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LEXINGTON-FAYETTE URBAN COUNTY  
AIRPORT BOARD



**Blue Grass Airport**  
LEXINGTON, KENTUCKY

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LEASING POLICY

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**Adopted: November 28, 2012**

**Amended: June 22, 2016**

**Amended: November 20, 2019**

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## **SECTION ONE – PREAMBLE & POLICY**

### **GENERAL**

The Lexington-Fayette Urban County Airport Board (“Board”), as Operator of Blue Grass Airport (“Airport”) does hereby establish the following Leasing Policy for the Airport:

- The Leasing Policy is intended to provide potential and current Tenants an understanding of the policies, processes, and rates used by the Board when leasing property at the Airport.
- The Leasing Policy was developed taking into consideration: (1) the role and continued development of the Airport, (2) the range, level, and quality of aeronautical products, services, and facilities currently being provided at the Airport, (3) the future prospects for, and the anticipated development of, the Airport and the community, and (4) the promotion of fair competition at the Airport.

The policy sets forth the parameters for leasing Airport buildings and/or land and has been established for the following purposes:

- To foster a spirit of partnership with its Tenants, while fulfilling duties as steward of vital public assets and resources;
- To make Airport property available on fair and reasonable terms without unjust discrimination;
- To retain effective management controls over the use of scarce Airport assets, and seek to remove obstacles to such controls when opportunities arise;
- To maintain a rent and fee structure with the goal of financial self-sustainability;
- To ensure that available capacity neither materially exceeds, nor materially falls short of the reasonable needs of the community served by the Airport;
- To ensure compliance with applicable laws, regulations, policies, executives orders, guidelines, and requirements.

### **ADMINISTRATION AND POLICY OVERSIGHT**

While the Board has the ultimate policy-making authority in this regard, the Airport’s Executive Director shall interpret and enforce this Leasing Policy.

The fees, rents, insurance requirements, and other standard leasing provisions hereinafter set forth shall be used in developing new written Agreements and shall also apply, to the extent possible, to all Tenants and users of Airport facilities, subject to periodic adjustment under existing leases and other Agreements.

### **VARIANCES AND DEVIATIONS**

The Board reserves the right to authorize variances or deviations from this Leasing Policy. Such variances or deviations may include waiving or modifying certain criteria or requiring Tenants or Operators to meet additional criteria. All requests for variances or deviations shall be made in writing in a form described by the Board.

## **SECTION TWO – DEFINITIONS AND ACRONYMS**

AERONAUTICAL ACTIVITY – any activity that involves, makes possible, or is required for the operation of Aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on Airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, Aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, Aircraft sales and services, Aircraft storage, sale of aviation petroleum products, repair and maintenance of Aircraft, sale of Aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of Aircraft, can appropriately be regarded as Aeronautical Activities. Activities such as model Aircraft and model rocket operations are not Aeronautical Activities.

AERONAUTICAL SERVICE – any service which involves, makes possible, or is required for the operation of Aircraft, or which contributes to, or is required for, the safety of Aircraft operations commonly conducted on the Airport.

AFFILIATED AIR TRANSPORTATION COMPANY – means an Airline that is owned in whole or in part by, or has common ownership with, an Airline holding a valid current Airport Operating Permit or one that has an existing contract with such permitted Airline as a regional carrier or has a code-sharing marketing arrangement in which Airline places its designator code on a flight operated by another Airline, and sells and issues tickets for that flight.

AGREEMENT – a written contract, executed by both parties, and enforceable by law between the Board and an entity including, but not limited to, granting a concession, transferring rights or interest in land and/or improvements, and/or otherwise authorizing and/or prohibiting the conduct of certain activities. Such Agreements generally will recite the terms and conditions under which the Activity will be conducted at the Airport including, but not limited to, term of the Agreement; rents, fees, and charges to be paid by the entity; and the rights and obligations of the respective parties. For purposes of clarification, the following terms may be substituted for the term Agreement – Commercial Aeronautical Activity Permit, Payment Agreement, Lease, or Concession.

AIRCRAFT – any contrivance now known or hereafter invented which is used or designed for navigation of, or flight in, air except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets, helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, and seaplanes.

AIRCRAFT OPERATOR – a Person who uses, causes to be used, or authorizes to be used, an Aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of Aircraft, or on any part of the surface of the Airport.

AIRLINE – means Scheduled and Non-Scheduled Commercial Air Carrier.

AIRLINE APRON – means the Aircraft apron that is adjacent to a terminal or cargo building.

AIRPORT – means the Blue Grass Airport and all land, improvements, and appurtenances within the legal boundaries of the Airport as it now exists on the Airport Layout Plan and as it may hereinafter be extended, enlarged, or modified.

AIRPORT LAYOUT PLAN (ALP) – the drawing (currently approved by the FAA) depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, navigational aids, etc.

AIRPORT OPERATIONS AREA (AOA) – is a restricted area of the Airport, either fenced or posted, where Aircraft are parked or operated, or operations not open to the public are conducted. Areas include, but are not limited to, the Aircraft Aprons, Aprons, taxiways, runways, unimproved land attributed to the taxiways and runways, safety areas, areas beneath the Terminal Building, areas beneath the concourses, and contiguous areas delineated for the protection and security of Aeronautical Activities.

AIRPORT’S EXECUTIVE DIRECTOR (EXECUTIVE DIRECTOR) – the individual designated by the Board as the Executive Director.

BOARD – the Lexington-Fayette Urban County Airport Board, a Kentucky Airport Board.

COMMERCIAL – for the purpose of generating revenue, earnings, income, compensation (including exchange for service), and/or profit, whether or not such objectives are accomplished.

COMMERCIAL ACTIVITY – means to provide or offer to provide goods or services in return for financial remuneration or remuneration in kind, or a promise of financial remuneration or remuneration in kind, or to accept or agree to accept financial remuneration or remuneration in kind for the provision of goods, or services.

COMMERCIAL AERONAUTICAL ACTIVITY – any activity that involves, makes possible, or is required for the operation of Aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on Airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, Aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, Aircraft sales and services, Aircraft storage, sale of aviation petroleum products, repair and maintenance of Aircraft, sale of Aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of Aircraft, can appropriately be regarded as Aeronautical Activities. Activities such as model Aircraft and model rocket operations are not Aeronautical Activities.

COMMERCIAL AERONAUTICAL OPERATOR – means any Operator engaging in Fixed Base Operator (FBO) or Specialized Aeronautical Service Operator (SASO) activities as defined in the Lexington-Fayette Urban County Airport Board Minimum Business Standards.

COMMERCIAL AIR CARRIER – means any Person or business entity that undertakes directly by hire, lease, or other arrangement to engage in the carriage by Aircraft of Persons or property for compensation. This definition includes, but is not limited to, the following: all classes of air carriers as defined by the FAA, commuter and air taxi Operators, and Commercial Operators of large and small Aircraft.

