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SMOKY MOUNTAIN HELICOPTERS, INC.

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUA'I

In The Matter Of The Application)	SPECIAL MANAGEMENT AREA MINOR
)	PERMIT SMA(M)-_____, USE
of)	PERMIT U-_____ AND CLASS IV
)	ZONING PERMIT Z-IV-_____
SMOKY MOUNTAIN HELICOPTERS,)	
INC., a Delaware corporation, doing)	
business as Maverick Helicopters, for a)	APPLICATION; EXHIBIT LIST;
Special Management Area Minor Permit,)	EXHIBITS "A" – "T"
Use Permit and Class IV Zoning Permit)	
for real property identified as Tax Key)	
No.: (4) 1-8-08:004:por. at Hanapepe,)	
District of Waimea, Island and County of)	
Kaua'i, State of Hawaii, and containing an)	
area of 56,641 square feet, more or less.)	
_____)	

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APPLICATION

COMES NOW SMOKY MOUNTAIN HELICOPTERS, INC., a Delaware corporation, doing business as Maverick Helicopters, Applicant in the above-captioned proceedings, by and through its undersigned attorneys, and hereby submits the following Application:

SECTION 1. APPLICANT/OWNER/AGENT/SUBJECT PROPERTY.

1.1 Applicant. The Applicants in this matter (hereinafter referred to as the "Applicant"), SMOKY MOUNTAIN HELICOPTERS, INC., doing business as Maverick Helicopters, is the Lessee under that certain Helicopter Operations Lease (State Lease No. DOT-A-09-0001) for premises containing 54,461 square feet, more or less, being Space Nos. 001-102, -111, -112 and -113, located at Port Allen Airport, Island and County of Kaua'i, State of Hawaii (the "Premises") dated January 20, 2009, from Lessor State of Hawaii Department of Transportation (the "Lease")¹. A copy of the Lease dated January 20, 2009 is attached hereto as *Exhibit "A"*.

1.2 Owner. The Premises are under the control and jurisdiction of the Department of Transportation, State of Hawaii ("DOT") because of its designation as part of an Airport. See Lease, at page 1. The lands comprising the Port Allen Airport, of which the Premises are a part, were the subject of Executive Order No. 931 dated March 24, 1941, and were turned over to the then "Superintendent of Public Works" for airport use. Under the Government Reorganization Act of 1959 (following statehood), the State Department of Public

¹ At the time of the Lease, Kenneth J. D'Attilio ("D'Attilio") was the principal of Smoky Mountain Helicopters, Inc. Because D'Attilio sold a controlling percentage of the capital stock of Smoky Mountain Helicopters, Inc., an Assignment with the consent of the Lessor was required, and this Consent to Assignment was given by Lessor on December 26, 2017. A true and correct copy of the Consent to Assignment of Lease No. DOT-A-09-0001 is attached hereto as *Exhibit "B"*.

Works became the Department of Transportation. DOT has authorized the Applicant to submit this Application (see *Exhibit "C"* attached hereto).

1.3 Authorized Agent. Lorna A. Nishimitsu of Belles Graham LLP has been authorized to file this Application on the Applicant's behalf, a copy of which is attached hereto as *Exhibit "D"*.

1.4 Subject Premises. The land which is the subject of this Application is identified as a portion of Tax Key No.: (4) 1-8-08:004 located at the Port Allen Airport, Hanapepe, District of Waimea, Island and County of Kaua'i, State of Hawaii, containing an aggregate area of 54,461 square feet, more or less. Attached as *Exhibit "E"* is a copy of the tax plat map that shows the location of the Port Allen Airport (at the end of Lele Road which is the access road to the Kaua'i Veterans Cemetery).

SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF SUBJECT PREMISES.

2.1 Location. The Premises are shown in relation to the surrounding properties located on the tax plat map for Tax Key No.: (4) 1-8-08 attached hereto as *Exhibit "E"*. Its general area on the island of Kaua'i is shown on *Exhibit "F"*.

2.2 Land Use Designations. The respective State Land Use Commission ("SLUC"), Kaua'i General Plan, County of Kaua'i Comprehensive Zoning Ordinance ("CZO"), and other relevant land use designations for the Subject Premises are as follows:

a. SLUC. The Subject Premises are located within the SLUC Urban District (see *Exhibit "G"*).

b. Kaua'i General Plan. The Subject Premises are located in the 2018 Kaua'i General Plan's Natural Designation.

c. Heritage Resources. The Subject Premises have not been assigned any Heritage Resource Designation in the 2018 Kaua'i General Plan.

d. CZO. The Premises are zoned Open (O).

e. Development Plan Area. The Premises were identified in the Hanapepe-Eleele Community Development Plan (1974) as an Airstrip and Heliport.

f. Special Management Area. The Premises are located within the Special Management Area ("SMA") of the County of Kaua'i.

g. Shoreline. The Premises are located within 500 feet of the edge shoreline. The School of Ocean and Earth Sciences and Technology of the University of Hawaii's Erosion Maps for the Salt Pond and Hanapepe coastline areas, respectively attached as *Exhibits "H"* and *"I"* show that the Premises shoreline have remained essentially unchanged apparently in part because of the rocky shoreline, while the shoreline in the area of the Salt Ponds has been experiencing some erosion.

h. Violations. The Applicant was notified that there were problems with the Premises as follows:

i. the hangar building had restroom facilities that had been omitted from Special Management Area Minor Permit SMA (M)-05-18 ("SMA Permit"; see subsection 2.2(i) below);

ii. the mobile office trailer for temporary office use previously depicted on renderings for the SMA Permit had dimensions of 8' x 40', but that trailer was replaced with a mobile office trailer having dimensions of 12' x 56';

iii. a structure to house a compressor and a generator for operations, that had not been previously depicted on renderings for the SMA Permit was constructed;

iv. the Applicant obtained a larger generator for back-up power for its operations to replace the one located in the unpermitted structure, and sited it on a concrete pad adjacent to the structure that previously housed the smaller, inadequate generator; and

v. split rail fencing to enclose the concrete pad containing the replacement generator was constructed.

i. Land Use Permits. On March 30, 2005, the Planning Department issued Special Management Area Minor Permit SMA(M)-05-18, which is attached as *Exhibit "J"* for the construction of an aircraft hangar containing 6,000 square feet, more or less, and above-ground fuel storage tank (the permittee was identified as DOT; however, it was at the behest of Smoky Mountain Helicopters, Inc. well before the assignment of the Lease in 2017). A condition of the 2005 permit required the removal of "all temporary structures (sheds, shipping containers, etc.) associated with Inter-island Helicopter's [sic] operation".

SECTION 3. PAST, PRESENT AND PROPOSED USES OF SUBJECT PROPERTY.

3.1 Present Uses. Following the assignment of the Lease in 2017 (when Smoky Mountain Helicopters, Inc.'s shares were sold), the same operations, being helicopter tours of the island, as had been conducted prior to the assignment, have continued.

3.2 Past Uses. As far back as the 1974 Hanapepe-Eleele Community Development Plan, the Premises were being used for helicopter and small aircraft operations (the Applicant does not have records that establish when such uses commenced). The Port Allen

Airport was one of the first airstrips on Kaua'i, opening in about 1929, and served as a military airfield in the 1930s. In 1941, the Governor issued Executive Order No. 931 for the Port Allen Airport, and current jurisdiction the property rests with the State Department of Transportation.

With the opening of the original Lihue Airport in 1950, the Port Allen Airport became largely for small passenger craft, and now is almost exclusively used for commercial tour, air taxi helicopters and small engine aircraft. Following Hurricane Iniki, relief supplies were routed in part through the Port Allen Airport. Attached, as *Exhibit "K"*, is a map depicting the Port Allen Airport layout, including the leased Premises, which are highlighted in yellow.

In approximately 2002, the State of Hawaii proposed the closure of the Port Allen Airport. However, the Federal Aviation Administration opposed the proposal based upon the fact that the facility continues to serve a public purpose.

3.3 Proposed Use. The Applicant wishes to continue using the Premises for its helicopter tour operations, but because of the problems encountered, some of which are attributable to the previous principals of Smoky Mountain Helicopters, and some of which are attributable to the current principals, the Applicant is required to address/remediate the outstanding issues.

a. Pre-Acquisition. The previously approved hangar which was constructed, had been designed to include restroom facilities. The improvements that were allowed in 2005 as shown on *Exhibit "L"* attached hereto². At the time of the Assignment in 2017, the Premises consisted of the improvements shown on *Exhibit "L"*, including the 8' x 40' mobile office trailer that served as office facilities placed on an approved concrete slab. Attached, as *Exhibit "M"*, is a photograph that shows the Premises before acquisition (including some royal palms along the eastern perimeter fence of the Premises (those palms appear to be in

2 The Premises are located within the chain link fencing shown on *Exhibits "L" and "M"*.

poor condition, as they were likely unsuitable for the area, and have since been removed as they all died). However, for reasons unknown to the Applicant, the restroom facilities were removed/deleted from the approved plans but were actually installed. Applicant, which needs these restroom facilities for its operations, retained a consultant, at which time it was determined that a cesspool was being used for wastewater. The Applicant realizes that it needs to resolve the nonconformity of the system (i.e., instead of a cesspool, the restroom facilities should have been connected to a septic system), which in part has triggered this Application.

The previous operator also constructed a small structure to house a generator (for back-up power) and compressor (for compressed air for some of its equipment) at the rear of the hangar building without the necessary permit approval. See *Exhibit "N"*. Although not used at this time to house the operation's generator, it does house a compressor for the operation (see *Exhibit "O"*), and the Applicant would like to have the structure permitted rather than removed.

The small structure located at the rear of the hangar that used to house the generator used for back-up power, and which houses the compressor, was already in place (see *Exhibit "N"*). *Exhibit "O"* shows the condition of the interior of this small building and the compressor. What was actually done by the previous operator, which also includes the placement of a storage container (used to store tools and other items) to the north of the hangar, is depicted on a site plan attached as *Exhibit "P"*. The Applicant would like it noted that the generator that had been in the structure along with the compressor, was stolen some time before closing, and Applicant acquired a new generator which was placed on a concrete slab.

b. Post-Acquisition. When this Applicant commenced its operations, it moved a 12' x 56' foot mobile office trailer to the location of an 8' x 40' mobile office trailer

fronting the hangar (on an existing concrete pad). The smaller mobile office trailer had deteriorated beyond repair. The mobile office trailer serves as the operation's office/lobby area, as shown on *Exhibit "Q"*.

Because the generator was stolen, just prior to the Acquisition of the Lease by the Applicant, and needed to be replaced with one of a larger size, a new concrete slab near the existing small structure was poured to house the properly sized, replacement generator (the existing structure could not properly house the new generator plus the compressor), and split fencing was erected to shield the new generator from view (see *Exhibit "R"*).

Finally, a propane tank that previously served the hangar and its operations was replaced with a larger propane tank and set on a poured concrete slab (in the same location at the rear of the hangar building). See *Exhibit "R"*.

c. Desired Additions.

The Applicant now also seeks the necessary permission from this Commission for the erection of interior chain link fencing four feet (4') in height fencing to ensure that its passengers are restricted to a safe area, cement walkways to accommodate foot traffic, the installation of a permitted and suitable septic system to serve the existing restroom facilities in the hangar building, the addition of restroom facilities for its passengers outside of the hangar building (for safety reasons it is preferable to keep the people away from the hangar operations), and the addition of graveled ground cover over a layer of permeable fabric to address any fugitive dust issues, which has been of concern to the salt makers (in fairness to the Applicant, however, fugitive dust is generated by other operations, and cannot all be attributed to the Applicant).

The fencing will confine the passengers to areas that keep them from unsafe conditions, while the cement walks will provide both customers and employees with a defined travel path between points. The septic system is necessary to accommodate the restroom facilities in the hangar and any future restroom facilities that were installed without the necessary plumbing permits and wastewater review. All desired new additions are depicted on *Exhibit "S"*.

d. Justification. As the successor to the previous principals of Smoky Mountain Helicopters, Inc., the Applicant had assumed that all structures and facilities on the Premises, apparently having been authorized by the fee owner, DOT, meant that all such structures and facilities had all of the necessary governmental approvals. Unfortunately, the Applicant also assumed that the governmental approval for the work done after the acquisition from DOT was all that was necessary to sanction the items described in Section 3.3(b) above. It was not until the Applicant was informed by staff of the Planning Department about the improprieties that the Applicant learned that it was now required to secure permits for work that was in place pre-acquisition, and County permits for the work that the Applicant had done post-acquisition. In short, it is now cognizant of the different jurisdictional layers of land use in place in Hawaii.

SECTION 4. DESCRIPTION OF SUBJECT PREMISES AND OF SURROUNDING LANDS.

4.1 Surrounding Property. The Premises are surrounded by non-residential uses (see *Exhibits "E"* and *"I"*).

4.2 Description of Subject Premises. Because the Premises are part of the Port Allen airport facilities (total land area being approximately 167 acres), it is generally level land. Uses on adjacent properties include a cemetery, the Puolo Lighthouse site, salt beds and

the Salt Pond Beach Park. Attached as *Exhibit "K"* is a plot plan showing the layout of the Port Allen Airport, with the Premises highlighted in yellow to assist this Commission in orienting itself with the project.

SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 SMA Permit. The Special Management Area Rules and Regulations of the County of Kaua'i ("SMA Rules") specifically authorize the issuance of an SMA Minor if a "development" is proposed ("development" being defined, in this situation, as "[p]lacement or erection of any solid material . . .") that is not in excess of \$500,000.00 (see Section 7.3(B) of the SMA Rules), it would appear that an SMA Minor permit would be appropriate. The Contractor's Estimate in support of the valuation has been submitted concurrently with this Application.

SECTION 6. USE PERMIT.

The standards for issuance of a Use Permit require information for the Commission to find that the "establishment, maintenance, or operation of the construction, development, activity or use in the particular case is a compatible use and is not detrimental to health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood . . . and not detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial or harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan".

The airport operations at Port Allen Airport began in approximately 1929, and have evolved over the past 80 years or so. Given its location in a relatively remote area where its nearest neighbor is the Salt Pond Park and other non-residential uses, and provided that this

Commission feels that mitigation has been in place and will continue, the Applicant's continued use and improvement of the leased Premises have proven to be appropriate to the neighborhood.

SECTION 7. IMPACTS OF DEVELOPMENT.

7.1 Botanical Resources and Wildlife. The Development will have no significant impact on any endangered or protected wildlife or vegetation in the area. The Port Allen Airport facility has been in airport use since approximately 1941, when Executive Order No. 931 was encumbered for such airport purposes. Likely, because of that ongoing airport use since prior to World War II, no observable endangered or threatened botanical species exist.

