

FIRST AMENDMENT TO LEASE

This first amendment is dated October 13, 2015 (the “**Effective Date**”), and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the “**Lessor**”), and CONCORD JET SERVICES, Inc., a California Corporation (“**Tenant**”).

Recitals

- A. The Lessor owns and operates Buchanan Field, a public airport located at Concord, California (the “**Airport**”), as shown on the Airport Layout Plan, which plan is on file in the office of the Lessor Director of Airports (the “**Director of Airports**”).
- B. The Lessor leased that portion of the Airport commonly known as 1448 Sally Ride Drive and 1450 Sally Ride Drive (the “**Premises**”) to APEX Aviation Corporation (“**Apex**”) pursuant to a lease dated March 15, 2005 (the “**Lease**”). Pursuant to the foreclosure of a leasehold mortgage, Rabobank, N.A. became the owner of the leasehold estate and the tenant under the Lease. Rabobank, N.A. subsequently assigned the Lease to NWK2, Inc., which subsequently assigned the Lease to Tenant. As a result, Tenant possesses all of the rights and obligations of the Tenant under the Lease.
- C. The parties desire to amend the Lease to (i) correct the dates on which the revaluation of ground rent occurs, (ii) modify the terms that apply to percentage rent and other additional rent, (iii) modify the type of operations permitted on the Premises, to permit subtenants to conduct commercial auxiliary aviation services from the Premises, and (iv) modify the terms that apply to Improvements and the cancellation of the Lease by the Lessor, in order for those terms to be comparable to the terms of other long-term airport leases.

The parties therefore agree as follows:

Agreement

- 1. Section 7.C. Revaluation of Ground Rent is deleted in its entirety and replaced with the following:
 - C. Revaluation of Ground Rent. Ground Rent will be adjusted in accordance with the revaluation process described below on March 15, 2017, March 15, 2025, and March 15, 2035 (each such date, a “**Revaluation Date**”). In no event will the Ground Rent for any year be less than the Ground Rent in effect for the immediately preceding year. In the event there is a decrease in the CPI or in the fair market rental value of the Premises, Ground Rent for the year in question will be the same as the Ground Rent for the preceding year. The revaluation of Ground Rent will be based on the fair market rental value of the Leased Premises, using the Revaluation Process, defined below. The Lessor shall initiate the Revaluation Process prior to each Revaluation Date. Ground Rent established

through the Revaluation Process is subject to adjustment for changes in the CPI Factor in accordance with Section 7.B., other than in those years that begin on a Revaluation Date.

1) Conditions of Revaluation. The revaluation of Ground Rent, including any appraisals prepared as part of the Revaluation Process, will be conducted as follows:

- a) All negotiations and actions taken by the Lessor and Tenant under this Section will be undertaken and conducted by the parties in good faith.
- b) If the Revaluation Process is not concluded by the Revaluation Date, the Ground Rent determined by the Revaluation Process described herein will be retroactive to the Revaluation Date to which the Revaluation Process applies. Tenant shall make any retroactive payments of Ground Rent no later than thirty (30) days following the completion of the Revaluation Process.
- c) Except as otherwise provided herein, no waiver by the Lessor of any of the provisions of this Section will be deemed to have been made by the Lessor, unless made expressly in writing by the Director of Airports and no waiver by Tenant will be deemed to have been made unless made expressly in writing by the duly authorized agent of Tenant.
- d) All time periods specified in this Section will be counted in calendar days.

