State of Incorporation	<u>Nevada</u>

OFFICE LOCATION and COMPENSATION (Initial)						
Loca. Num.	Concourse /Terminal	Address	Square Feet	Annual Rental (Initial or as provided in Section 5.01)	Monthly Payment (Initial or as provided in Section 5.03A)	Reserved
1	Terminal, Level 5, Mod 3, East	R16-1-5-E4-N2-3	158.6	\$5,709.60	\$475.80	

COMPANION AGREEMENT(S): [Reserved]

PERFORMANCE SURETY \$2856.80

TERM:
Effective Date: Date of Execution
Expiration Date: Three (3) years from the Effective Date

RENT COMMENCEMENT DATE The obligation to pay Rent commences on the Effective Date.

INSURANCE POLICY AMOUNTS: See Exhibit C

DESCRIPTION OF EXHIBITS AND ADDENDA:

Exhibit A	Office Space Plan
Exhibit C	Insurance Certificate
Exhibit X	Provisions for Design and Construction of Improvements
Appendix 1	Standard Federal Assurances
Appendix 2	Standard Federal Assurances
Appendix 3	Nondiscrimination In Airport Employment Opportunities

Table of Contents

SECTION 1 - GENERAL.....	1
1.01 CONSIDERATION.....	1
1.02 INCORPORATION OF ATTACHED SUMMARY PAGE, EXHIBITS AND ADDENDA ...	1
SECTION 2 - DEFINITIONS	1
2.01 AIRPORT.....	1
2.02 AUDITOR	1
2.03 COMPANION AGREEMENT	1
2.04 CONCOURSES	1
2.05 DIA DESIGN STANDARDS	1
2.06 DIA ENVIRONMENTAL GUIDELINES.....	2
2.07 DIA TENANT DEVELOPMENT GUIDELINES	2
2.08 MANAGER	2
2.09 MANAGER'S AUTHORIZED REPRESENTATIVE.....	2
2.10 PAST DUE INTEREST RATE.....	2
2.11 OFFICE SPACE	2
2.12 TERMINAL	3
SECTION 3 - LEASE OF OFFICE SPACE	3
3.01 OFFICE RIGHTS GRANTED.....	3
3.02 USE OF OFFICE SPACE	3
3.03 MEANS OF ACCESS	3
3.04 RIGHT OF INSPECTION	3
SECTION 4 - TERM.....	4
4.01 TERM	4
4.02 SURRENDER OF OFFICE SPACE	4
4.03 HOLDING OVER	4
SECTION 5 - RENT	5
5.01 RENT.....	5
5.02 PAYMENT OF MONTHLY RENT	5

5.03	INTEREST ON PAST DUE AMOUNTS	5
5.04	PLACE AND MANNER OF PAYMENTS.....	5
5.05	APPLICATION OF PAYMENTS.....	6
5.06	REESTABLISHMENT OF RENTALS, FEES AND CHARGES.....	6
SECTION 6 - USE OF OFFICE SPACE.....		7
6.01	CARE OF AREA.....	7
6.02	CONSTRUCTION OF IMPROVEMENTS/RESTRICTION ON CHANGES.....	7
6.03	TITLE TO IMPROVEMENTS	7
SECTION 7 – USE OF THE OFFICE SPACE.....		7
7.01	DELIVERIES	7
7.02	VENDING MACHINES.....	7
7.03	COMPLIANCE WITH ALL LAWS AND REGULATIONS	8
7.04	COMPLIANCE WITH ENVIRONMENTAL REGULATIONS	8
7.05	WASTE OR IMPAIRMENT OF VALUE	9
7.06	HAZARDOUS USE.....	9
7.07	COMMON USE SERVICES.....	10
7.08	STRUCTURAL, ELECTRICAL OR SYSTEM OVERLOADING	10
7.09	NOISE, ODORS, VIBRATIONS AND ANNOYANCES	10
7.10	ACCESS TO FACILITY AND SYSTEMS	10
7.11	NO AUCTION	11
SECTION 8 - UTILITIES AND SERVICES.....		11
8.01	HEATING AND AIR CONDITIONING (HVAC).....	11
8.02	ELECTRICITY	11
8.03	WATER SERVICE	11
8.04	LIGHTING.....	12
8.05	STRUCTURAL MAINTENANCE.....	12
8.06	COMMON USE SERVICES.....	12
8.07	INTERRUPTION OF SERVICES	12
SECTION 9 - INDEMNITY, INSURANCE AND GUARANTEES.....		12
9.01	INDEMNITY.....	12
9.02	INSURANCE	13

9.03 PERFORMANCE SURETY	15
9.04 NO PERSONAL LIABILITY.....	15
9.05 LICENSES, FEES, TAXES AND LIENS	16
SECTION 10 - RESERVED	17
SECTION 11 - DEFAULT AND REMEDIES.....	17
11.01 DEFAULT	17
11.02 REMEDIES.....	17
11.03 REMEDIES CUMULATIVE	18
11.04 ADMINISTRATIVE HEARING.....	18
11.05 WAIVERS.....	19
SECTION 12 - DAMAGE, DESTRUCTION OR LOSS	19
12.01 DAMAGE TO OR DESTRUCTION OF OFFICE SPACE.....	19
12.02 COOPERATION IN THE EVENT OF LOSS.....	19
12.03 LOSS OR DAMAGE TO PROPERTY	19
12.04 MUTUAL WAIVER; INSURANCE COVERAGE	19
12.05 RELEASE	20
SECTION 13- RESERVED	20
SECTION 14 - MISCELLANEOUS PROVISIONS.....	20
14.01 ADVERTISING AND PUBLIC DISPLAYS.....	20
14.02 AGREEMENT BINDING UPON SUCCESSORS	20
14.03 AGREEMENT MADE IN COLORADO; VENUE.....	21
14.04 OFFICE SPACE LEASE SUBORDINATE TO AGREEMENTS WITH THE UNITED STATES	21
14.05 RIGHT TO DEVELOP AIRPORT	21
14.06 AGREEMENT SUBJECT TO AVIATION PRIORITY	21
14.07 MODIFICATIONS REQUIRED BY FAA	21
14.08 ASSIGNMENT	21
14.09 BOND ORDINANCES	22
14.10 FORCE MAJEURE	22
14.11 INCONVENIENCES DURING CONSTRUCTION	22
14.12 MASTER PLAN	23

14.13 NONDISCRIMINATION	23
14.14 INDEPENDENT CONTRACTOR.....	23
14.15 NOTICES.....	23
14.16 PARAGRAPH HEADINGS.....	24
14.17 PATENTS AND TRADEMARKS	24
14.18 COLORADO OPEN RECORDS ACT	24
14.19 SECURITY	25
14.20 SEVERABILITY	25
11.21 SURVIVAL OF PROVISIONS.....	25
14.22 AUTHORITY TO ENTER INTO AGREEMENT	25
14.23 THIRD PARTIES	25
14.24 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS	25
14.25 CITY SMOKING POLICY.....	26
14.26 NUMBER OR GENDER.....	26
14.27 JOINT AND SEVERAL LIABILITY	26
14.28 NO LIMIT ON CITY'S POWERS	26
14.29 WAR OR NATIONAL EMERGENCY	26
14.30 ENTIRE AGREEMENT	26
14.31 FINAL APPROVAL; COUNTERPARTS; ELECTRONIC SIGNATURES	26

OFFICE SPACE LEASE

THIS OFFICE SPACE LEASE, is made and entered into as of the date stated on the signature page below, ("Effective Date"), by and between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, for and on behalf of its Department of Aviation (the "City"), Party of the First Part; and **PROSPECT INTERNATIONAL AIRPORT SERVICES, INC.**, a Nevada corporation authorized to conduct business in the State of Colorado ("Tenant"), Party of the Second Part.

SECTION 1 - GENERAL

1.01 CONSIDERATION

The City enters into this Office Space Lease for and in consideration of the payment of rent, the construction of all improvements by Tenant as herein provided, and the performance and observance by Tenant of the terms, conditions, covenants and agreements set forth herein.

1.02 INCORPORATION OF ATTACHED SUMMARY PAGE, EXHIBITS AND ADDENDA

The Summary Page attached to this Office Space Lease and the Exhibits attached to this Office Space Lease as described on the Summary Page and all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport, either promulgated by the City on its own initiative or in compliance with regulations or actions of the Federal Aviation Administration or other authorized federal agency, as they may be amended from time to time, are intended to be, and hereby are, deemed incorporated into this Office Space Lease. *Exhibit X* and Appendices 1, 2 and 3 (Standard Federal Assurances) are also incorporated herein by this reference.

SECTION 2 - DEFINITIONS

2.01 AIRPORT

"Airport" or "DIA" shall mean Denver International Airport.

2.02 AUDITOR

"Auditor" shall mean the City's Auditor and the Auditor's authorized representative.

2.03 COMPANION AGREEMENT [RESERVED]

2.04 CONCOURSES

"Concourses" shall mean Concourses A, B and C located at the Airport but specifically excepts the Terminal as herein defined.

2.05 DIA DESIGN STANDARDS

"DIA Design Standards" shall mean the design standards and criteria established for Denver International Airport as such standards and criteria may be modified from time to time.

2.06 DIA ENVIRONMENTAL GUIDELINES

"DIA Environmental Guidelines" shall mean those portions of the environmental standards and criteria established for non-aviation tenant development and operations at the Airport, as they may hereafter be amended.

2.07 DIA TENANT DEVELOPMENT GUIDELINES

"DIA Tenant Development Guidelines" shall mean the criteria established at DIA for tenants and concessionaires for design, construction, installation, signage and related matters, as they may hereafter be amended.

2.08 MANAGER

"Manager" shall mean the City's Manager of Aviation or the Manager's successor in function.

2.09 MANAGER'S AUTHORIZED REPRESENTATIVE

Whenever reference is made herein to the "Manager or the Manager's authorized representative," or words of similar import are used, the City's Deputy Manager of Aviation/Commercial shall be such authorized representative of the Manager, unless written notice otherwise is given to the Tenant by the Manager. The Deputy Manager's authorized representative is the Airport's Concessions Director who designates the Airport's Concessions Manager for day-to-day administration of this Office Space Lease. Tenant shall submit its reports, memoranda, correspondence and submittals to the Concessions Manager. The Manager and the Deputy Manager may rescind or amend any such designation of representatives or delegation of City authority upon written notice to the Tenant.

2.10 PAST DUE INTEREST RATE

"Past Due Interest Rate" shall mean interest accruing at 18% per annum commencing on the fifth business day after the date such amount is due and owing until paid to City.

2.11 OFFICE SPACE

"Office Space" shall mean the spaces listed on the Summary Page as generally depicted on the Office Space Plan attached hereto as **Exhibit A**, which is located within the Terminal and/or Concourses and contains the number of square feet set forth on the Summary Page. "Office Space" shall include the plural where applicable. The City and Tenant acknowledge and agree that the dimensions of the Office Space as set forth in **Exhibit A** are approximate and that, following the completion of construction, the precise dimensions and square footage shall be determined by the Manager to conform to such measurement and a revision to the Summary Page and **Exhibit A** will be made, if necessary, depicting the dimensions and square footage of the Office Space as actually constructed, each of these actions to be mutually agreed upon and taken without the requirements of a formal amendment to this Office Space Lease. The Manager may add or subtract square footage of up to 10% of the Office Space with the prior written consent of the Tenant without City Council approval.