7.2 Historical Resources. The Applicants are not aware of any archaeological, cultural or historical resources on the surface of the Premises. An archaeological survey by International Archaeological Research Institute, Inc. on file with your Planning Department and reviewed and accepted by the State Historic Preservation Division identified four sites on the Port Allen Airport property, all of which are located outside of the area leased by the Applicant.

7.3 Air Quality/Noise. The Development (being the installation of a septic system and securing approval of the unpermitted work that has already concluded for the purposes of curing any violations) will have little or no impact on the air quality and ambient noise levels in the area. While it might be said that the installation of the septic system using some heavy equipment might create noise, the Premises are part of an airport facility at which noise levels are ostensibly greater than noise levels in a commercial, residential or agricultural area. All vehicles or equipment used by the Applicant's contractor(s) in connection with the installation of the septic system facilities, will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency (EPA) and State of Hawaii air quality standards will not be exceeded. Hours of work shall be compliant

with any requirements of the State Department of Health and/or the County Department of Public Works.

7.4 Flooding and Drainage. Most of the Port Allen Airport (including the Premises) is located within Flood Zone AE, as indicated by the Flood Insurance Rate Map 150002-0288E). The Base Flood Elevation has been established at 11 feet (the regulatory requirement for the elevation of floodproofing of structures). The Applicant shall secure governmental confirmation that the work done post-acquisition will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kaua'i, as contained in Chapter 15, Article 1 of the Kaua'i County Code ("KCC"), and with such confirmation, the Development will have no impact on flooding on or around the Premises.

7.5 Utilities. Currently available utilities are electricity (from Kaua'i Island Utility Cooperative), potable water (from the Department of Water), natural gas from Hawaii Gas, and telephone, cable and internet connections through Spectrum.

7.6 Wastewater Treatment and Disposal. The existing hangar's restroom facilities are not connected to a currently compliant wastewater disposal system (i.e., septic), and Applicant is seeking authorization from this Commission (and the necessary permits from those governmental agencies having jurisdiction over the septic system such as the State Department of Health and the Kaua'i Department of Public Works) to install the required system. The Applicant does want to reiterate that its predecessor in interest did not advise Applicant that the existing wastewater disposal system (a cesspool) should not have been connected to the restroom facilities because the restroom facilities did not go through the permitting process. The existing cesspool shall have to be abandoned (and backfilled) as required by the State Department of Health. No sewer service is available in the area.

7.7 Solid Waste. Solid waste generated by the office use on the Subject Premises will continue to be disposed of by the Applicant at the Hanapepe Refuse Transfer Station on Lele Road.

7.8 Fire and Police Services/Schools. Fire and police services in the vicinity are located in Hanapepe and Waimea, respectively. The proposed development of the Subject Premises will not increase the need for existing fire and police services.

7.9. Schools. The closest schools are Eleele Elementary, Waimea Canyon and Waimea High Schools. However, this is not the type of development that will result in any increase in enrollment at any of the schools.

7.10 Economics. The development will have the following economic impacts:

a. Jobs. The development will result in the creation of no additional permanent job positions. Some construction jobs are expected to result during the construction phase for the installation of the septic facilities, but the numbers of jobs created will be nominal.

b. Housing. The development does not trigger the imposition of any Workforce Housing requirements under Chapter 7A, Kaua'i County Code (the Housing Policy for the County of Kaua'i).

c. Property Values. The completion of the Development (by completion, the Applicant means the installation of the septic system and obtaining such permits as necessary for work already completed, may marginally increase the value of the Premises. Based, however, on the unique natures of the airport use, it should not, in and of itself, have a material impact on the value of, or real property taxes assessed against, surrounding properties.

7.11 Population. The development is not expected to result in an increase in the island's population.

7.12 Traffic Circulation. Access to the Premises from Kaumualii Highway is through Lele Road (this road terminates at the Port Allen Airport property). No measurable increase in traffic will result by the addition of the proposed septic system, interior fencing and pedestrian walkways, and there was no measurable increase when the Applicant replaced a propane gas cylinder for a larger one and poured concrete footpad for the replacement cylinder, placed a more efficient compressor outside of a structure housing an old, inefficient compressor and installed a split rail fence around the new compressor.

7.13 Heritage Resources. The 2018 Kaua'i General Plan's Hanapepe-Eleele Heritage Resource Map does not place the Port Allen Airport land in any special classification. The proposed Development, then, does not conflict with any special classification of designation under the Hanapepe-Eleele Heritage Resource Map.

7.14 On-site Parking. The large size of the Premises accommodates more vehicles than would be necessary for all staff members and persons riding any helicopter tours. In addition, the area immediately outside of the fenced perimeter of the Premises contains marked parking stalls along the Lele Road right-of-way.

SECTION 8. SLUC CONSIDERATIONS.

8.1 SLUC Urban District. The Premises are located entirely in the SLUC Urban District. Section 205-2(b), Hawaii Revised Statutes ("HRS") specifies that activities and uses in the Urban District shall include those as provided for by ordinances or regulations of the counties within which the Urban District is situated.

8.2 Development's Compliance With SLUC Urban District Standards. The proposed Development involves the legitimization of work that preceded Applicant's acquisition of the business and work that the Applicant had done after the acquisition. The structures are not

generally permitted in lands zoned Open by the County (see Sections 8-2.4(s)(1) through 8-2.4(s)(10), KCC. However, the uses and structures are consistent with the airport use that has been occurring since approximately 1929 and the establishment of the Port Allen Airport by Executive Order No. 931 and uses allowed in Urban District.

SECTION 9. GENERAL PLAN CONSIDERATIONS.

9.1 Kaua'i General Plan Land Use Designations. The current General Plan designates the Subject Property in the "Natural" land use designation (Hanapepe-Eleele Land Use Map Figure 5.2). The policies governing such lands are set forth in Section 2.2.1 of the Kaua'i General Plan, which provides in relevant part as follows:

"2.2.1 Natural

Areas designated as Natural have either limited development capacity or are not suitable for development due to topography, hazards vulnerability, sensitive resources, and other constraints. They include all State Land Use Conservation District lands and some County Open Zoning District land. These areas include the many ridges, waterfalls, river valleys, and rugged coastlines of the island that comprise its open spaces and scenic views. Very few residential uses are found in the Natural designation and are generally not encouraged . . ."

9.2 Goals. The overall Goals contained in Section 1.3 of the General Plan, and the Applicant's compliance therewith, are as follows:

a. Goal 1 – A Sustainable Island. According to the General Plan, "[s]ustainability means growing responsibly to meet the needs of current and future generations without depleting important resources". Confining the helicopter tour operations to the Port Allen Airport (property identified for and intended to use for airport facilities since 1931) is a means of ensuring that uses such as these may continue without encroachment into other areas. For air safety and passenger comfort, existing facilities should be allowed to improve as this constitutes

responsible and respectful land use. No other lands (i.e. resources) would have to be viewed for expansion of this west side airport, and the facilities continue to be available for future emergency needs.

b. Goal 2 – A Unique and Beautiful Place. The focus of the General Plan is to make sure that there is shared responsibility to care for and protect treasured resources, traditions and qualities of the natural, built and human environments. The Port Allen area has its industrial uses occurring in relatively close proximity to commercial, park and resource gathering (salt making) uses. The lands allocated for the Port Allen Airport should be preserved in such use for a number of reasons, not the least of which being that it provides alternate access for aircraft if the Lihue Airport cannot accept any flights. While not likely to be characterized as contributing to the uniqueness of the area or its beauty, the airport is located on the wind-swept flats along the ocean, a place that would not in any case be able to sustain verdant, green growth.

While it is unfortunate that the salt makers' operations are located so close to the Port Allen Airport, and it is not disputed that these salt makers' create an extremely valuable resource for the people, expecting closure of the airport facilities is unrealistic until such time that the State has developed an alternate site. This Applicant, since it began its operations in July 2018, has taken great care not to interfere with the salt makers' operations by routing flight patterns so as to limit dust, has no helicopters flying over the salt beds, and is proposing to add gravel with an underlayer of fabric to reduce the risk that dust might be blown from its facilities to the ponds.³ The helicopter tours do not take off from the Premises, which are used for maintenance, repair and office and booking purposes.

³ The Applicant is not aware that dust from the leased Premises has, in fact, been blown onto the salt beds; and its helicopter operators do not have any flight paths that take them over the salt beds, as the Applicant is aware of the concerns that the salt makers have. In addition, the Applicant has no control over any other operators who take off or land from the Port Allen Airport. Nonetheless, as its contribution to mitigation, it wishes to take the step of graveling the open areas as a preventive measure.

c. Goal 3 – A Healthy and Resilient People. The General Plan seeks to increase the resilience and vitality of the communities on the island, and to promote better health outcomes through improving the natural, built and social environments. The Applicant's business contributes to generating income for the State (via taxes) by conducting its business. These taxes provide financial resources for the State of Hawaii (although the State does not allocate all tax revenues from this business to the Hanapepe-Eleele community). Just as with all taxpayers, including employees who pay income taxes, we all contribute in small part to creating financial resources for the State to be used as prudently as possible, which should in turn help to increase the people's resiliency and vitality. Businesses that contribute to the economy of the island and the State should be encouraged.

d. Goal 4 – An Equitable Place, with Opportunity for All. The General Plan seeks to foster "diverse and equitable communities with vibrant economic access to jobs and housing, and a high quality of life". Allowing the curing of the violations by its predecessor will enable to let the Applicant ensure that there are restroom facilities on site with wastewater disposal that conforms with federal and State guidelines (i.e., the conversion of cesspool disposal to septic tank disposal), as well as making the business operations more amenable to the clientele, while providing the helicopter mechanics with the proper support to keep the machines in safe working condition.

The Port Allen Airport facility has been in airport use for approximately 89 years (from approximately 1929), and has been a government facility for over 87 years (from 1931). Ensuring that all operations at the Port Allen Airport are upgraded and maintained by the various lessees contributes to the economy and quality of life of the community. Facilities that are in poor repair or which lack maintenance only diminish the community's well-being.

9.3 Policies. The Policies contained in Section 1.4 of the General Plan, and the Applicant's compliance therewith, are as follows:

a. Manage Growth to Preserve Rural Character. The Port Allen Airport has been a part of the Hanapepe-Eleele community for eight decades, and although not a rural facility, in comparison to the Lihue Airport which lands large passenger and other aircraft, is far more rural in nature than urban airports. The Executive Order No. 931 lands are currently fixed in size, and other government lands in close proximity (i.e., the salt beds and the Salt Pond Park, and the cemeteries) are low-impact uses and operations for the area. What was done to the Premises (before the acquisition and after the acquisition, for which retroactive permits are sought), does not constitute "growth" that will change the rural character of the area.

b. Provide Local Housing. The airport operations and any development at the airport will not provide local housing.

c. Recognize the Identity of Kaua'i's Individual Towns and Districts. The Port Allen Airport is one of two small airports on the island (the other being at Princeville). Port Allen's airport has, however, been operational since well before World War II, and is more intrinsically ingrained in the identity of the community in which it is located.

d. Design Healthy and Complete Neighborhoods. The Applicant's proposed new home contributes to a complete neighborhood, because it will be owner-occupied, and such stability is a significant factor in the sense of health of a community.

e. Make Strategic Infrastructure Investments. The work done, and that Applicant seeks to do, does not make any strategic infrastructure investments for the neighborhood, but it does improve leasehold facilities on State land, and the Applicant will not be receiving any governmental benefit in the form of tax-payer investments for its operation.

f. Reduce the Cost of Living. The development will not help reduce the cost of living of the island's population, nor will it increase the cost of living.

g. Build a Balanced Transportation System. The development will not increase traffic or congestion problems.

h. Protect Kaua'i's Scenic Beauty. The development will have negligible negative visual impacts. The facilities are at an airport, and will not impact any scenic points that have not already been impacted by the presence of the airport.

i. Uphold Kaua'i as a Unique Visitor Destination. The Applicant's operation provides an activity for visitors to see the island from a different perspective, and is a popular means of seeing the "wild" places of the island without actually having to set foot in the wilderness.

j. Help Business Thrive. Permitting the previous work and allowing the new work (the new work being the placement of connective walkways, interior fencing, and wastewater system) will help the Applicant's business both comply with wastewater disposal and present means of reducing any dust impacts to neighboring properties. In that sense, these actions will allow the Applicant to continue a successful business.

k. Help Agricultural Lands Be Productive. The Premises are not within an Agricultural district, and will neither contribute to, nor detract from, the productivity of any agricultural lands on the island.

l. Protect Our Watersheds. The Premises are not located within or near any watershed areas.

m. Complete Kaua'i's Shift to Clean Energy. The Applicant's requests to allow previously completed work, and new work, will not contribute to any shift to clean energy. The quonset hut hangar is not truly conducive to installation of photovoltaic panels.

n. Prepare for Climate Change. Unfortunately, the Port Allen Airport is on the coastline, and any sea level rise resulting from climate change will inevitably impact the entire facility.

o. Respect Native Hawaiian Rights and Wahi Pana. The work on the Premises will have no substantial impacts on the salt makers or their salt beds. By an addition of a gravel layer over a fabric screen, however, the Applicant is attempting to reduce any potential impacts from dust.

p. Protect Access to Kaua'i's Treasured Places. The work done or to be done at the Premises will have no impact on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices. Both the salt beds and the Salt Pond Park have access over government roads.

q. Nurture Our Keiki. The work done or to be done on the Premises will not provide for or diminish nurturing the young people of Kaua'i.

r. Honor Our Kūpuna. The work done or to be done on the Premises will neither honor nor dishonor or discredit the Kūpuna of Kaua'i.

s. Communicate with Aloha. The scheduling of this Application before the Planning Commission will allow the public to participate in the planning and decision-making process for the work done before acquisition and after the acquisition, and proposed work, which the Applicant now seeks approval for.

