

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** June 20, 2023

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON:** Samuel Rodriguez, P.E., Aviation Director, (915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager be authorized to sign an Air Cargo Center Lease Agreement between the City of El Paso ("Lessor") and Science Applications International Corporation, a Delaware corporation ("Lessee"), for office and warehouse space, loading dock, vehicle parking space, ground service equipment parking apron, the vehicle parking area and the roadway and a fenced-in area at 301 George Perry Blvd., Suites C & D, El Paso, Texas.

The Initial term is one year with one option to extend of one year. The lease is effective upon approval and terminates on June 19, 2024. The annual rental will be \$238,411.42.

**BACKGROUND / DISCUSSION:**

The Department of Aviation is requesting approval of this lease agreement to allow Science Applications International Corporation (SAIC) to continue to operate in Suites C and D of the North Cargo Center. SAIC continues its work as a defense contractor.

The space leased is as follows: 28,122 SF of office and warehouse at \$6.91 per square foot per year, 60,600 square feet of vehicle parking, loading dock, ground service equipment parking, and a fenced-in area adjacent the parking lot at \$0.7260 per square foot per year. Annual initial rental fee is \$238411.42

**PRIOR COUNCIL ACTION:**

- November 12, 2019 - Approval of a First Amendment to Air Cargo Center Agreement adding Suite D premises including landlord improvements to connect the two suites to be occupied
- February 15, 2016 - Approval of Air Cargo Center Agreement

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Aviation

**SECONDARY DEPARTMENT:** N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** \_\_\_\_\_



for Samuel Rodriguez, P.E., Director of Aviation

**RESOLUTION**

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

That the City Manager be authorized to sign an Air Cargo Center Agreement between the City of El Paso (“Lessor”) and Science Applications International Corporation, a Delaware corporation (“Lessee”), for office and warehouse space, loading dock, vehicle parking space, ground service equipment parking apron, the vehicle parking area and the roadway and a fenced in area at 301 George Perry Blvd., Suites C & D, El Paso, Texas.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023.


**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leaser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
be Samuel Rodriguez, P.E.  
Director of Aviation



**AIR CARGO CENTER AGREEMENT  
TABLE OF CONTENTS**

	<u>Page</u>
<b>ARTICLE I PREMISES AND PRIVILEGES .....</b>	<b>1</b>
SECTION 1.01 DESCRIPTION OF PREMISES DEMISED.....	1
SECTION 1.02 RIGHT OF INGRESS AND EGRESS.....	2
SECTION 1.03 RIGHT TO CONSTRUCT .....	2
SECTION 1.04 RESTRICTIONS OF PRIVILEGES, USES AND RIGHTS .....	3
SECTION 1.05 CONDITIONS OF GRANTING AGREEMENT .....	4
<b>ARTICLE II - OBLIGATIONS OF LANDLORD .....</b>	<b>5</b>
SECTION 2.01 QUIET ENJOYMENT .....	5
SECTION 2.02 LANDLORD’S RIGHT OF ENTRY .....	5
SECTION 2.03 CONDITION AND MAINTENANCE OF PREMISES. ....	5
<b>ARTICLE III - OBLIGATIONS OF TENANT .....</b>	<b>6</b>
SECTION 3.01 NET AGREEMENT .....	6
SECTION 3.02 CONDITION AND MAINTENANCE OF PREMISES .....	6
SECTION 3.03 INTERNAL IMPROVEMENTS .....	7
SECTION 3.04 PAYMENT AND PERFORMANCE BONDS .....	9
SECTION 3.05 COMPLIANCE WITH LAWS.....	10
SECTION 3.06 MAINTENANCE .....	13
SECTION 3.07 UTILITIES .....	14
SECTION 3.08 TRASH, GARBAGE, AND OTHER REFUSE .....	14
SECTION 3.09 PERMITTED USES .....	14
SECTION 3.10 SIGNAGE .....	14
SECTION 3.11 APPROVAL OF PLANS.....	14
SECTION 3.12 FENCING AND EXTERIOR STORAGE .....	15
SECTION 3.13 AUTHORIZATION TO ENTER RESTRICTED AREA.....	15
SECTION 3.14 SECURITY .....	15
SECTION 3.15 PENALTIES ASSESSED BY FEDERAL GOVERNMENT.....	15
<b>ARTICLE IV - TERM OF LEASEHOLD .....</b>	<b>15</b>
SECTION 4.01 TERM.....	15
SECTION 4.02 OPTION TO EXTEND .....	16
SECTION 4.03 EARLY TERMINATION .....	16
SECTION 4.04 HOLDING OVER .....	16
SECTION 4.05 NATIONAL EMERGENCY .....	16
<b>ARTICLE V - RENTALS .....</b>	<b>17</b>
SECTION 5.01 RENTAL.....	17
SECTION 5.02 COMMENCEMENT OF RENTAL .....	17
SECTION 5.03 SECURITY DEPOSIT .....	18
SECTION 5.04 RENTAL ADJUSTMENT FOR OPTION TERM .....	18
SECTION 5.05 UNPAID RENT, FEES AND CHARGES .....	18
SECTION 5.06 TIME OF PAYMENT.....	18
SECTION 5.07 PLACE OF PAYMENT .....	18

<b>ARTICLE VI - DAMAGE OR DESTRUCTION OF PREMISES .....</b>	<b>19</b>
SECTION 6.01    DAMAGE OR DESTRUCTION .....	19
SECTION 6.02    DAMAGE CAUSED BY TENANT .....	19
<b>ARTICLE VII - INSURANCE AND INDEMNIFICATION.....</b>	<b>19</b>
SECTION 7.01    LIABILITY INSURANCE.....	19
SECTION 7.02    FIRE AND EXTENDED COVERAGE INSURANCE .....	20
SECTION 7.03    ENVIRONMENTAL INSURANCE.....	20
SECTION 7.04    INDEMNIFICATION .....	20
<b>ARTICLE VIII - CONDEMNATION .....</b>	<b>21</b>
SECTION 8.01    DEFINITION .....	21
SECTION 8.02    NOTICE OF CONDEMNATION.....	22
SECTION 8.03    RIGHTS OF PARTIES DURING CONDEMNATION PROCEEDING .....	22
SECTION 8.04    TAKING OF LEASEHOLD.....	22
SECTION 8.05    TOTAL TAKING .....	22
SECTION 8.06    PARTIAL TAKING .....	23
SECTION 8.07    OBLIGATIONS OF TENANT UNDER PARTIAL TAKING.....	23
SECTION 8.08    TAKING OF TEMPORARY USE OF PREMISES AND IMPROVEMENTS.....	23
<b>ARTICLE IX - ENCUMBRANCES .....</b>	<b>23</b>
SECTION 9.01    ENCUMBRANCE.....	23
SECTION 9.02    MORTGAGEE'S RIGHTS .....	24
SECTION 9.03    RIGHTS ON FORECLOSURE.....	24
<b>ARTICLE X - EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER .....</b>	<b>24</b>
SECTION 10.01    EXPIRATION .....	24
SECTION 10.02    CANCELLATION .....	24
SECTION 10.03    REPOSSESSING AND RELETTING .....	25
SECTION 10.04    ASSIGNMENT AND TRANSFER.....	26
SECTION 10.05    SUBLEASING .....	26
SECTION 10.06    LANDLORD'S LIEN .....	26
<b>ARTICLE XI - GENERAL PROVISIONS .....</b>	<b>27</b>
SECTION 11.01    RIGHT OF FLIGHT.....	27
SECTION 11.02    TIME IS OF THE ESSENCE .....	27
SECTION 11.03    NOTICES.....	27
SECTION 11.04    ATTORNEY'S FEES.....	28
SECTION 11.05    AGREEMENT MADE IN TEXAS .....	28
SECTION 11.06    GENERAL CIVIL RIGHTS PROVISION .....	28
SECTION 11.07    COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS .....	28
SECTION 11.08    AFFIRMATIVE ACTION.....	28
SECTION 11.09    FAA ORDER 1400.11 .....	29
SECTION 11.10    CUMULATIVE RIGHTS AND REMEDIES .....	31
SECTION 11.11    INTERPRETATION .....	31
SECTION 11.12    AGREEMENT MADE IN WRITING .....	31
SECTION 11.13    PARAGRAPH HEADINGS.....	31
SECTION 11.14    SEVERABILITY .....	31

SECTION 11.15 SUCCESSORS AND ASSIGNS .....	31
SECTION 11.16 TAXES AND OTHER CHARGES .....	31
SECTION 11.17 WAIVER OF WARRANTY OF SUITABILITY .....	32
SECTION 11.18 SURVIVAL OF CERTAIN PROVISIONS .....	32
SECTION 11.19 AUTHORIZATION TO ENTER AGREEMENT .....	32
SECTION 11.20 COMPLETE AGREEMENT .....	32
<b>LANDLORD’S SIGNATURE AND ACKNOWLEDGMENT.....</b>	<b>33</b>
<b>TENANT’S SIGNATURE AND ACKNOWLEDGMENT.....</b>	<b>34</b>

**ATTACHMENTS:**

EXHIBIT “A” - Office, Warehouse, Loading Dock and Vehicle Parking, GSE Parking

EXHIBIT “B” - Vehicle Parking Area and Fenced-in Area in Parking Lot

EXHIBIT “C” - Federal Aviation Administration Required Provisions

**EL PASO INTERNATIONAL AIRPORT**

**AIR CARGO CENTER AGREEMENT**

**THIS AGREEMENT**, (“Agreement” or “Lease”), entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2023, between the **CITY OF EL PASO, TEXAS** (“Landlord”) and **Science Applications International Corporation**, a corporation organized and existing under the laws of the State of Delaware (“Tenant”).