COMMERCIAL TRANSPORTER – means any entity operating a Commercial Vehicle or vehicles for the purpose of soliciting or transporting Persons and/or baggage to and/or from the Airport for hire. Examples of Commercial Transporters include, but are not limited to taxicabs, limousines, hotel/motel courtesy vehicles, Rental Car courtesy vehicles, off-Airport courtesy vehicles, delivery vehicles and chartered or scheduled buses. This section is not intended to include the use of company owned/leased vehicles provided to employees for Personal use.

COMMERCIAL VEHICLE – means any motor vehicle used for the transportation of passengers, for hire or so constructed, or used to transport goods, wears or merchandise, and/or all motor vehicles designated and used for drawing other vehicles and so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

COMMERCIAL VEHICLE LANE – designated traffic lane, generally located in front of the Airport Terminal Building reserved for use by Commercial Transporter vehicles or Rental Car vehicle returns.

COMMON USE PREMISES – shall mean the passenger hold room, security check-point area, baggage claim area, baggage tug cart area and any other areas in the Terminal Building used in common by Airline and other Passenger Aircraft Operators together with all facilities, improvements and equipment which have been or may hereafter be provided for use in connection with such premises.

CO-OPERATIVE (CO-OP) FUELING – an organization formed by Aircraft Owners, air carriers or flight departments for Self-Fueling purposes. **This type of fueling is prohibited at the Airport.**

COST RECOVERY RATE – means a schedule of rates and charges designated to recover from each user its proportionate share of the cost of providing, maintaining, operating and administering the facilities it uses.

CURB FRONT – designated area along the Vehicle Traffic Lane and adjacent to the Airport Terminal Building for the loading/unloading of passengers and baggage into and out of vehicles.

CUSTOMER FACILITY CHARGE OR “CFC” – shall mean the fee imposed by the Airport Board on each and every customer of the Car Rental Concessionaires with respect to Customer Contracts at the Airport for each day that each such Customer Contract is in effect (“Contract Day”). The amount of the CFC shall be determined by the Airport Board from time to time as herein provided and the total amount of CFCs charged to each customer shall be added to each such customer’s Customer Contract.

EXCLUSIVE RIGHT – a power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An Exclusive Right can be conferred either by express Agreement (i.e. lease Agreement), by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties but excluding others from enjoying or exercising a similar right or rights, would be an Exclusive Right. An Exclusive Right to conduct an Aeronautical Activity, which is forbidden by federal regulation, is distinguished from an Exclusive Right to occupy real estate, which is permitted by federal regulation under certain conditions.

EXCLUSIVE USE SPACE – shall mean those premises which Tenant has the right to use exclusively.

FEDERAL AVIATION ADMINISTRATION (FAA) – the United States Department of Transportation’s Federal Aviation Administration.

FBO (FIXED BASE OPERATOR) – a Commercial business providing Aeronautical Services such as fueling, hangaring, tie-down and parking, Aircraft rental, Aircraft maintenance, flight instruction, etc. Only authorized FBOs are permitted to provide fueling and other FBO services on the Airport.

FEDERAL GRANT ASSURANCE – a Federal Grant Assurance is a provision within a federal grant Agreement to which the recipient of federal Airport development assistance has agreed to comply in consideration of the assistance provided. Grant assurances are required by statute, 49 U.S.C. § 47101.

GRANTEE – means the term commonly used in various Agreements to identify an entity that has been granted certain rights while operating at the Airport.

GRANTOR – the term commonly used in various Agreements identifying the Board.

INDEPENDENT OPERATOR – a Person or entity that conducts Aeronautical Activities based on land either adjacent to and/or located other than on the Airport, and whereby such land is not part of the Airport. **This type of Operator is not authorized to provide services at the Airport.**

LANDING FEE(S) – shall mean the payment required of Airline each month for the use of the Airfield and, except for credits authorized by the Airport Board, such payments shall be without further deduction or set off.

MINIMUM STANDARDS – the qualifications, standards, and criteria set forth by an Airport Operator which must be met as a condition for the right to engage in Commercial Aeronautical Activities at the Airport.

NON-COMMERCIAL – not for the purpose of securing earnings, income, compensation (including exchange of service) and/or profit.

NON-SCHEDULED AIRLINE – means any Airline operating on an unscheduled, on-demand basis to or from the Airport.

OFF-AIRPORT RENTAL CAR COMPANY – means any Person or a firm, corporation or other entity engaged in the business of renting motor vehicles to and for use by the public who conducts no part of their business operations, other than advertising, on any part of the Airport. Off-Airport Rental Car Companies may pick up customers at the Airport only pursuant to an Off-Airport Car Rental Agreement with the Airport Board.

OPERATOR – any FBO, SASO, and/or any entity subject to the standards set forth herein.

PASSENGER FACILITY CHARGE OR PFC – shall mean any charge imposed from time to time by the Board on passengers enplaning Aircraft at the Airport pursuant to the Aviation Safety and Capacity Expansion Act of 1990 (Pub. L. 101-508), enacted November 5, 1990, as amended, and the implementing regulations (“FARs”) promulgated thereunder from time to time and any interest or investment earnings thereon.

PERSON – means every natural Person and every firm, association, partnership, corporation, society or other organization.

RAMP (APRON) – an area of the Airport within the AOA designated for the loading, unloading, servicing, or parking of Aircraft.

RAMP PRIVILEGE – the right to operate a vehicle upon an Aircraft -parking Ramp on the AOA of the Airport to deliver Persons, cargo or equipment to an Aircraft or as a matter of necessity.

REGULATORY MEASURES – federal state, county, local, and Airport laws, codes, ordinances, policies, rules, and regulations, including, without limitation, those of the United States Department of Transportation, the United States Department of Homeland Security, TSA, FAA, Environmental Protection Agency (EPA), OSHA, Aircraft Rescue Fire Fighting (ARFF) Standard Operating Guidelines, Environmental Laws, and the Airport Certification Manual, the Airport’s primary guiding documents; all as may be in existence, hereafter enacted, and amended from time to time.

RENTAL CAR – means any motor vehicle, including but not limited to, any automobile, truck, van or motorcycle whose owner holds such vehicle out for hire.

SPECIALIZED AERONAUTICAL SERVICE OPERATOR (SASO) – SASOs are sometimes known as service providers or special FBOs performing less than full services. These types of companies differ from a full service FBO in that they typically offer only specialized Commercial Aeronautical Services such as Aircraft sales, flight training, Aircraft maintenance, or avionics services for example. SASOs do not have the right to provide fueling services at the Airport.