2) Revaluation Process. The “**Revaluation Process**” consists of the following:

- a) The Lessor shall determine the fair market rental value of the Premises (the “**Lessor Revaluation**”) and shall notify Tenant in writing of the amount of the new monthly Ground Rent (the “**Revaluation Notice**”).
- b) If Tenant disagrees with the Lessor Revaluation, Tenant may file with the Lessor a dispute of the amount of Lessor Revaluation (“**Tenant Dispute**”) and include Tenant’s proposed Ground Rent revaluation amount. The Tenant Dispute must be in writing and delivered to the Director of Airports no later than twenty-one (21) days after the Revaluation Notice is delivered to Tenant (the “**Dispute Period**”). If Tenant does not file a Tenant

Dispute with the Lessor within the Dispute Period: (i) the Lessor Revaluation will automatically be deemed to be accepted by Tenant, (ii) Tenant will be deemed to have waived the right to contest the amount specified in the Revaluation Notice, (iii) the new Ground Rent specified in the Revaluation Notice will become effective on the applicable Revaluation Date, and (iv) the Revaluation Process will be over.

- c) If Tenant delivers a Tenant Dispute to the Lessor within the Dispute Period, the Lessor and Tenant will have twenty-one (21) days following the Lessor's receipt of the Tenant Dispute to attempt to establish a new Ground Rent by negotiation (the "**Rent Negotiation Period**"). The Rent Negotiation Period may not be extended beyond the initial twenty-one (21) day period except by mutual written agreement of Tenant and the Director of Airports. If Tenant and the Lessor agree in writing on the new monthly Ground Rent during the Rent Negotiation Period, the new monthly Ground Rent will become effective on the applicable Revaluation Date and both the Lessor and Tenant will be deemed to have waived the right to contest such new Ground Rent.
- d) If the Lessor and Tenant are unable to agree upon a new Ground Rent during the Rent Negotiation Period, then the Lessor and Tenant shall each appoint an appraiser to determine the fair market value of the Premises. The Lessor and Tenant shall identify the name of their appraiser by written notice to the other party. The appointment of the appraiser will be made and notice of the appointment will be given to the other party within twenty-one (21) days after the end of the Rent Negotiation Period (the "**Selection Period**"). Each appraiser must be a member of the American Institute of Real Estate Appraisers, have the designation of Member of the Appraisal Institute ("**MAI**"), and have current aviation appraisal experience in appraising property in the geographic area where the Premises is situated. Each party is responsible for paying the fees and costs of its appraiser.

In the event that Tenant does not appoint an appraiser and provide the Lessor with written notice of the appointment within the Selection Period: (i)

the initial Lessor Revaluation will automatically be deemed to be accepted by Tenant, (ii) the new monthly Ground Rent, specified in the Revaluation Notice will become effective on the applicable Revaluation Date, (iii) Tenant will be deemed to have waived the right to further contest the amount of the Lessor Revaluation by arbitration or in any other manner, and (iv) the Revaluation Process will be over.

In the event that the Lessor does not appoint an appraiser and provide Tenant with written notice of the appointment within the Selection Period:, (i) the monthly Ground Rent will remain unchanged or will equal the fair market rental value determined by Tenant's appraiser, whichever is greater, (ii) such monthly Ground Rent will become effective on the applicable Revaluation Date, (iii) the Lessor will be deemed to have waived the right to contest the amount of the new monthly Ground Rent by arbitration or in any other manner, and (iv) the Revaluation Process will be over.

If the Lessor and Tenant each properly appoint an appraiser during the Selection Period, both appraisers will make an independent determination of the fair market rental value of the Premises. Each appraisal must be completed and a copy of the appraisal report delivered to the other party no later than sixty (60) days from the date the appraiser was appointed (the "Appraisal Period") unless otherwise extended by the mutual agreement of the Lessor and Tenant.

Upon completion of both appraisals, the Lessor and Tenant shall make a final attempt to establish a new monthly Ground Rent by negotiation. If the Lessor and Tenant agree in writing on a new monthly Ground Rent, the new monthly Ground Rent will become effective on the applicable Revaluation Date and both the Lessor and Tenant will be deemed to have waived the right to contest such new Ground Rent.