9.4 Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Applicant's compliance therewith, are as follows:

a. The Watershed. The work already performed, and to be performed (for which the Applicant seeks this Commission's approval) will have no negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.

b. Housing. Improvements to an airport facility do not create or reduce housing opportunities for the people of Kaua'i.

c. Transportation. The work already performed, and to be performed, will not result in increased traffic and will have no negative impact on Kaua'i's transportation systems and infrastructure.

d. Infrastructure & Services. The work already performed, and to be performed, did not and will not construct infrastructure or provide services for the island of Kaua'i.

e. Shared Spaces. The Premises are not a Shared Space (defined as "civic space" or areas used for everyday community activities such as shopping, recreation and socializing).

f. Economy. Except for the short-term benefit to the contractors and suppliers who performed services for the work already done, or proposed, the Applicant's proposal will not be a driving force in the island economy.

g. Heritage Resources. The work already performed, and proposed, will have no substantial visual impacts on surrounding lands, and no substantial impacts on historic sites, Hawaiian cultural or traditional practices, or access to streams, shorelines, areas associated

with Hawaiian cultural or traditional practices, recreational areas or other special places. The Applicant is, in fact, hopeful that adding the gravel cover over a fabric underlay will reduce risks of fugitive dust that might impact the salt beds. The special features or resources that are shown on the Hanapepe-Eleele Heritage Resources Map (Kaua'i General Plan Figure 5-10) are not in close proximity to the Premises, and the Port Allen Airport has existed for several decades without any reported negative impacts to any cultural features or the sand dunes shown on Figure 5-10.

h. Energy Sustainability. This proposal seeking the Commission's approval will not contribute to, nor diminish, energy sustainability for the island.

i. Public Safety & Hazards Resiliency. The Federal Insurance Rate Map for this area on Kaua'i indicates that the Premises are within Flood Zone AE with the base flood elevation established at 11 feet. The Applicant shall secure governmental confirmation that the work done post-acquisition will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kaua'i, as contained in Chapter 15, Article 1 of the Kaua'i County Code ("KCC"), and with such confirmation, the Development will have no impact on flooding on or around the Premises.

j. Opportunity & Health For All. The work will not contribute to, or otherwise diminish, opportunities for or the health of other citizens, although ensuring that wastewater disposal is compliant does support public health.

9.5 Development's Compliance with Kaua'i General Plan Standards. The development is consistent with the recognized use of Port Allen Airport as a State small airport facility. It is, however, technically incongruent with the 2018 General Plan Natural designation of the area, which appears to disregard the decades-long use of the airport facility.

SECTION 10. CZO ZONING DISTRICT CONSIDERATIONS.

10.1 CZO Open District. The Port Allen Airport parcel is zoned Open. The uses and structures that are specifically permitted in the Open District are set forth in Sections 8-2.4(s)(1) through (s)(10) as follows:

- (1) Accessory uses and structures
- (2) Day-use areas
- (3) Diversified agriculture
- (4) Livestock and grazing (unless the property is in the State Land Use Urban District, which means that the property cannot be used for livestock and grazing since it is within the State Land Use Urban District)
- (5) Outdoor recreation
- (6) Parks and monuments
- (7) Private recreation areas
- (8) Resource management
- (9) Single family detached dwellings
- (10) Undeveloped campgrounds.

Given that the airport use (although historical and preceding the adoption of any land use statutes or ordinances) is not a specifically permitted use in the Open District, the Applicant seeks the issuance of a Use Permit.

10.2 Development's Compliance with CZO Open District Standards.

The proposed Development is not an out-right permitted use, because the airport use and structures clearly do not fit into any of the categories enumerated above. The uses and structures, however, are consistent with the State Land Use Urban designation.

SECTION 11. SMA CONSIDERATIONS.

11.1 Recreational Resources. Since approximately 1929, when airport uses initially commenced, there have been no public recreational opportunities available on the Premises. The Development will not have any negative impact on any public recreational opportunities located on or near the Premises. The outdoor recreational uses at the Salt Pond

beach park have continued unimpeded by the airport operations. The Development is not located on the shoreline (it is, however, within the 500' distance established by Section 8-27.1(b), KCC), and will not overburden the use of, nor restrict access to, any shoreline areas.

11.2 Historic Resources. The Development will have no impact on any known historic, cultural or archaeological resources located on the Premises. No historic resources were identified within the Premises in the archaeological survey prepared by International Archaeological Research Institute, Inc. However, as stated above, the Applicant will protect and preserve any historic resources that may be found as a result of the Development and comply with any requirements of the State Historic Preservation Division.

11.3 Scenic and Open Space Resources. As part of a decades old airport facility, the Development should have no negative impact on the scenic and open space resources on and around the Premises. There are no points mauka of the Premises that serve as a viewing area or which are occupied for residential purposes.

11.4 Coastal Ecosystems. The Port Allen Airport is located along the shoreline, with the fixed improvements being roughly 208± feet from the shoreline (edge of vegetation/rocks) and 282± feet from the water's edge (see *Exhibit "Q"*), and no additional fixed improvements proposed closer to the shoreline/water's edge.

11.5 Economic Uses. The completed work did create short-term economic benefits associated with the construction/installation, and the installation of an approved wastewater system will create short-term economic benefits. The completed work and proposed work are necessary or desirable amenities to the business operation. No negative impacts to the economy are anticipated.

11.6 Coastal Hazards. As shown on the County of Kaua'i's flood insurance rate map (Flood Insurance Rate Map 150002-0088E), the Development is located in Flood Zone AE. The Applicant shall secure governmental confirmation that the work done post-acquisition will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kaua'i, as contained in Chapter 15, Article 1 of the Kaua'i County Code ("KCC"), and with such confirmation, the Development will have no impact on flooding on or around the Premises.

11.7 Managing Development/Public Participation. The Development supports an ongoing use of the Port Allen Airport for airport use, and is necessary for, complimentary to, and consistent with, past, present and possible future development of the State's airport lands. The Development will not result in an irrevocable commitment to the loss or destruction of any natural or cultural resources. The Development is not part of a larger development that will have cumulative effects on the environment; or that will involve a commitment for larger actions.

11.8 Beach Protection/Marine Resources. The seaward perimeter of the leased Premises of the Subject Property is a little over 208 feet from the vegetation line of the property fronting it and approximately 282 feet from the edge of the ocean (see *Exhibit "Q"*). There is also a paved roadway (Lele Road) that separates the Premises from the ocean area. The Development will have no impact on the shoreline or beach areas. The Development will not involve any development within the beach or coastal area which would have any impact on marine or coastal resources. That stretch of beach fronting the Premises has been relatively stable (see *Exhibit "H"*).

11.9 Value of Development. The Development (pre-acquisition unpermitted work, post-acquisition work and proposed work) has a value of less than \$500,000.00 (approximately \$205,562.12). See *Exhibit "T"*, which is the contractor's estimate.

SECTION 12. SHORELINE SETBACK ASSESSMENT

12.1 Erosion Rate. The Hanapepe area has been covered under the School of Ocean and Earth Sciences and Technology ("SOEST") mapping for the island of Kauai (see *Exhibit "I"*), which does not show historical change.

SECTION 13. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS).

The Development is not subject to the provisions of Chapter 343, HRS, as it is exempt pursuant to Sections 11-200-8(a)(1), (2) and (3)(D), Hawaii Administrative Rules⁴ ("HAR"); does not involve lands within the SLUC Conservation District; does not involve land within the shoreline area as defined in Section 205A-41, HRS; does not involve any historic site as designated in the national or State registers; does not involve lands in the Waikiki Special District; does not propose the reclassification of any SLUC Conservation District lands; and does not propose construction of new, or expansion or modification of, any helicopter facilities.

SECTION 14. NATIVE HAWAIIAN ISSUES.

Section 6E-42(a), Hawaii Revised Statutes ("HRS"), requires that before the approval of any "permit, license, certificate, land use change, subdivision or other entitlement for use, which may affect historic property⁵, aviation artifacts or a burial site".

The Applicant has consulted with a Mr. Leonard Kimokeo Kapahulehua⁶, a cultural practitioner (a member of Hana Pono LLC), who was born on Kauai and raised in the

⁴ Exempt classes of action include: (1) operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing; (2) replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced; and (3) construction and location of single, new small facilities or structures and the alteration and modification of the same and installation of new, small equipment and facilities and the alteration and modification of the same, including water, sewage, electrical, gas, telephone and other essential public utility services extensions to serve such structures or facilities, and appurtenant structures.

⁵ The term "historic site" is defined by Section 6E-2, HRS, as "any building, structure, object, district, area or site, including heiau and underwater site, which is over fifty years old".

⁶ The mailing address of Hana Pono LLC, of which Mr. Kapahulehua is a member, is P. O. Box 2039, Wailuku, Hawaii 96793. Hana Pono LLC provides cultural assessment services consistent with Cultural Impact

Port Allen Camp, and attended Eleele School and Waimea High School before transferring to Kaua'i High School, from which he graduated in 1965. Although Mr. Kapahulehua no longer resides on Kauai (he is a resident of Maui), he returns to Kauai for visits. The traditional and cultural practices with which he is familiar for the Port Allen area include ocean, shoreline and fresh water fishing (ahi, mahimahi, ono and infrequently sharks, aweoweo, akule, holehole, moi, mullet, o'io, oama, o'opu, mullet and crabs) and opihi picking, which he has come to realize have become less abundant than during his childhood years. He fished not only on Kauai, but also Ni'ihau, Lehua and Kaula islands. Mr. Kapahulehua worked in both the sugar and pineapple industries during his high school years. He is a relative of the Santos family, which is one of the families that engage in salt making mauka of the Port Allen Airport, and watched his grandmother and father as they engaged in salt harvesting.

He has observed that over the years, the fishing has not been as abundant as it had been during his younger years, and that the frequency of heavy rains in the islands impacted the salt ponds (during a recent visit in 2018 he saw the flooding of the Salt Pond area, which inevitably impacted the salt bends).

As a youth, he was familiar with the dry and dusty area, and the wind-blown dirt, some of which finds its way onto the salt. He is familiar with the dust that has been generated by traffic to the Hanapepe landfill, the beach park, the salt beds and Airport facilities; the dust cannot in fairness be solely attributed to the Applicant's activities at the Airport.

Based upon his familiarity with the area and its resources, Mr. Kapahulehua has agreed that the Development will have no measurable effect on any known traditional or

Assessment studies in compliance with Chapter 343, Hawaii Revised Statutes and the Office of Environmental Quality Control guidelines, Traditional Cultural Property studies to identify and determine eligibility of cultural resources for inclusion on the National Register of Historic Places in accordance with the National Historic Preservation Act, and ethno historic studies.

customary practices of native Hawaiians. Since ca. 1929, the Port Allen Airport site was being used for landing/takeoff by aircraft, and in 1931, the property was given over to the control of the predecessor of the State Department of Transportation. There are no special gathering practices taking place on or upon the Premises that will be affected. The Development will not detrimentally affect access to any streams, the shoreline or other adjacent areas, or gathering along any streams, the shoreline or in the ocean. There are no known religious practices taking place within or in close proximity to the Premises. The Development will have no negative impact on any cultural or historic sites or resources located within the Premises.

The salt beds and salt harvesting operations are impacted by dust, the causes of which are attributable to a variety of factors in the area, not the least of which is the typically dry areas with red dirt that are set in motion by winds, traffic and, in part, the airport operations. For the Applicant, which controls only a small portion of the tax parcel in which it is located, one mitigative measure is being proposed (the graveling) to minimize the uncovered hard-pack dirt. The Applicant, however, would not be able to mitigate dust driven by other sources.

SECTION 15. SUMMARY OF COMPLIANCE WITH APPLICABLE LAND USE DESIGNATIONS.

15.1 SLUC. The Development activities on the Subject Property will be compatible with the SLUC Urban District designation. Section 205-2(b), HRS.

15.2 Kaua'i General Plan. While it cannot be stated that the Development activities on the Premises will be compatible with the General Plan Natural Designation parameters. General Plan, Section 2.2.1., the work done and proposed are consistent with the existing airport use that has been ongoing since ca. 1929.

15.3 CZO. The Development activities on the Premises cannot in sincerity be said to be compatible with the CZO Open zoning. Nonetheless, the uses and structures are

consistent with airport use and are necessary and desirable to provide sanitation and comfort to the employees and guests of the Applicant, and Applicant seeks the issuance of a Use Permit to allow the requests made herein.

15.4 SMA. The Development activities on the Subject Property will fulfill the provisions of the SMA Rules in that:

a. The Development will have no effect on public access to publicly owned or used beaches and recreational areas.

b. No wildlife or endangered plant or animal species are located on the Premises.

c. Provisions for solid and liquid waste treatment, disposition and management will be developed in order to minimize adverse effects on the Special Management Area.

d. Alteration to existing land forms or vegetation and the construction of structures will cause minimum adverse effects to water resources and scenic and recreational amenities, and will not increase danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

e. The Development will not require dredging, filling, or altering any bay, estuary, salt marsh, river mouth, slough or lagoon.

f. The Development will not reduce the size of any beach or other area useable for public recreation.

g. The Development will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions or rivers or streams within the Special Management Area and the mean high tide line where there is no beach.

h. The Development will not substantially interfere with or detract from the line of sight toward the sea from the State highway nearest to the coast;

i. The Development will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agriculture uses of land.

j. The Development will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests.

k. The Development is consistent with the objectives, policies, and guidelines set forth in HRS Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

l. The Development is consistent with permitted uses in the SLUC Urban District.

15.5 Shoreline Setback. The Development meets shoreline setback requirements.

SECTION 16. CONCLUSION.

The Applicant respectfully requests that the Planning Commission of the County of Kaua'i grant the Applicant the request that:

- Work done by the Applicant's predecessor in interest (the addition of the restroom facilities in the hangar and the construction of a small detached structure to house the operation's compressor)
- Work done by the Applicant after acquisition (the placement of a 12' x 56' mobile office trailer at the location of the 8' x 40' mobile office trailer that needed to be removed because of its condition, pouring of a cement pad for a

generator to replace the obsolete generator that was located in the unpermitted structure, pouring of a cement pad for a propane gas tank to replace a tank with less capacity, and the location of a shipping container to the north side of the hangar for storage)

- Work that Applicant wishes to do (installation of interior fencing within the perimeter fencing, installation of concrete pathways from point to point on the Premises for employees and guests, installation of a proper wastewater facility for the restrooms that are in the hangar, and the placement of gravel with an underlayer of fabric for dust abatement) be allowed by this Commission.

DATED: Lihue, Kaua'i, Hawaii, 28 March 2019.

BELLES GRAHAM LLP

By 
LORNA A. NISHIMITSU
Attorneys for Applicant
SMOKY MOUNTAIN HELICOPTERS, INC.