**WITNESSETH:**

**WHEREAS**, the Municipal Airports Act of the State of Texas (Chapter 22 of the Texas Transportation Code) authorizes municipal airports, as governmental entities, to establish the terms and fix the charges, rentals, or fees for the privileges or services. The charges, rentals, and fees must be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the local government;

**WHEREAS**, Landlord owns and operates the El Paso International Airport as depicted in the Airport Layout Plan updated December 2005 (“Airport”) located in the County of El Paso, Texas;

**WHEREAS**, Landlord has constructed an Air Cargo Center and facilities located on the Airport and has space and facilities available for lease, and Tenant desires to lease space in the Air Cargo Center;

**WHEREAS**, Tenant has indicated a willingness and ability to properly operate, keep and maintain the portion of the Air Cargo Center that it leases in accordance with the standards established by Landlord; and

**WHEREAS**, in furtherance of its authority, Landlord further desires to lease to Tenant certain facilities located at said Airport in accordance with the terms, covenants, and conditions set forth in this Agreement;

**NOW THEREFORE**, for and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties agree as follows:

**ARTICLE I**  
**PREMISES AND PRIVILEGES**

**Section 1.01 Description of Premises Demised**

Subject to and on the terms, conditions, covenants, agreements and undertakings hereinafter set forth, Landlord does hereby demise and lease to Tenant and Tenant does hereby lease from Landlord the following described Premises located in El Paso County, Texas, as follows:

- A. That certain office and warehouse space containing approximately 28,122 square feet, more or less, in total, as shown on Exhibit “A” attached hereto and incorporated herein by reference, and also known as Air Cargo Center, 301 George Perry Blvd., Suite C, for Tenant's exclusive use:

Suite C	4,995 square feet of office space 17,027 square feet of warehouse <hr/> 22,022 square feet total
Suite D	<hr/> 6,100 square feet of warehouse

(All square footage figures are approximate)

- B. The exclusive use of the loading dock and 11,600 square feet, more or less, of vehicle parking space directly in front of the Air Cargo Center as shown on Exhibit “B”;
- C. The exclusive use of 11,600 square feet, more or less, of the Ground Service Equipment (GSE) parking apron directly behind said Air Cargo Center as shown on Exhibit “B”; and
- D. The use of a 12,400 square foot portion of the vehicle parking area, and the roadway, and a 25,000 square foot fenced in area, which are located in front of and adjacent to the Air Cargo Center, such portion to be commensurate with Tenant's share of warehouse and office space as to that leased to the tenants that share common use of this vehicle parking area, as shown on Exhibit “B” attached hereto and incorporated herein by reference;

all of which will hereinafter be referred to as the “Premises” or “Leased Premises”.

**Section 1.02 Right of Ingress and Egress**

Landlord hereby grants to Tenant the rights of ingress to and egress from the Premises over and across the public roadways serving the Airport for Tenant, its agents and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now or may hereafter have application at the Airport. In addition, if requested by Tenant, Landlord shall grant Tenant access to and use of restrooms located in the closest adjacent unoccupied suites of the Air Cargo Center. Landlord shall act diligently and cooperate with Tenant to facilitate such access and use.

**Section 1.03 Right to Construct**

In addition to the general privileges, uses, rights, and interests attaching to the Premises herein described and without limiting the generality thereof, Tenant shall have the right to provide for the location, construction, erection, maintenance, and removal of improvements, in any lawful manner, upon or in the Premises, for the purpose of carrying out any of the activities provided for



herein, subject, however, to the conditions herein generally or particularly set forth, including but not limited to Section 3.03.

**Section 1.04 Restrictions of Privileges, Uses and Rights**

Tenant covenants and agrees that it shall use the Premises for the following purposes only: office use, warehouse use, computer laboratories, integrate advanced technology into combat vehicle platforms; upgrade existing combat vehicles via electronic means; conduct a warehouse of parts needed to support the integration and upgrading activities; operate a training facility to train military personnel in the use and maintenance of the new and upgraded technology; perform software and hardware engineering; and maintain management, administrative, and personnel operations appropriate for the above functions, and any ancillary uses. Overhauling, repairs, and heavy maintenance of vehicles and equipment is prohibited but maintenance of light support equipment such as forklifts and air compressors used on the Premises and related to the warehousing and transporting of parts shall be permitted. (Any activities not listed or described herein are prohibited. This restriction of privileges, uses and rights may be modified only upon written approval by the Director of Aviation).

Tenant shall not offer, or permit to be offered, retail services or sales. In connection with the exercise of its rights under this Agreement, Tenant:

- A. Shall not do, or permit to be done, anything at or about the Airport or the Premises that may interfere with the effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, security system, fire hydrants and hoses, electrical system, natural gas, or other Airport systems installed or located on or within the Premises or the Airport.
- B. Shall not do, or permit to be done, any act or thing upon the Airport or the Premises that will invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.
- C. Shall not dispose of, or permit any employee, agent, contractor, or other person to dispose of, any waste material taken from, or products used with respect to, its aircraft or operations into the sanitary or storm sewers at the Airport or any other location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials, unless such waste material or products first be properly treated by equipment installed with the prior written approval of Landlord and all other administrative bodies having appropriate jurisdiction or may remain untreated if wastewater guidelines limitations of the El Paso Water Utilities/Public Service Board are not exceeded.
- D. Shall not keep or store hazardous articles and materials including, without limitation, flammable liquids and solids, corrosive liquids, compressed gasses, and magnetized or radioactive materials on the Airport except when all of the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any such liquids having a flash point of less than one

hundred degrees (100<sup>0</sup>) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said material shall be under the control and care of designated Tenant personnel; (3) said material shall be packaged and handled in compliance with applicable U. S. Department of Transportation, Environmental Protection Agency, or other such applicable regulations for transport and pre-transport of hazardous articles and materials; and (4) storage of hazardous materials shall comply with applicable federal, state, and local laws and regulations including, without limitation, building and fire code provisions. "Director" shall mean the Director of Aviation of the El Paso International Airport or other authorized representative of Landlord.

- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any vehicle at the Airport without prior written approval of Landlord, said approval to be at Landlord's sole discretion.
- F. Shall not maintain or operate on the Premises or elsewhere at the Airport a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public or to its employees; nor shall Tenant in any manner otherwise provide for the sale or dispensing of food and beverages at the Airport except that Tenant may provide vending machines solely for the sale of hot and cold beverages, food, and confections to Tenant's employees in areas not accessible to the general public.

#### **Section 1.05 Conditions of Granting Agreement**

The granting of this Agreement and its acceptance by Tenant are conditioned upon the following covenants:

- A. No functional alteration of the Premises shown on Exhibit "A" or functional change in the uses of the Premises shall be made without the specific written consent of Landlord; said consent to be at Landlord's sole reasonable discretion, which shall not be unreasonably withheld, conditioned, or delayed.
- B. The right to use public Airport facilities in common with others authorized to do so shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated under their authority with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of Landlord now in force or hereafter prescribed or promulgated by charter authority or by law.
- C. Tenant will utilize only the roadways, taxiways, or other direction, path, route, or form of travel Landlord may designate, from time to time, for Tenant's operation and movement on or about the Airport.

**ARTICLE II**  
**OBLIGATIONS OF LANDLORD**

**Section 2.01 Quiet Enjoyment**

Landlord agrees that upon Tenant's paying rent and performing all of the covenants, conditions, and agreements herein set forth, Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises hereby demised for the term of this Agreement.