- e) In the event that the Lessor and Tenant cannot agree on a revaluation of the monthly Ground Rent within thirty (30) days following the Appraisal Period, either the Lessor or Tenant may declare an impasse in the negotiations by providing written notice of the impasse to the other party. The written notice of

impasse (the “**Final Proposal**”) will include all of the following information: (i) a statement that the declaring party has determined that negotiations have reached an impasse; (ii) the declaring party’s final proposed Ground Rent revaluation figure; (iii) a statement that the recipient has ten (10) business days to either give written acceptance of the amount of the Ground Rent revaluation specified in the Final Proposal or deliver a counter-final proposal (the “**Counter-Final Proposal**”) to the declaring party; and (iv) any other supplementary information as the declaring party deems appropriate. The party upon whom the Final Proposal is served shall then have ten (10) business days following receipt of the Final Proposal to either accept the Final Proposal or to reject the Final Proposal and deliver a Counter-Final Proposal to the declaring party. If either the Final Proposal or the Counter-Final Proposal is accepted in writing, then the new monthly Ground Rent will become effective on the applicable Revaluation Date and both the Lessor and Tenant will be deemed to have waived the right to contest such new Ground Rent.

- f) If neither the Final Proposal nor the Counter-Final Proposal is accepted, not later than forty-five (45) days after delivery of the Final Proposal, the appraiser selected by the Lessor and the appraiser selected by Tenant will jointly select a third appraiser with the designation of MAI and with current aviation appraisal experience in appraising property in the geographic area where the Premises is situated. The third appraiser will determine the fair market value of the Premises. The third appraiser will render a final written decision within thirty (30) days of his appointment. The cost of the third appraiser will be shared equally by the Lessor and Tenant. The appraiser’s decision is binding on all parties and will apply retroactively to the Revaluation Date.

- 2. Section 8. Percentage and Other Additional Rent is deleted in its entirety and replaced with the following:

8. **PERCENTAGE AND OTHER ADDITIONAL RENT.**

- A. Percentage Rent. In addition to paying Ground Rent, Tenant shall pay Percentage Rent. “**Percentage Rent**” means an amount equal to two percent (2%) of the Gross Receipts, as defined below.

Percentage Rent is due no later than the tenth day of the month for goods sold and services provided by Tenant during the previous month.

B. **"Gross Receipts"** means all revenue and receipts of the Tenant that is derived from or related to the Premises, including but not limited to the gross amount received from all sales and cash payments received therefor; credit extended at the time of a credit sale; all charges for services performed, including but not limited to sales of oil and other lubricants; lease payments from Subtenants; and the gross amount received from any and all of the sources of income derived from the businesses conducted on the Premises. In the case of insurance sales and premiums, Gross Receipts is limited to the commissions received. Gross Receipts excludes the following:

- 1) Federal, state and municipal sales taxes, excise taxes, gross receipts taxes and all other similar taxes separately stated or collected from customers.
- 2) Receipts from wholesale sales of parts and accessories wherein the resale permit number issued by the Board of Equalization of the State of California, is necessarily used for such sale; provided, however, this exception applies to only those wholesale sales that do not exceed 5% of the retail sales of parts and accessories.
- 3) Receipts from the sale of new and used aircraft; provided a flat fee of \$500 per transaction is paid to the Lessor upon the sale of each new and used aircraft.
- 4) Commissions paid for financing or discounts to be paid by Tenant to secure financing for any of the business conducted or sales of any kind or nature by Tenant.
- 5) All revenue against which Tenant later provides a credit for returns to suppliers or manufactures.
- 6) Amounts received by Tenant for settlement of any claims for loss or damage to products purchased by Tenant.
- 7) Deposits received for any State recycling fund.
- 8) Reimbursable expenses incurred by Tenant on behalf of its customers.

C. Statement of Gross Receipts. Tenant shall furnish to the Lessor a written statement of monthly Gross Receipts ("**Statement of**

Gross Receipts) within thirty (30) days after the close of each calendar quarter.