EXHIBIT	DESCRIPTION
A	State Lease No. DOT-A-09-0001
B	Consent to Assignment of Lease No. DOT-A-09-0001
C	Authorization (State of Hawaii, Airports Division)
D	Authorization (Smoky Mountain Helicopters, Inc.)
E	Tax Map (Zone 1, Section 8, Plat 8)
F	Location Map
G	State Land Use Classification Map
H	SOEST – UH Erosion Map (Salt Pond)
I	SOEST – UH Erosion Map (Hanapepe)
J	Special Management Area Minor Permit SMA(M)-05-18
K	Port Allen Airport Layout Plan
L	Plot Plan (SMA Permit Work)
M	Photograph of Premises (before Acquisition)
N	Photograph of Rear Section of Hangar and Structure for Compressor
O	Photograph of Interior of Structure with Compressor
P	Plot Plan (Work after SMA Permit)
Q	Photograph of Office (fronting Hangar)
R	Plot Plan (after Acquisition)
S	Plot Plan (Proposed New Work)
T	Contractor's Estimate (of Unpermitted Work and Proposed New Work)

EXHIBIT "A"

STATE LEASE NO. DOT-A-09-0001

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

SMOKY MOUNTAIN HELICOPTERS, INC.

HELICOPTER OPERATIONS LEASE

PORT ALLEN AIRPORT

ISLAND OF KAUAI

STATE OF HAWAII

EXHIBIT "A"

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TO
HELICOPTER OPERATIONS LEASE

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ATTACHMENTS:

EXHIBITS A and B

- APPENDIX A - DEVELOPMENT STANDARDS FOR LEASED AIRPORT PROPERTY
- APPENDIX B - TENANT IMPROVEMENT GUIDELINES
- APPENDIX C - MINIMUM STANDARDS FOR COMMERCIAL AERONAUTICAL
ACTIVITIES AT PUBLIC AIRPORTS
- APPENDIX D - DEPARTMENT OF TRANSPORTATION
ASSIGNMENT OF LEASE EVALUATION POLICY
- APPENDIX E - DEPARTMENT OF TRANSPORTATION
SUBLEASE EVALUATION POLICY

HELICOPTER OPERATIONS LEASE

THIS INDENTURE OF LEASE, made and entered into this 20th day of January, 2009, by and between the STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION, by its Director of Transportation, hereinafter referred to as "STATE," and SMOKY MOUNTAIN HELICOPTERS, INC., a Delaware corporation, authorized to do business in the State of Hawaii, whose business and post office address is P. O. Box 156, Hanapepe, Hawaii, 96716-0156, hereinafter referred to as "LESSEE";

WITNESSETH:

WHEREAS, the Department of Transportation, pursuant to Chapters 171, 261, 262, and 263 of the Hawaii Revised Statutes, is vested with certain control and jurisdiction over the operation of airports within the State of Hawaii, and more particularly that airport located at Hanapepe, County of Kauai, Island of Kauai, State of Hawaii, known as Port Allen Airport, hereinafter referred to as the "Airport" and shown on the map labeled Exhibit A, attached hereto and hereby made a part hereof; and,

WHEREAS, LESSEE is engaged in the transportation of persons, property, cargo or mail by air using rotor wing aircraft, hereinafter collectively called "Commercial Helicopter Operations" at, to, or from the Airport; and,

WHEREAS, STATE, pursuant to Section 261-7, Hawaii Revised Statutes, may lease airport property to LESSEE; and,

WHEREAS, LESSEE desires to lease certain parcels of land to develop, construct, operate, use, and maintain a fixed base facility for Commercial Helicopter Operations in connection with and on the Airport, and STATE is willing to lease the same to LESSEE upon the covenants, agreements, terms, and conditions hereinafter set forth; and,

WHEREAS, STATE believes that it is in the best interest of STATE and the State of Hawaii to lease such property at the Airport to LESSEE for such purposes.

NOW, THEREFORE, for and in consideration of the promises, and of the mutual agreements, covenants, provisions, requirements, restrictions, terms, and conditions hereinafter contained to be kept and performed by STATE and LESSEE, respectively, and other valuable consideration, STATE does hereby grant, demise, and let unto LESSEE, and LESSEE does hereby lease and hire from STATE at or on the Airport, certain parcels of land, more particularly described in Article II (Premises) hereof, STATE and LESSEE DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Unless the context indicates otherwise, as used herein, the term:

- A. "Administrator" means the Airports Administrator of the Airports Division, Department of Transportation, State of Hawaii or the Administrator's designated representative.
- B. "Airport" means the Port Allen Airport, located in Hanapepe, County of Kauai, Island of Kauai, State of Hawaii.
- C. "County" means the County of Kauai.
- D. "Commercial Helicopter Operations" means the use of rotor wing aircraft to transport persons, property, cargo or mail by air, including air-taxi or air-tour operations.
- E. "Department" means the State of Hawaii, Department of Transportation.
- F. "Director" means the Director of Transportation, State of Hawaii.
- G. "FAA" means the U. S. Federal Aviation Administration.
- H. "Fair Market Rental" means the value that a property would most probably command in the open market indicated by the current rents asked and paid for comparable space for uses similar to the current use of the Premises as of a given appraisal date. The appraisal shall consider all legal uses or activities permitted on the subject property within the context of relevant County zoning restrictions, the operation of the airport system as it applies to the allowable uses on the property and how such factors influence the value of the property when compared with similar spaces on and off the Airport.
- I. "Guests" means and includes licensees, permittees, contractors, subcontractors, sub-subcontractors, vendors, visitors, providers of utility services and other services, customers, passengers, patrons, and invitees of LESSEE.
- J. "HRS" means Hawaii Revised Statutes.
- K. "Helicopter" means a rotor wing aircraft.
- L. "Land Board" means the Board of Land and Natural Resources of the State of Hawaii.
- M. "Leasehold Improvements" means and includes all improvements, including LESSEE's Fixed Base Facility Improvements, all buildings, building improvements, and other structures and fixed improvements affixed, attached, constructed, erected, installed, or

placed in a permanent fashion to, at, in, on, over, or under the Premises by LESSEE during the Lease term, and includes walls, floors, roofing, interior finishing, doors, windows, ceilings, built-in cabinets and shelving, counters, flooring material and carpeting glued, nailed or tacked down, all utility lines, conduits, piping, service panels, connections and receptacles, all lighting fixtures (bulbs included) attached to walls and ceilings, all sprinkler systems, landscaping, paved areas and curbing, concrete or rock walls and boxes, sewer and drain piping and culverts, central, split or package heating, ventilation and air conditioning systems, compressed air systems (except for the air compressor pump and air tank), fences and gates, and all other similar attachments, fixtures, and articles permanently affixed, or firmly embedded, or fastened to the Premises.

N. "LESSEE" means the legal entity named in the first paragraph of this Lease; provided however, that from and after any valid assignment or transfer in whole of said LESSEE's (as Assignor) interest under this Lease pursuant to Article XXX (Assignment and Subletting) hereof, "LESSEE" shall mean only the assignee or transferee of said interest.

O. "Neighbor Island Settlement Agreement" means the Settlement Agreement Between the Hawaii State Committee of Blind Vendors, the Hawaii Blind Vendors Association, Clyde Ota, Kenneth Oshiro, Glenn Oshiro, the Department of Human Services, State of Hawaii, and the Department of Transportation, State of Hawaii, Schedules "1 and 2", and Exhibits "A through C" dated April 4, 1992, and any amendments thereto.

P. "Personal Property" means and consists of any kind of property that is temporary or movable property and not real property, including any and all trade fixtures, office and business furnishings, decorations, equipment and furniture, draperies, grease racks, piping, movable display cases and shelving, movable appliances and drinking fountains, communication instruments (including, without limitation, all telephone, radio, telegraph, computer, wireless, cellular, and television) and antenna, window air conditioning units, portable heaters, and other temporary or movable goods or chattels owned, purchased, or installed by LESSEE, and other similar articles or chattels not firmly or permanently affixed or attached to the Premises or Leasehold Improvements situated thereon.

Q. "STATE" means the State of Hawaii, acting by and through its Department of Transportation, any governmental department, agency, commission, or other subdivision thereof, as may succeed to the rights, duties, and powers of said Department.

R. "TSA" means the U. S. Department of Homeland Security, Transportation Security Administration.

ARTICLE II. PREMISES

STATE, for the term, and for and in consideration of the rentals, fees, and other charges to be paid by LESSEE, as prescribed and set forth in Article V (Rental) hereof, and upon

the agreements, covenants, promises, provisions, requirements, restrictions, terms, and conditions as are hereinafter more particularly set forth, all on the part of LESSEE to be kept, observed, and performed, does hereby grant, demise and let unto LESSEE, and LESSEE does hereby lease and hire from STATE, the exclusive right to occupy and use certain land areas situated at the Airport, totaling 54,641 square feet more or less and designated as Space Nos. 001-102, -111, -112 and -113, containing areas of approximately 3,934; 25,600; 16,000; and 9,107 square feet respectively, as shown and delineated on the map labeled Exhibit B, attached hereto and hereby made a part hereof said land areas, hereinafter referred to as the "Premises".

ARTICLE III. USE OF PREMISES

LESSEE shall have the right to use the Premises for any of the following purposes:

A. Services to Passengers. If LESSEE is certified to operate by the FAA, LESSEE shall have the right to engage in activities relating to the ticketing, billing, manifesting, loading and unloading, and in general to provide the necessary services to passengers in the conduct of LESSEE's business of Commercial Helicopter Operations;

B. Air Cargo. The right to periodically load, unload, receive, and deliver items of Air Transportation, hereinafter referred to collectively as "Air Cargo," transported or to be transported on helicopters owned or operated by LESSEE;

C. Aircraft Equipment. The right to repair, maintain, condition, service, modify, manufacture and assemble aircraft equipment, accessories and component parts for use in helicopters owned or operated by the LESSEE;

D. Repair. The right to maintain, repair, service, modify, manufacture, assemble, and store personal property related to aviation (including, but not limited to, repair parts, supplies, and the like) owned or operated by LESSEE; provided, however, that such right shall not be construed as authorizing the conduct of any separate business by LESSEE, but shall permit LESSEE to perform such functions, if such functions are in support of LESSEE's conduct of LESSEE's Commercial Helicopter Operations;

E. Service. The right to service helicopters owned or operated by the LESSEE with aviation fuel propellants, aviation lubricants and other aviation petroleum products and to maintain and operate for such purposes mobile or stationary dispensing equipment approved by the STATE; provided, however, that any and all such dispensing equipment shall at all times be operated by LESSEE in conformity with applicable industrial standards and all governmental rules relating to the safe construction and operation of said equipment, and that such equipment be maintained by LESSEE in good operating condition;

F. Parking. The right to park, or permit the parking of automobiles operated by LESSEE, its officers, employees, agents, customers, passengers, invitees, and other guests;

G. Helicopter. The right to sell, lease, rent, park, store, and exchange (or otherwise dispose of) helicopters, helicopter components, helicopter parts, and aviation equipment owned by the LESSEE, provided that LESSEE will not conduct a separate business in the selling, or leasing of helicopters, helicopter components, helicopter parts or aviation equipment;

H. Testing. The right to test certain aircraft component parts and other equipment owned or operated by LESSEE. STATE however may prohibit LESSEE from testing certain equipment if testing of such equipment is detrimental to the operations of occupants of the Airport or properties adjacent or near to the Airport. Detrimental effects shall be deemed to include, but not be limited to, rotor wash, interference to electrical or electronic equipment, fumes from gas and liquids, and noise levels in excess of applicable governmental standards;

I. Offices. The right to establish and maintain business and operations offices in connection with LESSEE's Commercial Helicopter Operations;

J. Training. The right to train and educate persons in all phases of Commercial Helicopter Operations; provided, however, that the training and education of flight personnel shall be subject to the rules and regulations of the appropriate governmental agency having jurisdiction thereof;

K. Other Activities. The right to conduct, after obtaining STATE's prior written approval, any other operation or activity, which is reasonably necessary or incidental to the conduct of LESSEE's Commercial Helicopter Operations;

L. Souvenirs and Promotional Items. The right to display, offer to sell and sell souvenirs and other promotional items to customers of LESSEE's Commercial Helicopter Operations provided such display, offer to sell and sale does not violate the Neighbor Island Settlement Agreement.

ARTICLE IV. TERM

LESSEE shall have the right to occupy and use the Premises for the purposes prescribed and set forth in Article III (Use of Premises) and Article VIII (General Rights and Responsibilities of LESSEE) of this Lease, for a period of twenty-five (25) years, commencing on January 1, 2009 and ending on December 31, 2033 unless sooner terminated as provided herein.

ARTICLE V. RENTAL

A. Annual Fee. LESSEE shall pay to STATE, unless the Lease is sooner terminated as provided herein, without notice or demand, as and for rental for the use of the Premises and for the right, privilege, and authority of doing business at the Airport, for and during the term of this Lease, free from any and all claims, deductions, and set offs against STATE, unless otherwise noted herein, and at such times and in such manner as hereinafter provided, the amounts provided herein and set forth below:

1. Land Rental.

a. Annual Rental for First (5)-Year Period. For the first five (5) years of the Lease term, beginning upon the commencement date hereof, LESSEE shall pay to STATE an annual rental in the sum of FOURTEEN THOUSAND TWO HUNDRED SIX AND 80/100 DOLLARS (\$14,206.80) based upon a rental rate of \$0.26 per square foot per annum for 54,641 square feet of improved, unpaved land.

b. Annual Rental for Second (5)-Year Period. For the second five (5) years of the Lease term, beginning upon the first day of the sixth (6th) year of the Lease term, LESSEE shall pay to STATE an annual rental in the sum of SIXTEEN THOUSAND THREE HUNDRED THIRTY-EIGHT AND NO/100 DOLLARS (\$16,338.00) based upon the product of the annual rental for the fifth (5th) year of the Lease term (\$14,206.80) and 115%, rounded to the nearest dollar.

c. Annual Rental for Third (5)-Year Period. For the third five (5) years of the Lease term, beginning upon the first day of the eleventh (11th) year of the Lease term, LESSEE shall pay to STATE an annual rental in the sum of EIGHTEEN THOUSAND SEVEN HUNDRED EIGHTY-NINE AND NO/100 DOLLARS (\$18,789.00) based upon the product of the annual rental for the tenth (10th) year of the Lease term (\$16,338.00) and 115%, rounded to the nearest dollar.

d. Reopening of Annual Rental. The annual lease rental for each of the two remaining five (5)-year lease periods, totaling ten (10) years, shall be determined separately when due at the time of reopening, in accordance with Article VI (Reopening of Rent) herein.

2. Fuel Flowage Fee. In addition to any other fees, LESSEE shall pay a fuel flowage fee for all types of aviation fuel sold as part of the business operation. The fee shall be \$.04 per gallon. This fuel flowage fee shall be effective throughout the term of the lease.