**Section 2.02 Landlord's Right of Entry**

Due to the sensitive nature of Tenant's activities, Landlord reserves the right to enter into and upon the Premises for the purpose of inspecting the condition thereof, or to perform maintenance or repairs as may be necessary in accordance with the provisions of the Agreement, or, during the final six (6) months of the term of the Lease, for the purpose of exhibiting the same to prospective tenants, purchasers or others; provided however that, due to the sensitive nature of Tenant's activities, Landlord will give Tenant no less than twenty-four (24) hours prior notice of the proposed entry. The exercise of this right to enter the Premises shall not be deemed an eviction or disturbance of Tenant's use or possession, provided that Landlord shall exercise its best efforts not to interfere with Tenant's normal operations on the Premises. Landlord understands that Tenant may conduct operations which are classified in nature and shall make good faith efforts to exercise its rights under this section in such manner as to not jeopardize Landlord's operations or classified status.

Except in the case of life-threatening emergency, Landlord shall give Tenant reasonable prior notice of entry to the Premises, but not less than twenty-four (24) hours prior notice, and enter the Premises only during normal business hours accompanied by a representative of Tenant. Notwithstanding any other provision of this Lease, Landlord acknowledges that pursuant to Tenant's security regulations and those of Tenant's customers, access to the Premises or portions thereof may be restricted and may require, among other things, (i) advanced notice, (ii) continuous escort by authorized personnel of Tenant and/or its customers, (iii) badging, and (iv) declaration of citizenship and/or residency status for individuals entering the Premises. Without express agreement from Tenant and observance of Tenant's security regulations regarding access to the Premises by a Foreign Person (hereinafter defined), Landlord agrees to use commercially reasonable efforts to ensure that no personnel of Landlord or Landlord's contractors and vendors entering the Premises shall be a Foreign Person. A "Foreign Person" shall mean anyone who is not: (a) a lawful permanent resident as defined by 8 U.S.C. § 1101(a)(20); or (b) a "Protected Individual" as defined by 8 U.S.C. § 1324b(a)(3). "Foreign Person" also includes any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

**Section 2.03 Condition and Maintenance of Premises.**

Landlord shall bear responsibility for the repair, maintenance and replacement of the mechanical systems of the Premises and Air Cargo Center, including but not limited to, the plumbing system including replacement of major lines, the life-safety systems and the HVAC systems. Landlord shall, at its sole cost and expense, repair, replace and supplement the HVAC system as necessary and balance air flow to ensure that the Premises are heated and cooled adequately to meet Tenant's

reasonable needs throughout the Term and any extensions or renewals thereof for its permitted use of the Premises. As of the Commencement Date, the Premises shall be delivered to Tenant with the HVAC systems balanced as necessary for the season. Landlord shall bear responsibility for the repair, maintenance and replacement of the Structural Elements of the Air Cargo Center, except for any damage caused by the act or omission of the Tenant, or any agent, employee, invitee, contractor, servant, or subtenant of Tenant, for which damage Tenant shall be responsible. "Structural Elements" shall mean the roof, foundation, load bearing columns and walls, exterior walls, exterior paint, common vehicle parking areas, and the aircraft parking apron. Maintenance and repair of the electrical system within the Premises, doors and doorways are specifically excluded from Landlord's responsibility and shall be Tenant's responsibility.

### **ARTICLE III** **OBLIGATIONS OF TENANT**

#### **Section 3.01 Net Agreement**

This Agreement in every sense shall be without cost to Landlord except as otherwise provided in the Lease including, without limitation, Landlord's maintenance, repair and replacement obligations set forth in Section 2.03 above. It shall be the sole responsibility of Tenant to keep, maintain and clean on a regular basis, repair and operate the entirety of the Premises and all improvements and facilities placed thereon at Tenant's sole cost and expense. Notwithstanding the foregoing, Tenant's obligation for the maintenance of the Premises shall not apply to the Structural Elements or mechanical systems as described in Section 2.03 above.

#### **Section 3.02 Condition and Maintenance of Premises**

**Except as otherwise provided in this Lease, TENANT ACCEPTS THE PREMISES IN "AS IS" CONDITION.** Except as otherwise provided for in this Lease, including without limitation Sections 2.03 or 3.01 hereinabove, Landlord has no responsibility as to the condition of the Premises and shall not be responsible for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition. Tenant shall be solely responsible for repairs and maintenance of the Premises except the Structural Elements and mechanical systems described in Section 2.03 above, and shall not cause any damage or impairment to any part of the Structural Elements.

Notwithstanding any other provision of this Lease to the contrary, Landlord represents and warrants the Premises and Air Cargo Center comply with all the requirements of all applicable governmental authorities in effect as of the Effective Date. During the Initial Term and any extensions or renewals thereof, Landlord shall take appropriate and timely action to maintain the Air Cargo Center in compliance with all applicable governmental regulations, including without limitation, the Americans with Disabilities Act, hereafter imposed by order of any governmental agency or any other authority, at its sole cost and expense and without reimbursement from Tenant; provided, however, that if any requirement is imposed solely as a result of the specific and unique use of the Premises by Tenant, then Tenant shall bear the cost of compliance.

Notwithstanding any other provision of the Lease to the contrary, Landlord represents and warrants that all the Air Cargo Center systems and equipment, including but not limited to the electrical, plumbing, mechanical, lighting, heating, ventilating and air conditioning ("HVAC") systems,

loading doors, sprinklers, telecommunications systems, uninterrupted power supply, generator(s), boilers, furnaces, and any fire suppression system shall be in good operating condition on the Effective Date. If any existing Air Cargo Center systems or equipment shall fail during this Lease, then Landlord shall rectify such failure at Landlord's sole cost and expense, except for any systems installed by Tenant.

### **Section 3.03 Internal Improvements.**

- A. **General.** Tenant may make improvements, additions and alterations (collectively, "Leasehold Improvements") to the Premises with the prior written approval of the Director, which approval shall not be unreasonably withheld, conditioned, or delayed. Tenant guarantees that all construction work performed by contractors hired by Tenant shall be done in accordance with applicable building codes, laws and regulations and in a good, workmanlike manner, and all materials used by Tenant's contractors shall be of an appropriate grade and quality for the use for which they are employed. All plans for improvements, alterations or renovations to the Premises, either for the construction of additional facilities or alterations to existing facilities, shall be prepared, submitted and approved as outlined in this Article, and shall be subject to the same restrictions as provided herein. Tenant, at its sole expense, must obtain appropriate approval from the Airport, all local, state, and federal agencies, as required, for the completion of any and all improvements. Tenant acknowledges that approval of any and all improvements plans or documents by the Director does not constitute approval by any other local, state, or federal agency. All improvements, furniture, fixtures, and equipment used in the Premises shall be of high quality, safe, and fire-resistant.
- B. It is agreed that the Director reserves the right to reject any plans and specifications; provided however, such plans and specifications shall not be unreasonably rejected and any rejection shall specify, in reasonable detail, the basis for the rejection so that appropriate revisions may be made.
- C. Upon completion of any construction project, Tenant shall provide the Director with one (1) complete set of As-Built drawings in reproducible form as reasonably specified by the Director. Tenant agrees that, upon the request of the Director, Tenant will inspect the Premises jointly with the Director to verify the As-Built drawings.
- D. **Construction Without Approval.** If any portion of the Air Cargo Center or Leasehold Improvements are altered, erected, placed or maintained upon any portion of the Premises other than in accordance with plans and specifications approved by the Director, such alterations, erection and maintenance shall be deemed to have been undertaken without approval required herein. This restriction shall be applicable to aesthetic matters as well as architectural plans.
- E. In the event of such alteration, erection, placement, or maintenance without approval, Tenant will be considered in default of this Agreement and Landlord may terminate this Agreement in accordance with the provisions set forth in Article X.
- F. Notwithstanding the foregoing to the contrary, Landlord's prior consent shall not be required with respect to any cosmetic changes. "Cosmetic changes" shall mean any

Leasehold Improvements which (i) the aggregate cost during any consecutive twelve (12) month period does not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) and (ii) does not require a permit of any kind.