SCHEDULED AIRLINE – means any Airline operating according to a published schedule to or from the Airport.

SELF-FUELING AND SELF-SERVICE – Self-Fueling means the fueling or servicing of an Aircraft (i.e. changing the oil, washing) by the owner of the Aircraft with his or her own Employees and using his or her own equipment. Self-Fueling and other Self-Services cannot be contracted to another party. Self-Fueling implies using fuel obtained by the Aircraft owner from the source of his/her preference which must be stored and dispensed in a manner designated by the Board. As one of many Self-Service activities that can be conducted by the Aircraft owner or Operator by his or her own Employees using his or her own equipment, Self-fueling differs from using a Self-Service fueling pump made available by the Airport or an FBO. The use of a Self-Service fueling pump is a Commercial activity and is not considered Self-Fueling. In addition to Self-Fueling, other Self-Service activities that can be performed by the Aircraft owner with his or her own Employees includes activities such as maintaining, repairing, cleaning, and otherwise providing service to an Aircraft, provided the service is performed by the Aircraft owner or his/her Employees with resources supplied by the Aircraft owner. Any provision of these Minimum Standards to the contrary notwithstanding, any holder of a pilot certificate may perform the preventive maintenance functions on Aircraft owned or operated by the pilot as specifically permitted under 14 CFR Part 43.

SUBLEASE – an Agreement entered into by an entity with an Operator that transfers rights or interests in Operator’s Premises. Subleases are prohibited, unless the Board grants prior written consent.

SUBLICENSE – a license granting rights to a Person or company that is not the primary holder of such rights. Sublicenses are prohibited, unless the Board grants prior written consent.

TENANT – means a Person who occupies or rents property on the Airport, or who conducts business operations of any kind upon the Airport premises, regardless of whether there exists a written Agreement with the Board.

TERMINAL BUILDING – shall mean the Airport’s passenger Terminal Building exclusive of the Concourse.

THROUGH-THE-FENCE OPERATION – when an airport sponsor grants an entity ground access by an Aircraft across the Airport’s property boundary to the Airport’s airside infrastructure (commonly through-the-fence) and permission to engage in associated Aeronautical Activities from property adjacent to the Airport. **The obligation to make an Airport available for the use and benefit of the public does not impose any requirement for the Airport sponsor to permit ground access by Aircraft from adjacent property, and the Airport has not consented, and does not plan to consent to any Through-the-Fence Operators.**



TRANSPORTATION SECURITY ADMINISTRATION (TSA) – the United States Department of Homeland Security’s Transportation Security Administration.

## **SECTION THREE – LEASING POLICY**

This Policy provides a framework governing leasing and rental decisions as they relate to development of new Agreements and modifications to existing Agreements. The goal of the Lexington-Fayette Urban County Airport Board in adopting this Policy is to:

- Ensure compliance with all local, state, and federal laws, as well as FAA Grant Assurances;
- Establish fair, equal, and not unjustly discriminatory conditions to be met by all Persons, firms, or corporations desiring to engage in any activity at Blue Grass Airport;
- Encourage high quality development and continued maintenance and enhancement of facilities;
- Maximize and balance use of Airport property to serve the needs of the different Airport users and the communities it serves;
- Establish uniform leasing methodologies and rates consistent with accepted business practices in the Airport industry;
- Create a stable and predictable business environment for the Tenants and users.

### **1. POLICY**

The Board requires all Persons to obtain an Agreement, in a form approved by the Board, prior to engaging in any activity on the Airport. Additionally, to ensure the Airport's financial sustainability, it is also the Board's policy to establish market value land and facility rental rates and make amendments to the rates at periodic intervals, in order to assure the Airport rental rates reflect inflation or other market driven changes.

### **2. PROCEDURE**

All Agreements shall be prepared by the Board's staff and legal counsel and shall include customary provisions included in the Board's other similar Agreements.

### **3. GROUND LEASE TERMS BEGINNING 2013**

#### **A. General**

These leasing policies are not intended to, and do not, waive, modify or in any way limit or preclude the exercise of any rights the Board may have under existing law and/or Agreements, and all such rights are and shall be expressly reserved.

#### **B. Length of Term**

The term (length) of a new Agreement for new development shall be established considering the amount of Tenant investment in physical/fixed improvements on the Airport.

Subject to any applicable Regulatory Measures, the maximum term for a ground lease will be as follows:

<b>Table 2-1 Agreement Term Investment Schedule *</b>				
<b>Aeronautical Related Facility</b>				<b>Years</b>
\$750K	-		\$1.5M	20 - 25
\$1.5M	-		\$3.5M	25 - 30
\$3.5M	-		\$7M	30 - 35
\$7M	-		Over	35 - 40

\*Certain Commercial Aeronautical Operators may be ineligible for these lease terms as their Agreements may be subject to legal restrictions imposed by Kentucky law.

**C.** Ground Agreements shall provide that, when the terms with current Tenants expire, the improvements will revert to the Board. If the Board elects to continue leasing the property, it may solicit proposals or negotiate a new Agreement, in either case calling for rent at the then market rate for both the ground and any improvements on the leasehold and incorporating other terms consistent with this Policy.

**D.** All new Agreements shall require the Tenant to be responsible for insurance, taxes, janitorial, landscaping, lawn maintenance, parking lot upkeep, snow removal, and all other maintenance, trash removal, and utility costs.

**E.** All rental rates established in Airport Agreements shall be market value as determined by Airport staff, or a professional appraisal. All appropriate factors, including comparable terms of other similar facilities on the Airport and/or other similar facilities at other comparable Airports in the region, shall be taken into account in establishing market value.

**F.** All Agreements shall provide for adjustment of rental rates no less frequently than every three (3) years unless otherwise approved by the Board.

**G.** Only certain approved Commercial Aeronautical Operators may sublease any portion of their leased space, but only with the prior written consent of the Board. Tenants may not assign their Agreements, whether by operation of law or otherwise, without the prior written consent of the Board.

**H.** Tenants may not use their facilities for Commercial Activities unless pursuant to an Agreement with the Board.

**I.** Tenants may not grant leasehold mortgages without prior written approval of the Board, and approval may be granted, conditioned, delayed, or denied at the Board's discretion. If the Board consents, the leasehold mortgage may secure only the indebtedness which is invested in improvements to the leasehold.

**J.** Tenants will be required to comply with Board architectural guidelines, including guidelines regarding signage, and obtain all required development and construction permits and approvals, including those of the Board.

#### **4. BUILDING LEASE TERMS BEGINNING 2013**

**A.** All new Agreements for hangars, buildings, or other facilities shall require the Tenant to be responsible for insurance and taxes; janitorial, landscaping, lawn maintenance, parking lot upkeep, snow removal, and all other maintenance, (with the exception of roof replacement and exterior painting), trash removal, and utility costs.