3. Percentage Fee. In addition to any other fees, the LESSEE shall pay a percentage of LESSEE's gross receipts from, related or attributable to the sale of souvenir or promotional items such as 1) clothing, including but not limited to hats, shirts, shorts, pants,

jackets; 2) accessories, including but not limited to handbags, fanny packs, and wallets; cups, water bottles; 3) other items bearing the name of the business, the Airport, the island or the state; or 4) any video or audio material, whether in analog or digital format, related to the LESSEE's Commercial Helicopter Operations. The percentage shall be fifteen percent (15%).

a. Gross Receipts Defined. "Gross receipts" shall include all receipts, whether by coin or currency, on account, by check or credit card, derived or received by LESSEE from the display, offer to sell and sale of souvenirs or promotional items.

b. Exclusions. The only exclusions to the above definition shall be:

1) Taxes. Any and all retail sales taxes, excise taxes, or related direct taxes upon the consumer and collected by the LESSEE on such sales.

2) Refunds. Receipts in the form of refunds from or the value of merchandise, supplies, or equipment returned to shippers, suppliers or manufacturers.

3) Returns. Receipts with respect to any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser and accepted by the LESSEE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit.

4) Discounts. The amount of any cash or quantity discounts received from sellers, suppliers, or manufactures.

5) Gratuities. The amounts of any gratuities paid or given by patrons or customers to employee of the business operation.

6) Uniforms. Receipts from the sales at cost of uniforms or clothing to LESSEE's employees where such uniforms or clothing are required to be worn by such employees.

4. No Kickbacks. The LESSEE shall not be credited with nor allowed to have any reduction in the amount of gross receipts, as hereinabove defined which results from any arrangements for a rebate, kickback or hidden credits given or allowed to any customer.

B. Annual Fee Commencement. The annual fee payment shall commence on the effective date of this Lease.

C. General Payment Provisions.

1. Time of Payment.

a. Land rental. The land rental, fees, and other charges required herein shall be paid monthly, in advance, but not more than one year in advance, on the first day of each and every month of each and every year of the Lease term hereof.

b. Percentage fee. On or before the twentieth (20th) day of each and every month during the term of the Lease, including the month following the termination of the Lease, the LESSEE shall pay the percentage fee required for the previous month as described in Article V.A.3. (Percentage fee).

c. Fuel flowage fee: On or before the twentieth (20th) day of each and every month during the term of the lease, the LESSEE shall pay the fuel flowage fee as required in Article V.A.2. (Fuel Flowage Fee).

2. Place of Payment. All payments of money, including rental payments, required to be made by LESSEE to STATE hereunder, shall be made when due in legal tender of the United States of America, at STATE's office at the Airport, or at such other place as STATE may designate in writing.

3. Late Payment; Delinquent Accounts. Without prejudice to any other remedy available to STATE, LESSEE agrees, without further notice or demand, as follows:

a. Interest Charges. In addition to any late or delinquent payment, LESSEE agrees to pay interest to STATE at the rate of twelve percent (12%) per annum, on the outstanding delinquent balance of each of LESSEE's delinquent accounts; and,

b. Service Charge. To pay such other charge as may be prescribed by Hawaii Administrative Rules adopted by the Department of Transportation, State of Hawaii.

4. Delinquent Payment Defined. The term "delinquent payment," as used herein, means any payment of rental, fees, interest or service charges, and other charges or amounts payable by LESSEE to STATE, which are not paid when due, as prescribed in this Article V (Rental).

5. Accrued Rental, Fees, and Other Charges. The expiration or sooner termination of this Lease by the lapse of time, or otherwise, shall not relieve LESSEE of its obligation to pay any and all rental, fees, interest or service charges, and other charges or amounts accrued during a period in which this Lease is or was in effect, and which are unpaid at the time of any such expiration or termination.

6. Pro Rata Payment. If this Lease terminates without fault of LESSEE on any day other than the last day of any calendar month, the applicable rents and other charges for said month shall be paid pro rata in the same proportion that the number of days this Lease is in effect for that month bears to the total number of days in that month.

D. Additional Charges. In addition to the right of STATE to charge and collect upon demand interest and service charges fees as provided in this Article V.C.3.a (Interest Charges) and Article V.C.3.b (Service Charge) or to terminate this Lease pursuant to Article XXI (Termination by STATE) hereof, STATE may levy on and collect from LESSEE a charge of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) per day, paid in legal tender of the United States of America, for each and every day LESSEE is in violation of any of the agreements, covenants, promises, provisions, requirements, reservations, restrictions, stipulations, terms, or conditions of this Lease; provided, however, that there shall be no levy unless the violation(s) continues beyond the period specified in Article XXI (Termination by STATE) hereof, for remedial action(s); and provided further, that separate charges may be levied by STATE for violations of separate provisions by LESSEE even though the violation(s) may be concurrent. Payment of the additional charges by LESSEE shall be due and paid to STATE on demand and shall bear interest when not paid at the same rate and in the same manner as for unpaid rentals as prescribed and set forth in Article V.C.3.a (Interest Charges).

E. Return of Prepaid Rental. In the event this Lease is terminated prior to its expiration for any cause except LESSEE's default, all unearned, prepaid rentals received by STATE from or on behalf of LESSEE hereunder shall be returned or refunded to LESSEE.

F. Business Records. In connection with the rental obligations of LESSEE, LESSEE shall:

1. Monthly Report. Submit to STATE on or before the twentieth (20th) day of each and every month following each month of the term of the Lease, including the 20th day of the month following the end of the Lease by expiration or sooner termination, at the place fixed for the payment of rent, a written statement using forms prescribed or approved by the Director, to be certified as correct by LESSEE or by a person duly authorized by LESSEE to so certify showing in accurate detail, the following information:

a. Operations. The number of takeoffs and landings from the Premises during the previous month.

b. Gross Receipts. The amount of gross receipts recorded for the previous month.

c. Fuel. The number of gallons of aviation fuel sold during the previous month in connection with the business operation.

2. Annual Report. The LESSEE shall further submit to STATE on or before the sixtieth (60th) day following the end of each lease year during the term of this Lease, at the place fixed for the payment of rent, a written statement certified as correct by LESSEE or by a person duly authorized by LESSEE to so certify, showing in accurate detail the amount and allocation of LESSEE's annual fuel sales and gross receipts for each preceding lease year, duly certified by a licensed independent certified public accountant.

The written statements referred to herein shall be in such form and style and contain such details and breakdowns as STATE may require. Without prejudice to any remedies herein provided for such default, after seven (7) days' advance written notice to LESSEE, if LESSEE shall fail to promptly furnish any such monthly or annual verification report, STATE may have any such report prepared on LESSEE's behalf by an accountant to be selected by STATE, at the sole cost and expense of the LESSEE. LESSEE shall furnish to such accountant all books, accounts, records, statements, computer files, records and programs and reports, including, without limitation, gross income tax reports (hereinafter referred to collectively as the "Records") requested for the purpose of preparing such reports, and LESSEE shall pay immediately to STATE, upon notice from STATE, all expenses incurred by STATE in securing and obtaining such reports.

3. Access. Grant unto STATE at all reasonable times access to all Records and at any reasonable time on twenty-four (24) hours' advance written notice permit a complete audit to be made, by STATE's accountant or by a Certified Public Accountant of STATE's choice, of LESSEE's entire business affairs and Records relating to the business conducted on the Premises. LESSEE will cooperate fully in the making of any inspection, examination or audit, including, without limitation, delivering to STATE or STATE's employees or accountants, all Records that are deemed relevant by STATE or STATE's employees and accountants, including but not limited to Records situated outside of the Island of Kauai, State of Hawaii, and if LESSEE is unable to present the Records within the time prescribed by STATE, LESSEE shall pay all travel expenses incurred by STATE or STATE's employees and accountants to examine the Records.

ARTICLE VI REOPENING OF RENT

Determination of Rent. Except as provided herein, the provisions in Chapter 658A, HRS, shall be followed. At least six (6) months prior to the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for and paid by the LESSOR, and the LESSEE shall be promptly notified by certified mail, return receipt requested, of the fair market rental as determined by LESSOR's appraiser; provided, that should the LESSEE fail to notify LESSOR in writing, within thirty (30) days after LESSEE's receipt thereof that LESSEE disagrees with the fair market rental as determined by LESSOR's appraiser and that LESSEE has appointed its own appraiser to prepare an independent appraisal report, then the fair market rental as determined by LESSOR's appraiser shall be deemed to have been accepted by LESSEE and shall be the fair market rental as of the date of reopening. If

LESSEE has notified LESSOR and appointed LESSEE's appraiser as stated hereinabove, LESSEE's appraiser shall complete its appraisal and the two appraisers shall then exchange their reports within forty-five (45) days after the date of LESSEE's appointment of the LESSEE's appraiser.

The two appraisers shall review each other's reports and make every effort to resolve whatever differences they may have. However, should differences still exist fourteen (14) days after the exchange, the two appraisers shall within seven (7) days thereafter appoint a third appraiser who shall also prepare an independent appraisal report based on the review of the two appraisal reports prepared and any other data said third appraiser deems relevant and appropriate. The third appraiser shall be furnished with the comparables used by the other two appraisers without identification as to which comparables were used by each appraiser. Copies of the third appraiser's report shall be furnished to the first two appraisers within forty-five (45) days after the third appraiser's appointment. Within twenty (20) days after receiving the third appraisal report, all three shall meet and determine the fair market rental of the Premises. The fair market rental as determined by a majority of the appraisers shall be final and binding upon LESSOR and LESSEE, subject to vacation, modification or correction in accordance with the provisions of Sections 658A-19, 658A-20, 658A-22, and 658A-23, HRS. LESSEE shall pay for its own appraiser, LESSOR shall pay for its own appraiser, and the cost of the services of the third appraiser shall be borne equally by LESSOR and LESSEE. Until the successful conclusion of the rental reopening and re-determination process as described herein, all appraisal reports shall be confidential and shall not become part of the public record of LESSOR; provided, however, following the successful conclusion of the reopening and re-determination process, the appraisal reports shall become part of the public record of LESSOR.

In the event that the appraisers are unable to determine the fair market rental before the reopening date, or by the foregoing prescribed time, whichever is later, the LESSEE shall pay the fair market rental as determined by LESSOR's appraiser for the reopening until the new rent is determined and thereafter the rental paid by LESSEE shall be subject to retroactive adjustments as appropriate to reflect the fair market rental determined as set forth hereinabove. The failure of LESSEE or LESSEE's appraisers to comply with the procedures set forth above shall constitute a waiver of LESSEE's right to contest the rent determined by LESSOR's appraiser for the reopening, and the LESSEE shall pay said rent as determined by LESSOR's appraiser without any retroactive adjustments. Alternatively, LESSOR may treat such failure to comply as a breach of this Lease and may terminate this Lease.

ARTICLE VII. IMPROVEMENTS

A. Acceptance of Premises. LESSEE has examined and knows of the condition of the Premises and takes the Premises in its existing form, content and state of condition without any representation by or on behalf of STATE, and LESSEE further agrees that STATE shall not be liable for any latent, patent or other defects in, on, over or under the Premises, including easements and appurtenances thereto. By taking possession of the Premises

and all that may be part of the Premises, LESSEE is agreeing to release and discharge any claims, rights, and actions LESSEE may have with respect to the condition of the Premises.

B. In General. LESSEE shall, at LESSEE's sole cost and expense, prepare the ground surface of the demised Premises, construct, erect, and install buildings, structures, utility lines, and other improvements (hereinafter referred to collectively as "Fixed Base Facility Improvements") on the Premises for the purposes denoted in Article III (Use of Premises) herein, subject to all applicable easements and restrictions, as shown on Exhibit B attached hereto and hereby made a part hereof, and any and all other covenants, terms, and conditions that may be required or imposed by STATE. The construction, erection, and installation of the Leasehold Improvements must receive STATE's prior written approval and must meet or satisfy applicable County building standards and specifications, State Department of Health and FAA rules and regulations.

C. Environmental Report. Prior to the commencement of any construction work on LESSEE's Leasehold Improvements, LESSEE shall, at LESSEE's sole cost and expense, provide or submit to STATE a Final Environmental Assessment or Final Environmental Impact Statement or other appropriate environmental report, if so required by STATE or another governmental agency. The required assessment, statement, or report shall be prepared by LESSEE or LESSEE's agent and processed through appropriate governmental agencies, including the Department of Health, State of Hawaii, for STATE's final written approval at LESSEE's sole cost and expense.

D. Improvement Plans.

1. LESSEE's Plans. All designs, plans, drawings, specifications, cost estimates, schedules, and timetables, together with a detailed plot plan and layout, for and relating to the construction and installation of LESSEE's Leasehold Improvements at, in, on, over, or under the Premises, shall hereinafter be referred to collectively as "LESSEE's Plans."

2. Properly licensed. A properly licensed architect or engineer must prepare LESSEE's Plans. Properly licensed contractors must construct, erect, and install LESSEE's Leasehold Improvements.

3. Submittal deadlines. LESSEE shall submit to STATE, LESSEE's Plans for STATE's prior written approval within four (4) months from the commencement date of this Lease. LESSEE shall submit to STATE, LESSEE's Plans covering any other subsequent portion of the Premises within fifty (50) calendar days after LESSEE receives STATE's written request to submit such LESSEE's Plans for STATE's review and approval.

4. Compliance with Development Standards. LESSEE shall obtain STATE's prior written approval for LESSEE's Plans and LESSEE's Leasehold Improvements, including all initial and subsequent construction, repair, refurbishment, or installation of improvements at, in, on, over, or under the Premises and all such improvements, except as

otherwise stated herein or hereafter, must: (a) be of high quality; (b) incorporate quality materials; (c) be completed with first-class workmanship; (d) meet applicable County building codes, standards, and specifications; and, except as otherwise stated herein, (e) adhere to and completely comply with and satisfy STATE's: (i) Development Standards for Leased Airport Property (Appendix A); and, (ii) Tenant Improvement Guidelines (Appendix B), hereinafter referred to collectively as the "Development Standards", all of which are attached hereto and hereby made a part hereof, including any and all subsequent amendments and other design development guidelines adopted by STATE.