In order to maximize the highest and best use of the City's airline facilities, at the Manager's sole discretion and upon thirty (30) days prior written notice, the City may require Tenant, and

Tenant agrees, to relocate its Office Space, at its own cost and expense, in which case, the Manager will revise the Summary Page and *Exhibit A* without formal amendment to this Office Space Lease.

2.12 TERMINAL

Terminal" shall mean the Jeppesen Terminal Building located at the Airport.

SECTION 3 - LEASE OF OFFICE SPACE

3.01 OFFICE RIGHTS GRANTED

City grants to Tenant the right to occupy and use the Office Space consistent with and subject to all of the terms and provisions of this Office Space Lease.

3.02 USE OF OFFICE SPACE

Tenant uses a state of the art dispatch system, which can integrate with airlines' in-house systems to ensure the efficient delivery and tracking of wheelchair, unaccompanied minor, and other passenger assistance services Tenant provides to airlines operating at DIA. Tenant may use the Office Space only for office use solely in support of the services provided, and for no other purposes, unless otherwise authorized in writing by the Manager.

3.03 MEANS OF ACCESS

Tenant, its agents, invitees, employees, contractors, and suppliers have a non-exclusive right of ingress to and egress from the Office Space by a means of access located outside the boundaries of such space as specified by City. In non-public areas, such access shall, without exception, be restricted under therein common with such other persons (including, at the option of Airport's security requirements as described in the City, the general public) as the City may authorize or permit, section herein entitled "Security," and the City may at any time close, relocate, reconstruct or modify such means of access, provided that a reasonably convenient and adequate means of ingress and egress is available for the same purposes. The City has established access corridors and access door locations for the Office Space, and such plans are available from Airport Engineering.

Nothing in this Office Space Lease shall be construed to prevent the City from charging the operators of vehicles carrying passengers and property a fee for the privilege of entering upon the Airport or using the roadways in or on the Airport, or soliciting passengers upon the Airport, or otherwise operating on the Airport; and City reserves the right to make such charges provided that they do not discriminate unreasonably against the operators of vehicles used for carrying officers, agents, employees, contractors, passengers or property of Tenant.

3.04 RIGHT OF INSPECTION

The City, its agents and employees, retain at all times during the Term of this Office Space Lease, the full right of entry in and to the Office Space for any purpose necessary, incidental to or in connection with its obligations hereunder, in the exercise of its governmental functions, or for the purpose of making any inspection it deems necessary, with or without advance notice, without liability, and without in any manner affecting Tenant's obligations under this Office

Space Lease. No such reasonable entry by or on behalf of the City upon the Office Space shall constitute or cause a termination of this Office Space Lease nor shall such entry be deemed to constitute an interference with the use thereof by the Tenant.

SECTION 4 - TERM

4.01 TERM

"Term" shall mean the period commencing at noon on the Effective Date" as stated on the Summary Page and expiring upon the Expiration Date stated on the Summary Page, unless this Office Space Lease is sooner terminated pursuant to the provisions of this Office Space Lease or by law and subject to the following: Any provision to the contrary notwithstanding, this Office Space Lease may be terminated by either Party prior to the Expiration Date or any extension thereof, with or without cause, upon thirty (30) days written notice by either party. Further, the Parties agree that this Lease shall automatically terminate on the date Tenant no longer provides wheelchair assistance to airline passengers at the Airport.

4.02 SURRENDER OF OFFICE SPACE

Upon the expiration or earlier termination of this Office Space Lease or on the date specified in any demand for possession by City after any default by Tenant, Tenant covenants and agrees to surrender possession of the Office Space and all improvements to City in the same condition as when first occupied, ordinary wear and tear excepted. Ordinary wear and tear shall not include deterioration that could have been prevented by proper maintenance practices, or by Tenant performing all of Tenant's obligations under this Office Space Lease.

At the time of surrender, Tenant must have fully performed all of its obligations under this Office Space Lease, including: (a) delivery of all keys to any doors and to any improvements located on the Office Space to the City; (b) removal of Tenant's equipment in a manner and at times that do not interrupt other business at the Airport or operations of the Airport; (c) surrender of the Office Space as required in Section 4.02; and (d) performance of any other obligations required to be performed pursuant to this Office Space Lease prior to termination under this Office Space Lease. Tenant covenants and agrees to cooperate with the City's Termination procedures. "Tenant's Equipment" shall mean all equipment, apparatus, machinery, furnishings, trade fixtures and personal property installed by Tenant not affixed to the City's property.

If any portion of the Office Space is damaged by removal of such improvements or equipment, Tenant shall at its expense restore the City's damaged property to conditions existing prior to the installation of such improvements or such equipment and upon Tenant's failure to do so the City may cause such removal and restoration to be done at Tenant's expense and Tenant agrees to reimburse the City upon demand. If Tenant fails to remove any of Tenant's Equipment, at its option, the City may take immediate title to, retain, or dispose of any such Tenant's Equipment without liability to the Tenant and at no cost to the City.

4.03 HOLDING OVER

If Tenant holds over after the Expiration Date, any extension thereof, or earlier termination of this Office Space Lease, Tenant's occupancy shall be deemed by the City to be a tenant at sufferance, at a monthly rental, payable in advance, equal to 150% of the monthly Rent

provided for in Section 5 of this Office Space Lease, and Tenant shall otherwise remain bound by all other terms, conditions, covenants, and agreements of this Office Space Lease. The City will notify Tenant in writing that the tenancy is at sufferance. Thereafter, and without further notice, the City may exercise all remedies provided in this Agreement, at law or in equity, to recover possession of the Concession Space. Tenant shall be liable to the City for all loss or damage incurred by the City on account of any such holding over.

The foregoing notwithstanding, the City may give Tenant written permission to remain in possession of the Office Space after expiration of the Term. Such permission shall operate and be construed as a month-to-month tenancy, which may be terminated at any time by thirty (30) days prior written notice from either Party to the other. It is agreed and understood that any holding over of Tenant after the expiration of this Agreement with the City's consent shall not renew or extend the Term. Tenant agrees to pay to the City in advance the monthly Rent in effect at the end of the regular Term of the Agreement together with all other fees payable hereunder and otherwise Tenant shall remain bound by all terms, conditions, covenants, and agreements of this Office Space Lease.

Nothing herein shall be construed to give Tenant the right to hold over at any time, and the City (after expiration or termination of this Office Space Lease, as the case may be), may exercise any remedies provided in this Agreement, at law or in equity to recover possession of the Office Space, as well as any damages incurred by City on account of such holding over.

SECTION 5 - RENT

5.01 RENT

Tenant covenants and agrees, without setoff, deduction, prior notice or abatement to pay City the established rentals, rates, fees and charges for storage space set forth on the Summary Page as Rent for the rights and privileges herein granted by City.

5.02 PAYMENT OF MONTHLY RENT

Rent shall be payable by Tenant to City monthly in advance and without demand. The first monthly payment shall be due and payable on the Rent Commencement Date and on the first day of each month thereafter. Said obligation to pay Rent shall commence upon the Rent Commencement Date stated on the Summary Page and shall continue through the Term (or any extended term) hereof, as well as any holding over period.

5.03 INTEREST ON PAST DUE AMOUNTS

Any payments not made to City when due shall accrue interest at the Past Due Interest Rate, as herein defined.

5.04 PLACE AND MANNER OF PAYMENTS

All sums payable to City hereunder shall be made payable to "Airport Revenue Fund" and paid without notice at the following address:

Airport Revenue Fund
Denver International Airport

P.O. Box 492065
Denver, Colorado 80249-2065

or, at such other place as the Manager's authorized representative may hereafter designate by notice in writing to Tenant. All sums shall be made in legal tender of the United States. Any check given to the City shall be received by it subject to collection, and Tenant agrees to pay any charges, fees or costs incurred by the City for such collection, including reasonable attorney's fees, costs and expenses.

5.05 APPLICATION OF PAYMENTS

The City is entitled to accept, receive and cash, or deposit, any payment made by Tenant for any reason or purpose or in any amount whatsoever, and apply the same, in the City's sole option, to any obligation of Tenant. Such payment or application shall not constitute payment of any amount owed, except that to which the City has applied the payment. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding upon the City. No endorsements or statement on any check or any letter accompanying any check or payment as compensation or other charges shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check, payment or partial payment, shall be without prejudice to the City's right to recover the balance of any and all compensation or other charges due from Tenant to the City and the City's right to pursue any other remedy provided in this Office Space Lease or at law or in equity.

5.06 REESTABLISHMENT OF RENTALS, FEES AND CHARGES

The City, through the Manager, may from time to time, at intervals of not more than five (5) years, at the Manager's sole discretion, and subject to the requirements of any outstanding bond ordinance pertaining to the Airport, reestablish the rentals, rates, fees and charges provided for herein. The City agrees that such reestablished schedule of rentals, rates, fees and charges shall be reasonable in relation to the cost of providing, operating and maintaining property, services and facilities of the airport system. If the Manager proposes any change in the schedule of rentals, rates, fees and charges, the City will give notice thereof to Tenant not less than 90 days before the same is to become effective. Should the proposed rentals, rates, fees and charges result in an increase of more than 5% in the dollar amount of compensation paid by Tenant for the prior calendar year, then Tenant may decline to pay compensation at the new rate(s). Tenant shall promptly advise the Manager (but in no event less than 60 days prior to the proposed effective date of such schedule of rentals, rates, fees and charges) of its intention to cancel and terminate this Office Space Lease. Upon such notice of intent to cancel and terminate, Tenant shall surrender the Office Space upon a date specified by the Manager. Should Tenant fail to give such notice of cancellation and termination, then it shall be deemed to have accepted the new rate(s) of compensation as promulgated by the Manager. No failure by the City to reestablish the rentals, rates, fees and charges at a five (5) year interval date shall constitute a waiver of the City's right to reestablish the rentals, rates, fees and charges at any time thereafter.

SECTION 6 - USE OF OFFICE SPACE

6.01 CARE OF AREA

Tenant accepts the Office Space in "as is" and "where is" condition with absolutely no warranties as to condition or suitability for use being given by the City. Tenant agrees that it will keep the Office Space in a neat, clean, safe, sanitary and orderly condition at all times, and further agrees that it will keep such area free at all times of all paper, rubbish, spills, and debris. Tenant, at its own expense, shall collect and deposit all trash and refuse at frequent intervals at collection station locations specified by the City. Accumulation of boxes, cartons, barrels or other similar items shall not be permitted in any public area in the Airport.

6.02 CONSTRUCTION OF IMPROVEMENTS/RESTRICTION ON CHANGES

Tenant shall, unless otherwise instructed, complete its design, obtain building permits and complete construction no later than 30 days after execution of this Office Space Lease. Such period may be extended by the Manager if completion of improvements was delayed through no fault of Tenant; however, in no event shall such extension affect the date upon which rent is due. Thereafter, Tenant agrees not to alter, add to, remove or demolish any of the improvements on the Office Space without the prior written approval of the Manager. All such alterations or changes shall be made in accordance with the Airport Tenant Development Guidelines and the requirements of *Exhibit X*.

6.03 TITLE TO IMPROVEMENTS

Tenant agrees that all improvements and anything affixed to the Office Space shall become the property of the City upon completion and acceptance by the City.