**B.** All rental rates established in Airport Agreements shall be market value as determined by Airport staff, or a professional appraisal. All appropriate factors, including comparable terms of other similar facilities on the Airport and/or other similar facilities at other comparable Airports in the region, shall be taken into account in establishing market value.

**C.** All Agreements shall provide for adjustment of rental rates no less frequently than every three (3) years unless otherwise approved by the Board.

**D.** Only certain approved Commercial Aeronautical Operators may sublease any portion of their leased space, but only with prior written consent of the Board. Tenants may not assign their Agreements, whether by operation of law or otherwise, without the prior written consent of the Board.

**E.** Tenants may not use their facilities for Commercial Activities unless pursuant to an Agreement with the Board.

**F.** The Board does not allow a Tenant to grant a leasehold mortgage.

#### **5. GROUND LEASES PRIOR TO 2013**

**A.** Although this Leasing Policy does not alter existing Agreements between the Board and pre-existing Tenants unless otherwise approved by the Board, as a condition to any modification, amendment, waiver, extension or other action a Tenant may request, the Board shall require that the Tenant agree to modifications conforming the terms of the Tenant's Agreement to these policies. Upon the expiration or other termination of any such Agreements, the Board shall require that any new Agreements incorporate terms conforming to the provisions of these policies.

**B.** All new Agreements shall require the Tenant to be responsible for insurance, taxes, janitorial, landscaping, lawn maintenance, parking lot upkeep, snow removal, and all other maintenance, trash removal, and utility costs.

**C.** All rental rates established in Airport Agreements shall be market value as determined by Airport staff, or a professional appraisal. All appropriate factors, including comparable terms of other similar facilities on the Airport and/or other similar facilities at other comparable Airports in the region, shall be taken into account in establishing market value.

**D.** All Agreements shall provide for adjustment of rental rates no less frequently than every three years unless otherwise approved by the Board.

**E.** Only certain approved Commercial Aeronautical Operators may sublease any portion of their leased space, but only with prior written consent of the Board. Tenants may not assign their Agreements, whether by operation of law or otherwise, without the prior written consent of the Board.

**F.** Tenants may not use their facilities for Commercial Activities unless pursuant to an Agreement with the Board.

G. The Board does not allow a Tenant to grant a leasehold mortgage.

## **6. NO UNAUTHORIZED USE**

All Commercial uses and certain Non-Commercial uses of Airport properties shall be permitted only pursuant to an Agreement in accordance with this Policy, consistent with applicable rents, charges, or revenue formulas established by the Board. The Board authorizes the Executive Director on its behalf to approve and execute:

A. An Agreement or an extension of an existing Agreement, which has a term of three (3) years or less and otherwise conforms to these policies.

B. A modification to an existing approved Agreement that increases or decreases the terminal space at the same rental rate and with the same terms and conditions of that Agreement, provided that the Agreement, as modified, conforms to these policies.

C. A modification to an existing approved Agreement that increases or decreases the area leased by not more than ten percent (10%) of the originally leased area at the same terms and conditions of that Agreement, provided that the Agreement, as modified, conforms to these policies.

D. A temporary or special use permit that allows an entity to engage in specific activities, in designated areas, and only for a specific period of time not to exceed thirty (30) consecutive days.

## **7. PROHIBITED ACTIVITIES**

A. Airport land or improvements shall not be occupied or used for any activity that, in the sole discretion of the Executive Director, is contrary to the safe and efficient operation of the Airport including any activity that jeopardizes the safety of the public, Aircraft, or property located at the Airport.

B. "Through-the-Fence" activities are prohibited.

## **8. CONSTRUCTIONS/ALTERATIONS**

All Tenant-constructed alterations and improvements, including but not limited to, offices, hangars, access roads, access taxiways, vehicle parking areas and Aircraft parking areas, shall be in accordance with design and construction standards established by the Board and in accordance with applicable federal, state and local codes, ordinances, laws, rules and regulations. Tenant shall not be permitted to proceed with any construction or remodeling on the premises leased/assigned without first obtaining advance written approval of plans and specifications for such work from all applicable agencies, including the Airport's Executive Director.

## **9. COMPLIANCE WITH REGULATORY MEASURES**

Tenants shall observe and obey all applicable Regulatory Measures promulgated from time to time by the US Department of Transportation (DOT) and its Federal Aviation Administration (FAA), the US Department of Homeland Security (DHS) and its Transportation Security Administration (TSA), Environmental Protection Agency (EPA), the Commonwealth of Kentucky, and the Board, governing the conduct and operation of the Airport and Persons, facilities, and property thereon.

## **SECTION FOUR – INSURANCE REQUIREMENTS**

### **1. POLICIES AND LIMITS**

Every Tenant and Operator shall be required to procure and maintain continuously in effect for the duration of its tenancy or Activities upon the Airport, at the Tenant's or Operator's sole expense, insurance of the types and in at least such minimum amounts as indicated in the following sections and **Appendix One** and as the same may be amended from time to time by the Board. The limits stipulated for each Activity represent the minimum coverage that shall be maintained by the Tenant or Operator to engage in Activities at the Airport and do not limit liability under the relevant Agreement.

**All liability insurance policies shall name the Board and its respective directors, officers, employees, agents and representatives (the "Indemnified Parties") as additional insureds.**

Operator shall be required to furnish annually its insurance certificates, or if requested by the Executive Director, copies of its policies, to the Board. All Agreements shall require such policies include an endorsement that such insurance may not be cancelled or modified except upon thirty (30) days of notice to the Board. Such Agreements shall further provide that Tenant or Operator's failure to provide and keep in force the required insurance shall constitute a default, entitling the Board to exercise any or all remedies available at law or in equity.

Agreements shall require that policies of insurance be in a form and with companies (authorized to write insurance in the Commonwealth of Kentucky) satisfactory to the Board having an A.M. Best rating of A-VIII or better. Tenant/Operator shall be solely responsible for the payment of any and all deductibles that apply to any claim that is made under Lessee's insurance policy.

Agreements shall prohibit Tenants and Operators from allowing conditions to exist which may in any way adversely affect coverage under their insurance policies. Failure to prevent the existence of any condition to exist which may in any way adversely affect coverage under their insurance policies shall constitute a default. Agreements shall require that all insurance policies contain a waiver of subrogation rights endorsement with respect to the Board.

All Tenants or Operator shall be required to meet all statutory requirements for Workers' Compensation insurance. Evidence of Workers' Compensation insurance shall be required to be furnished annually to the Board and notices of cancellation shall be required to be furnished at least thirty (30) days prior to the effective date of cancellation.