- G. Title to Improvements. All Leasehold Improvements made to the Premises by Tenant, shall be and remain the property of Tenant until the termination of this Agreement whether by expiration of the term, cancellation, forfeiture or otherwise. Upon the termination of this Agreement, whether by expiration, cancellation, or otherwise, title to such Leasehold Improvements shall vest in accordance with Paragraph H of this Section 3.03.
- H. Permanent Improvements. All permanent Leasehold Improvements, if any, made by Tenant to the Air Cargo Center, of which the Premises are a part, shall become the property of Landlord upon the expiration, cancellation or early termination of this Agreement; provided, however, that at Landlord's sole discretion, Tenant shall remove all permanent improvements and restore the Premises to the condition existing as of the effective date of this Lease provided that Landlord informs Tenant, in writing, at the time of granting approval that Landlord wants those improvements removed. All improvements other than permanent improvements and all fixtures of a non-permanent nature and all trade fixtures, machinery and equipment made or installed by Tenant may be removed from the Premises at any time by Tenant, subject to Landlord's lawful exercise of its landlord's lien, and to the extent that it does not cause structural or cosmetic damage to the Premises or any other portion of Landlord's Air Cargo Center and facilities. Notwithstanding any other provision of the Lease, Tenant shall not be required to remove any cabling at the expiration of the Lease or any extensions or renewals thereof. Tenant may, at its option and at its sole cost and expense, at any time during the Initial Term and any extensions or renewals thereof, or upon the expiration or earlier termination of the Lease, remove any movable partitions, personal property and equipment, trade fixtures, safes, computer equipment, alarm system, fire suppressant systems, supplemental air-conditioning equipment installed and paid for by Tenant, cipher, simplex or other locks, white boards and any security or computer installations now or hereafter installed and paid for by Tenant; provided, however, Tenant shall, fully, and in a good and workmanlike manner by properly qualified and licensed persons, repair at its cost any damage caused to the Premises in removing such item(s). Tenant shall clearly and permanently label and mark all computer, communications, and electrical cables installed by Tenant towards the goal that Landlord and any subsequent occupant may understand clearly the functions and purposes of said cables.

#### **Section 3.04 Payment and Performance Bonds**

Tenant, at its own cost and expense, shall cause to be made, executed, and delivered to Landlord two (2) separate bonds, as follows:

- A. Prior to the date of commencement of any construction, the identified contract amount which exceeds Fifty Thousand and no/100 Dollars (\$50,000.00), a contract surety bond in a sum equal to the full amount of the construction contract awarded.

- B. Said bond shall guarantee the faithful performance of necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee Landlord against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Tenant to completely perform the work.
- C. Prior to the date of commencement of construction, the identified contract amount which exceeds Fifty Thousand and no/100 Dollars (\$50,000), a payment bond with Tenant's contractor or contractors as principal, in a sum equal to the full amount of the construction contract awarded.
- D. Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction contract.
- E. In accordance with Article 7.19-1 of the Texas Insurance Code, if a Performance or Payment bond is in amount of excess of ten percent (10%) of the surety's capital and surplus, Landlord will require, as a condition to accepting the bond(s), a written certification from the surety that the surety has reinsured the portion of the risk that exceeds ten percent (10%) of the surety's capital and surplus with one or more reinsurers who are duly authorized, accredited or trusted to do business in the State of Texas. If any portion of the surety's obligation is reinsured, the amount reinsured may not exceed ten percent (10%) of the reinsurer's capital and surplus.
- F. In lieu of the payment and performance bonds described in paragraphs A, B, and C, above, Tenant may, at Tenant's option, provide Landlord with an irrevocable Letter of Credit in an amount equal to the full amount of the construction contract awarded. Such Letter of Credit shall be issued by a national banking association with offices in El Paso, El Paso County, Texas, shall provide for partial draws, and shall have an expiration date of at least ninety (90) days after the completion date provided in the construction contract. Such Letter of Credit shall be payable upon presentment accompanied by an affidavit by an authorized representative of Landlord indicating that the proceeds to be paid will be used by Landlord to either (i) pay sums due and owing pursuant to the construction contract awarded or (ii) complete construction of the improvements contemplated by the construction contract.

### **Section 3.05 Compliance with Laws**

Tenant, at Tenant's expense, agrees that in the event it constructs, operates and/or maintains improvements on the Premises, such activities shall be done in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Landlord or Tenant, with respect to the use, occupation or

alteration of the Premises and any improvements thereon. By way of example and not in limitation of the foregoing, the execution of this Lease and approval of Tenant's plans by the Airport shall not preclude the requirement that Tenant obtain all other approvals necessary for development of Tenant's project such as, but not limited to, building permits and certificates of occupancy.

Tenant, at Tenant's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

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

A. Definitions.

1. "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
2. "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
3. "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

1. Tenant shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by



Tenant, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law; provided, further, that with respect to demolition of Existing Improvements, Tenant shall comply fully with all regulatory requirements, including, but not limited to, those governing asbestos abatement. **Tenant shall indemnify, defend and hold harmless Landlord, its successors and assigns, its employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Tenant's obligations and liabilities under this paragraph shall continue so long as Landlord bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises.**

2. The parties agree that Landlord's right to enforce Tenant's promise to indemnify is not an adequate remedy at law for Tenant's violation of any provision of this Section. Landlord shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.
3. Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Tenant results in any contamination of the Premises or any improvements thereon, Tenant shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions

would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.

4. Tenant shall, at Tenant's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Tenant shall, at Tenant's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties, which is related to environmental contamination.
5. Tenant shall immediately notify Landlord of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Tenant's operation on the Premises, and (b) any change in Tenant's operation on the Premises that will change or has the potential to change Tenant's or Landlord's obligations or liabilities under the Environmental Laws.
6. Intentionally omitted.
7. Nothing in Section 3.03 will make Tenant liable or responsible for, and Tenant shall have no obligations related to any hazardous materials which (i) existed on, under or about the Premises prior Tenant's occupation under this Agreement or any previous lease Agreement with Landlord for the Premises, (ii) which migrate to the Premises from off-site, or (iii) are introduced to the Premises during Landlord or its employees, agents or contractors, or any other person or entity except to the extent caused by Tenant or its employees, agents, contractors or Air carriers.
8. Landlord shall use commercially reasonable efforts to cause its other tenants in the Air Cargo Center to comply with all Environmental Laws.

C. Reporting.

1. At any time that Tenant submits any filing pertaining to its property, operations, or presence on the Airport with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the Federal Aviation Administration (FAA), the Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality

(TCEQ), Tenant shall provide duplicate copies of the filing(s) and all related documents to Landlord.

2. Within ninety (90) days after expiration, termination or cessation of this Lease for any reason, Tenant shall provide a current Phase I environmental site assessment of the Premises prepared in accordance with recognized industry standards; and if, in the opinion of Landlord and based on report findings, the Premises shall require environmental remediation, Tenant shall perform same to return the Premises into a condition equal or better to that as of the effective date of the Lease. Landlord shall provide Tenant access to the Premises as needed in order for Tenant to comply with its obligations pursuant to this Section 3.05(C)(2).

### **Section 3.06 Maintenance**

Except as set forth otherwise in this Lease, Tenant shall, at its sole cost and expense, maintain the Premises and the improvements and appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on said Airport. In addition, Tenant shall promptly repair all damage to the Premises or the Airport caused by its employees, patrons or its operation thereon; it is specifically understood and agreed that Tenant will be bringing heavy vehicles of various types onto the Airport and that the obligation to repair damage shall include any damage to pavement on the Airport caused by same. Tenant shall also be responsible for the upkeep and cleanliness of the Premises. Tenant agrees not to paint the exterior of the Premises without the prior written consent of Landlord; said consent to be at Landlord's sole discretion. Landlord shall also be the sole judge of the quality and content of any painting submitted by Tenant for consideration.

Tenant shall be required to perform whatever maintenance Landlord reasonably deems necessary. If said maintenance is not undertaken by Tenant within thirty (30) days after receipt of written notice, Landlord shall have the right to enter on the Premises and perform the necessary maintenance, the reasonable cost of which shall be borne by Tenant. Tenant shall remit payment within thirty (30) days after receipt of invoice.

### **Section 3.07 Utilities**

Tenant shall pay for all costs or charges for utility services furnished to Tenant and to the exclusive use Premises during the term hereof. Tenant shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; subject to approval by all appropriate departments of the City of El Paso including, at a minimum, the Director, and Tenant shall pay for any and all service charges incurred thereof. If Landlord pays any utilities on Tenant's behalf, Tenant, upon receipt of a statement therefore, shall reimburse Landlord for Tenant's pro rata share thereof. Said share shall be calculated on a pro rata basis utilizing the square footage of each tenant's occupancy divided by the total square footage of the Air Cargo Center.

### **Section 3.08 Trash, Garbage, and Other Refuse**

Tenant shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the

operation of its business. Tenant shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe manner, on or about the Premises shall not be permitted.

### **Section 3.09 Permitted Uses**

Tenant covenants and agrees that in no event will it enter into any business activity on the Airport other than those specified in Section 1.04.