SECTION 7 - USE OF THE OFFICE SPACE

7.01 DELIVERIES

Concessionaire shall make all deliveries of money, coin, supplies, goods, products, and food and beverage items in such manner as specified by the Airport Rules and Regulations and at such times and locations as the Manager or the Manager's Authorized Representative may reasonably approve or require. Emergency deliveries may be made at other times subject to prior arrangements with the Manager or the Manager's Authorized Representative.

7.02 VENDING MACHINES

No amusement or vending machines or any other machines operated by coins, paper currency, tokens or credit/debit cards shall be installed or maintained in or upon the Office Space except with the written permission of the Manager or his authorized representative. This prohibition includes, but not by way of limitation, sales from vending machines of such items as cigarettes, candy, maps, coffee, soft drinks, newspapers, stamps and insurance policies; telephones; dispensation of cash, money orders and checks; and operation of mechanical or electronic game devices, electronic video games, and entertainment devices.

7.03 COMPLIANCE WITH ALL LAWS AND REGULATIONS

Tenant agrees not to use or permit the Office Space to be used for any purpose not authorized hereunder or prohibited by the laws of the United States or the State of Colorado, the ordinances or Charter of the City and County of Denver, and it further agrees that it will use the Office Space in accordance with all applicable federal, state and local laws and all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport, either promulgated by the City on its own initiative or in compliance with regulations or actions of the Federal Aviation Administration or other authorized federal agency.

Tenant agrees to submit any report, reports or information which the City is required by law or regulation to obtain from Tenant or which the Manager may reasonably request relating to Tenant's operations. Tenant further agrees that any duly authorized representative of the City's shall, until the expiration of three (3) years after final payment under this Office Space Lease, have the right to inspect or examine any directly pertinent books, documents and records of Tenant that directly related to Tenant's obligations under this Office Space Lease.

In the operation of its storage, facilities, Tenant shall comply with the Standard Federal Assurances described in Appendices 1 and 2 attached hereto and incorporated herein by reference.

7.04 COMPLIANCE WITH ENVIRONMENTAL REGULATIONS

Tenant, in conducting any activity on the Office Space or in any common area outside of the Office Space, shall comply with all applicable local, state or federal environmental rules, regulations, statutes, laws or orders (collectively "Environmental Requirements") including but not limited to Environmental Requirements regarding the storage, use and disposal of Hazardous Materials or Special Wastes and regarding releases or threatened releases of Hazardous Materials or Special Wastes to the environment. For purposes of this Office Space Lease the terms "Hazardous Materials" shall refer to those materials, including without limitation asbestos and asbestos-containing materials, polychlorinated biphenyls (PCBs), oil or any other petroleum products, natural gas, source material, pesticides, and any hazardous waste, toxic substance or related material, including any substance defined or treated as a "hazardous substance," "hazardous waste" or "toxic substance" (or comparable term) in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 et seq. (1990)), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq. (1990)), and any rules or regulations promulgated pursuant to such statutes or any other applicable federal or state statute. Tenant shall comply with the City's Ordinance 196, as amended on March 18, 1991 (amendments to the City Uniform Public Code related to water conservation fixtures).

Tenant shall acquire and comply with all necessary federal, state and local environmental permits and requirements.

Tenant shall maintain copies of Material Safety Data Sheets (MSDS) for all chemicals used in the operation of the concession, including for cleaning and maintenance. This obligation is continuing for the Term (or any extended term) of this Office Space Lease and Tenant shall make this documentation available for inspection by DIA upon request.

Tenant agrees to ensure that its Office Space is designed, constructed, operated and maintained in a manner that minimizes environmental impact through appropriate preventive

measures and complies with all federal, state and local environmental requirements. Tenant agrees to evaluate methods to reduce the generation and disposal of waste materials. Wastewater from maintenance or operational activities shall be pretreated with sand and grease traps.

In the case of a release, spill or leak as a result of Tenant's activities, Tenant shall immediately control and remediate the contaminated media to applicable federal, state and local standards. Tenant shall reimburse the City for any penalties and all cost and expense, including without limitation attorney's fees, incurred by the City as a result of the release or disposal by Tenant of any pollutant or hazardous material on the Airport.

7.05 WASTE OR IMPAIRMENT OF VALUE

Tenant agrees that nothing shall be done or kept in the Office Space which might impair the value of the City's property or which would constitute waste.

7.06 HAZARDOUS USE

Tenant agrees that nothing shall be done or kept in the Office Space and no improvements, changes, alterations, additions, maintenance or repairs shall be made to the Office Space which might be unsafe or hazardous to any person or property. Further, Tenant shall not do or permit to be done any act or thing upon the Office Space which will invalidate, suspend or increase the rate of any fire insurance policy required under this Office Space Lease, or carried by the City, covering the Office Space or the buildings in which the Office Space is located or which, in the opinion of the Manager or the Manager's authorized representative, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under this Office Space Lease. If, by reason of any failure by Tenant to comply with the provisions of this section, after receipt of notice in writing from the City, any fire insurance rate on the Office Space or on the buildings in which the same is located, shall at any time be higher than it normally would be, then Tenant shall pay the City, on demand, that part of all fire insurance premiums paid by the City which have been charged because of such violation or failure of Tenant; provided, that nothing herein shall preclude Tenant from bringing, keeping or using on or about the Office Space such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on the normal operations contemplated herein.

Any nuisance, annoyance or hazardous or potentially hazardous condition, on or emanating from the Office Space, shall be corrected immediately upon Tenant's actual knowledge of the condition, or receipt of oral or written notice from the City. If, in the City's sole discretion, a hazard or potentially hazardous condition presents an unreasonable and imminent risk of bodily injury, the City may require Tenant to close its business without compensation and bar the public from the Office Space until the hazard or potentially hazardous condition has been abated. Nothing in this Section 7.13 shall be deemed to preclude the City from pursuing any available remedy for breach of the provisions of this Office Space Lease. Tenant's failure to correct promptly a nuisance, annoyance or hazardous or potentially hazardous condition under this Section 7.13 shall be a material breach of this Office Space Lease.

7.07 COMMON USE SERVICES

No City Responsibility to Maintain Office Space. The Tenant shall bear all costs of operating Tenant's business on the Office Space and the City shall have no responsibility to maintain, repair or replace any portion of the Office Space.

Janitorial Services. Tenant shall, at its expense, be responsible for janitorial services for the Office Space. Tenant shall not permit rubbish, debris, waste materials or anything unsightly or detrimental to health, or likely to create a fire hazard, or conducive to deterioration, to remain on any part of the Office Space or to be disposed of improperly.

7.08 STRUCTURAL, ELECTRICAL OR SYSTEM OVERLOADING

Tenant agrees that nothing shall be done or kept on the Office Space and no improvements, changes, alterations, additions, maintenance or repairs shall be made to the Office Space which might impair the structural soundness of the building, result in an overload of utility, plumbing, or HVAC systems serving the Terminal and/or Concourses or interfere with electric, electronic or other equipment at the Airport. In the event of violations hereof, Tenant agrees immediately to remedy the violation at Tenant's expense.

7.09 NOISE, ODORS, VIBRATIONS AND ANNOYANCES

Tenant shall conduct its operations in an orderly and proper manner so as not to commit any nuisance in the Office Space or annoy, disturb or be offensive to others in the Airport. Tenant shall take all reasonable measures, using the latest known and practicable devices and means, to eliminate any unusual, nauseous or objectionable noise, gases, vapors, odors and vibrations and to maintain the lowest possible sound level in their operations. No pets are allowed (except as may be permitted or required by law with respect to persons with disabilities).

7.10 ACCESS TO FACILITY AND SYSTEMS

Tenant shall not do or permit to be done anything which might interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the Office Space or elsewhere on the Airport, nor do or permit to be done anything which may interfere with free access and passage in the Office Space or the public areas adjacent thereto, or hinder police, firefighting or other emergency personnel in the discharge of their duties. Further, Tenant shall not do or permit to be done anything which might interfere with the effectiveness or accessibility of elevators or escalators in or adjacent to the Office Space, including lines, pipes, wires, conduits and equipment connected with or appurtenant thereto.

Tenant shall not place any additional lock of any kind upon any window or interior or exterior door in the Office Space, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefor is maintained on the Office Space, nor refuse, upon the expiration or sooner termination of this Office Space Lease, to surrender to the City any and all keys to the interior or exterior doors on the Office Space, whether said keys were furnished to or otherwise procured by Tenant. If any keys furnished to Tenant by the City are lost, Tenant shall pay the City, on demand therefor, as Additional Rent, the cost for replacement thereof.

7.11 NO AUCTION

Tenant agrees not to allow or permit any sale by auction or hawking on the Office Space.

SECTION 8 - UTILITIES AND SERVICES

The Tenant shall verify capacity of all systems in the Office Space and shall be responsible for all utility system upgrades that are necessary for its needs and shall be responsible for the payment of all utilities that are required for in the Office Space. At its option, the City may bill Tenant its pro-rata share of certain utilities consumed or estimated to be consumed. In such case, the City will charge a rate no higher than that, which would allow the City to recover the cost of providing the service, which will include but not be limited to standard rates, fees and charges established by the Airport.

8.01 HEATING AND AIR CONDITIONING (HVAC)

Tenant shall, at its expense, furnish, install and maintain any ductwork and other connections within or leading into its Office Space required to connect and complete the HVAC from the Airport's central system for the Office Space. At its expense, the City shall furnish normal and reasonable quantities of central air from the central HVAC system to the Office Space and all necessary power and electricity for such central air circulation. Subject to conditions beyond its control, the City shall maintain under normal conditions a temperature adequate for comfortable occupancy according to the season; provided, that Tenant properly maintains the ductwork and other connections within or leading into its Office Space and complies with the recommendations of the City's engineer regarding reasonable occupancy and use of the Office Space.

8.02 ELECTRICITY

Tenant shall, at its expense, furnish, install and maintain an electric meter at a location and of a type specified by the City, and shall pay all costs for electricity used within the Office Space. Tenant shall furnish, install and maintain all power circuits and connections required for equipment and mechanical systems used in the Office Space. Any bills by the City for such costs shall be due within 30 days and shall accrue interest at the Past Due Interest Rate if not paid when due. City will provide a premises wiring system to the Office Space that will handle electronic information such as telephone and telecommunications equipment. Tenant shall be responsible for any extension of the wiring and connection of any terminals and devices in accordance with City requirements, and shall pay for telephone service to the Office Space.

8.03 WATER SERVICE

If Tenant requires water service to the Office Space, Tenant shall, at its expense, furnish, install and maintain a water meter for the Office Space at a location and of a type specified by the City and shall pay all costs for water used within the Office Space. Tenant shall be responsible for all pipe tie-in and water hook-up of its equipment. City shall furnish water from the central water source in reasonable quantities; provided that Tenant complies with all water conservation programs in effect or as adopted.

8.04 LIGHTING

Tenant shall, at its expense, furnish, install and maintain all lighting fixtures and wiring for general illumination of the Office Space. Levels of illumination and wattage requirements shall be subject to approval by City.

8.05 STRUCTURAL MAINTENANCE

City shall, at its expense, maintain all structural parts of the Terminal and Concourses, including exterior glass, walls and roof but specifically excluding improvements made by Tenant.

8.06 COMMON USE SERVICES

The Manager may establish common use services at the Airport, including but not limited to trash and garbage removal, deliveries, industrial waste handling, recycling and security guards. The Manager reserves the right to establish charges for common use services based upon documented actual costs. Trash, sewer and deliveries will be common use services, which Tenant may be required to use and pay its prorata actual share; however, other common use services may be utilized at Tenant's option. Tenant agrees to pay the charges for those common use services which are utilized by Tenant.