- D. Certified Annual Statement. Within one hundred twenty (120) days following the close of Tenant's fiscal year, and within one hundred twenty (120) days following the termination of this Lease, Tenant shall deliver to the Lessor an annual statement of Gross Receipts, certified as being correct by an authorized accounting officer of the Tenant ("**Certified Annual Statement**"). If the Certified Annual Statement shows that an additional amount of Percentage Rent is due and payable to the Lessor, Tenant shall make such payment currently with the delivery of the Certified Annual Statement to the Lessor.
- E. Records. The Lessor may inspect the books and records of Tenant and any and all Subtenants from which any Statement of Gross Receipts or Certified Annual Statement is prepared at any reasonable time upon request. For this purpose, Tenant shall keep for a period of five (5) years after submission of any such statement to the Lessor, all of Tenant's records, books, accounts, and other data pertaining or necessary to the verification of Gross Receipts as defined herein, and shall, upon request, make the same available to the Lessor, the Lessor's auditor, representative or agent for examination at any time during such 5-year period. Failure to keep, maintain, and make available the records, books, accounts, and other data required by this Section is a default of this Lease.
- F. Audits. The Lessor may, at the Lessor's option, engage the services of an independent certified public accountant to audit and verify the accuracy of Tenant's records, books, and accounts, including the Certified Annual Statement. In the event the audit shows that an additional amount of Percentage Rent is due and payable to the Lessor, Tenant shall make such payment within seven (7) days of the Lessor's demand therefore. If the audit shows that there has been an overpayment of Percentage Rent, the Lessor shall, at the sole option of the Lessor, promptly repay to Tenant the amount of such overpayment or credit same to future Rent next due the Lessor by Tenant, at the Lessor's sole election. If the audit shows an underpayment by Tenant that is greater than five percent (5%) of the Percentage Rent paid to the Lessor, Tenant shall pay for the reasonable and actual cost of the audit.
- G. Charter Landing Fee. If Tenant or a subtenant of Tenant elects to conduct FAR Part 135 Charter operations to, from, or through the Premises, the Lessor is entitled to a landing fee for the FAR Part 135 Charter activity that is a minimum of \$16 per landing for aircraft below 16,000 pounds or \$1.50 per 1,000 pounds for aircraft that are at or over 16,000 pounds (the "**Charter Landing Fee**") in accordance with Section 12.B. In no event will any Charter

Landing Fee be deemed Additional Rent nor does Tenant have any liability to the Lessor if a Subtenant is delinquent in its payment of a Charter Landing Fee.

- H. Records to Be Maintained. Tenant shall record all sales and other transactions, whether cash or credit, and shall keep full and accurate books of account and records in accordance with United States Generally Accepted Accounting Principles consistently applied, including without limitation, a sales journal general ledger, and all bank account statements showing deposits of gross receipts revenue. In addition, Tenant shall keep all cash register receipts with regard to gross receipts, credits, refunds and other pertinent transactions, as well as records of all other exclusions and deductions from Gross Receipts.
- I. Additional Rent. In addition to the Extension Fee, which has been paid, and Ground Rent, Tenant shall pay as additional rent, all other charges, costs and fees required to be paid by Tenant pursuant to the provisions of this Lease (such amounts, **"Additional Rent,"** and together with the Extension Fee and Ground Rent, **"Rent"**).

- 3. Section 9.D. Security Deposit is deleted in its entirety and replaced with the following:

- D. Security Deposit. Upon execution of the Lease, Tenant paid the Lessor a the sum of Twenty-One Thousand and Three Hundred and 00/100 Dollars (\$21,300.00) in cash or by certified check made payable to the Lessor as security for the faithful performance of the terms, covenants, and conditions of this Lease (the **"Security Deposit"**).

If Tenant is in Default under the terms of this Lease, the Lessor may in its sole discretion (but is not be required to) apply the Security Deposit, or any portion of it, to (i) any expense, loss or any Rent or other sum owed to the Lessor, (ii) any amount that the Lessor may spend or become obligated to spend in exercising the Lessor's rights under this Lease, or (iii) damage sustained by the Lessor resulting from Tenant's Default. Upon demand by the Lessor, Tenant shall immediately pay to the Lessor a sum equal to the portion of the Security Deposit expended or applied by the Lessor as provided in this section so as to maintain the Security Deposit in the sum initially deposited.