### **2. ADDITIONAL COVERAGE REQUIREMENTS**

The Board may require additional insurance in circumstances where the Board perceives higher and/or different risks may be associated with the Activity or the Tenant or Operator or where special conditions such as construction projects or government requirements render appropriate. For example, the Board may require casualty insurance, naming the Board as loss payee, from a Tenant which agrees to construct improvements that become property of the Board at the expiration or termination of an Agreement.

### **3. INDEMNIFICATION AND INSURANCE**

Each Tenant and Operator shall be required to agree that all of its Personal property and all of the Personal property of its employees, customers, invitees, and guests that may at any time be on the Premises, shall be there at the Tenant or Operator's sole risk and that the Board shall not be liable for any damage or loss to such Personal property or loss suffered by the business or occupation of the Tenant or Operator caused in any manner whatsoever.

Each Tenant and Operator shall be required to agree to defend, release, indemnify and hold the Board, its employees, contractors and agents (Indemnified Parties) harmless and free from any liability, loss, injury (including death), costs (including reasonable legal fees) and damages of every kind and nature awarded to third parties under claims which arise, either directly or indirectly, out of Tenant's or Operator's use, nonuse, or possession, or the condition of any property leased by the Board to the Tenant or Operator and/or conduct of Tenant's or Operator's business thereon.

## **SECTION FIVE – REQUIRED LEASE LANGUAGE**

Operations at the Airport are highly regulated by multiple federal, state and local laws and regulations, some of which require specific provisions to be included in leases involving real property. Additionally, financing for various improvements and other projects at the Airport, which is utilized from time to time, necessitates that real property leases include certain terms. Accordingly, all leases involving Airport real property will include the provisions below or similar provisions:

### **1. ENVIRONMENTAL**

For purposes of this leasing policy, the following capitalized terms shall have the meanings ascribed below:

- “Environment” means soil, air, surface water, ground water, and land.
- “Environmental Claims” shall refer to, and include all claims, demands, suits, actions, judgments, and liability for: (i) removal, remediation, assessment, transportation, testing and disposal of Hazardous Substances as directed by any Government Authority, court order, or Environmental Law; (ii) bodily injury, or death of any person; (iii) damage to or loss of use of property of any person; (iv) injury to natural resources; (v) fines, costs, fees, assessments, taxes, demands, orders, directives or any other requirements imposed in any manner by any Governmental Authority under Environmental Laws; and (vi) costs and expenses of cleanup, remediation, assessment testing, investigation, transportation and disposal of a Hazardous Substance spill, release, or discharge.
- “Environmental Law” means any governmental law or statute, rule, regulation, ordinance, code, policy or rule of common law now or hereafter in effect relating in any way to the environment, health, natural resources, safety, or any standards or conduct concerning Hazardous Substances.
- “Environmental Release(s)” means any spill, leak, pumping, pouring, emission, discharge, injection, escape, leaching, dumping, disposing, or other entering into the Environment of any Hazardous Substance at, in, by, from or related to any property leased to it by the Board, whether known or unknown, intentional or unintentional.
- “Hazardous Substances” means (i) oil or other petroleum products, including fuels; (ii) “hazardous substances” as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq.; (iii) “hazardous wastes” as defined by the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; (iv) any chemical substances regulated by the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; (v) “hazardous materials” as defined by the Hazardous Materials Transportation Act, 49 U.S.C. § 1802; (vi) radioactive materials, including those subject to the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq.; (vii) asbestos or asbestos-containing materials; (viii) medical waste; and (ix) any other pollutant, contaminant, chemical, or substance within the meaning of any Environmental Law whose presence creates a hazard to human health or the environment.

Each Tenant shall at all times and in all respects comply with all Environmental Laws and all local, State, and Federal laws, ordinances, regulations, and orders relating to environmental protection, industrial hygiene, human health, or the use, generation, manufacture, storage, disposal, or transportation of Hazardous Substances on, about, to or from the Airport.

Except as set forth in this Section, each Tenant shall be required to assume all risk of loss and any related expenses arising out of the condition of the property and the existence on any property leased



to it by the Board of Hazardous Substances or other materials hazardous or injurious to Persons or property, or arising out of the release of such materials by Tenant, including but not limited to, risk of loss and liabilities, fines and expenses under federal, state and local environmental laws and regulations.

Each Tenant shall be required to provide the Board with copies of all communications regarding any property leased to it by the Board from any governmental agency relating to any Environmental Law or any Person with respect to any claim relating to any Environmental Claim. Each Tenant shall be required to defend, release, indemnify and hold harmless the Indemnified Parties (defined in Section Four) from and against all obligations, losses, claims, suits, judgments, liabilities, penalties, damages, costs and expenses arising from third party claims (including reasonable attorneys' fees and expenses) of any kind or nature whatsoever that may be incurred by, or asserted against such Indemnified Parties, resulting from (i) the actual or alleged presence of Hazardous Substances on any property leased to it by the Board, which is caused by the Tenant or their respective agents, employees, customers and/or guests or (ii) any Environmental Claim relating to Tenant's use of the any property leased to it by the Board. The provisions of this Section shall be required to survive the expiration or termination of the Tenants Agreement with the Board.

Tenant shall be prohibited from causing any Hazardous Substances to be generated, treated, stored, used, installed or disposed in, on, under or about any property leased to it by the Board, except as required for the conduct of its permitted business in the ordinary course, and shall at all times maintain such Hazardous Substances in full compliance with all Regulatory Measures. If a Tenant uses, generates, handles, treats or stores Hazardous Substances at the Airport, it shall have a contract in place with an EPA approved waste transport or a disposal company and shall identify and retain spill response contractors to assist with spill response and facilitate waste characterization, transport and disposal. Complete records of all disposal manifests, receipts and other documentation shall be retained by the Tenant or Operator as required under applicable Environmental Laws and made available to Board for review upon request.

Tenant shall provide to the Board copies of all applicable safety data sheets for Hazardous Substances maintained at the Airport by Tenant. Tenant, on behalf of themselves and any agent, employee, contractor, or invitee, shall disclose in writing to the Board the types and amounts of all Hazardous Substances, if any, that are generated, processed, distributed, used, treated, kept, stored, handled, disposed of or transported in, on or about any property leased to it by the Board. Without limiting the foregoing, Tenant agrees to comply with all current and future Environmental Laws enacted by any applicable jurisdiction.

Tenant shall promptly notify the Board of any Hazardous Substance spills, releases, or other discharges at the Airport and promptly abate, remediate, and remove any of the same in accordance with applicable Environmental Laws.