8.07 INTERRUPTION OF SERVICES

Tenant agrees that City shall not be liable for failure to supply any utility services. City reserves the right to temporarily discontinue utility services at such time as may be necessary by reason of accident, unavailability of employees, repairs, alterations or improvements or whenever by reason of strikes, lockouts, riots, acts of God or any other happenings beyond the control of the City, the City is unable to furnish such utility services. The City shall not be liable for damages to persons or property for any such discontinuance, nor shall such discontinuance in any way be construed as cause for abatement of Rent or operate to release the Tenant from any of its obligations hereunder, except as otherwise provided in the Section entitled "Damage, Destruction or Loss."

SECTION 9 - INDEMNITY, INSURANCE AND GUARANTEES

9.01 INDEMNITY

Tenant hereby agrees to release and indemnify and save harmless the City, its officers and officials, agents and employees from and against any and all loss of or damage to property, or injuries to or death of any person or persons, including property and employees or agents of the City, and shall defend, indemnify and save harmless the City, its officers and officials, agents and employees from any and all claims, damages, suits, costs, expense, liability, actions, penalties or proceedings of any kind or nature whatsoever, including worker's compensation claims, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, its operations in connection herewith, its construction of the Office Space, or its use or occupancy of any portion of the Airport and including acts and omissions of officers and officials, employees, representatives, suppliers, invitees, contractors, subcontractors, and agents of the Tenant; provided, that the Tenant need not release, indemnify or save harmless the City, its officers and officials, agents and employees from damages resulting from the sole negligence of

the City's officers and officials, agents and employees. The minimum insurance requirements prescribed herein shall not be deemed to limit or define the obligations of Tenant hereunder.

9.02 INSURANCE

Required Insurance. Tenant agrees to secure at its own expense and to keep in force at all times during the Term (or any extended term) hereof, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of obligations under this Office Space Lease by the Tenant, its agents, representatives or employees. The types and amounts of insurance coverage Tenant must procure are specified in the Certificate of Insurance for Aviation, attached hereto as **Exhibit C**. Insurance requirements set forth on **Exhibit C** do not limit in any way the indemnity covenants contained in this Office Space Lease or the amount or scope of liability of Tenant under this Office Space Lease. The amounts listed indicate only the minimum amounts of insurance coverage that the City is willing to accept to help insure full performance of all terms and conditions of this Office Space Lease. Tenant specifically agrees to comply with each condition, requirement or specification set forth in **Exhibit C** during all periods when the required coverage is in effect. Insurance must be maintained without any lapse in coverage during the entire Term (or any extended term) of this Office Space Lease. Insurance canceled without the City's consent or failure by Tenant to provide evidence of renewal within 48 hours after written notice by City is a material breach and shall be deemed an immediate Event of Default under this Office Space Lease. All insurance required by Tenant under this Office Space Lease shall meet the following minimum requirements.

City as Additional Insured. The City shall be named as an additional insured in each general liability policy and as an additional insured and loss payee in each property insurance policy. Such insurance shall provide cross-liability coverage equivalent to the standard Separation of Insured's clause published by the Insurance Services Offices or a successor organization. Tenant shall supply the City with certification from the insurance carrier that the City is so named. Each such policy or certificate shall further provide that any coverage afforded the City as additional insured shall apply as primary insurance and other insurance issued to the City shall apply as excess and non-contributing insurance, and will not require any contribution from any insurance or self-insurance carried by the City.

Waiver of Subrogation. Tenant and the City waive any right of action that they and/or their insurance carriers might have against each other (including their respective employees, officers, commissioners, or agents) or against other tenants of the Airport for any loss, cost, damage, or expense (collectively "Loss") to the extent that such loss or damage is covered by any property insurance policy or policies maintained or required to be maintained pursuant to this Office Space Lease and to the extent that such proceeds (which proceeds are free and clear of any interest of third parties) are received by the party claiming the Loss. Tenant also waives any right of action it and/or its insurance carrier might have against the City (including its respective employees, officers, commissioners or agents) for any Loss described in Section 12, whether or not such Loss is insured. If any of Tenant's applicable insurance policies do not allow the insured to waive the insurer's rights of subrogation prior to a Loss, Tenant shall cause it to be endorsed with a waiver of subrogation that allows the waivers of subrogation required by this Section 9.02.

Company Ratings. Policies of insurance must be written by companies having an A.M. Best rating of "A-" or better or equivalent.

Certificates Required. Tenant shall furnish the City and County of Denver with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Office Space Lease. The certificate of insurance for each policy is to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates required by this Office Space Lease (including renewal certificates) shall be sent directly to Denver International Airport, Concessions Management Section, Airport Office Building, Room 9870, 8500 Pena Boulevard, Denver, Colorado 80249. The City's contract control number for this Office Space Lease shall be noted on each certificate of insurance. All certificates and any required endorsements are to be received and approved by the City and each insurance policy required by this Office Space Lease must be in effect at or prior to the Target Possession Date (or date of actual possession, if earlier). Any renewal certificate shall be delivered to the Airport Concessions Management Section at least 10 days prior to a policy's expiration date, except for any policy expiring after the Expiration Date of this Office Space Lease or any extension thereof. The City reserves the right to require and Tenant agrees to deliver upon request at any time, complete, certified copies of all insurance policies required by this Office Space Lease.

Certificates evidencing the existence of the policies, in such form as the Manager may require, shall be delivered to the Airport Concessions Management Section prior to the Target Possession Date. Upon written request by the Manager, Tenant agrees to furnish to Airport Concessions Management Section at any time thereafter during the Term (or any extended term) of this Office Space Lease the original or a certified copy of said policy or policies.

Deductibles and Retentions. Any deductible or self-insured retention exceeding fifteen percent (15%) of the per-occurrence or per-accident limit of a required policy is subject to approval by the City's Risk Administrator.

Tenant's Risk. The City in no way warrants that the minimum limits contained herein are sufficient to protect the Tenant from liabilities that might arise out of the performance of the terms and conditions of this Office Space Lease by the Tenant, its agents, representatives or employees. Tenant shall assess its own risks and as it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Tenant is not relieved of any liability or other obligations assumed or pursuant to the Office Space Lease by reason of its failure to obtain or maintain insurance in sufficient amounts, duration or types. In no event shall the City be liable for any: (a) business interruption or other consequential damages sustained by Tenant; (b) damage, theft or destruction of Tenant's inventory, improvements, or property of any kind; or (c) damage, theft or destruction of an automobile, whether or not insured. If at any time any of the insurance policies shall be or become unsatisfactory to the City as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the City, Tenant shall promptly obtain a new and satisfactory replacement policy and give the City an updated certificate of insurance that complies with the new insurance requirements of the City.

Governmental Immunity. The Parties hereto understand and agree that the City and County of Denver, its officers, officials and employees, are relying on, and do not waive or intend to waive by any provisions of this Office Space Lease, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the City and County of Denver, its officers, officials and employees.

9.03 PERFORMANCE SURETY

Upon execution of this Office Space Lease, Tenant shall deliver to the Manager, and maintain in effect at all times throughout the Term, including a period of six (6) months after expiration of the Term (or any extended term) or earlier termination of this Office Space Lease, an irrevocable letter of credit or such other acceptable surety as first approved in writing by City, in an amount initially equal to six (6) months of the initial monthly rent, which is stated on the Summary Page. Such irrevocable letter of credit or other acceptable surety, sometimes referred to herein as shall be subject to claim in full or in part by the City, payable without condition to the City with surety acceptable to and approved by the City's Manager, and if a letter of credit, upon presentation of the letter of credit and a sight draft. All irrevocable letters of credit shall be in a form, and issued by a bank, acceptable to the City and shall be subject to claim in full or in part by the City as provided herein. The performance surety shall guarantee to the City full and faithful performance of (i) all of the terms and provisions of this Office Space Lease as it may be amended, substituted, supplemented or extended, and (ii) all obligations and duties of Tenant under all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport as amended or supplemented.

Any provision herein to the contrary, notwithstanding, if at any time during the Term (or any extended term) hereof, the Manager deems the amount of the surety insufficient to properly protect the City from loss hereunder because Tenant is or has been in arrears with respect to such obligations or because Tenant has, in the opinion of the Manager, violated other terms of this Office Space Lease, Tenant agrees that it will, after receipt of notice and an opportunity to cure, increase the surety to an amount required by the Manager; provided however, the percentage increase in the amount of surety shall not exceed the annual percentage increase that has occurred with respect to Tenant's Minimum Annual Guarantees in effect under this Office Space Lease.

Whether in the form of a surety bond or Irrevocable Letter of Credit, the surety may be issued for a one (1) year period, provided, however, that evidence of renewal or replacement of the surety must be submitted annually by Tenant to the City at least sixty (60) days prior to the Expiration Date of the instrument. The surety shall contain language that the surety company shall notify the City in writing within forty-five (45) days of a determination that the surety is to be terminated, or is not going to be renewed. The surety bond must be executed by Tenant and by a surety meeting the qualifications set forth below.

If the City chooses to draw upon the Performance Surety as provided in Section 11.02; it shall be the obligation of Tenant to replenish the Performance Surety to the originally contracted level within 30 days of such draw down by the City. Failure to maintain or replenish the Performance Surety shall constitute a material breach of this Office Space Lease.

9.04 NO PERSONAL LIABILITY

No director, officer, manager, member or employee of either Party hereto shall be held personally liable under this Office Space Lease or because of its execution or attempted execution.

9.05 LICENSES, FEES, TAXES AND LIENS

Doing Business in Colorado. In the event that Tenant shall be a corporation or a limited liability company, the Parties executing this Office Space Lease on behalf of Tenant hereby covenant and warrant that Tenant is a duly qualified corporation or limited liability company and all necessary steps have been taken to become authorized to do business in Colorado; corporate taxes have been paid to date; and all future forms, reports, fees and other documents or payments necessary to comply with applicable laws will be filed or paid when due.

Fees. Tenant agrees to promptly pay all excises, license fees and permit fees of whatever nature applicable to its operations hereunder and to take out and keep current and display when required all municipal, state or federal licenses required for the conduct of its business at and upon the Office Space and further agrees not to permit any of said excises, license fees or permit fees to become delinquent.

Taxes and Assessments. The Tenant shall pay all taxes and assessments of whatever character that may be levied, assessed, or charged upon the property, possessory interest, personal, occupied, used, or owned by the Tenant, or upon the rights of the Tenant to occupy the Office Space, or upon the Tenant's Tenant Improvements and any other property thereon, or upon the Tenant's rights or operations hereunder. The Tenant shall have the right at its sole cost or expense to contest such taxes as may have been or may be levied, assessed or charged.

Liens. Tenant also shall not permit, create, or suffer to be created or to remain, any mechanic's, materialman's or any other lien to become attached or be foreclosed upon the Office Space or Improvements thereto, or any part or parcel thereof, by reason of any construction, services, work or labor performed or materials furnished by any mechanic or materialman. If any such lien shall at any time be filed, Tenant may contest the same in good faith. Notwithstanding such contest, Tenant shall, within fifteen (15) calendar days after the filing thereof, cause such lien to be released of record by payment, bond, or order of a court of competent jurisdiction. In the event Tenant fails to clear the record of any such lien within the aforesaid period, the City may remove said lien by paying the full amount thereof, or by bonding, or in any other manner the City deems appropriate, without investigating the validity thereof, and irrespective of the fact that Tenant may contest the propriety or the amount thereof. Thereafter Tenant shall pay the City the amount paid by the City in connection with the discharge of said lien. Upon demand, Tenant agrees to reimburse the City as provided in Section 5.09. Nothing contained in this Office Space Lease shall be construed as consent on the part of the City to subject the Office Space to any lien or liability.