### **Section 3.10 Signage**

The following regulations shall apply to all signs displayed for observation from outside a building whether displayed on, near or within a building:

- A. **Permitted Signs.** Signs on Premises shall be limited to those identifying Tenant and to those necessary for directional purposes. The size, design and location of all signs shall require the written approval of the Director prior to installation, said written approval shall be at the Director's reasonable sole discretion. Outdoor advertising, billboards, neon, or flashing lighting shall not be permitted.
- B. **Lighting and Construction.** All signs shall comply with all current or future building codes of the City of El Paso and with all current or future rules and regulations of the Federal Aviation Administration and its successor agencies. Tenant is solely responsible for obtaining all necessary permits and licenses.

### **Section 3.11 Approval of Plans**

Approval of any and all improvements, plans, signs, or documents by the Director does not constitute approval of the City or any other local, state, or federal agency. It is specifically understood that the Department of Aviation is only one of numerous departments of the City and that, in addition to obtaining approval of the Director, Tenant shall be required to obtain the approval of other departments as well.

### **Section 3.12 Fencing and Exterior Storage**

Tenant may store stock, materials, and supplies on the Premises; however, all stock, materials, and supplies that are stored outside, on the airfield side of the Premises, must be completely fenced in. The placement and design of any exterior screening, fencing and storage on the Premises shall be in accordance with plans and specifications prescribed by the Director and shall be uniform throughout the entire Air Cargo Center, ramp, and associated areas.

### **Section 3.13 Authorization to Enter Restricted Area**

Tenant understands that all of its agents, employees, servants or independent contractors must be authorized by Landlord to enter restricted areas as defined in Title 14 of the El Paso City Code as amended. Tenant understands that no person authorized to enter a restricted area by virtue of this

Agreement may permit any person who is not otherwise authorized to enter a restricted area unless such person is, at all times while in the restricted area, in the company of an authorized person.

**Section 3.14 Security**

Tenant is familiar with the restrictions imposed on Landlord by 49 CFR Part 1540 and 1542 as amended and agrees to assume responsibility for compliance with said regulations as they relate to access and identification procedures on the Premises. Tenant recognizes that all persons in or on the Premises must comply with federal safety and security requirements and agrees that all employees shall, as a condition of being on the Premises, be badged by El Paso International Airport (“EPIA”) and that all other persons shall be escorted in accordance with TSA requirements. Tenant shall also require that all personnel of any subcontractor or subtenant shall also be similarly badged and/or escorted.

**Section 3.15 Penalties Assessed by Federal Government**

Tenant understands and agrees that in the event any federal agency assesses a civil penalty against Landlord for any violation of a federal rule or regulation as a result of any act on part of Tenant, its agents, servants, employees, invitees, or independent contractors, Tenant will, upon invoice, promptly reimburse Landlord in the amount of the civil penalty assessed. Failure to reimburse Landlord within thirty (30) days of receipt of written notice shall be an event of default hereunder.

**ARTICLE IV  
TERM OF LEASEHOLD**

**Section 4.01 Term**

The “Term” of this Lease will be the Initial Term and any properly exercised Option Period, as provided below. This Lease shall be for an initial term of one (1) year (“Initial Term”), commencing on \_\_\_\_\_, 20\_\_ (“Effective Date”).

**Section 4.02 Option to Extend**

In the event that Tenant is not in default of any terms of this Lease beyond any applicable notice and cure period, Tenant shall have the option to extend this Lease for one (1) additional term of one (1) year. Tenant may exercise the option (“Option Period”) by notifying Landlord in writing in not more than one hundred twenty (120) days and not less than ninety (90) days prior to the expiration of the Initial Term. In the event Tenant exercises its option, the Lease shall be extended for one (1) year on the same terms and conditions, except that Rental for this Option Period shall be readjusted as noted below.

In the event that Tenant exercises the option to extend the Lease, the rentals shall be adjusted as set forth in Section 5.04 below, but in no event shall rentals be reduced, and in no event shall rentals be increased more than 20%; all as provided more particularly in Article V Rentals.

Tenant's option to extend the Lease shall terminate if Tenant fails to notify Landlord in writing one hundred twenty (120) days before the expiration of the Initial Term. Time is of the essence with regard to the one hundred twenty (120) day notice requirement.

**Section 4.03 Early Termination**

Either party may terminate this Lease upon ninety (90) days written notice to the other party.

**Section 4.04 Holding Over**

It is agreed and understood that any holding over by Tenant of the Premises at the expiration or cancellation of this Agreement shall operate and be construed as a tenancy from month to month at a rental of one and one-half (1.5) times the then current monthly rental, unless the hold over is caused by the City staff not placing a new agreement with Tenant regarding the Premises at the end of the term of the present Lease on the City Council Agenda on a timely basis in which case the current monthly rental rate shall continue until the new agreement is executed. No receipt or acceptance of money by Landlord from Tenant after the expiration or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Landlord's consent is required or operate as a waiver of any right of the Landlord to retake and resume possession of the Premises.

**Section 4.05 National Emergency**

In the event that the rights and privileges hereunder are suspended by reason of war or other national emergency, the parties will negotiate in good faith a reasonable resolution of this lease under the circumstances.

**ARTICLE V**  
**RENTALS**

**Section 5.01 Rental**

For the purpose of computing the rental payments, Landlord and Tenant agree that the Premises comprise the following:

Suite C – Office/Warehouse	22,022 square feet total at \$6.9133 per square foot per annum \$152,244.69 per annum
Loading Dock and Vehicle Parking/GSE Parking/Vehicle Parking and Fenced-in Area Parking Lot	55,500 square feet total at \$0.7260 per square foot per annum \$40,293.00 per annum
Suite D - Office/Warehouse	6,100 square feet total at \$6.9133 per square foot per annum

Loading Dock and Vehicle Parking/GSE Parking/Vehicle Parking and Fenced-in Area Parking Lot	\$42,171.13 per annum
	5,100 square feet total at \$0.7260 per square foot per annum
	<hr/> \$3,702.60 per annum

Rentals shall be paid in equal monthly installments at the then-current per annum rate as set forth below.

The annual rental for the Initial Term shall be \$238,411.42 per year payable in equal monthly installments of \$19,867.62. The first and last monthly installments of Rental for the Initial Term, and any extensions or renewals thereof, shall be prorated on the basis of a three hundred sixty five (365) day year in the event the Initial Term does not commence on the first day of a calendar month or end on the last day of a calendar month.

The parties acknowledge that the Rental for the Premises during the period November 12, 2019 through the Effective Date shall be \$199,098.552 (if annualized) payable in monthly installments of \$16,591.54, which was the Rental in effect under the parties' Air Cargo Center Agreement dated effective February 15, 2016, as amended by that certain First Amendment to Air Cargo Center Agreement dated November 12, 2019.

**Section 5.02 Commencement of Rental**

Payment of Rental by Tenant to Landlord shall commence on the Effective Date, which is noted on the title page of this Lease; provided, however, in no event shall Tenant's first monthly installment of Rental be due prior to thirty (30) days following the full execution of this Lease.

Notwithstanding anything to the contrary, Tenant's obligation to pay any Rental under this Lease shall be expressly contingent upon Tenant's receipt of a valid, signed W-9 form from Landlord at least fourteen (14) days prior to the Effective Date. If Landlord fails to provide a valid, signed W-9 form, any such failure by Tenant to pay any Rental shall not impact Landlord's obligations under this Lease, nor shall it prohibit Tenant from occupying the Premises as of the Effective Date.

**Section 5.03 Security Deposit**

There shall be no security deposit required for this Lease.

**Section 5.04 Rental Adjustment for Option Term**

In the event that Tenant exercises the option to extend the term of this Lease, Landlord and Tenant agree that percentage increases in the Consumer Price Index for all Urban Consumers (CPI-U) shall govern the rent readjustment for the Option Period. For the purposes of computing such percentage increase during the Option Period, the Base Year CPI-U shall be established as that rate in place ninety (90) calendar days prior to the Effective Date of this Lease. Rents shall be adjusted pursuant to the percentage increase in the CPI-U from the Base Year CPI-U to the rate in place ninety (90) days prior to the applicable date of readjustment (i.e. the fifth (5<sup>th</sup>) anniversary date of the Effective Date. All readjustments shall be effective as of the fifth (5<sup>th</sup>) anniversary

date, without regard to the date the actual adjustment is made; provided, however, that in no event shall the readjusted rent be less than the rate in place immediately prior to such readjustment nor more than twenty percent (20%) more than the rent established at the beginning of the immediately preceding five-year period.