Tenant shall be liable for and responsible to pay all expenses and Environmental Claims that arise out of or are caused in whole or in part from a Tenant's use, generation, handling, treatment, storage, disposal, discharge, or transportation of Hazardous Substances on or at the Airport, the violation of any Environmental Law, or the failure to comply with the terms, conditions and covenants of the Agreement. To the extent Board incurs any costs or expenses (including attorney, consultant and expert witness fees) arising from a Tenant's use, handling, treatment, storage, discharge, disposal, or transportation of Hazardous Substances on the Airport, Tenant shall promptly reimburse the Board for such reasonable costs upon demand. Tenant shall comply with all applicable reporting requirements under Environmental Laws, including but not limited to those with respect to spills, releases, or discharges of Hazardous Substances at the Airport. Unless otherwise provided in the Agreement,

Tenant shall not be responsible for Hazardous Substances that (a) exist on the Airport prior to the Effective Date, except to the extent that a Tenant either disturbed or caused such pre-existing Hazardous Materials to migrate, so as to give rise to an Environmental Claim, or (b) to the extent Hazardous Substances are generated, used, handled, treated, stored, disposed, released, discharged or transported on the Airport by the Owner.

Tenant shall, to the extent required due to Tenant's use of the Airport, obtain and maintain in full force and effect all permits, licenses, and approvals as required by Environmental Laws. Tenant shall at all times comply with the terms and conditions of any such permits, licenses, approvals, notifications, and registrations.

Tenant shall promptly provide copies of the following pertaining to Tenant's use of the property, promptly after each shall have been submitted, prepared, or received by Tenant: (a) all notifications and associated materials submitted to any governmental agency relating to any Environmental Law; (b) all notifications, registrations, reports, and other documents and supporting information prepared, submitted, or maintained in connection with any Environmental Law or otherwise relating to environmental conditions; (c) all permits, licenses, and approvals, including any modifications thereof, obtained pursuant to any Environmental Law; and (d), within ten (10) days of issuance, any correspondence, notice of violation, summons, order, complaint, or other documents received by Tenant pertaining to compliance with or liability under any Environmental Law.

Board shall have the right at any time, upon reasonable notice to Tenant, to enter the Premises to inspect, take samples for testing, and otherwise investigate the Leased Premises for evidence of compliance with Environmental Laws and/or the presence of Hazardous Substances.

In addition to any other indemnities, Tenant shall defend, indemnify and hold harmless board from any and all Environmental Claims (including reasonable attorney's fees, litigation and investigation expenses, and court costs) to the extent arising out of or resulting from a Tenant's use of the property during the term of the agreement, the violation of any Environmental Law by a Tenant, or the failure of a Tenant to comply with the terms, conditions and covenants of this section. Tenant shall have no obligation under the agreement to indemnify Board for Environmental Claims to the extent arising from or caused by environmental conditions existing on the leased premises (or property adjacent or contiguous to the leased premises) prior to Tenant's occupancy of the leased premises, except to the extent that Tenant's conduct gives rise to an Environmental Claim.

Prior to the end of the Term or earlier termination of the Agreement, Tenant shall remove or remediate in accordance with applicable Environmental Laws and the Airport Environmental Rules and Policies, all of Tenant's Hazardous Substances from the Leased Premises, the Airport, and surrounding lands and waters. Unless instructed otherwise by the Board, Tenant shall also, prior to vacating the Airport, remove all Tenant's tanks, piping and other equipment which stored Hazardous Substances, or which are contaminated by Hazardous Substances.

In addition to the compliance obligations described above, Tenant shall at all times and in all respects comply with all generally accepted industry environmental practices and standards, applicable Environmental Laws, and the applicable Airport Environmental Policies and Procedures, including without limitation those which are included in the then-applicable Best Management Practices ("BMPs"), Storm Water Pollution Prevention Plan ("SWPPP"), Ground Water Protection Plan ("GPP"), and Spill Prevention Control and Countermeasure Plan ("SPCC Plan").

Tenant acknowledges that the Airport is subject to the National Pollution Discharge Elimination System Program ("NPDES") and Federal Storm Water Regulations (40 CFR Part 122) and the

Kentucky implementation of those Environmental Laws. In its operations at the Airport, Tenant shall comply with all applicable provisions of NPDES, Federal and State Storm Water Regulations, and the SWPPP, as they may be amended from time to time, in accordance with all applicable Environmental Laws. To the extent required by applicable Environmental Law, Tenant shall obtain and maintain in effect, a Kentucky stormwater discharge permit in its own name for activities performed by Tenant.

The covenants, conditions, and indemnities in this Section shall survive termination of the Agreement. Tenant shall expressly include the provisions of this Section in all subleases.

Tenant shall incorporate the provisions of this Section, including the obligation to indemnify Board against any Environmental Claims, into any agreement it enters into with any contractors, subtenants, customers, invitees, successors, and assigns. The Board shall be a third-party beneficiary of such agreements, with the express right to enforce the environmental covenants of any subtenant or contractual party.

Tenant, prior to committing to leasing a location, including assignment to a different location, may conduct an environmental assessment to establish background levels and/or to determine the existence or lack of existence of any contaminants. Tenant's failure to exercise its option to have completed an environmental assessment shall create a conclusive presumption that any contamination found on the Leased Premises at the termination of the Agreement was caused by the Tenant, who shall then be responsible for conducting any necessary remediation or removal of said contaminants. This presumption is limited to contamination that, in the judgment of the Board's Director of Engineering and Maintenance, should have been detected by a competent, independent environmental consultant exercising appropriate professional judgment, skill and care in the course of performing an environmental assessment prior to the commencement of this lease. Tenant shall supply the Board with a copy of any such assessment upon receipt by Tenant of same. Tenant agrees to perform an environmental assessment at the end of this Agreement if requested by the Board.

## **2. LAWS AND REGULATIONS**

### **LAWS, AGREEMENTS AND GRANT CONDITIONS**

A. Grant Assurances. This Lease is subject to the provisions of any agreement heretofore made between Airport Board and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Airport Board for Airport purposes, or the expenditure of federal funds for the development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the FAA's Airport Improvement Program (or its successors), or in order to impose or use passenger facilities charges under 49 U.S.C. § 40117.

B. Amendment. In the event that the FAA or other Governmental Authority shall require any modifications or changes in this Lease as a condition precedent to the granting of funds for the improvement of the Airport, or to impose or use passenger facilities charges under 49 U.S.C. § 40117, or if it is necessary to modify this Lease to comply with the requirements of Applicable Law, orders and decisions of a Court, the FAA or other Governmental Authority, Airport Board may unilaterally modify this Lease, upon advice of its legal counsel, as may reasonably be required to obtain such funds or comply with law. Nothing herein shall preclude Tenant from contesting such orders or decisions, but Tenant shall abide by the unilateral modification by the Airport Board, until or unless rescinded, overturned, or if stayed, for the duration of the stay. In no event will Tenant be required, pursuant to this paragraph, to pay Rent greater than specified herein. If a unilateral modification by the Airport Board has a material adverse effect upon the profitability of the Tenant's operations under this Lease taken as a whole, and the Airport Board fails to offer alternatives

that reasonably mitigate such material adverse effect, then the Tenant shall have the right to terminate this Lease by written notice delivered to the Airport Board delivered within sixty (60) days after the Airport Board notifies the Tenant of the unilateral modifications.