Upon the expiration or termination of this Lease and a final accounting by the Lessor, any remaining Security Deposit balance will be refunded to Tenant, without interest. Tenant waives the provisions of California Civil Code Section 1950.7, and all other provisions of law in force or that become in force after the

Effective Date of this Lease, that provide that the Lessor may claim from a Security Deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises. The Lessor and Tenant agree that the Lessor may, in addition, claim those sums reasonably necessary to compensate the Lessor for any other foreseeable or unforeseeable loss or damage caused by the act or omission of Tenant or Tenant's officers, agents, employees, independent contractors or invitees.

4. Section 12. Rental Operations is deleted in its entirety and replaced with the following:

12. **RENTAL OPERATIONS AND SUBLEASES.**

- A. Subject to the terms of Section 12.B. Subleases, Tenant may sublease or rent hangar space and office space pursuant to the rules and regulations adopted from time to time by the Airport, including but not limited to the following:

- 1) All office and hangar rental agreements (each, a "**Rental Agreement**") are subject to the terms and conditions of, and be subordinate to, this Lease. The term of a Rental Agreement may not be greater than the term of this Lease.
- 2) Rental Agreements do not create a landlord-tenant or any other legal relationship between the Lessor and Tenant's subtenant.
- 3) Tenant is, and at all times will remain, entirely responsible for the full performance of this Lease.
- 4) Tenant or its authorized representative must be available during normal business hours, either at the Airport or by telephone/email to discuss the rental of hangar space and to conduct business.
- 5) By December 1 each year, Tenant shall give the Lessor a list of the name, address, phone number, and email address of all current subtenants, along with the identification and make of all of each subtenant's hangared aircraft and a description of each subtenant's business activity, if applicable.
- 6) Tenant is responsible for all materials stored in the hangars, whether the materials are stored by Tenant or Tenant's agents, employees, or subtenants.

- 7) No commercial aviation operations are permitted without the prior written consent of the Director of Airports.

B. Additional Terms Applicable to Commercial and Charter Rental Agreements.

- 1) Tenant shall cause each subtenant conducting commercial activities or charter operations to enter into a license agreement with the Lessor that governs the payment of the commercial license fee and/or Charter Landing Fee by the subtenant directly to the Lessor (a "License Agreement").
- 2) Tenant shall use good faith efforts to cause all subtenants of the Premises who elect to conduct FAR Part 135 Charter operations to, from, or through the Premises, to strictly comply with the provisions of this Section 12.B.
- 3) If a subtenant is found to be conducting any commercial aviation activity in a hangar or office space without the written consent of the Director of Airports, Tenant shall immediately serve the subtenant of such hangar or office space with a thirty (30) day cure or quit notice and concurrently serve the Director of Airports with a copy of such notice. If the offending subtenant fails to cause the cessation of such commercial activity within thirty (30) days of the cure or quit notice, Tenant shall terminate the subtenant's Rental Agreement.
- 4) Tenant does not have any liability to the Lessor if a subtenant is delinquent in or is otherwise in violation of the provisions of a License Agreement.
- 5) Tenant shall include provisions in all commercial and charter rental agreements to require that subtenant:
 - a) Pay the Lessor the commercial license fee and/or Charter Landing Fee.
 - b) Acknowledge that the underlying leased premises are owned in fee by Lessor and that the Tenant has entered into a lease with Lessor for the Leased Premises.
 - c) First enter into a License Agreement with the Lessor to engage in commercial operations on the Leased Premises pursuant to the license provisions of the Lease and subject to terms and conditions established between Lessor and subtenant for the privilege of conducting its business at the Airport

and in consideration for the impacts such commercial operations may have on the Airport.