**Section 5.05 Unpaid Rent, Fees and Charges**

Any installment of rent, any fees, or other charges or monies accruing under any provisions of this Lease that are not received by the 30th day of the month in which payment is due, shall bear interest at the rate of 12% per annum.

**Section 5.06 Time of Payment**

All rental due hereunder shall be paid in twelve (12) equal monthly installments. Said monthly rental payments shall be paid in advance on or before the first day of each and every month during the term or any extension of this Agreement, except as otherwise provided in Section 5.02 above.

**Section 5.07 Place of Payment**

All payments provided herein shall be paid to Landlord at the following address:

Accounting Division  
El Paso International Airport  
P.O. Box 971278  
El Paso, Texas 79997-1278.

**ARTICLE VI**  
**DAMAGE OR DESTRUCTION OF PREMISES**

**Section 6.01 Damage or Destruction**

If the Premises or any portions thereof, or structures of which such space may be a part, be damaged by fire or other casualty not caused by Tenant, Director shall notify Tenant within sixty (60) days whether the space shall be repaired. If the space is to be repaired, it shall be repaired with due diligence by Landlord, and the rental allocable to the Premises rendered untenantable shall be abated for the period from the occurrence of the damage to the completion of the repairs, provided that Landlord will exert its best effort to provide Tenant with temporary substitute space, if available, at such rent as deemed necessary and reasonable by City, until such time as the repairs are completed.

If Director shall fail to notify Tenant of its decision to repair any untenantable Premises within sixty (60) days after the destruction, Landlord will be deemed to have elected to terminate this Agreement as to the space damaged and destroyed, and the Agreement shall automatically terminate as to such space as of the date of the damage or destruction.

**Section 6.02 Damage Caused by Tenant**

Notwithstanding the provisions of this Article 6, in the event that due to the negligence or willful act or omission of Tenant, its employees, its agents, or licensees, Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of rent during the repair



or replacement of said Premises. To the extent that the costs of repair or replacement shall exceed the amount of any insurance proceeds payable to Landlord by reason of such damage or destruction, Tenant shall pay the amount of such additional costs to Landlord.

## **ARTICLE VII** **INSURANCE AND INDEMNIFICATION**

### **Section 7.01 Liability Insurance**

Tenant shall obtain, provide proof of, and maintain for the term of this Lease, Comprehensive Pollution Liability Insurance in amounts as reasonably set from time to time by Landlord, but not less than One Million Dollars (\$1,000,000.00), which insurance shall cover, at a minimum, bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, removal, storage, disposal, and or use of the pollutant, and defense costs, including costs and expenses incurred in the investigation, defense, or settlement of claims, all covering the Premises and surrounding Landlord property. Tenant shall obtain and maintain for the term of this Lease, Commercial General Liability Insurance, including contractual liability, in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit for bodily injury, property damage and personal liability,

Landlord shall be named as an Additional Insured on all insurance policies, either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy.

All policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the Landlord or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

### **Section 7.02 Fire and Extended Coverage Insurance**

Landlord agrees that, at all times throughout the term of this Agreement, it will keep the Air Cargo Center insured under a Texas Standard Policy of Fire and Extended Coverage Insurance, for an amount equivalent to ninety percent (90%) of the replacement cost, such replacement cost to be redetermined every three (3) years. Upon receipt of a statement therefor, Tenant shall reimburse Landlord for Tenant's pro rata share thereof. Said share shall be calculated on a pro rata basis utilizing the square footage of each tenant's occupancy divided by the total square footage of the Air Cargo Center.

If the operations conducted by Tenant, or anyone holding under Tenant, on the Premises should require the payment of a greater premium for fire and extended coverage insurance than would customarily be payable for the conduct of the air cargo activities permitted hereunder, then the amount of such additional premium cost shall also be reimbursed by Tenant to Landlord upon invoice.

### **Section 7.03 Environmental Insurance**

Tenant agrees that, at all times throughout the term of this Agreement, it will keep the Premises insured for environmental risks with Landlord named as an additional insured as set forth more further in Section 7.01 above.

**Section 7.04 Indemnification**

WITHOUT LIMITING THE GENERALITY OF ANY OTHER INDEMNITY CONTAINED IN THIS AGREEMENT, TENANT AGREES TO INDEMNIFY AND HOLD LANDLORD AND ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF TENANT'S ACTIVITIES ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF TENANT OF ANY TERMS OF THIS AGREEMENT, OR FROM ANY ACT OR NEGLIGENCE OF TENANT, ITS AGENTS, CONTRACTORS, EMPLOYEES, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF LANDLORD. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST LANDLORD BY REASON OF ANY SUCH CLAIM, TENANT, UPON RECEIPT OF WRITTEN NOTICE FROM LANDLORD, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO LANDLORD. THE OBLIGATIONS OF TENANT UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR SOONER TERMINATION OF THE LEASE.

**ARTICLE VIII**  
**CONDEMNATION**

**Section 8.01 Definition**

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

- A. "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending.
- B. "Total taking" means the taking of the fee title to all of the Premises and improvements thereon.
- C. "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:
  - 1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Tenant;

2. The conduct of Tenant's business on the Premises would be substantially prevented or impaired; or
  3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Tenant under this Agreement.
- D. "Partial taking" means the taking of a fee title that is not either a total or substantial taking.
- E. "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.
- F. "Notice of intended taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Agreement. The notice is considered to have been received when a party to this Agreement receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.
- G. "Award" means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.
- H. "Date of taking" means the date that Tenant is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

**Section 8.02 Notice of Condemnation**

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

- A. Notice of intended taking;
- B. Service of any legal process relating to condemnation of the Premises or improvements; or
- C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

### **Section 8.03 Rights of Parties during Condemnation Proceeding**

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

### **Section 8.04 Taking of Leasehold**

Upon a total taking, Tenant's obligation to pay rent and other charges hereunder together with Tenant's interest in the leasehold shall terminate on the Date of Taking. Upon a substantial taking, Tenant may, by notice to Landlord within ninety (90) days after Tenant receives notice of the intended taking, elect to treat the taking as a total taking. If Tenant does not so notify Landlord, the taking shall be deemed a partial taking. Upon a partial taking, this Agreement shall remain in full force and effect covering the balance of the Premises not so taken, except that the rent payable hereunder shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

### **Section 8.05 Total Taking**

All of Tenant's obligations under the Agreement shall terminate as of the Date of Taking. Upon a total taking, all sums awarded for any Tenant-owned improvements and the leasehold estate shall be disbursed to Tenant. All sums awarded for the Premises, as unencumbered by the Tenant-owned improvements, but subject to the Agreement, shall be disbursed to Landlord.

### **Section 8.06 Partial Taking**

Upon a partial taking, all awards shall be disbursed as follows:

- A. To the cost of restoring the improvements on the Premises; and
- B. The balance, if any, to Landlord and Tenant as follows: Tenant shall receive all sums awarded for Tenant-owned improvements and the Leasehold estate. Landlord shall receive all sums awarded for the Premises as unencumbered by the improvements but subject to the Agreement.

### **Section 8.07 Obligations of Tenant under Partial Taking**

Promptly after any such partial taking, Tenant, at its expense and in accordance with any awards disbursed in accordance with Section 706, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Tenant shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Landlord of its intention to that effect.

### **Section 8.08 Taking of Temporary Use of Premises and Improvements**

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

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

## **ARTICLE IX** **ENCUMBRANCES**

### **Section 9.01 Encumbrance**

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

- A. The amount of the obligation secured by the Mortgage;
- B. The date of the maturity or maturities thereof; and
- C. The name and mailing address of the Mortgagee.

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

### **Section 9.02 Mortgagee's Rights**

Upon receipt of a notice or demand in accordance with Section 8.01 above, Mortgagee shall have sixty (60) days after receipt of such notice within which, at Mortgagee's election, either:

- A. To cure the default if it can be cured by the payment or expenditure of money;
- B. To perform such other action as may be necessary to cure the default;
- C. If the default cannot be cured within sixty (60) days, to commence performance within such sixty (60) day period and thereafter diligently prosecute same to

completion, in which event, the default will have been deemed to have been cured;  
or

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

**Section 9.03 Rights on Foreclosure**

In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Tenant's interest in lieu of foreclosure shall succeed to all of Tenant's rights, interests, duties and obligations under this Agreement.

**ARTICLE X**  
**EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER**

**Section 10.01 Expiration**

This Agreement shall expire at the end of the term or any extension thereof.