### NON-DISCRIMINATION

A. Covenants Running with the Land – Transfer of Real Property. Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

In the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

In the event of breach of any of the above nondiscrimination covenants, Airport Board will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

B. Covenants Running with the Land – Construct/Use/Access to Real Property. Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Tenant will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Authorities. In the event of breach of any of the above nondiscrimination covenants, Airport Board will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

C. General Civil Rights Provision. Tenant agrees that it shall comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

D. Civil Rights – Title VI Assurances. During the performance of this Lease, Tenant, for itself, its assignees and successor interest, agrees as follows:

1. Compliance with Regulations. Tenant (hereinafter includes consultants) shall comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

2. Nondiscrimination. Tenant, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Lease covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.

3. Solicitations for Subcontractors, including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by Tenant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Tenant of Tenant's obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports. Tenant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport Board or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Tenant is in the exclusive possession of another who fails or refuses to furnish the information, Tenant shall so certify to the Airport Board or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of Tenant's noncompliance with the nondiscrimination provisions of this Lease, the Airport Board will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: (i) withholding of payments to Tenant under this Lease until Tenant complies, and /or (ii) cancellation, termination, or suspension of this Lease, in whole or in part.

6. Incorporation of Provisions. Tenant will include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Tenant will take action with respect to any subcontract or procurement as the Airport Board or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Tenant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Tenant may request the Airport Board to enter into any litigation to protect the interests of the Airport Board. In addition, Tenant may request the United States to enter into the litigation to protect the interests of the United States.

E. Title VI List of Pertinent Nondiscrimination Authorities. During the performance of this Lease, Tenant, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor"

in this Section) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. 49 C.F.R. part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

### DISADVANTAGED BUSINESS ENTERPRISES

A. Contract Assurances (§26.13). Tenant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Lease. Tenant shall carry out the applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contract. Failure by Tenant to carry out these requirements is a material breach of this Lease, which may result in the termination of the Lease or such other remedy as Airport Board deems appropriate, which may include, but not be limited to: (i) withholding monthly progress payments, (ii) assessing sanctions, (iii) liquidated damages, and/or (iv) disqualifying the Tenant from future bidding as non-responsible.

B. Prompt Payment (§26.29). The prime contractor agrees to pay each subcontractor under this Lease for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from Airport Board. The prime contractor agrees further to retain retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the referenced time frame may occur only for good cause following written approval of the Airport Board. This clause applies to both DBE and non-DBE subcontractors.

## 3. FINANCING

### BOND INDENTURE AND SUBORDINATION

A. This Lease and all rights granted to Tenant hereunder are expressly subject to the lien and provisions of the pledges, transfers, hypothecations or assignments made by Airport Board in that certain Trust Indenture dated November 1, 2008 concerning the issuance of bonds by the Airport Board (the "**2008 Indenture**"), as the same may be amended, supplemented, modified and/or restated from time to time. Tenant understands that Airport Board is the issuer of such bonds. Tenant specifically acknowledges and agrees that this Lease is expressly subject to Section 5.02 of the 2008 Indenture, as the same is now in effect and may from time to time hereafter be amended. Airport Board expressly reserves the right to make such pledges and grant such liens and enter into covenants as it may deem necessary or desirable to secure and provide for the payment of said bonds, including the creation of reserves therefor, and including the granting of mortgages, indentures or ground leases on all or part of the Airport, including the Premises.

B. Airport Board expressly reserves the right to enter into any Trust Indenture or other agreement for the issuance of bonds or financing of capital projects at the Airport, and Tenant agrees that this Lease and all rights granted to Tenant hereunder shall be subject to any such lien and provisions of the pledges, transfers, hypothecations or assignments made by Airport Board in any such trust indenture or financing agreement. Airport Board expressly reserves the right to make such pledges and grant such liens and enter into covenants as it may deem necessary or desirable to secure and provide for the payment of said bonds or financing, including the creation of reserves therefor, and including the granting of mortgages, indentures or ground leases on all or part of the Airport, including the Premises.

C. This Lease and all rights granted to Tenant hereunder shall be subordinated to any future mortgage, indenture, or ground lease given to secure or provide for payment of bonds or other financing, and all amendments thereto. This provision shall be self-operative and no other writing shall be required effect such subordination. However, upon the request of the Airport Board's lender or bond trustee, Tenant shall execute and deliver a subordination, non-disturbance and attornment agreement in a form reasonably satisfactory to said lender or bond trustee.

D. With respect to bonds on which the interest is intended to be excludable from gross income for Federal income tax purposes under the Internal Revenue Code of 1986 as amended or superseded, Tenant shall:

1. not use, without the prior written consent of Airport Board, any portion of the Premises for any purpose other than as authorized in this Lease, and facilities functionally related and subordinate to such airport facility that are of a character and size commensurate with the character and size of such airport facility, excluding any lodging facility or any retail business (including food and beverage facilities) in excess of a size necessary to serve Tenant's invitees, any office building (excluding office space in the facilities for use by Tenant), any industrial park or manufacturing facility, any health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises; and

2. immediately cease and desist from any action with respect to the use of the Airport, to the extent such action is described in a written notice delivered by Airport Board as an action that, pursuant to the written advice of Airport Board's bond counsel or the Internal Revenue Service, may adversely affect the treatment of interest on any such bond as excludable from gross income for federal income tax purposes.



## **SECTION SIX – APPLICATION FOR LEASE/LICENSE AGREEMENT**

Consistent with the Application Process to perform an Aeronautical Activity under the Airport's Minimum Standards, any entity desiring a lease or license Agreement at the Airport shall submit a written application to the Executive Director for the desired Agreement, License, and/or Aeronautical Activity Permit (Permit). Licenses/Permits shall be required before engaging in Commercial Aeronautical and Non-Commercial Aeronautical activities.

### **1. APPLICATION**

The prospective Operator shall submit all of the information requested by the Executive Director in order to properly evaluate the application and facilitate an analysis of the prospective operation including, but not limited to, verifiable history of experience, financial statements, references, etc.

No application will be deemed complete that does not provide the Executive Director and the Board with the information requested by the Executive Director and/or the Board to make a meaningful assessment of Applicant's prospective operation and determine whether or not the prospective operation will comply with all applicable Regulatory Measures and be compatible with the Airport's Master Plan.