5. STATE's Approval. STATE shall not unreasonably withhold approval for LESSEE's Plans. STATE may reasonably withhold such approval, including, without limitation, if, in the sole discretion of STATE, such construction, erection, or installation will be:

a. Structurally unsafe. Structurally unsound or unsafe or hazardous for human use or occupancy; or

b. Violation of lease. Not in compliance with any requirement of this Lease; or

c. Building, electrical, plumbing, health, or fire code violations. Not in compliance with the building, electric, plumbing, health, and fire codes, regulations, standards, or specifications of the County or the State of Hawaii; or

d. Development Standards violation. Not in compliance with the Development Standards, including STATE's requirements relating to the development of facilities, which effectively and harmoniously matches the external architecture of other similar portions of the Airport at which the facilities will be constructed, erected, or installed; or

e. Violation of FAA requirements. Not in compliance with any rule, regulation, or order of the FAA; or

f. Violation of federal requirements. Not in compliance with any federal law, code, statute, rule, regulation, or order.

6. STATE's Disapproval. If STATE disapproves of LESSEE's Plans, STATE shall give LESSEE written notice of STATE's disapproval, which notice shall state the reason or reasons for STATE's objections to LESSEE's Plans. LESSEE shall thereupon prepare and submit to STATE new or revised LESSEE's Plans as shall reasonably satisfy STATE's prior objections.

7. Compliance with STATE's Design Standards. Prior to submitting LESSEE's Plans to STATE for the purpose of obtaining STATE's written approval, such plans,

drawings, and specifications must comply with, meet, or completely satisfy all of the following design standards:

a. Structure. All construction, erection, and installation shall be structurally safe, sound, and non-hazardous.

b. Workmanship. All construction, erection, and installation shall be of new materials and first-class workmanship.

c. Material. LESSEE's Leasehold Improvements and other structures shall be prefabricated metal or concrete block or any similar fireproof material approved, in writing, by STATE, with concrete floors, for the storage or handling of flammable fluids, chemicals, or lubricants and aircraft servicing and maintenance.

d. Setback. Building(s) shall be set back a minimum of ten (10) feet from property lines, unless otherwise approved, in writing, by STATE.

e. Utility lines. Utility lines shall be located above or underground.

f. Grease traps. Grease traps shall be provided to collect all spills of petroleum products.

g. Drainage. Surface drainage from wash areas shall not be discharged outside the Premises.

h. Security fencing. In the event LESSEE is required to install additional security fencing mandated by federal or state laws, rules, or regulations, LESSEE shall complete the installation of said fencing with the required chain-link fence, and where necessary for airport security purposes, with three (3) strands of barbed wire or with other security walls, barricades, and fencing that meet airport standards, all as approved, in writing, by STATE. Fences between the Premises and adjacent property shall be constructed, erected, or installed directly on the property lines, with all costs and expenses for such construction, erection, or installation shared equally by LESSEE and the lessee of the adjacent property, if there is an adjoining lessee at the time LESSEE constructs, erects, or installs the required fencing. If there is no adjoining lessee, LESSEE shall be responsible for all costs and expenses for the installation of the security fencing. LESSEE's failure to conform to security regulations may subject STATE to a monetary fine, as imposed or prescribed by a government agency. LESSEE shall reimburse STATE for any fines so paid by STATE, or at the sole discretion of STATE, STATE may assess LESSEE the fine and LESSEE shall be liable and shall assume responsibility to pay such fine directly to the citing government agency. Failure of LESSEE to reimburse STATE within thirty (30) calendar days after STATE's demand for reimbursement is made to LESSEE shall be cause for a penalty assessment by STATE and/or termination of this

Lease as provided in Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

i. Height limitation. All Leasehold Improvements, and other structures and improvements shall not exceed the airport height limitation prescribed by STATE or the FAA or cause a hazard to air safety, as prescribed and set forth in Article XXXVIII (Approach Protection) hereof or pursuant to any federal, state, or county law, statute, ordinance, rule, or regulation.

j. Signs. Signs bearing LESSEE's name or business name shall not exceed the allowable overall size set by County building codes and shall not be located higher than the top of LESSEE's Leasehold Improvements. Illuminated, neon, or other similar signs are prohibited. Prior to the erection, installation, or placement of any sign by LESSEE, LESSEE must first obtain STATE's written approval of each sign's design, graphics, color, layout, and method of mounting.

k. Easement. Structures or foundations comprising LESSEE's Leasehold Improvements, including all buildings and other structures on the Premises, shall not be built, constructed, erected, installed, or placed over any pipeline or other utility conduit easement or within any aircraft approach/takeoff clear zone or other setback area without LESSEE first obtaining STATE's prior written approval.

l. Landscaping. For the enhancement and beautification of the Premises, LESSEE shall landscape all open and unpaved areas of the Premises with grass, ground cover, bushes, shrubbery, trees, and other types of foliage.

8. Completion of Construction.

a. Leasehold Improvements. LESSEE shall complete the construction and installation of LESSEE's Leasehold Improvements at, in, on, over, or under the Premises within one (1) year from the commencement date of this Lease.

b. Failure to Complete. STATE may, at its sole discretion, approve an extension of time for LESSEE to complete the construction and installation of LESSEE's Leasehold Improvements for reasonable, unforeseen delays caused by nature or labor disputes or other reasons deemed acceptable to STATE and outside LESSEE's control; provided, however, that: (1) the extension of time is granted, in writing, by STATE and does not exceed a maximum of ninety (90) calendar days in length and LESSEE submits a written request to STATE prior to the expiration of the one-year time limit to complete construction and installation of LESSEE's Leasehold Improvements. If LESSEE fails to completely construct and install LESSEE's Leasehold Improvements at, in, on, or over the Premises by the deadlines set forth above, STATE may, at its sole discretion, send a written notice of default under this Lease to LESSEE. If LESSEE fails to cure this default as required under this Lease, STATE may terminate this Lease or assess and collect from LESSEE any and all charges related to defaults

under this Lease, including the additional charges under Article V.D (Additional Charges) and such other charges as may be assessed under the provisions of Article XXI (Termination by STATE) or resort to any other remedy available to STATE or some combination of all remedies.

c. Delay of Completion. Should significant delays occur which prevent or hinder LESSEE from completing the construction and installation of LESSEE's Leasehold Improvements at, in, on, or over the Premises, in a timely and reasonable manner, STATE may, at its sole discretion, in writing, waive or reduce the minimum improvements requirement, unless the delay is caused by LESSEE. STATE shall be the sole judge of whether a delay is caused by LESSEE.

d. Removal of Temporary Structure. LESSEE shall not leave on the Premises, after the one-year limit to construct its Leasehold Improvements, as prescribed herein (or approved extension period), any container, office trailer, contractor's shed, lean-to, shelter, or other structures, construction materials, equipment (including heavy equipment), or parts used during the construction period, nor shall any temporary office trailer, cargo container, or like structures or enclosures be erected, installed, or placed on the Premises for the remaining Lease term, or any portion thereof, without the prior written approval of STATE. Failure by LESSEE to completely abide by or comply with this subsection of this Article VII (Improvements) shall be a violation of this Lease and shall give STATE the right to assess a penalty and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

E. Construction Program.

1. STATE Approval of Leasehold Improvements. Prior to the commencement of any work being done, LESSEE shall obtain STATE's written approval of LESSEE's Plans covering the portion of the Premises upon which such work is to be done, and shall obtain all governmental or other approvals required by law. LESSEE's Plans shall employ optimum essentials of aesthetics, quality of materials and equipment, convenience, function, and design and shall be compatible in such respects with those of the Airport and the Development Standards.

LESSEE shall not install any antenna or aerial wires, or radio or television equipment, or any other type of telecommunication or other equipment, inside or outside of the Airport terminals without the prior written approval of STATE and upon such terms and conditions that may be prescribed by STATE in each and every instance.

2. Plans and Specifications. LESSEE shall, at its sole cost and expense, employ competent and properly licensed architects, engineers, and interior designers who will prepare LESSEE's Plans, including, without limitation, architectural, interior, exterior and engineering designs, detailed plans, specifications, and cost estimates of all Leasehold Improvements and Personal Property to be installed at, in, on, over, or under the Premises. LESSEE shall, at its sole cost and expense, and prior to the start of construction, obtain all

necessary permits and governmental approvals. LESSEE shall submit five (5) sets of LESSEE's Plans for review and approval by STATE in accordance with a time schedule furnished by STATE.

All of LESSEE's Plans shall be first submitted to STATE for written approval before LESSEE awards, issues, or lets any and all contracts for the construction of the Leasehold Improvements or enters into any and all contracts for the purchase of any Personal Property to be installed at, in, on, over, or under the Premises.

3. Adherence to LESSEE's Plans. No substantial change, addition, or alteration shall be made in LESSEE's Plans so approved without first obtaining STATE's approval in writing. No Leasehold Improvements or other improvements or Personal Property other than as contemplated herein shall be constructed, erected, installed, or placed at, in, on, over, or under the Premises without the prior written consent of STATE and any and all terms and conditions relating thereto imposed by STATE shall become terms and conditions hereof, as if they had been originally stated in this Lease.

4. Future Work. After construction or installation and completion of the Leasehold Improvements and Personal Property, as approved by STATE, LESSEE shall not make any structural alterations (including, without limitation, ceilings, walls, and floors) to any portion of the Premises without first obtaining STATE's written consent; provided, however, that LESSEE may make nonstructural alterations which LESSEE deems necessary for the conduct of its Commercial Helicopter Operations at the Airport in accordance with Article VII.H.5 (Damage repair); provided however, that LESSEE reports to STATE such nonstructural alterations and submits to STATE the costs thereof.

5. Governmental Approvals. LESSEE, at its sole cost and expense, shall also procure all governmental approvals and permits necessary for the construction, erection, installation, or placement of the Leasehold Improvements and Personal Property at, in, on, over, or under the Premises.

6. Submittals Required Upon Completion. Upon completion of the construction, erection, installation, or placement of the Leasehold Improvements and Personal Property, LESSEE shall, within thirty (30) calendar days thereafter, at no cost or expense to STATE, furnish STATE:

a. Certificate. A certificate certifying that the Leasehold Improvements and Personal Property have been constructed, erected, installed, or placed in accordance with the approved LESSEE's Plans and in strict compliance with all laws, statutes, and ordinances, and governmental rules, regulations, codes, directives and orders, and

b. As-builts. Two complete sets of as-built construction drawings, specifications and plans (including, but not limited to, architectural, mechanical, plumbing, and electrical drawings, plans and specifications, if any) containing a separate stamp

from LESSEE's licensed architect or engineer after the date construction (including subsequent additions or alterations thereto) has been completed or accompanied by an attestation from both LESSEE and either LESSEE's architect or engineer that such submitted drawings constitute true and accurate representations of the as-built condition of the Leasehold Improvements and LESSEE's Personal Property, and one complete set in Computer Aided Design (CAD) format which complies with STATE's current CAD standards. The construction as-built drawings must include any and all applicable governmental approval or permit numbers, the Leasehold Improvements and LESSEE's Personal Property constructed, erected, installed, or placed by LESSEE at, in, on, over, or under the Premises, and the location and details of construction or installation of all equipment, utility lines, and heating, ventilating, and air-conditioning ducts and related appliances. LESSEE shall keep said drawings current by updating the same in order to reflect thereon any changes or modifications which may be made in or to the Premises.

Failure by LESSEE to submit LESSEE's Plans or complete LESSEE's Leasehold Improvements, or tender such as-built drawings, plans, and specifications and improvement costs within the prescribed times shall constitute a violation of this Lease and give STATE the right to assess a penalty and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof. STATE shall not unreasonably withhold its consent to such plans, drawings, and specifications and shall either consent to or disapprove of the same within a reasonable time.

F. Minimum Investment in Improvements. LESSEE shall, within twelve (12) months of the date of commencement of this Lease, invest the sum of not less than FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$400,000.00) for upgrading and improving the Premises and constructing the Leasehold Improvements, and shall submit within such time to STATE an itemized statement of the "in-place" costs of the upgrades, improvements, and construction so completed, and if requested by STATE, duplicate receipted invoices for all materials and construction and installation costs incurred. This requirement to report said costs shall also apply to any and all subsequent renovations, additions, or alterations made thereto and the LESSEE's itemized cost statement shall be due and delivered to STATE no later than thirty (30) days after completion of such subsequent renovations, additions, or alterations.

Failure by LESSEE to observe the requirements of Article VII.F (Minimum Investment in Improvements) within the one (1) year limit for the initial upgrade, improvement, and construction, unless extended by STATE, and the thirty (30)-day limit for subsequent renovation, addition, or alteration shall constitute a violation of this Lease and give STATE the right to assess a penalty and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

G. Title.

1. Leasehold Improvements. Subject to the provisions of Article XVI (Surrender of Premises) hereof, title to any and all of LESSEE's Leasehold Improvements,

including fixed additions and trade fixtures, constructed, erected, installed, or placed by LESSEE, at LESSEE's sole cost and expense, at, in, on, or over the Premises shall remain in the LESSEE during the term of this Lease. Title to any and all of the Leasehold Improvements at the expiration or sooner termination of this Lease shall vest, at the sole discretion of STATE, in STATE, free and clear of any and all claims, liens, judgments, and encumbrances. STATE shall inform LESSEE of any Leasehold Improvements it will not take title to when this Lease expires or terminates. LESSEE shall remove any such Leasehold Improvements within ninety (90) days after the expiration or sooner termination of this Lease. Should LESSEE fail to remove any of the identified Leasehold Improvements that STATE will not take title to within ninety (90) days after this Lease expires or terminates, STATE may remove the same at the sole cost and expense of LESSEE. Title to any of the Leasehold Improvements not identified to LESSEE in accordance with this Article VII.G.1 (Leasehold Improvements) shall vest in STATE at the STATE'S sole discretion.

2. Personal Property. Subject to the provisions of Article XVI (Surrender of Premises) hereof, title to any and all Personal Property constructed, erected, installed, or placed by LESSEE, at LESSEE's sole cost and expense, at, in, on, or over the Premises shall remain in LESSEE during the term of this Lease.

3. Bill of Sale. At the expiration or sooner termination of this Lease and at the request of STATE, LESSEE shall without further compensation deliver to STATE a bill of sale or other appropriate document evidencing the vesting of title to all Leasehold Improvements in STATE's name, at no cost to STATE; provided further, however, that upon the termination of this Lease, for any reason whatsoever, LESSEE shall comply with any requirement of STATE to remove, at LESSEE's sole cost and expense, all or any portion of the Leasehold Improvements at, in, on, over, or under the Premises (including, without limitation, any building, structure or other improvement erected, constructed, or installed by LESSEE upon the Premises) that STATE requires LESSEE to so remove, in accordance with Article VII.G.1 (Leasehold Improvements).