Prompt Payment. Tenant agrees to furnish to the Manager, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment by it of Social Security, unemployment insurance and worker's compensation insurance, and all required licenses and all taxes. Tenant further agrees to promptly pay when due all bills, debts and obligations incurred by it in connection with its operations hereunder and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against the Office Space or improvements thereon which will in any way impair the rights of the City under this Office Space Lease.

SECTION 10 - RESERVED

SECTION 11 - DEFAULT AND REMEDIES

11.01 DEFAULT

Tenant shall be in default under this Office Space Lease if Tenant:

- A. Fails to timely pay when due to City the compensation, rent or any other payment required hereunder and such failure is not cured within ten (10) days after written notice by the City describing the failure to pay; or
- B. Tenant is in default under any other Airport agreement with the City; or
- C. Becomes insolvent, or takes the benefit of any present or future insolvency or bankruptcy statute, or makes a general assignment for the benefit of creditors, or consents to the appointment of a receiver, trustee or liquidator of any or substantially all of its property; or
- D. Transfers its interest under this Office Space Lease, without the prior written approval of the City, by reason of death, operation of law, assignment, sublease or otherwise, to any other person, entity or corporation; or
- E. Abandons, deserts or vacates the Office Space; or
- F. Suffers any lien or attachment to be filed against the Office Space, the Airport or City's property because of any act or omission of Tenant, and such lien or attachment is not discharged or contested by Tenant in good faith by proper legal proceedings within 20 days after receipt of notice thereof by Tenant; or
- G. Uses or gives its permission to any person to use for any illegal purpose any portion of the Airport made available to Tenant for its use under this Office Space Lease.
- H. Fails to keep, perform and observe any other promise, covenant or agreement set forth in this Office Space Lease and such failure continues for a period of more than 30 days after delivery by Manager of a written notice of such breach or default, except where a shorter period is specified herein, or where fulfillment of its obligation requires activity over a period of time and Tenant within 10 days of notice commences in good faith to perform whatever may be required to correct its failure to perform and continues such performance with all due diligence and without interruption, except for causes beyond its control, to effect the cure as soon as practical; or

11.02 REMEDIES

If Tenant defaults in any of the covenants, terms and conditions herein, the City may exercise any one or more of the following remedies: in addition to any other rights and remedies provided elsewhere in this Office Space Lease, or otherwise at law or in equity.

Right to Draw on Performance Surety. In the case of failure to pay Rent or Additional Rent or in the case of breach or violation of any other provision, including Tenant's obligations and duties under all general rules and regulations adopted by the City or the Manager for the management, operation and control of the Airport, after written notice by the City describing and

giving Tenant an opportunity to cure the default, failure, breach or violation, the City may immediately, and without further notice to Tenant, draw upon the Performance Surety in any amount necessary to satisfy the damages sustained or reasonably expected to be sustained.

Elect to Continue and Enforce Office Space Lease. The City may elect to allow this Office Space Lease to continue in full force and effect without termination and to enforce all of City's rights and remedies hereunder, including without limitation the right to collect Rent as it becomes due together with Past Due Interest.

Termination of Office Space Lease. The City may cancel and terminate this Office Space Lease and repossess the Office Space, with or without process of law, and without liability for so doing, upon giving 30 days written notice to Tenant of its intention to terminate, at the end of which time all the rights hereunder of the Tenant shall terminate, unless the default, which shall have been stated in such notice, is by its nature curable and shall have been cured within such 30 days.

Damages upon Termination. If City elects to terminate, Tenant shall be liable to City for all amounts owing at the time of termination, including but not limited to Rent due plus interest thereon at the Past Due Interest Rate together with any other amount to fully compensate City for all loss of Rent, damages, and costs, including attorney's fees, caused by Tenant's failure to perform its obligations hereunder, or which in the ordinary course would likely result therefrom. Nothing in Sections 11.01 or 11.02 shall be construed to grant a right to Tenant to cure a default, which by its nature is not capable of being cured.

Re-Entry. Without accepting surrender and without prejudice to any remedies for damages or breach, the City may elect to reenter and take possession of the Office Space or any part thereof, by suitable action or proceeding at law, or by force or otherwise, without being liable for trespass, indictment, prosecution or damages therefore, and may expel Tenant or any person claiming under Tenant, and remove all effects as may be necessary, without prejudice to any remedies for damages or breach. Such reentry shall not be construed as termination of this Office Space Lease unless a written notice specifically so states; however, the City reserves the right to terminate the Office Space Lease at any time after reentry.

Notwithstanding re-entry by the City, Tenant shall continue to be liable for all amounts due as Rent under this Office Space Lease, on the dates specified and in such amounts as would be payable if default had not occurred. Upon expiration of the Term (or any extended term), or any earlier termination of this Office Space Lease by the City, the City, having credited to the account of Tenant any amounts recovered through reletting, shall refund, without interest, any amount that exceeds the Rent, damages and costs payable by Tenant under this Office Space Lease.

11.03 REMEDIES CUMULATIVE

The remedies provided in this Office Space Lease shall be cumulative and shall in no way affect any other remedy available to City under law or equity.

11.04 ADMINISTRATIVE HEARING

Disputes arising out of this Office Space Lease shall be resolved by administrative hearing before the Manager following the procedures outlined in Denver Revised Municipal Code

Section 5-17; provided, that the City shall retain its right to obtain an order of eviction in accordance with applicable state law. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this paragraph. The Parties hereto agree that the Manager's determination resulting from said administrative hearing shall be final, subject only to the Tenant's right to appeal the determination under Colorado Rules of Civil Procedure, Rule 106.

11.05 WAIVERS

No failure of City to insist upon the strict performance of a term, covenant or agreement contained in this Office Space Lease, no failure by City to exercise any right or remedy under this Office Space Lease, and no acceptance of full or partial payment during the continuance of any default by Tenant shall constitute a waiver of any such term, covenant or agreement or a waiver of any such right or remedy or a waiver of any default by Tenant.

SECTION 12 - DAMAGE, DESTRUCTION OR LOSS

12.01 DAMAGE TO OR DESTRUCTION OF OFFICE SPACE

If the Office Space, or any portion thereof, is destroyed or damaged by fire or otherwise to an extent which renders it unusable, City may rebuild or repair any portions of the building structure destroyed or damaged, and, if the cause was beyond the control of Tenant, the obligation of Tenant to pay the Rent hereunder shall abate as to such damaged or destroyed portions during the time they are unusable. If the City elects not to proceed with the rebuilding or repair of the building structure, it shall give notice of its intent within 90 days after the destruction or damage. Tenant may then, at its option, cancel and terminate this Office Space Lease.

12.02 COOPERATION IN THE EVENT OF LOSS

If the City elects to rebuild, this Office Space Lease shall continue in full force and effect subject to the abatement of rent during the time the damaged or destroyed portions are unusable. City and Tenant shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss or damage.

12.03 LOSS OR DAMAGE TO PROPERTY

The City shall not be liable for any loss of property by theft or burglary from the Airport or for any damage to person or property on the Airport resulting from operating the elevators, or electric lighting, or water, rain or snow, which may come into or issue or flow from any part of the Airport, or from the pipes, plumbing, wiring, gas or sprinklers thereof or that may be caused by the City's employees or any other cause, and Tenant agrees to make no claim for any such loss or damage at any time, except for any abatement of Rent or right to insurance proceeds provided for in this Section.

12.04 MUTUAL WAIVER; INSURANCE COVERAGE

City and Tenant each waive any and every claim for recovery from the other for any and all loss of or damage to the Office Space or to the contents thereof, which loss or damage is covered by valid and collectible fire and extended insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Since this mutual waiver will preclude the

assignment of any such claim by subrogation or otherwise to an insurance company or any other person, Tenant agrees to give to each insurance company which has issued, or may issue, to the Tenant policies of fire and extended coverage insurance, written notice of the terms of this mutual waiver, and to have such insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage by reason of this waiver.

Tenant Caused Damage. If Tenant caused the damage described in this Section 12, Tenant shall pay for all of the full rebuilding costs, except to the extent of the waiver of subrogation set forth in this Section 12 and Rent shall not be reduced.

Limits of the City's Obligations Defined. It is understood that, in the application of this Section 12, the City's obligations shall be limited to the repair or reconstruction of the Office Space to a condition with utilities stubbed into the Office Space suitable for Tenant to re-build. Redecoration, Improvements, Trade Fixtures, inventory and replacement of all of Tenant's furniture, equipment, inventory and supplies shall be the sole responsibility of Tenant and any such redecoration and refurnishing/re-equipping shall be of equivalent quality to that originally installed under the terms of this Office Space Lease.

No Duty to Protect. Protection against loss by fire or other casualty to any of the contents of the Office Space shall not, at any time, be an obligation of the City.

12.05 RELEASE

Tenant agrees that the City shall not be liable to Tenant for any injury to or death of any of the Tenant's agents, representatives or employees or of any other person or for any damage to any of Tenant's property or loss of revenue caused by any third person in the maintenance, construction, or operation of facilities at the Airport, or caused by any third person using the Airport, or caused by any third person navigating any aircraft on or over the Airport, whether such injury, death or damage is due to negligence or otherwise.

SECTION 13- RESERVED

SECTION 14 - MISCELLANEOUS PROVISIONS

14.01 ADVERTISING AND PUBLIC DISPLAYS

Tenant shall not install or have installed or allow to be installed upon or within the Office Space, without the prior written approval of the Manager or his authorized representative, any sign, either lighted or unlighted, poster or other display of advertising media, including material supplied by manufacturers of merchandise offered for sale, as well as other types of display specified in the DIA Design Standards. Permission will not be granted for any advertising which fails to comply with DIA Design Standards or DIA Tenant Development Guidelines, or any advertising material, fixture or equipment which extends beyond the Office Space.

14.02 AGREEMENT BINDING UPON SUCCESSORS

This Office Space Lease, subject to the provisions of the Section entitled "Assignment," shall be binding upon and shall inure to the heirs, personal representatives, successors and assigns of the respective parties hereto.

14.03 AGREEMENT MADE IN COLORADO; VENUE

This Office Space Lease shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Colorado and the Charter and Ordinances of the City and County of Denver and the Parties agree that venue for any action arising from this Office Space Lease shall be in the District Court in and for the City and County of Denver.

14.04 OFFICE SPACE LEASE SUBORDINATE TO AGREEMENTS WITH THE UNITED STATES

This Office Space Lease is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes and the expenditure of federal funds for the extension, expansion or development of the Airport or airport system. The provisions of Appendices 1 and 2 are incorporated herein by reference.

14.05 RIGHT TO DEVELOP AIRPORT

Tenant agrees that the City reserves the right to further develop or improve the Airport and all landing areas and taxiways as the City may see fit, regardless of the desires or views of Tenant and without any interference or hindrances from Tenant.