### **2. APPROVAL PROCESS**

Applications will be reviewed by the Board within a period of time the Board determines to be appropriate.

Applications may be denied for any reason the Board determines to be appropriate, including without limitation:

- The applicant does not meet qualifications, standards and/or requirements established by the Minimum Standards.
- The applicant's proposed operations or construction will create a safety hazard on the Airport.
- The granting of the application will require the expenditure of Board funds, labor or materials on the facilities described in or related to the application, or the operation may result in a financial loss to Board.
- There is no appropriate or adequate available space on the Airport to accommodate the activity of the applicant.
- The proposed operation, development and/or construction does not comply with the approved Airport Layout Plan.
- The development or use of the area requested will result in a congestion of Aircraft or buildings, or will result in unduly interfering with other operations on the Airport, such as problems in connection with Aircraft traffic or service, or preventing free access and egress to the existing Tenant areas, or will result in depriving, without the proper economic study, an existing Tenant of portions of its leased area.
- Any entity applying or having an interest in the business, has supplied false information, or has misrepresented any material fact in the application or in supporting documents, or has failed to make full disclosure on the application.

- Any entity applying, or having an interest in the business, has a record of violating any Airport Rules, or the Rules and Regulations of any other Airport, or any other applicable Regulatory Measures.
- Any entity applying, or having an interest in the business, has defaulted in the performance of any Agreement with the Board or any Agreement at any other Airport.
- Any entity applying or having an interest in the business is not sufficiently credit worthy and responsible, in the sole judgment of the Board, to provide and maintain the business for which the application relates to promptly pay amounts due under an Agreement.

### **3. CHANGE OF CONDITION**

Any changes in the condition of an approved Lease/Agreement shall be reported to the Airport's Executive Director in writing within thirty (30) days prior to the anticipated effective date of such change. Operator/Tenant shall clearly describe the proposed changes to the approved Lease/Agreement including any impacts and/or material changes. Leases or Agreements shall be subject to further modification, revocation, denial by the Board, at its sole discretion, should such change of condition(s) be determined to be unacceptable by the Board at any time.

## APPENDIX ONE – INSURANCE REQUIREMENTS

All insurance in conjunction with any agreement shall be primary and non-contributory as respects to any other insurance that may be available to the Airport.

Insurance Requirements Coverage & Limits						
Outside The Fence						
	Premises Liability	Prods/Comp Ops.	Garage Keepers	Auto Liability	Umbrella/Excess Liability	Work Comp
Vehicle for Hire w/Driver	\$500,000	N/A	N/A	\$500,000	N/A	As Required by State Law
Vehicle for Hire non-Driver	\$1,000,000	N/A	N/A	\$1,000,000	\$2,000,000	As Required by State Law
Parking Management	\$1,000,000	N/A	\$1,000,000	\$1,000,000	\$1,000,000	As Required by State Law
Sub-Contractors (Outside)	\$1,000,000	\$1,000,000	N/A	\$1,000,000	\$1,000,000	As Required by State Law

Inside the Terminal						
	Premises Liability	Prods/Comp Ops.	Garage Keepers	Auto Liability	Umbrella/Excess Liability	Work Comp
Airport Retail Tenant	\$1,000,000	\$1,000,000	N/A	\$1,000,000	\$1,000,000	As Required by State Law
Sub-Contractors (Inside)	\$1,000,000	\$1,000,000	N/A	\$1,000,000	\$2,000,000	As Required by State Law

Outside The Fence

Vehicle for Hire with Driver - Taxi Cab Companies, Corporate Transportation, Private Airfield & FBO Transportation, Shuttle Services, etc.

Vehicle for Hire non-Driver - Rental Car Companies (On or Off Airport)

Parking Management - Parking Attendants/Collections

Sub-Contractors (Outside) - Paving, Painting, Repairs, Landscaping, Window Cleaners, etc.

Inside The Terminal

Airport Retail Tenants - Restaurants, Gift Shops, Galleries, etc.

Sub-Contractors (Inside) - Elevator Maintenance, Painting, Repairs, Janitorial Services, etc.

## Insurance Requirements Coverage & Limits

All insurance supplied by Tenant in conjunction with any Agreement shall be primary and non-contributory as respects any other insurance that may be available to the Airport.

<b>Airfield Commercial Tenants</b>							
	Premises Liability ****	Prods/Comp Ops.	Hangar Keepers	On Premises Auto	Aircraft Liability	Aircraft Hull	Work Comp
Large Ground Based Operation	\$10,000,000	\$10,000,000	As Required by Exposure***	\$10,000,000	\$10,000,000*	Full Value	As Required by State Law
Small Ground Based Operation	\$1,000,000	\$1,000,000	As Required by Exposure***	\$1,000,000	\$1,000,000*	Full Value	As Required by State Law
Jet-Turbine Aircraft Operation	\$10,000,000	N/A	N/A	\$10,000,000	\$10,000,000	Full Value	As Required by State Law
Piston Aircraft Operation	\$1,000,000	N/A	N/A	\$1,000,000	\$1,000,000	Full Value	As Required by State Law

<b>Airfield Non-Commercial Tenants</b>							
Operator	Premises Liability ****	Prods/Comp Ops.	Hangar Keepers	On Premises Auto	Aircraft Liability	Aircraft Hull	Work Comp
Jet-Turbine Aircraft	\$10,000,000	\$10,000,000**	N/A	\$10,000,000	\$10,000,000	Full Value	N/A
Piston Aircraft	\$1,000,000	N/A	N/A	\$1,000,000	\$1,000,000	Full Value	N/A

Airfield Commercial

Large Ground Based Operator - Full Service FBO, Large Charter Operator, Baggage Handlers or Others Operating on Airline Ramp, Community Hangar

Small Ground Based Operator - GA Mechanical Shop, Avionics Shop, Avionics Sales, GA Aircraft Restoration, Aviation Museum

Jet-Turbine Aircraft Operation - Large Charter Operator, Cargo Operator

Piston Aircraft Operation - Flight School, GA Aircraft Sales, Sightseeing, Patrol Flights, Flying Club, Banner Towing

Airfield Non-Commercial Tenants

Jet-Turbine Operator - Corporate Flight Department or Individual Owner/Lessee

Piston Operator - Corporate Flight Department or Individual Owner/Lessee

NOTES

\* Only if Owned or Non-Owned Aircraft are operated

\*\* Only if Fuel Farm is permitted by the Airport and operated or maintenance is performed in hangar by Aircraft Owner or its employees

\*\*\* \$1,000,000 Minimum or as required by exposure

\*\*\*\* Any Operator authorized to dispense petroleum products or store any type of hazardous materials shall be required to carry \$1,000,000 Per Occurrence \$2,000,000 Aggregate Comprehensive Environmental Impairment Liability