4. Sale of Personal Property. If LESSEE expects to, contemplates, or could sell, transfer, or convey title to and interest in any trade fixture or any Personal Property purchased by, used, and installed by LESSEE at LESSEE's own expense upon the Premises, as part of any assignment of this Lease, it shall be LESSEE's sole responsibility to submit to STATE evidence of the item and the purchase price paid by LESSEE for such trade fixture and/or other Personal Property within thirty (30) calendar days from said purchase. LESSEE's failure to submit the necessary information and evidence to STATE within the prescribed time limit will discharge STATE from any obligation or duty to consider the adjusted depreciated cost of any said trade fixture, other Personal Property, or item in a lease assignment or transfer pursuant to Article XXX (Assignment and Subletting) hereof.

H. Maintenance and Repair.

1. LESSEE's General Obligations. LESSEE shall, at all times and at its sole cost and expense, properly upkeep and maintain in good repair and in a clean and orderly condition and appearance all portions of the Premises, including, without limitation: (a) all Leasehold Improvements; (b) all Personal Property; (c) all mechanical room equipment such as, but not limited to, heat exchanges, fans, controls and electric panels; (d) obstruction lights and similar devices, fire protection and safety equipment, and all other like equipment required by any law, statute, rule, regulation, order, or ordinance; (e) any of the following located in or on the Premises: fences, exterior and interior walls, windows, operating mechanisms of and attachments to windows and skylights, screens, roofs, foundations, steel work, columns, doors, partitions, floors, ceilings, fixtures, inside and outside paved and unpaved areas, landscaping, glass of every kind, and utility, mechanical, electrical and other systems; and, (f) all areas within the Premises, particularly those adjacent to the entrances and exits, including keeping them free of obstructions. LESSEE shall take the same good care of the Premises that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or sooner termination of this Lease, the Premises will be in a condition similar to that which existed at the commencement of this Lease (or in the case of any and all Leasehold Improvements made during the Lease term, in as good condition as at the time of the construction or installation thereof), ordinary wear and tear excepted, which does not adversely affect the structural integrity of, or materially and adversely affect the efficient or proper utilization of, any part or portion of the Premises.

2. Preventative Maintenance. To accomplish this requirement, LESSEE shall establish an adequate preventative maintenance program and the provisions of LESSEE's program shall be subject to periodic review and approval by STATE.

3. Refurbishment. Refurbishing shall include, without limitation, all refinishing, repairs, replacement, redecorating, and painting necessary to keep and maintain the Premises in a first class condition.

4. Failure to Comply. If LESSEE fails to properly perform and complete its maintenance, repair, and refurbishment obligation hereunder, particularly with respect to nonstructural repairs, replacement, redecorating, and painting, within a period of ten (10) calendar days after LESSEE receives written notice from STATE of such failure by LESSEE, STATE may, at its option, and in addition to all other remedies which may be available to STATE, repair, replace, rebuild, redecorate, or paint any portion of the Premises included in said notice from STATE to LESSEE, and the cost thereof, plus fifteen percent (15%) for administrative overhead, shall be paid by LESSEE to STATE upon demand from STATE.

5. Damage Repair. LESSEE shall suffer no strip or waste of the Premises and shall repair, replace, rebuild, restore, and paint all or any part or portion of the Premises that may be damaged or destroyed by the acts or omissions of LESSEE, LESSEE's officers, employees, agents, and guests. Any and all structural repairs, alterations, and additions to be made by the LESSEE to, at, in, or on the Premises (and any and all other such work which

is non-structural and costs \$1,000.00 or more) shall be subject to the requirements of this Article VII (Improvements) herein and all such work must receive the prior written consent of STATE.

6. Unauthorized Improvements. LESSEE shall, upon notice from STATE, promptly remove any and all Leasehold Improvements and other structures and facilities not authorized by this Lease or repair, replace, or restore any and all Leasehold Improvements which may, by reason of use or negligence of LESSEE, become, in the opinion of STATE, unsound, unsafe, or hazardous, and in case of LESSEE's failure to remove or repair, replace, or restore the same, STATE may remove or repair, replace, or restore such Leasehold Improvements and other structures and facilities without liability to LESSEE or others for damages, and LESSEE shall pay the cost of such removal or repair, replacement or restoration as additional rent.

7. Safety Equipment. LESSEE shall, at its sole cost and expense, provide and maintain all obstruction lights and similar devices, all fire protection and safety equipment, and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution, or regulation.

8. STATE's Security Fence. If STATE erects any security fence that connects to or runs along the LESSEE's Premises, LESSEE shall, at its sole cost and expense, maintain all portions of said security fence designated by the STATE. LESSEE shall also maintain security in such a manner that unauthorized persons shall not have access to any secured or restricted areas of the Airport, including all airport operations areas through the Premises, and LESSEE's officers, employees, agents and guests, and any other party acting on behalf of or with the permission of LESSEE shall be under the control, supervision, or guidance of LESSEE when entering any such secured or restricted areas of the Airport, including all airport operations areas. LESSEE shall enter into any separate supplemental agreement required by STATE or TSA covering Airport security requirements. LESSEE's failure to observe any Airport security requirement shall constitute a violation of this Lease and give STATE the right to assess a penalty and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

9. Sidewalks. LESSEE shall clean and maintain, and repair, if damaged by LESSEE, LESSEE's officers, employees, agents, or guests, any and all sidewalks, or any part or portion thereof, fronting the Premises.

10. Landscaping. LESSEE shall maintain and properly care for any and all landscaping at, in, on, or over the Premises and shall periodically (at least monthly) remove weeds and other noxious vegetation that may appear on the Premises and along the perimeter of the Premises. LESSEE shall also remove from the Premises, at the same time, any junk, litter, abandoned or damaged motor vehicles, trade fixtures, furnishings, furniture, equipment, and other personal property, excess material, leaking containers or other similar

items or equipment, vehicle parts, and machinery that are unsightly, dangerous, in disrepair, unclean, or inoperative.

ARTICLE VIII. GENERAL RIGHTS AND RESPONSIBILITIES OF LESSEE

LESSEE shall have the right with respect to the Premises herein to do or perform any of the following things upon the covenants, terms, and conditions hereinafter set forth below:

A. Commercial Aeronautical Activities. Unless otherwise stated herein, LESSEE shall have the right to perform commercial aeronautical activities; provided, however, that LESSEE shall comply with and conduct such activities in accordance with STATE's Minimum Standards for Commercial Aeronautical Activities at Public Airports, Airports Division Procedure No. 4.9, dated May 3, 1990, attached hereto as Appendix C and hereby made a part hereof, including any and all amendments, changes, revisions, updates, or supplements made thereto and adopted by STATE after the commencement date of this Lease.

B. Communications, Equipment, and Rights-of-Way. LESSEE shall have the right to install, maintain and operate such aviation radio, communications, and meteorological and aerial navigation equipment and facilities, as LESSEE may deem necessary or convenient for LESSEE's operation, subject to the prior written consent of STATE as to the location, manner of installation, and type thereof, which consent shall not be unreasonably withheld.

Such equipment and facilities may be located without additional charge or fee in or on any portion of the Premises, or, upon payment of the applicable rent for such additional area(s) and at such other location(s) at, in, or on the Airport, if any, as may be requested by LESSEE and consented to in writing by STATE.

In the event that STATE constructs or installs, or hereafter voluntarily and not at the request of LESSEE constructs or installs upon the Premises or elsewhere at the Airport, conduits, ducts, or other facilities and appurtenances and equipment for use in common by aircraft operators (including LESSEE) for the installation of wires, cables, pneumatic tubes, or similar communication connections, LESSEE may use such conduits, ducts or other facilities, appurtenances, and equipment for the purpose for which they are provided, if and to the extent that space therein is available, and subject to rules promulgated by STATE, upon payment of any rental, charge, or fee for the use of such conduits, ducts, facilities, appurtenances, and equipment, as STATE may prescribe; and provided that LESSEE shall pay the cost of pulling or installing its wires, cables, pneumatic tubes, or similar communication connections through such conduits, ducts, facilities, appurtenances, and equipment, and the cost of installing brackets or any incidental equipment or facilities not provided by STATE, and any other cost in connection with the aforesaid installations; and provided, further, that LESSEE shall be solely responsible for any damage to the ducts, conduits, facilities, appurtenances and equipment and to any other facilities installed therein caused by LESSEE's acts or omissions or those of LESSEE's officers, employees, agents, or contractors.

LESSEE shall also have the right to use rights-of-way at locations hereafter designated, in writing, by STATE and with the prior written consent of STATE either for the exclusive use of LESSEE or for use in common with others. LESSEE, with the prior written consent of the STATE, shall have the right to use conduits, ducts, pipes, wires, cables, or similar installations, and facilities (including, but not limited to, equipment and facilities related to or incidental to communications, controls, teletypes, telephones, interphone, and pneumatic tubes) between the places where such equipment and facilities have been installed in the Premises and the place where such equipment and facilities have been installed in space leased to LESSEE for its exclusive use elsewhere at the Airport.

LESSEE shall pay a reasonable rental for the use of such conduits, ducts, pipes, wires, cables, installations and facilities, easements, and rights-of-way.

C. Architects, Contractors, and Builders. LESSEE shall have the right to employ such architects, contractors, or builders as LESSEE shall deem necessary or desirable in connection with the authorized construction, installation, alteration, modification, repair, or maintenance of any and all Leasehold Improvements, at, in, on, over, or under the Premises; provided, however, that any such architects, contractors, or builders shall be properly licensed in the State and otherwise competent in their respective professions or trades.

ARTICLE IX. PERFORMANCE BOND

A. Requirements. Prior to the commencement date of this Lease, and throughout the term of this Lease and including not less than ninety (90) calendar days after the expiration or sooner termination of this Lease, LESSEE shall deliver to STATE, and keep and maintain in force and effect at all times a performance bond or cash or cash equivalent security deposit acceptable to STATE, in accordance with the covenants, terms, and conditions specified in this Article IX (Performance Bond) herein, and in an amount equal to the annual land rental as defined in Article V.A.1 (Land rental) then in effect (hereinafter referred to as the "Performance Bond"). Except for a cash or cash equivalent security deposit, the Performance Bond must:

1. Authorized Surety. Be executed by a surety company licensed and authorized to do business under the laws of the State (hereinafter referred to as the "Surety");

2. STATE Approval. Meet with the written approval of STATE, including, without limitation, meeting the requirement that the Surety, to STATE's sole satisfaction, has the financial capability to fully perform and complete the Surety's obligations under the Performance Bond;

3. STATE's Attorney Approval. Be in a form approved by an authorized representative of the Department of the Attorney General of the State;

4. Guarantee Full Performance. Require the Surety to guarantee to STATE that LESSEE shall fully and completely observe, comply with, perform, and completely satisfy all of the covenants, agreements, promises, provisions, duties, responsibilities, obligations, requirements, restrictions, stipulations, terms, and conditions prescribed and set forth in this Lease that LESSEE is required to perform;

5. LESSEE's Cost. Be procured, maintained, and kept in full force and effect by LESSEE, at LESSEE's sole cost and expense; and,

6. Cover All of LESSEE's Operations. Cover all of LESSEE's operations at, in, on, over, or under the Premises during and throughout the term of this Lease; provided that suits or actions thereon by the STATE, or anyone else entitled to do so may be commenced within the applicable period of limitation for contract claims unless otherwise specifically provided.

B. Surety. If STATE, in its sole discretion, permits LESSEE to use Performance Bond sureties other than a surety company licensed and authorized to do business under the laws of the State, such sureties must meet the requirements of all applicable State laws, statutes, rules, and regulations, including Section 102-12, HRS.

C. Replacement Bond. If STATE should receive a notice that the Performance Bond has been or will be canceled, LESSEE shall provide STATE with a replacement Performance Bond providing the coverage required herein from the effective date and time of the cancellation of the Performance Bond so that there is no period of time wherein an adequate Performance Bond does not cover this Lease, as provided for herein. Such a replacement Performance Bond must meet all of the requirements set forth in this Article IX (Performance Bond) and be forwarded to and received by STATE at least twenty (20) calendar days prior to the effective date and time of the bond cancellation.

D. Lease Default. In the event that a Performance Bond or a replacement Performance Bond in the required amount and meeting the required terms is not received by STATE prior to the effective date and time of the bond cancellation or expiration, as stated, LESSEE shall be deemed in default of this Lease, regardless of whether or not a notice of breach or default or time to correct breach or default has been provided to LESSEE by STATE, and the full value shown on the face of the Performance Bond and the additional charge of \$250.00 per day that there is no bond coverage shall be immediately payable by LESSEE to STATE as liquidated damages.

E. Any Lapse. Any lapse in keeping the Performance Bond in full force and effect, in the required sum or in accordance with the terms required herein, shall be a default of this Lease and shall give STATE the right to assess an additional charge and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, herein.

ARTICLE X. INSURANCE

A. In General.

1. LESSEE's Cost. LESSEE shall procure, at its sole cost and expense, and keep in effect at all times during the term of this Lease, the types and amounts of insurance coverage specified herein. The specified insurance shall also, either by provisions in the policies by STATE's own endorsement form, or by the endorsement attached to such policies, include and insure STATE, STATE's officers, employees, agents, and guests, and STATE's successors and assigns, as additional insured, against the areas of risk covered by the insurance coverage specified herein, including, without limitation, protection against any and all claims, demands, suits, actions, causes of action, judgments, liabilities, losses, damages, costs and expenses, including costs of suits and attorneys' fees, resulting from any personal injury, bodily injury or death to any person, or property damage arising out of or related to any acts or omissions of LESSEE and LESSEE's officers, employees, agents, and guests, the occupancy and use of the Airport, including the Premises and the roadways of the Airport used by LESSEE and LESSEE's officers, employees, agents, and guests, and LESSEE's operation, maintenance, and repair of the Leasehold Improvements at, in, on, over, or under the Premises and LESSEE's conduct of its business operations, including related functions performed by or on behalf of LESSEE, at the Airport.

2. Form of Policies.

a. Form and substance. All insurance required to be furnished by LESSEE hereunder shall be pursuant to policies in form and substance satisfactory to STATE and issued by companies of sound and adequate financial responsibility, who are licensed and authorized to do or conduct business in the State, all to the satisfaction of STATE. STATE may, upon reasonable notice and reasonable grounds, increase or change the insurance required hereunder, in which event LESSEE shall obtain such required insurance.

b. Required provision. All insurance, except Workers' Compensation and Employer's Liability Insurance, shall include the following:

(1) Additional Insured. Name STATE, STATE's officers, employees, agents, and guests and STATE's successors and assigns, as additional insured.

(2) Severability of interest. Contain a severability of interest (cross liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability ..." and a contractual endorsement which states, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under insured's Lease with STATE for Commercial Helicopter Operations at Port Allen Airport in the State of Hawaii."