14.06 AGREEMENT SUBJECT TO AVIATION PRIORITY

Tenant's right to use the Office Space for the purposes as set forth in this Office Space Lease shall be secondary to, and subordinate to, the operation of the Airport. Tenant acknowledges that because of the location of the Office Space at the Airport, noise, vibrations, fumes, debris and other interference with the Permitted Use will be caused by Airport operations. Tenant hereby waives any and all rights or remedies against the City arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport. The City specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport together with the right to cause in said airspace such noise, vibration, fumes, debris, and other interference as may be inherent in the present and future operation of aircraft.

14.07 MODIFICATIONS REQUIRED BY FAA

In the event that the FAA or its successors requires modifications or changes in this Office Space Lease as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, Tenant agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Office Space Lease as may be reasonably required to satisfy the FAA requirements, subject to the provisions of this Office Space Lease.

14.08 ASSIGNMENT

Tenant shall not assign, transfer, sublease, pledge, hypothecate, surrender, or otherwise encumber (collectively "Transfer"), or dispose of this Agreement or any interest created by this Agreement or any interest in any portion of the same without the City's consent. Tenant shall

not grant any license or concession hereunder, or permit any other person or persons, company, or corporation to occupy the Office Space without first obtaining the written consent of the Manager who has the sole and absolute discretion to grant or deny consent. Any attempt by Tenant to in any way directly or indirectly Transfer all or part of its interest in this Agreement (including any attempt to transfer the ownership of the equity or voting interest in the stock if Tenant is a corporate entity or the ownership interest in such other entity or control of Tenant or Tenant's operations through sale, exchange, merger, consolidation, or other such Transfer) without the prior written consent of the Manager shall, at the option of said Manager, automatically terminate this Agreement and all rights of Tenant hereunder. These restrictions on Transfer shall also apply to assignment of activities, uses, privileges, and obligations authorized under this Agreement. The City's consent to a Transfer shall not include consent to enlarge the Term or modify other material provisions of this Agreement. The City's consent to a Transfer shall not constitute a release of liability of Tenant pursuant to the requested Transfer. The City's consent to one such Transfer shall not be deemed a consent to subsequent Transfers.

14.09 BOND ORDINANCES

This Office Space Lease is in all respects subject and subordinate to any and all City bond ordinances applicable to the Airport and airport system and to any other bond ordinances, which should amend, supplement or replace such bond ordinances. The Parties to this Office Space Lease acknowledge and agree that all property subject to this Office Space Lease which was financed by the net proceeds of tax-exempt bonds is owned by the City, and Tenant agrees not to take any action that would impair, or omit to take any action required to confirm, the treatment of such property as owned by the City for purposes of Section 142(b) of the Internal Revenue Code of 1986, as amended. In particular, the Tenant agrees to make, and hereby makes, an irrevocable election (binding on itself and all successors in interest under this Office Space Lease) not to claim depreciation or an investment credit with respect to any property subject to this Office Space Lease which was financed by the net proceeds of tax-exempt bonds and shall execute such forms and take such other action as the City may request in order to implement such election.

14.10 FORCE MAJEURE

Neither Party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of this Office Space Lease due to causes beyond the control of that Party, including without limitation strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such Party is not responsible or which is not in its power to control. A lack of funds, however, will never be deemed beyond a Party's power to control, but in no event shall this paragraph be construed so as to allow Tenant to reduce or abate its obligation to pay the Rent herein, or any other compensation due hereunder.

14.11 INCONVENIENCES DURING CONSTRUCTION

Tenant recognizes that from time to time during the Term (or any extended term) of this Office Space Lease, it may be necessary for City to commence or complete extensive programs of construction, expansion, relocation, maintenance and repair in order that the Airport and its facilities may be maintained, improved, and operated in accordance with any present or future

master layout plan, and that such construction, expansion, relocation, maintenance and repair may inconvenience the Tenant in its operation at the Airport. Tenant agrees that no liability shall attach to City, its officers, agents, employees, contractors, subcontractors and representatives by way of such inconveniences, and Tenant waives any right to claim damages or other consideration therefrom.

14.12 MASTER PLAN

Tenant agrees that no liability shall attach to the City, its officers, agents and employees by reason of any efforts or action toward implementation of any present or future master layout plan for the Airport, and waives any right to claim damages or other consideration arising therefrom.

14.13 NONDISCRIMINATION

In connection with the performance of work under this Office Space Lease, Tenant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability, and Tenant further agrees to insert the foregoing provision in all subcontracts hereunder.

14.14 INDEPENDENT CONTRACTOR

Tenant shall at all times have the status of an independent contractor without the right or authority to impose tort or contractual liability upon the City.

14.15 NOTICES

All notices required to be given to the City or Tenant hereunder shall be in writing and sent by certified mail, return receipt requested, as follows:

to City:	Manager of Aviation Denver International Airport Airport Office Building, 9th Floor 8500 Peña Boulevard Denver, CO 80249-6340
with a copy to:	Deputy Manager of Aviation, Commercial Denver International Airport Airport Office Building, 9th Floor 8500 Peña Boulevard Denver, CO 80249-6340
to Tenant	At the address and to the attention of the person so designated on the Summary Page.

Either Party hereto may designate in writing from time to time the address of substitute or supplementary persons within the State of Colorado to receive such notices. The effective date of service of any such notice shall be the date such notice is mailed or delivered to the intended Party.

14.16 PARAGRAPH HEADINGS

The paragraph headings herein are for convenience in reference only and are not intended to define or limit the scope of any provision of this Office Space Lease.

14.17 PATENTS AND TRADEMARKS

Tenant represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under this Office Space Lease. Tenant agrees to save and hold harmless the City, its officers, employees, agents and representatives from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Tenant under this Office Space Lease.

14.18 COLORADO OPEN RECORDS ACT

The Tenant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72-201 et seq., and all documents prepared or provided by Tenant under this Office Space Lease may be subject to the provisions of the Colorado Open Records Act. Any other provision of this Office Space Lease notwithstanding, including exhibits, attachments and other documents incorporated into this Office Space Lease by reference, all materials, records and information provided by the Tenant to the City shall be considered confidential by the City only to the extent provided in the Open Records Act and the Tenant agrees that any disclosure of information by the City consistent with the provisions of the Open Records Act shall result in no liability of the City. The Tenant agrees that it will fully cooperate with the City in the event of a request for disclosure of such documents or a lawsuit arising under such act for the disclosure of any documents or information, which the Tenant asserts, is confidential and exempt from disclosure.

In the event of a request to the City for disclosure of such information, time and circumstances permitting, the City will make a good faith effort to advise the Tenant of such request in order to give the Tenant the opportunity to object to the disclosure of any of material the Tenant may consider confidential, proprietary or otherwise exempt from disclosure. In the event of the filing of a lawsuit to compel disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Tenant agrees it will either intervene in such lawsuit to protect materials the Tenant does not wish disclosed, or waive any claim of privilege or confidentiality. If the Tenant chooses to intervene in such a lawsuit and oppose disclosure of any materials, the Tenant agrees to defend, indemnify, and save and hold harmless the City, its officers, agents, and employees, from any claim, damages, expense, loss or costs arising out of the Tenant's intervention including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

14.19 SECURITY

Compliance with Airport Security. It is a material requirement of this Office Space Lease that the Tenant shall comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect to Airport security. Tenant shall cause its officers, contractors, agents and employees to comply with any and all existing and future security regulations adopted by the City or the Transportation Security Administration ("TSA"), including 49 CFR Subtitle B, Chapter XII, as amended from time to time. Violation by Tenant or any of its employees of any rule, regulation or authorized directive from the City or the Transportation Security Administration with respect to Airport Security shall constitute a material breach of this Office Space Lease and any person who violates such rules may be subject to revocation of his/her access authorization. Tenant will reimburse the City, in full, for any fines or penalties levied against the City for security violations as a result of any actions on the part of Tenant, its agents, contractors, suppliers, guests, customers or employees and for any attorney fees or related costs paid by the City as a result of any such violation.

14.20 SEVERABILITY

If any provision in this Office Space Lease is held by a court to be invalid, the validity of other provisions herein which are severable shall be unaffected.

11.21 SURVIVAL OF PROVISIONS

All terms and conditions of this Office Space Lease which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Office Space Lease (by expiration of the term or otherwise) shall survive such termination and continue to be enforceable as provided herein.

14.22 AUTHORITY TO ENTER INTO AGREEMENT

The person(s) signing this Office Space Lease represents and warrants that s/he possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Office Space Lease and validly and legally bind Tenant to all the terms, performances and provisions of this Office Space Lease.

14.23 THIRD PARTIES

The enforcement of the terms and conditions of this Office Space Lease and all rights of action relating to such enforcement, this Office Space Lease shall not be deemed or construed to confer upon any third party or parties (except parties to whom the Tenant may assign this Office Space Lease in accordance with the terms hereof, and except any successor to the City) any right to claim damages or to bring any action or proceeding against either the City or the Tenant because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

14.24 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS

Tenant, its officers, agents and employees shall cooperate and comply with the provisions of the Federal Drug-Free Workplace Act of 1988 and Denver Executive Order No. 94, or any

successor thereto, concerning the use, possession or sale of alcohol or drugs. Tenant shall also prohibit consumption of alcohol within the Office Space. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring Tenant from City facilities or participating in City operations.

14.25 CITY SMOKING POLICY

Tenant agrees that it will prohibit smoking by its employees and the public in the Office Space and will not sell or advertise tobacco products. Tenant acknowledges that smoking is not permitted in Airport buildings and facilities except for designated smoking lounges. Tenant and its officers, agents and employees shall cooperate and comply with the provisions of the City's Executive Order No. 99 dated December 1, 1993, Executive Order No. 13 dated July 31, 2002, the provisions of Denver Revised Municipal Code, §§ 24-301 to 317 et. seq., and the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 et. seq.

14.26 NUMBER OR GENDER

The use herein of the singular shall include the plural, and use of the masculine, feminine, or neutral genders shall include all others.

14.27 JOINT AND SEVERAL LIABILITY

If Tenant is a partnership or other business organization, the members of which are subject to personal liability, the liability of each such member shall be deemed to be joint and several.

14.28 NO LIMIT ON CITY'S POWERS

Nothing in this Office Space Lease shall limit, in any way, the power and right of the City to exercise its governmental rights and powers, including its powers of eminent domain.

14.29 WAR OR NATIONAL EMERGENCY

During the time of war or national emergency, the City shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease is executed, the provisions of this Office Space Lease insofar as they are inconsistent with this Office Space Lease to the Government shall be suspended, and in that event, a just proportionate part of the Rent hereunder shall be abated.

14.30 ENTIRE AGREEMENT

The parties agree that the provisions herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No amendments, unless expressly reserved to the Manager herein, shall be valid unless executed by an instrument in writing by all the parties with the same formality as this Office Space Lease.

14.31 FINAL APPROVAL; COUNTERPARTS; ELECTRONIC SIGNATURES

This Office Space Lease, which is expressly subject to, and shall not be or become effective or binding on the City until approved by the City Council if required, and fully executed by all signatories of the City and County of Denver, may be executed in two or more counterparts,

each of which will be deemed an original signature page to this Office Space Lease. This Office Space Lease may be signed electronically by either Party in the manner specified by the City.

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PLANE-201309825-00

Contractor Name: Prospect International Airport Services, Inc.