- d) Not operate any commercial operations under a Rental Agreement until a License Agreement has been executed by Lessor and the subtenant.
- e) Provide Tenant with a copy of any executed License Agreement and immediately inform Tenant of the termination of any such License Agreement.
- f) Acknowledge that in the event subtenant (i) engages in commercial operations on the Leased Premises without having first entered into a License Agreement, (ii) is in default or breach of his or her License Agreement with the Lessor, or (iii) has its License Agreement terminated for any reason and subtenant nevertheless continues to engage in commercial operations on the Leased Premises, subtenant's Rental Agreement can be terminated by the Tenant.
- g) Upon notification by the Lessor to Tenant of a violation of the provisions of this Section 12, or a License Agreement by a Subtenant, Tenant shall within ten (10) days of receipt of such written notice, either (i) cancel or otherwise terminate the Rental Agreement, or (ii) cure the default under the License Agreement. Lessee's failure to either terminate the Rental Agreement or cure the default under the License Agreement is a default under this Lease.

5. Section 14. Improvements is deleted in its entirety and replaced with the following:

14. **IMPROVEMENTS.**

- A. Maintenance Plan. In order to determine what maintenance is required to maintain the aircraft hangars, office space, aircraft taxi space, aircraft ramp, the parking area(s), any other facilities and landscaping on the Premises (together, the "**Improvements**") in a "first class condition," as required by this Lease, through the remaining term of the Lease (such maintenance, the "**Maintenance Work**"), the Lessor and Tenant shall conduct a joint inspection of the Improvements. The joint inspection is to occur not earlier than September 15, 2034 and not later than March 15, 2035.

The Maintenance Work may include, but is not limited to, the following:

- 1) Interior and exterior building improvements, including roof, doors, windows, signage, street facades, painting, flooring, fixtures (i.e., lights, toilets and sinks), et cetera.
- 2) The replacement of asphalt, and the cut and repair of any concrete features on the aircraft ramp and in the parking lot of the Premises.
- 3) The repair, replacement, and upgrade of HVAC.
- 4) The repair, replacement and upgrade of plumbing and electrical systems in the offices and aircraft hangars.

Within ninety (90) days after the joint inspection of the Premises, Tenant shall prepare and submit to the Director of Airports for his approval a detailed plan that itemizes the Maintenance Work to be performed (the “**Maintenance Plan**”). The Maintenance Plan must include a timeline for the performance of the Maintenance Work and the expected cost of the Maintenance Work. The Director of Airports will review the Maintenance Plan and approve or disapprove it within thirty (30) days of receipt. If the Maintenance Plan is not approved by the Director of Airports, the Director of Airports shall set forth in writing and notify Tenant of his reasons for withholding such approval. Tenant shall thereafter submit a revised Maintenance Plan to the Director of Airports, which approval is to be granted or denied within thirty (30) days of receipt in accordance with the procedures set forth above. The Director of Airports may not unreasonably withhold approval of a Maintenance Plan. If a Maintenance Plan has not been approved by January 15, 2036, Tenant will be in default of this Lease. Tenant’s failure to execute the Maintenance Plan is a default of this Lease.

If at any time the Lessor determines that it will require Tenant to remove a particular Improvement pursuant to Section 30, the Lessor shall give Tenant prompt written notice of such determination, and thereafter Tenant will not be required to comply with the terms of this Section 14 with respect to such Improvement. Notwithstanding the above, Tenant has an ongoing obligation to maintain all Improvements in accordance with Section 17 Maintenance, Repair and Storage.

- B. Plans and Lessor’s Approval. Prior to commencing any Maintenance Work, Tenant shall obtain the Director of Airports’ written approval of all plans prepared by architects, engineers or contractors that relate to the Maintenance Plan, and all

modifications or amendments thereto, (including all working drawings and other supplements thereto, but excluding immaterial field changes).

- C. Tenant Responsibility for Maintenance Work. Tenant is solely responsible for obtaining all necessary permits and approvals and for paying any and all fees required for the Maintenance Work. Approval of the Maintenance Plan by the Director of Airports does not constitute a representation or warranty as to its conformity with other requirements, and responsibility therefor remains at all times in Tenant.