**Section 10.02 Cancellation**

Subject to the provisions of Article IX above, this Agreement shall be subject to cancellation by Landlord in the event Tenant shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Landlord has notified Tenant in writing that payment was not received when due.
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Tenant's property;
- C. Make any general assignment for the benefit of creditors;
- D. Abandon the Premises while rent is in arrears;
- E. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Tenant, and such default continues for a period of thirty (30) days after receipt of written notice from Landlord to cure such default, unless during such thirty-day period, Tenant shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings;
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Tenant where such receivership is not vacated within sixty (60) days after the appointment of such receiver; or

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

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

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

### **Section 10.03 Repossessing and Reletting**

In the event of default by Tenant hereunder which shall remain uncured after the required notices have been given pursuant to this Agreement, and for such time as provided herein, Landlord may at once thereafter, or at any time subsequent during the existence of such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Tenant and all personal property of Tenant (which property may be removed and stored at the cost of and for the account of Tenant), using such force as may be necessary; and
- B. Either cancel this Agreement by notice or without canceling this Agreement, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Landlord. If Landlord shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Tenant during such month or part thereof under the terms of this Agreement, Tenant shall pay such deficiency to Landlord immediately upon calculation thereof, providing Landlord has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within thirty (30) days after receipt of notice of deficiency.

### **Section 10.04 Assignment and Transfer**

Tenant is not permitted to assign this Agreement without first obtaining Landlord's written consent; said consent shall not be unreasonably withheld, conditioned or delayed.. The foregoing notwithstanding, any person or entity to which this Agreement is assigned to, pursuant to the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this Agreement on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Landlord an instrument confirming such assumption.

### **Section 10.05 Subleasing**

Tenant may be permitted to sublease all or any part of the Premises with the prior written approval of the Director or his designee, which approval shall not be unreasonably withheld, conditioned or delayed, provided that Tenant shall limit any sublease to an entity which engages in similar defense contracting activities.

Notwithstanding anything to the contrary in this Lease, neither Landlord's prior written consent nor further written documentation shall be required in the case of:

- (a) an assignment of this Lease or sublet of the Premises in whole or in part to any entity into or with which Tenant may be merged or consolidated or which acquires all or substantially all of Tenant's assets or to any entity which is a subsidiary, parent, spin-off or affiliate of Tenant; or
- (b) subletting or occupancy of portions of the Premises by any contract partner, subcontractor or prime contractor working with Tenant on its business conducted from the Premises; or
- (c) sublets of portions of the Premises not exceeding forty percent (40%) of the rentable area of the Premises in the aggregate at any one time, to any persons or entities provided that Tenant remains in control and possession of the balance of the Premises and remains liable for all the terms, covenants and provisions of the Lease.

### **Section 10.06 Landlord's Lien**

Because of the nature of Tenant's business and the fact that the bulk of items in Tenant's possession would not be subject to liens, this Section is intentionally omitted.

## **ARTICLE XI GENERAL PROVISIONS**

### **Section 11.01 Right of Flight**

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

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



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

**Section 11.02 Time Is of the Essence**

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

**Section 11.03 Notices**

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

LANDLORD:                    Director of Aviation  
   El Paso International Airport  
   6701 Convair Road  
   El Paso, Texas 79925-1091

TENANT:                        Science Applications International Corporation – CRE Leasing  
   c/o Jones Lang LaSalle  
   260 Forbes Avenue, Suite 1300  
   Pittsburgh, PA 15222

With copy to:                SAIC Corporate Real Estate Leasing  
   12010 Sunset Hills Road  
   Reston, VA 20190

With an emailed  
copy to:                        SAICLeaseAdmin@am.jll.com

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

**Section 11.04 Attorney's Fees**

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

**Section 11.05 Agreement Made in Texas**

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

### **Section 11.06 General Civil Rights Provision**

Lessee agrees to 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 disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the transferor.

This provision obligates the Lessee for the period during which the property is owned, used or possessed by the Lessee 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.

### **Section 11.07 Compliance with FAA Requirements and Nondiscrimination Requirements**

Lessee shall comply with and shall cause its assignees, successors in interest, and any contractor, subcontractor, lower-tier subcontractor, or service provider of Lessee to comply with, to the extent required by applicable law, all provisions of **Exhibit C, Federal Aviation Administration Required Provisions**, as amended or interpreted by the FAA from time to time, which are incorporated as if fully set forth herein.

### **Section 11.08 Affirmative Action**

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

### **Section 11.09 FAA Order 1400.11**

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Lessee 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 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, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in Pertinent List of Nondiscrimination Authorities (Federal Aviation Administration Order 1400.11, Appendix 4) as same may be amended from time to time (the "Acts and Regulations") 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.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. The Lessee 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 ground 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 ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the listed acts and authorities appearing in the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Lessee for itself, its assignees, and successors in interest, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- 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);
- 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 USC §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination 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;
- 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). Grantee shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 USC 1681 *et seq.*).

B. In the event of breach of any of the covenants in this section 3, Lessor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

#### **Section 11.10 Cumulative Rights and Remedies**

All rights and remedies of Landlord here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Landlord of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

#### **Section 11.11 Interpretation**

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

The parties acknowledge and agree that the terms, conditions and provisions of this Lease are not intended to extend beyond Lessee’s lease of the Premises and associated use of the Airport, except as expressly provided herein, and in accordance with applicable law. Any security requirements

imposed by Lessee's federal government customers shall be addressed directly with Lessor. In the event Lessor receives a request pursuant to the Texas Public Information Act, for Lessee's confidential proprietary information or reports, the parties will follow the standard process required by said Act.

**Section 11.12 Agreement Made in Writing**

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

**Section 11.13 Paragraph Headings**

The Table of Contents of this Agreement and the captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

**Section 11.14 Severability**

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

**Section 11.15 Successors and Assigns**

All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon Landlord and Tenant and their successors, assigns, legal representatives, heirs, executors and administrators.

**Section 11.16 Taxes and Other Charges**

Tenant shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Tenant or Landlord, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Tenant's use and/or occupancy of the Premises, during the term of this Agreement including any extensions or option periods granted thereto. Tenant in good faith may contest any tax or governmental charge; provided that Tenant may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom.

**Section 11.17 Waiver of Warranty of Suitability**

**LANDLORD DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. Except as otherwise provided in this Lease, TENANT LEASES THE PREMISES AS-IS AND LANDLORD DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL TO TENANT'S USE OF THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE.**

**Section 11.18 Survival of Certain Provisions**

All Provisions of this Agreement which expressly or impliedly contemplate or require performance after the expiration or termination of this Agreement hereunder shall survive such expiration or termination of this Agreement, including without limitation, Section 3.05.

**Section 11.19 Authorization to Enter Agreement**

If Tenant signs this Agreement as a corporation, Tenant warrants to Landlord that Tenant is a duly authorized and existing corporation, that Tenant is qualified to do business in the State of Texas, that Tenant has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Tenant is authorized to do so. Upon Landlord's request, Tenant will provide evidence satisfactory to Landlord confirming these representations.

**Section 11.20 Complete Agreement**

This agreement, together with the attachment(s) attached hereto, constitutes the entire agreement among the parties relating to the terms and conditions of the agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this agreement confers no rights on any person or business entity that is not a party hereto. This agreement shall not be construed against or unfavorably to any part because of such party's involvement in the preparation or drafting of this agreement.

*(Signatures begin on the following page)*

**LANDLORD'S SIGNATURE AND ACKNOWLEDGMENT**

**IN WITNESS WHEREOF**, the parties have hereunto set their hands as of this \_\_\_\_ day of \_\_\_\_\_, 2023.


**LANDLORD: CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

**ACKNOWLEDGMENT**

**THE STATE OF TEXAS )**  
**)**  
**COUNTY OF EL PASO )**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_ 2023 by Tomás González as City Manager for the City of El Paso, Texas (Landlord).

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:  
\_\_\_\_\_

*(Signatures continue on the following page)*

TENANT'S SIGNATURE AND ACKNOWLEDGMENT

ATTEST:

TENANT: Science Applications International Corporation

Kristen Martin  
Name: Kristen Martin

Michael L. Brendes  
Name: Michael L. Brendes  
Title: Vice President, Corporate Real Estate and Facilities

ACKNOWLEDGMENT

THE STATE OF SC )  
COUNTY OF Georgetown )

This instrument was acknowledged before me on this 26 day of May, 2023 by Michael L. Brendes as Vice President of Science Applications International Corporation (Tenant).