By: _____

Name: Vicki L. Strobel
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Contract Control Number: PLANE-201309825-00

Contractor Name: Prospect International Airport Services, Inc.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By_____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DOUGLAS J. FRIEDNASH, Attorney
for the City and County of Denver

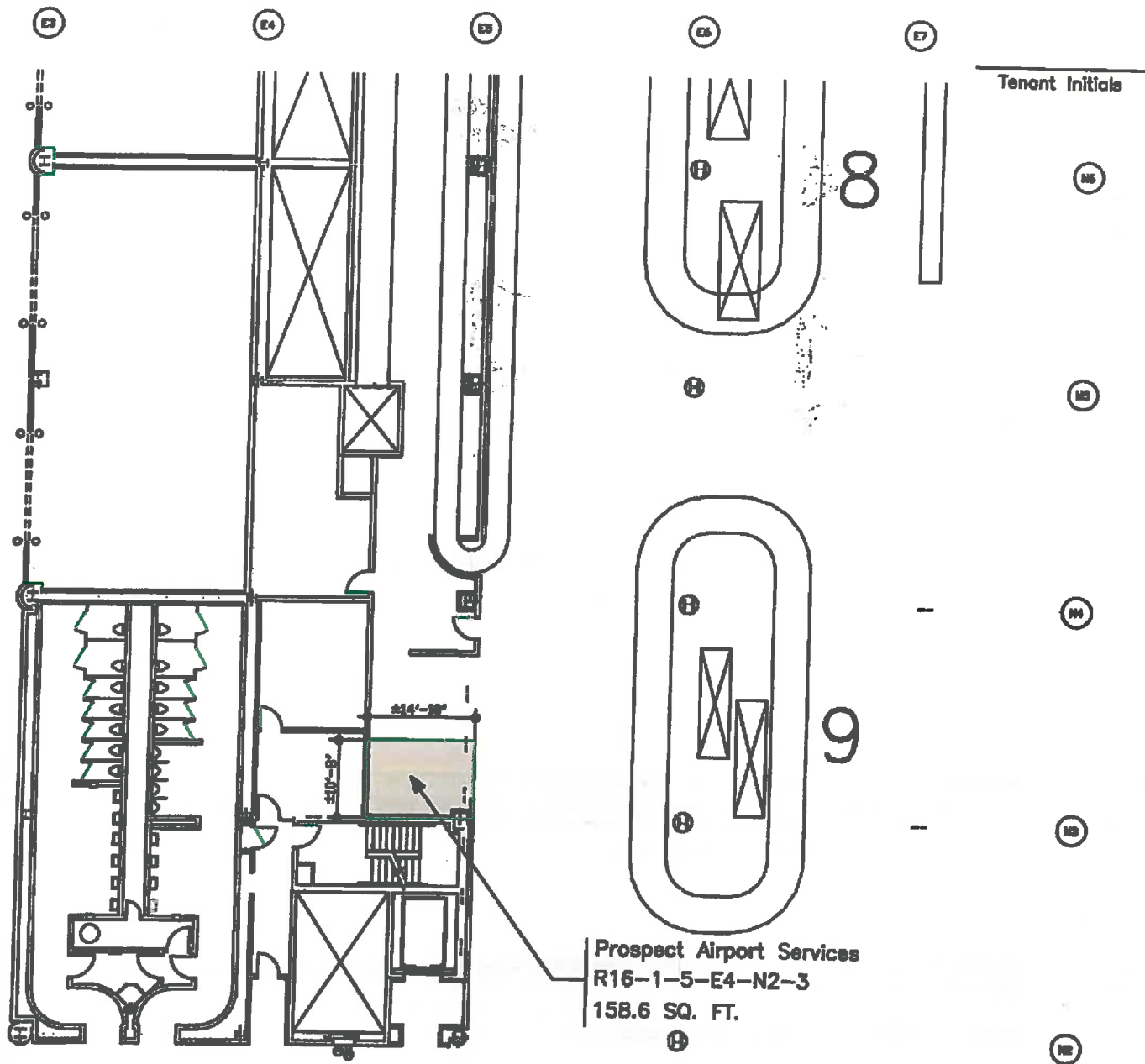
By_____

By_____

By_____



EXHIBIT A
OFFICE SPACE PLAN



CONC. WALL (BY CITY)
 FIELD/ROOFING WALL (BY CITY)
 GLASS WALL (BY CITY)
 TENANT LEASE LINE

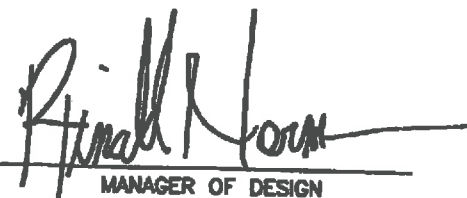
(H) (S) COLUMNS
 NIC = Not Included
 (No Lease or Sq. Ft. Data.)

SCALE 1" = 20.00'



NOTE:

This exhibit depicts only approximate dimensions and square footage of leased area based upon planning data and is not intended to show dimensions for construction details.


 MANAGER OF DESIGN

	<p>KEY PLAN TERMINAL AREA</p> 		<p>REVISED</p>	<p>DENVER INTERNATIONAL AIRPORT</p> <p>EXHIBIT A Terminal Level 5 Prospect Airport Services, Inc.</p> <p>CC#: pros DATE: 01/31/13</p>
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R16-1-5-3-7

EXHIBIT C

CITY AND COUNTY OF DENVER
CERTIFICATE OF INSURANCE FOR DEPARTMENT OF AVIATION

☐ Original COI

☐ Advice of Renewal

☐ Change

Party to Whom this Certificate is Issued:

Name and Address of Insured:

CITY AND COUNTY OF DENVER
Attn: Risk Management, Suite 8810
Manager of Aviation
Denver International Airport
8500 Pena Boulevard, Room 8810
Denver CO 80249

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201309825 - Office Space Lease Agreement

I. MANDATORY COVERAGE

Colorado Workers' Compensation and Employer Liability Coverage

Coverage: COLORADO Workers' Compensation

Minimum Limits of Liability (In Thousands)

WC Limits: \$100, \$500, \$100

And Employer's Liability Limits:

Any Policy issued under this section must contain, include or provide for the following:

1. All States Coverage or Colorado listed as a covered state for the Workers' Compensation
2. Waiver of Subrogation and Rights of Recovery against the City and County of Denver (the "City"), its officers, officials and employees.

Commercial General Liability Coverage

Coverage: Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 or equivalent)

Minimum Limits of Liability (In Thousands):

Each Occurrence:	\$1,000
General Aggregate Limit:	\$2,000
Products-Completed Operations Aggregate Limit:	\$2,000
Liquor Liability	\$2,000
Personal & Advertising Injury:	\$1,000
Fire Damage Legal - Any one fire	\$1,000

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds, per ISO form CG2010 and CG 2037 or equivalents.
2. Coverage for defense costs of additional insureds outside the limits of insurance, per CG0001.
3. Liability assumed under an Insured Contract (Contractual Liability).
4. The full limits of coverage must be dedicated to apply to this project/location, per ISO form CG2503 or equivalent.
5. Waiver of Subrogation and Rights of Recovery, per ISO form CG2404 or equivalent.
6. Separation of Insureds Provision required
7. General Aggregate Limit Applies Per: Policy ___Project ___X___Location___, if applicable

Business Automobile Liability Coverage

Coverage: Business Automobile Liability (coverage at least as broad as ISO form CA0001)

Minimum Limits of Liability (In Thousands): Combined Single Limit \$1,000

Any Policy issued under this section must contain, include or provide for the following:

- 1. Symbol 1, coverage for any auto. If no autos are owned, Symbols 8 & 9, (Hired and Non-owned) auto liability.**
- 2. If this contract involves the transport of hazardous cargo such as fuel, solvents or other hazardous materials may occur, then Broadened Pollution Endorsement, per ISO form CA 9948 or equivalent and MCS 90 are required.**

II. ADDITIONAL COVERAGE

Umbrella Liability

Coverage:

Umbrella Liability, Non Restricted Area Minimum Limits of Liability (In Thousands)	Each Occurrence and aggregate	\$1,000
Umbrella Liability, Unescorted airside access Minimum Limits of Liability (In Thousands)	Each Occurrence and aggregate	\$9,000

Any Policy issued under this section must contain, include or provide for the following:

- 1. City, its officers, officials and employees as additional insureds.**
- 2. Coverage in excess of, and at least as broad as, the primary policies in sections WC-1, CGL-1, and BAL-1.**
- 3. If operations include unescorted airside access at DIA, then a \$9 million Umbrella Limit is required.**

Property Coverage

Coverage:

Personal Property, Contents, Fixtures, Tenant Improvements and Betterments

Minimum Limits of Liability (in Thousands):

- o 100% of the Replacement Cost value of Personal Property, Contents, Fixtures, Tenant Improvements and Betterments**
- o Covered Cause of Loss – Special Form including glass coverage and signs**
- o Replacement Cost Endorsement**

Any Policy issued under this section must contain, include or provide for the following:

- 1. City, its officers, officials and employees as additional insureds.**
- 2. Waiver of Subrogation Applies to City as Landlord for any protected Landlord Property.**
- 3. In the event of payment of any Loss involving Tenant Improvements and Betterments, permanent fixtures, etc, the Insurance carrier shall pay the City (as Landlord) its designee first for said property loss**

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
2. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the Insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
3. Advice of renewal is required
4. All Insurance companies issuing policies hereunder must carry at least an A -VI rating from A.M. Best Company or obtain a written waiver of this requirement from the City's Risk Administrator.
5. Compliance with coverage requirement by equivalent herein must be approved in writing by the City's Risk Administrator prior to contract execution.
6. No changes, modifications or interlineations on this Certificate of Insurance shall be allowed without the review and approval of the Risk Administrator prior to contract execution.
7. The Insured named above shall promptly advise the City in the event any general aggregates or other aggregate limits are reduced below the required per occurrence limits. At the Insured's expense, the Insured will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the City a new Certificate showing such coverage is in force.

IV. NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the Issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.

EXHIBIT X

PROVISIONS FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS

GENERAL PROVISIONS

SECTION 1: GENERAL. Except as the context otherwise requires and unless otherwise expressly provided herein, the capitalized terms in this Exhibit X to the Agreement shall have the same meaning as any similarly capitalized terms defined in the Agreement or any exhibit thereto. Reference to Denver International Airport (DIA), Department of Aviation or Manager of Aviation shall mean that entity specifically, or that division or individual authorized to represent that entity. Reference to Tenant shall include "Concessionaire" as the context requires.

SECTION 2: IMPROVEMENTS. "Improvements," which may also be known as "Concession Improvements" or "Tenant Improvements," shall mean any new construction, equipment, finishes, fixtures, systems, furnishings and furniture installed by Tenant, as well as modifications or alterations to existing construction, equipment, finishes, fixtures, systems, furnishings and furniture which conform to drawings and specifications approved in writing by the Manager of Aviation. Such drawings and specifications must provide for the necessary and proper operation of the business contemplated under this Agreement.

SECTION 3: COMPLIANCE WITH LAWS AND REGULATIONS. Tenant agrees to comply with and require its contractors to comply with all applicable federal, state and local laws and all general rules and regulations applicable to construction at DIA, including but not limited to payment of prevailing wages and sales and use taxes, compliance with the Americans with Disabilities Act, 42 USC 12,000 et seq. and its regulations.