Tenant shall cause all Maintenance Work to be constructed in conformance with: (i) all requirements of the Lessor, (ii) the Maintenance Plan, (iii) all applicable statutes, ordinances, building codes, Airport Policy and Standards for Development, and rules and regulations of the Lessor, and (iv) the rules and regulations of all other authorities having jurisdiction over the Premises or Tenant's operations thereon, including, but not limited to, the Contra Costa County Department of Conservation and Development, the Contra Costa County Public Works Department and the Federal Aviation Administration.

- D. Performance Bond. Not less than ten (10) working days before the commencement of maintenance pursuant to the Maintenance Plan, Tenant shall, at its sole cost and expense, furnish to the Lessor a performance bond of a surety company licensed to transact business in the State of California, or other type of security satisfactory to the Lessor, that (i) is in the amount of one hundred percent (100%) of the total estimated cost of the Maintenance Work that is being performed, (ii) names Tenant as principal, and (iii) guarantees faithful performance of all construction work associated with the Maintenance Plan by March 15, 2040, or such earlier date as is identified in the Maintenance Plan as the date the maintenance work will be completed. The performance bond or other security must be in a form acceptable to the Lessor.

- E. Payment Bond. Not less than ten (10) working days before the commencement of maintenance pursuant to the Maintenance Plan, Tenant shall, at its sole cost and expense, furnish to the Lessor either of the following: (i) a payment bond of a surety company licensed to transact business in the State of California that (x) is in the amount of one hundred percent (100%) of the total estimated cost of the Maintenance Plan and all other necessary appurtenances specific therein, and (y) guarantees the payment of all labor, materials, provisions, supplies and equipment used in, upon, for or about the performance of the construction work; or (ii) an alternate form of security that is acceptable to the Lessor in its sole discretion. The payment bond must be in a form acceptable to the

Lessor and must satisfy the requirements of California Civil Code section 3248.

- F. Inspection and Acceptance. Tenant shall obtain all applicable permits and authorizations of, all local, state, federal and other government agencies and entities that have jurisdiction over the Maintenance Work, including but not limited to, the Contra Costa County Department of Conservation and Development and the Contra Costa County Public Works Department. All Maintenance Work is subject to inspection, testing, and acceptance in accordance with applicable laws, rules, regulations, and requirements of all governmental agencies and entities that have jurisdiction over the Maintenance Work. Nothing in this Lease is to be construed as approval of any permit or authorization of any local, state, or federal government agency or entity that has jurisdiction over the Maintenance Work.
- G. No Warranties. The inspection, testing and acceptance by the Lessor under this or any other section of this Lease, of any plans submitted by or acts performed by Tenant does not constitute a warranty by the Lessor, and does not relieve Tenant of its obligation to fulfill the provisions of this Lease and of the Maintenance Plan as approved by the Lessor, nor is the Lessor thereby estopped from exercising any of its remedies provided at law or equity or under this Lease.
- H. Engineering. Tenant is responsible for all engineering work and the accuracy thereof. Any material deviations from the Maintenance Plan approved by the Director of Airports must have prior written approval by the Lessor.
- I. Paving and Concrete. As required under Section 14, and as necessary during the Term of this Lease, Tenant shall upgrade the pavement for the aircraft movement areas within the Premises, and the concrete floors in the Hangars, to enable them to accommodate the heaviest aircraft expected to operate in the area, or a fully loaded fuel truck, whichever is heavier. When installed, the pavement must have an expected pavement life of at least twenty (20) years. All road access must be in compliance with Lessor Public Works Department standards.
- J. Notice of Nonresponsibility. Tenant shall cause a notice of the Lessor non-responsibility to be posted and recorded by Tenant during construction in accordance with Civil Code Sections 3094 and 3129. A copy of the notice must be filed with the Lessor Recorder and mailed to the Director of Airports after filing.