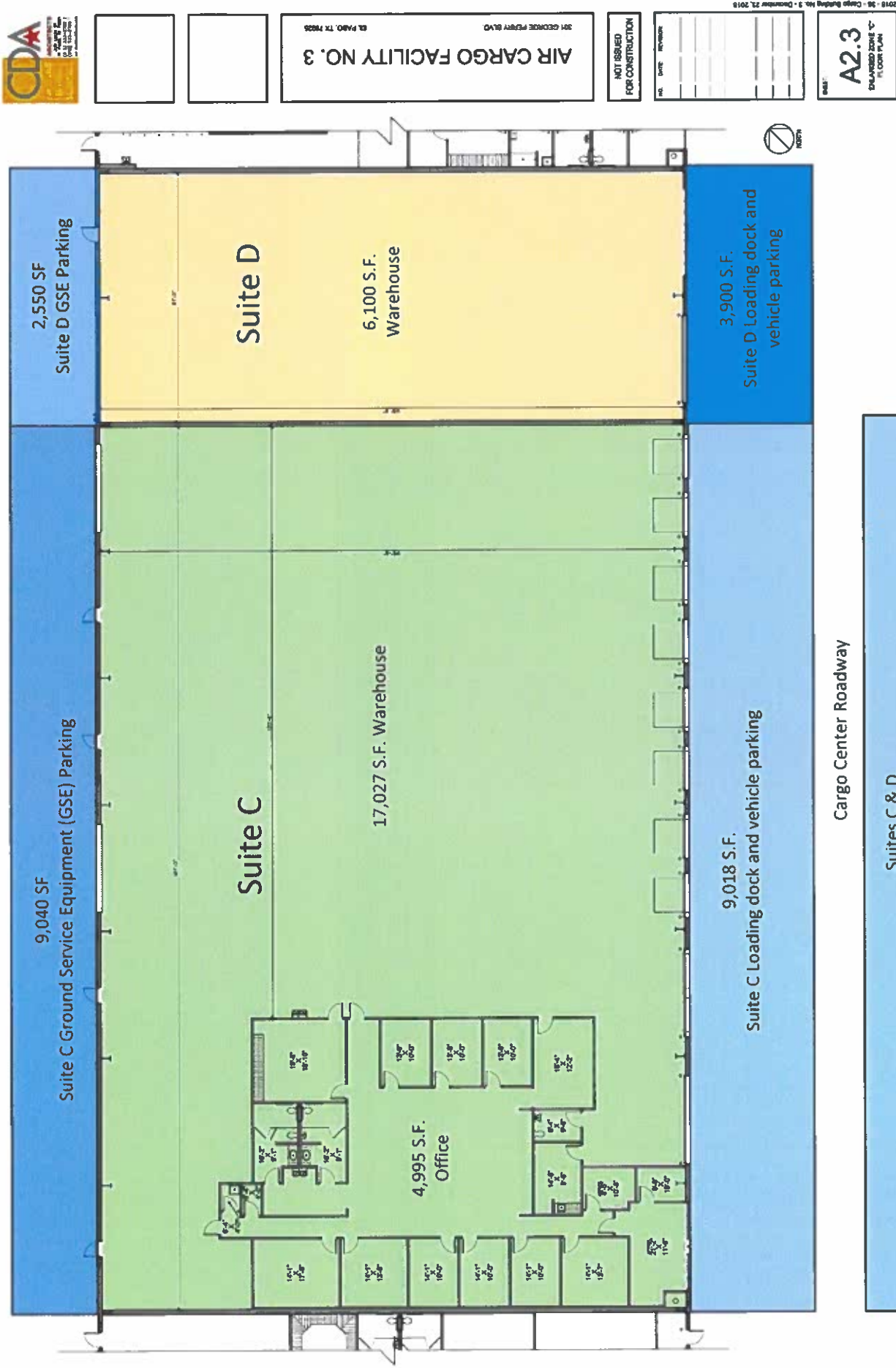
[Signature]  
Notary Public, State of SC

My Commission Expires:  
January 24, 2033

**IVY MARTIN**  
Notary Public - State of South Carolina  
My Commission Expires January 24, 2033



# Exhibit A – Premises



Cargo Center Roadway

Suites C & D  
 Vehicle parking – 12,400 SF  
 Fenced-in Area – 25,000 SF

**2019 - 20 - Cargo Building No. 3 - December 23, 2018**

**A2.3**

ENLARGED ZONE - 1/4" COURT PLAN

**AIR CARGO FACILITY NO. 3**

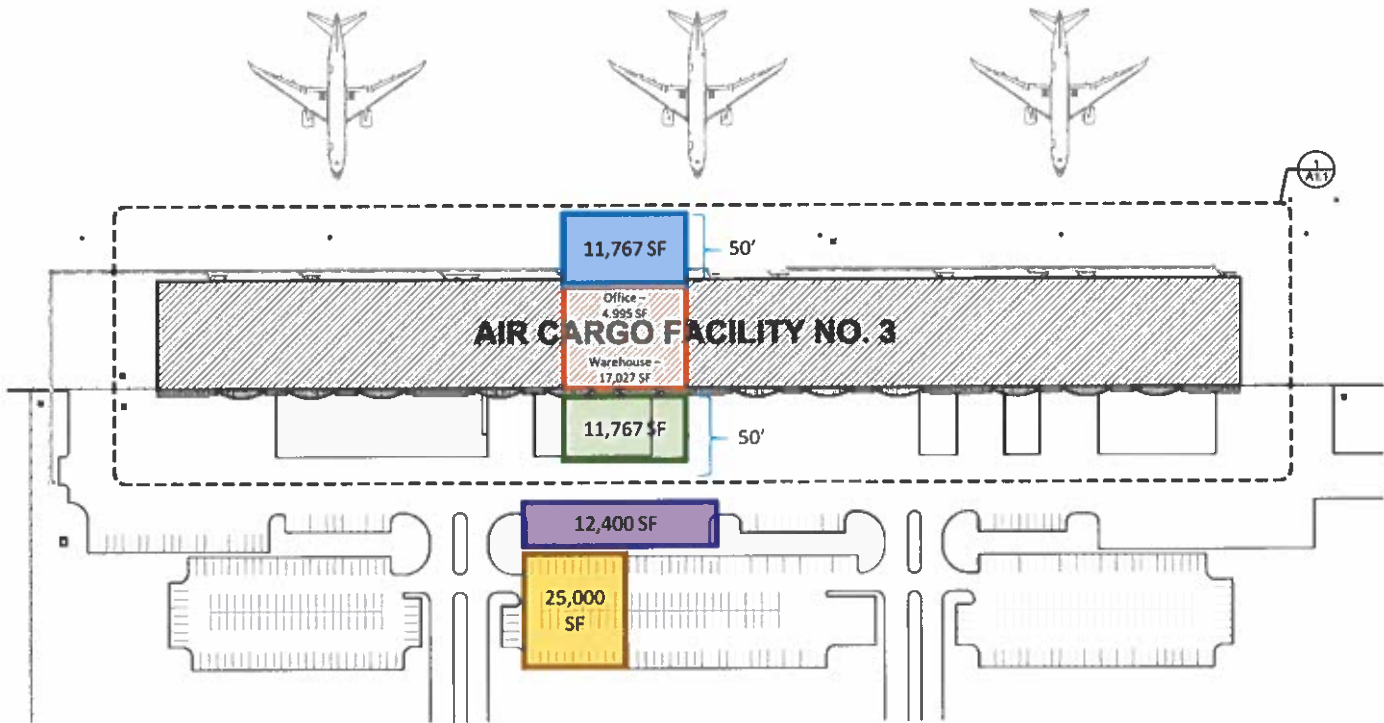
301 GEORGE PERRY BLVD  
 EL PASO, TX 79925

**NOT ISSUED FOR CONSTRUCTION**

NO. DATE REVISION

# Exhibit B

## Premises: GSE Parking, Office/Warehouse, Loading Dock, Vehicle Parking and Fenced-in Area



- |                                       |  |
|---------------------------------------|--|
| <span style="color: blue;">■</span>   | Ground Service Equipment (GSE) Parking Space |
| <span style="color: green;">■</span>  | Loading Dock and Vehicle Parking Space       |
| <span style="color: red;">■</span>    | Office/Warehouse Space                       |
| <span style="color: purple;">■</span> | Vehicle Parking Space                        |
| <span style="color: yellow;">■</span> | Fenced-in Area                               |

Exhibit "C"

Exhibit G Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee.
2. The above provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will 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. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Agreements, 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 will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor 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 Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to Lessor 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 a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") 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 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR 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 USC § 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 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27

(Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (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 (42 USC § 12101, et seq) (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) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 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 (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. 74087 (2005));
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 USC § 1681, et seq).

**D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.**

1. Lessee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the 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, Lessee will maintain and operate

such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and 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.

2. In the event of breach of any of the above Nondiscrimination covenants, Lessor 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.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Lessee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground 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 ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.
2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

F. Subcontracts. Lessee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).