In addition to the above, the Tenant and its contractors shall comply with all DIA specific rules and regulations regarding site access, use of site, safety, security, design and construction and shall obtain and pay for all related permits. Failure to comply will be grounds for denial of access and/or suspension of construction activities. Regulations in force specific to DIA include but are not limited to the following:

The Denver Municipal Airport System Rules and Regulations

DIA Design Standards

DIA Tenant Development Guidelines

SECTION 4: PAYMENT OF PREVAILING WAGE RATES. Tenant shall require its contractor and all of its subcontractors to pay every worker, laborer or mechanic employed by them in the performance of the construction of the Improvements prevailing wages, including fringe benefits or their cash equivalent, for the same class and kind of work in the City and County of Denver, as determined by the Career Service Board under the provisions of Section 20-76 of the Denver Revised Municipal Code. The wages shall be those prevailing at the time of the contractor's final bid, and the Tenant shall require the contractor to submit with its bid the wage schedule applicable. The contractor shall post in a prominent and easily accessible place at the site of the Improvements the scale of wages to be paid by the contractor and all subcontractors at any tier working under the contractor. The contractor shall furnish to the Mayor's Office of Contract Compliance and to the Auditor, or his authorized representative, each week during which work is in progress, a true and correct copy of the payroll records of all workers employed to perform

delivered to the DIA Division of Planning and Development at least 15 days prior to the commencement of any design work to be performed by Tenant's consultants and any construction work for Improvements. If a binder is delivered, it shall be replaced within 30 days by a certified copy of the policy or the required certificate. Policies shall be in a form and of a company acceptable to and approved by the City, and certificates shall be on standard City and County of Denver Certificate of Insurance forms.

Each such policy or certificate shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without 45 days prior written notice (10 days for nonpayment of premium) given by certified mail, return receipt requested, to the Manager of Aviation, 8500 Peña Boulevard, Denver, Colorado 80249-6340.

Each such policy or certificate shall further provide that any coverage afforded the City and County of Denver as an additional insured under the policy shall apply as primary insurance and any other insurance issued to the City and County of Denver shall apply as excess and noncontributing insurance.

Any renewal certificate shall be delivered to the Manager of Aviation at least 10 days prior to the expiration of each expiring policy. If at any time any of the insurance policies shall be or become unsatisfactory to the Manager of Aviation as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Manager of Aviation, Tenant shall promptly obtain a new and satisfactory replacement policy.

SECTION 8: LIMITATION ON LIABILITY. Tenant agrees that no liability shall attach to the City for any damages or losses incurred or claimed by Tenant or any other person or party on account of the construction or installation of the Improvements or other Improvements to the Tenant's site made by the Tenant. Tenant agrees that no liability shall attach to the City for any interference or delay caused by construction in adjacent areas, travelers, other businesses or airport operations, including without limitation damages or losses in the nature of delay damages, lost labor productivity, and impact damages. Tenant agrees to indemnify, defend and hold harmless the City from any loss, cost, damage or expense incurred, claimed, asserted or arising in connection with Tenant's or its contractors' or agents' construction or installation of the Improvements or other Improvements to the site made by the Tenant.

DESIGN PROVISIONS

SECTION 9: DESIGN PROCEDURES. Refer to Manual 1 of the DIA Tenant Development Guidelines for procedures and requirements regarding design, including but not limited to design process and schedule, submittal requirements, review and approval process, design modifications and project coordination.

Approval of the Manager of Aviation extends to and includes consideration of architectural, structural, mechanical, electrical, specialty systems, site, signage, landscaping and aesthetic matters, and DIA reserves the right to reject any design submitted and to require Tenant to resubmit designs and layout proposals until they meet with the approval of the Manager of Aviation. No substantial changes or alterations shall be made in said drawings or specifications after approval by the Manager of Aviation, and no alterations or improvements shall be made to or upon the Tenant's site without prior approval.

Tenant CADD Submittal Requirements: All issue for construction and project record drawings shall be provided by the tenant to DIA in AutoCAD Rel. 14 or 2000 .dwg file format in

accordance with DIA CADD standards set forth in Design Standards Manual 1. All design drawings submitted by the Tenant to the DIA shall be provided in the latest release of AutoCAD format in accordance with the DIA's Design Standards Manual.

Concession CADD Submittal Requirements: AutoCAD Rel. 14 or 2000 .dwg format CADD files that match the tenant's hardcopy drawings must be submitted via: CD-ROM, 3.5" disk, IOMEGA Zip/JAZZ (1 GB) disk in MS-Windows format. All drawings must represent precision input and follow industry standard CADD practices. The drawings must reflect true design dimensioning and must NOT be graphic representations of the design. All site, civil and utility drawings MUST be produced using units in feet and the DIA Grid Coordinate System. The DIA project manager must approve submittal and may require adherence to the requirements set forth in DIA design standards.

In addition to the above, Tenant is responsible for coordination with the Denver Building Inspection Division, Zoning, Fire Department, Wastewater Management, Consumer Protection, Health and Hospitals, etc. as may be required to comply with submittal, review and approval requirements in order to obtain all required permits. Prior to the issuance of a Notice to Proceed with Improvements from the Manager of Aviation, the Tenant shall obtain and pay for all approvals, licenses and permits required for the Improvements. Whenever a conflict arises between state or local law, ordinances or regulations and federal law or regulations, the most stringent law or regulations applicable to this Agreement shall control.

SECTION 10: DESIGN STANDARDS. First-class standards of design and construction are required, and all Improvements shall conform to applicable statutes, ordinances, building codes, and regulations as well as the DIA Design Standards and DIA Tenant Development Guidelines, as they may be amended from time to time, and any other applicable design, construction, and maintenance standards.

Approval of the Manager of Aviation shall extend to and include consideration of architectural and aesthetic matters and the City reserves the right to reject any designs submitted and to require the Tenant to resubmit designs and layout proposals until they meet with the City's approval. If any portion of the plans and specifications is disapproved by the City, the Tenant shall promptly submit necessary modifications and revisions thereof. The approval given by the Manager of Aviation shall not constitute a representation or warranty as to such conformity; therefore, responsibility remains with the Tenant at all times.

CONSTRUCTION PROVISIONS

SECTION 11: CONSTRUCTION PROCEDURES. Refer to Manual 1 of the DIA Tenant Development Guidelines for procedures and requirements regarding construction, including but not limited to construction schedule, submittal requirements, review and approval process, construction inspections, construction modifications and project coordination.

Compliance with standards: All construction work shall comply with the requirements of and standards established by the City and all other appropriate governmental agencies and entities. The City shall at all times have the right to monitor and inspect any construction to assure that the Improvements are constructed and installed in full compliance with the plans and specifications.

Standard of Performance: All work done by the Tenant or its contractors shall be done in a first-class workmanlike manner using only good grades of materials and shall comply with all

insurance requirements and all applicable laws and ordinances and rules and regulations of governmental departments or agencies. Whenever a conflict arises between State or local law, ordinances or regulations and Federal law or regulations, Federal law or regulations applicable to this agreement shall control.

City Inspection: All construction work, materials, and installations involved in or incidental to the construction of the improvements undertaken by the Tenant throughout the term hereof shall be subject at all times to inspection and approval by the City. DIA shall at all times have the right of access to the construction site and to monitor and inspect the construction of all improvements to insure that all improvements are constructed and installed in compliance with approved drawings and specifications.

DIA shall have the right to halt construction of the improvements or deny access to the site at any time if construction is at material variance from the approved drawings and specifications until such variance is corrected, or if such construction poses an immediate safety hazard at the Airport, until such safety hazard is eliminated. The City shall cooperate and use its best efforts to alleviate and resolve any such variance or impediment to the safe operation of the Airport so as to permit continued construction as expeditiously as possible.

In order to assist DIA in monitoring and inspecting construction, the Tenant shall submit, or cause to be submitted for information and record, copies of all field test reports, certificates of insurance, waivers of liens, material certificates, shop drawings and submittals for review for compliance with DIA design and construction standards, contractor application for payment requests, construction progress reports, notification of substantial completion of improvements and final acceptance, two copies of maintenance and operation manuals in connection with building systems and all updates thereof, as-built documents, and any other documents related to the construction of the improvements which may be reasonably requested by DIA.

No change order or other contract modification which materially changes the scope of the improvements shall be executed without prior approval of the Manager of Aviation, whose approval shall not be unreasonably withheld. The City will approve, conditionally approve, or disapprove submissions of change orders which materially change the scope of the work within a reasonable period of time following receipt thereof. Any conditional approval or disapproval shall be accompanied by an explanation as to the reason for the condition.

The Building Inspection Division of the City and County of Denver shall also receive copies of all change orders. Any conditional approval or disapproval shall be accompanied by an explanation of the reasons.

Tenant is responsible for all temporary utilities required during construction. Tenant, at its sole cost and expense, shall obtain and make utility connections, hook-ups or taps as necessary or as stipulated in this Agreement, securing all necessary applications or permits and paying all associated fees. Tenant, at its sole cost and expense, shall provide meters, calibrated by the utility company, and maintain equipment as required to provide accurate measurement of usage and consumption. DIA makes no warranty as to the location of structures, wiring, fixtures or systems, and Tenant accepts them on an "as is" basis without further recourse against DIA as to their location, number or suitability for the particular purposes of the Tenant.

Tenant is responsible for maintaining a clean, orderly and safe construction site, free of accumulated construction debris and waste materials and shall be responsible for legal removal of same. Construction shall be accomplished without interfering with travelers, airport

operations or other businesses, providing barricades and/or construction enclosures as required.

SECTION 12: CONSTRUCTION BONDS AND PERMITS. Prior to Notice to Proceed with construction Improvements, Tenant and its contractor shall deliver to the Manager of Aviation performance and payment bonds and copies of all required permits, licenses and all other documents as required by Manual 1 of the DIA Tenant Development Guidelines.

SECTION 13: MODIFICATIONS AND ALTERATIONS. Modifications and alterations to existing tenant improvements are subject to the same requirements and provisions as new tenant improvements as itemized in this Exhibit X and the Lease Agreement.

Advance Notice of Modification: The Tenant shall give or cause to be given to the City advance notice before performing any material modification to the improvements.

Expense of Alterations. Any work necessary to make any alterations, improvements, or additions to the facility throughout the term of this Agreement shall be done at the Tenant's cost and expense, in accordance with and subject to all of the required approvals, submittals, and procedures, and all other requirements of whatsoever nature, as set forth herein.

SECTION 14: AS-BUILT DOCUMENTS. Not later than 60 days after completion of all work for the Improvements, Tenant shall provide DIA two complete sets of as-built documents prepared in accordance with DIA requirements. If Tenant fails to provide as-built documents after written notice from DIA, DIA may elect to have the documents completed and charge the Tenant for the costs associated therewith. Tenant agrees that, upon the request of DIA, Tenant will inspect the Improvements jointly with DIA to verify as-built documents.

APPENDIX NO. 1

STANDARD FEDERAL ASSURANCES AND NONDISCRIMINATION

NOTE: As used below the term "contractor" shall mean and include the Airline, and the term "sponsor" shall mean the "City".

During the term of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, and Title 14, CFR, Part 152, Subpart E, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, creed, color, national origin, or sex in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Title 49, Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor of the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

49 CFR 26.5 defines a DOT-assisted contract as "any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees." "Contractor" means one who participates through a contract or subcontract (at any tier) in a DOT-assisted highway, transit, or airport program.

APPENDIX NO. 2

DISADVANTAGED BUSINESS ENTERPRISES - REQUIRED STATEMENTS

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.

DBE Obligation. The City and its contractors agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The City and its contractors shall not discriminate on the basis of race, color, sex, creed or national origin in the award and performance of DOT-assisted contracts