5. Section 35. Cancellation by the Lessor is deleted in its entirety and replaced with the following:

If at any time ten (10) years or more after the Commencement Date of this Lease, the Lessor requires the Leased Premises for purposes other than an Auxiliary Aviation Site, the Lessor may cancel this Lease and acquire full title, control and possession of the Leased Premises and all Improvements thereon by giving one (1) year's written notice to Tenant of the effective date of such cancellation.

In the event of such cancellation, Airport and Tenant shall attempt by negotiation to fix the value of Tenant's remaining interest in the Premises by considering the factors set forth in the last paragraph of this Section 35. Such value, once determined, is the "**Fair Market Value**."

In the event that negotiations fail to establish the Fair Market Value, then the Fair Market Value is to be established by appraisers using the process described in this paragraph. Within fifteen (15) days after the conclusion of negotiations, the Lessor and Tenant shall each appoint an appraiser and provide the name of the appraiser so appointed to the other party. Each appraiser so appointed must (i) be a member of the American Institute of Real Estate Appraisers, (ii) have the designation of MAI Appraiser, and (iii) have current aviation appraisal experience in appraising property in the geographic real estate market where the Leased Premises is situated. In the event that either Lessor or Tenant defaults in the appointment of an appraiser within the fifteen (15) day period, the appraiser elected by the non-defaulting party will name a second appraiser. Within forty-five (45) days after the day the last appraiser is appointed (the "**Appraisal Period**"), the appraisers are to determine the Fair Market Value. The determination of the Fair Market Value agreed to by the two appraisers will be binding on both parties. In the event the appraisers cannot agree on a Fair Market Value during the Appraisal Period, they will mutually appoint a third appraiser. The third appraiser is to be appointed within fifteen (15) days after the end of the Appraisal Period and must be an MAI Appraiser and have current aviation appraisal experience in appraising property in the geographic real estate market where the Leased Premises is situated. If a third appraiser is not selected within the fifteen (15) day period, a third appraiser is to be selected by a presiding judge of the Contra Costa County Superior Court. Within forty-five (45) days after appointment, the third appraiser is to proceed to determine the Fair Market Value. The determination of the Fair Market Value made by the third appraiser will be binding on both parties. Each party shall bear the expense of the appraiser so appointed and one-half the expense of the third appraiser if appointed.

Whether the Fair Market Value is determined by the parties or the appraisers, the following factors are to be considered: (1) the fair market value of this Lease for its full remaining term (i.e., assuming no cancelation of the Lease), valued without the Improvements on the Premises, (2) the fair market value of this Lease for its full remaining term (i.e., assuming no cancelation of the Lease), valued with the Improvements on the Premises, (3) the Airport's then-current pro rata interest in the Improvements, as described in Section 26. (C) Casualties, and (4) any other factors then currently in use for standard real estate appraisals, as fixed by the

American Institute of Real Estate Appraisers. The Lessor shall pay an amount equal to the Fair Market Value to Tenant within ninety (90) days after the date the Lessor receives written notice of the final determination of the Fair Market Value.

6. All other terms of the Lease remain unchanged.

The parties are signing this first amendment as of the date and year first above written.

LESSOR:

COUNTY OF CONTRA COSTA,
a political subdivision of the State of California

By: _____

Name: Keith Freitas
Title: Director of Airports

RECOMMENDED FOR APPROVAL:

By: _____

Name: Beth Lee
Title: Assistant Director of Airports

RECOMMENDED FOR APPROVAL:

By: _____

Name: Karen Laws
Title: Principal Real Property Agent

APPROVED AS TO FORM:

Sharon L. Anderson,
County Counsel

By: _____

Name: Kathleen M. Andrus
Title: Deputy County Counsel

TENANT:

CONCORD JET SERVICES, INC.
a California Corporation

By: _____

Name: John F. Amaral
Its: V.P.

By: _____

Name: DENNIS M. DREW
Its: CFO