(3) Waiver of subrogation. Contain a waiver of subrogation endorsement in favor of STATE.

(4) Notification. Provide that STATE shall be notified, in writing, at least thirty (30) calendar days prior to any termination, cancellation, or material change to any such insurance policy (including the Workers' Compensation and Employer's Liability Insurance).

c. All insurance. All insurance shall:

(1) Primary. Be primary, not in excess of or pro rata and non-contributing as to and with any other insurance held or maintained by STATE.

(2) No Premiums. Not require STATE to pay any premiums for any insurance coverage required of LESSEE under this Lease.

(3) No Partnership. The inclusion of STATE, STATE's officers, employees, agents, and guests, and STATE's successors and assigns, as insured or additional insured, is not intended to, and shall not, make them or any of them, a partner or joint venture with LESSEE in the operation of LESSEE's Commercial Helicopter Operation at, in, on, or over the Premises and LESSEE's conduct of its business operations, including related functions performed by or on behalf of LESSEE at the Airport.

(4) Deductibles. The insurance policies required hereunder may provide for reasonable deductibles or retention, acceptable to STATE, based upon the nature of LESSEE's business operation at, in, on, over, or under the Premises, including related functions performed by or on behalf of LESSEE, at the Airport and the type of insurance involved.

(5) Failure to Obtain. Upon failure of LESSEE to provide and maintain the insurance required herein after a ten (10)-day prior written notice to comply from STATE, STATE may, but shall not be required to, procure such insurance at LESSEE's sole cost and expense and LESSEE agrees to immediately reimburse STATE for any and all costs thereof, plus fifteen percent (15%) for administrative overhead. Any lapse in, or failure by LESSEE to procure, maintain, and keep in full force and effect such insurance coverage as is required under this Lease, at any time during and throughout the term of this Lease, shall be a violation of this Lease and shall give STATE the right to assess additional charges and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

d. Subrogation. STATE agrees to release LESSEE from STATE's claim for loss or damage caused by fire or other casualty covered by fire insurance policies, with extended coverage, to the extent of any payment received by STATE from the insurers. This release includes also a waiver of subrogation by STATE's insurer of any right of

action against LESSEE in the event of such loss or damage and payment therefor to STATE. Said waiver of subrogation is conditional upon acceptance of such waiver by STATE's insurer affected thereby. Evidence of such waiver shall be in writing.

e. Proof of Insurance. LESSEE shall provide proof of all specified insurance and related requirements to STATE either by production of the actual insurance policies, by use of STATE's own endorsement forms, by broker's letter acceptable to STATE in both form and content, or by other written evidence of insurance acceptable to STATE, together with appropriate written evidence, satisfactory to STATE, that the insurance premiums thereon have been paid. The documents evidencing all specified coverage shall be submitted to STATE, prior to LESSEE's occupancy and use of the Premises. Each policy shall contain the applicable policy number, the inclusive dates of policy coverage and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or non-renewal except after written notice by certified mail, return receipt requested, to STATE at least thirty (30) calendar days prior to the effective date thereof. STATE reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

f. Annual Review. LESSEE agrees that the insurance limits specified by STATE herein shall be reviewed for adequacy annually throughout the term of this Lease by STATE who may, thereafter, require LESSEE to adjust the amounts of insurance coverage to whatever amounts STATE deems to be adequate.

B. Construction. Before commencing construction of any initial or subsequent work on LESSEE's Leasehold Improvements or the construction or installation of other improvements at, in, on, over, or under the Premises, or any part(s) or portion(s) thereof, LESSEE shall, in addition to other customary insurance or bonds and at its sole cost and expense, procure, maintain, and keep in full force and effect during and throughout the entire period of construction and installation, or require all its contractors and subcontractors to procure, maintain, and keep in full force and effect during and throughout the entire period of construction and installation, adequate insurance to protect both STATE and LESSEE against the risks mentioned in Article X.A (In General) herein, which risks shall be covered by a policy or policies of insurance of the types and minimum amounts indicated as follows:

1. Commercial General Liability Insurance. Combined single limit coverage of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate arising from any one accident or other cause covering:

- a. Bodily injury and death.
- b. The Premises and the operations of LESSEE and LESSEE's contractors and subcontractors.

c. Contractual liability for any general indemnification agreement in any contract including, without limitation, this Lease;

2. Property Damage Liability Insurance, including Broad Form Property Damage Insurance and, where applicable, Underground, Explosion and Collapse Hazard Liability Insurance. Combined single limit coverage of not less than \$1,000,000.00 per occurrence arising from any one accident or other cause;

3. Workers' Compensation and Employer's Liability Insurance. Not less than \$1,000,000.00 or as otherwise required by applicable Federal and State laws;

4. Owner's and Contractor's Protective Public Liability and Protective Property Damage Insurance. Combined single limit coverage of not less than \$1,000,000.00 per occurrence arising from any one accident or other cause; and,

5. Builder's Risk Insurance (covering fire, extended coverage, vandalism, malicious mischief). Combined single limit coverage of not less than \$250,000.00 per occurrence arising from any one cause.

C. Operation. LESSEE shall, at its sole cost and expense, procure, maintain, and keep in full force and effect during and throughout the term of this Lease, adequate insurance to protect both STATE and LESSEE against the risks mentioned in Article X.A (In General) herein, which risks shall be covered by a policy or policies of insurance of the types and minimum amounts indicated as follows:

1. Commercial General Liability Insurance. Combined single limit coverage of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate arising from any one accident or other cause covering:

- a. Bodily injury and death.
- b. The Premises and operations of LESSEE.
- c. Contractual liability for any general indemnification agreement in any contract including, without limitation, this Lease;

2. Property Damage Liability Insurance, including Broad Form Property Damage Insurance and, where applicable, Underground, Explosion and Collapse Hazard Liability Insurance. Combined single limit coverage of not less than \$1,000,000.00 per occurrence arising from any one accident or other cause;

3. Aircraft Public Liability. (a) \$75,000.00 each passenger multiplied by seventy-five percent (75%) of the number of passenger seats for air taxi and air tour operators; (b) \$300,000.00 each passenger multiplied by seventy-five percent (75%) of the

number of passenger seats for commuter operators; (c) aircraft rental and flight instruction liability of \$100,000.00 for each passenger; and (d) no less than the average amount of coverage carried by other certificated air carriers using the Airport for commercial passenger and/or cargo airline service.

4. Hangar Keeper's Liability. Combined single limit coverage of not less than \$1,000,000.00 per occurrence arising from any one accident or other cause, if not covered by any other insurance policy maintained by LESSEE.

5. Workers' Compensation and Employer's Liability Insurance. Not less than \$1,000,000.00 or as otherwise required by applicable Federal and State laws;

6. Fire and Extended Coverage Insurance for Other Hazards and Perils. On all of the buildings, structures and other Leasehold Improvements, whether owned by STATE or LESSEE, and LESSEE's personal property at, in, on, over, or under the Premises, or any part(s) or portion(s) thereof, as would be procured and maintained by a reasonable and prudent owner thereof, the necessary fire policy or policies and extended broad form coverage for other hazards and perils such as, but not limited to: hail, windstorm, hurricane, lightning, explosion, smoke, sprinkler leakage, vandalism, malicious mischief, damage by aircraft and glass, the minimum combined replacement value of which shall be not be less than \$2,500,000.00 or the value of the Leasehold Improvements as submitted by LESSEE to STATE, whichever is greater, per occurrence arising from any one cause.

D. Motor Vehicles. LESSEE, at LESSEE's sole cost and expense, shall procure, maintain, and keep in full force and effect during and throughout the term of this Lease, State of Hawaii No-Fault motor vehicle (or automobile) liability insurance policy or policies of at least: (1) \$100,000.00 per person per accident and \$300,000.00 per occurrence for bodily injury and death; (2) an aggregate of \$1,000,000.00 per accident or occurrence for bodily injury and death; (3) \$50,000.00 per accident or occurrence for property damage; and (4) a combined single limit coverage of not less than \$1,000,000.00 per accident or occurrence for bodily injury, death, and property damage for each of LESSEE's motor vehicles or automobiles, including each motor vehicle or automobile from LESSEE's fleet operating on or within the roadways and other areas of the Airport. For all vehicles operated by LESSEE or LESSEE's officers, employees, agents, and guests entering and operating within the restricted airport operations area (AOA) of the Airport, LESSEE shall obtain additional insurance coverage of at least: (i) \$1,000,000.00 per person per accident for bodily injury and death; (ii) an aggregate of \$1,000,000.00 per accident or occurrence for bodily injury and death; (iii) \$1,000,000.00 per accident or occurrence for property damage; and (iv) a combined single limit coverage of not less than \$1,000,000.00 per accident or occurrence for bodily injury, death, and property damage. The insurance obtained by LESSEE hereunder shall cover all of LESSEE's officers, employees, agents, and guests or LESSEE shall require its officers, employees, agents, and guests to obtain, at their sole cost and expense, such insurance coverage in favor of STATE.

ARTICLE XI TAXES

A. Taxes and Assessments. LESSEE shall pay in full any and all taxes and assessments levied or assessed upon LESSEE or the Premises, including, but not limited to, State of Hawaii income and general excise taxes, and County real property taxes, before the delinquent date thereof, and, subject to the provisions of Article XXLA.11 (Failure to Pay Taxes) hereof, LESSEE shall indemnify, defend, keep, save, insure, and hold STATE and the Premises harmless against any and all attachments, claims, or liens related to or connected with such taxes, charges, or assessments and all expenses resulting therefrom, including reasonable attorney's fees. LESSEE shall have the right to contest the amount or validity of any such tax, charge, or assessment by appropriate legal proceedings in LESSEE's own name.

B. Tax Clearances. LESSEE shall, upon demand by STATE, present evidence, such as tax clearances from the respective tax offices, to STATE, demonstrating LESSEE's payment of all State of Hawaii and County taxes prior to the commencement date of the Lease and for any other year or series of years during the term of this Lease.

ARTICLE XII PROHIBITED ACTS

LESSEE shall not perform any service nor use the Premises for any purpose not enumerated in Article III (Use of Premises) hereof, or not authorized pursuant thereto.

A. Nuisance. LESSEE shall commit no actionable nuisance or do any act that results or may result in the creation or commission or maintenance of a nuisance at, on, in, or over the Premises and shall not do or permit to be done anything, which may result in the creation or commission or maintenance of any such nuisance on the Premises. Further, LESSEE shall also not cause, produce, or permit to be caused or produced upon the Premises, or to emanate therefrom, any offensive sounds, or any noxious or objectionable smoke, gases, vapors, or odors.

B. Illegal acts. LESSEE shall not use the Premises, or any part or portion thereof, or permit the same to be used by any of LESSEE's sublessees, tenants, officers, employees, agents, or guests for any illegal act or purpose.

C. Discrimination. LESSEE shall not use the Premises in support of any policy, which discriminates against anyone based upon race, creed, color, national origin, sex, or a physical disability.

D. Equal treatment. LESSEE shall furnish services on a fair, equal, and nondiscriminatory basis to all parties and shall charge fair, reasonable, and nondiscriminatory prices for each unit or service; provided, however, that the LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reduction to volume purchasers.

E. Security. LESSEE shall not allow entry to the airport operations area (AOA) of the Airport or any other secured or restricted areas of the Airport through the Premises by any unauthorized persons and ground vehicles.

F. Lodging. The Premises may not be used as a hotel, motel, inn, hostel, bed and breakfast, temporary or legal residence or any similar boarding or lodging.

G. Alcoholic beverages. The consumption of alcoholic beverages by anyone at, in, or on the Premises is prohibited at all times.

H. Interference. LESSEE shall not interfere with the effectiveness of, or access to utilities, air conditioning, elevators, or escalators (including facilities, structures, lines, equipment, conduits, and appurtenances, connected or appurtenant thereto) in or adjacent to the Premises, the free access and passage in and to the Premises or public areas adjacent thereto, or in the streets or sidewalks adjoining the Premises.

I. Overload. LESSEE shall not overload any floor, or place loads upon any floor, wall, or ceiling of any building or other structure situated at, upon, or within the Premises that may endanger such building or other structure.

J. Obstruction. LESSEE shall not obstruct any sidewalk, walkway, or passageway in front of, within, or adjacent to the Premises.

K. Effect on insurance. LESSEE shall not act or permit the doing of any act or thing upon the Premises that will either increase the premium rate of, be contrary to, or invalidate any fire, casualty, or liability insurance policies either required herein or carried by STATE, if any, covering the Premises, together with any and all buildings and other structures and improvements situated thereon. LESSEE shall, in connection herewith, obey, observe, and adhere to: (1) any and all present and future laws, statutes, orders, decisions, rules, and regulations of the State; (2) any and all present and future rules and regulations of STATE and the Airport; (3) any other governmental authority; and (4) any and all present and future requirements and directions of fire and other underwriters on applicable insurance policies of STATE and LESSEE, which may pertain or apply to the Premises and LESSEE's use of and operation upon the Premises and Airport.

L. Vending machines. LESSEE shall not install, maintain, operate, or permit the installation, maintenance, or operation of any currency, coin, or token operated vending machine or device, for the purpose of vending or providing any product (including food and beverage items) or service (for the purposes hereof, amusement or entertainment shall be deemed a service) upon any part or portion of the Premises or the Airport without the prior written approval of STATE. Vending machines include, but are not limited to, newspaper racks, pay telephones, and other currency, coin, or token operated devices. LESSEE shall further observe, comply with, and abide by the Neighbor Island Settlement Agreement.

M. Promotional medium restriction. LESSEE shall not use any advertising or promotional medium that may be seen, heard, or otherwise experienced outside the Premises (such as searchlights, barkers, or loudspeakers).

N. Distribution of handbills. LESSEE shall not distribute handbills or promotional circulars to patrons of the Airport, or engage in any other advertising at, upon, or within the Airport (except as may be specifically permitted under this Lease).

O. Recruitment. LESSEE shall not engage in any activity on the Airport outside the Premises for the recruitment or solicitation of business.

P. Injury to reputation. LESSEE shall not act or permit acts to be done that will injure the reputation of STATE, the Airport, or the appearance of the Airport. LESSEE shall not, without the prior written consent of STATE, reference STATE or the Airport for any purpose other than the address of the business to be conducted by LESSEE at, in, on, or over the Premises, nor shall LESSEE do or permit anything in connection with LESSEE's business or advertising which in the judgment of STATE may reflect unfavorably on STATE or the Airport, or confuse or mislead the public as to the relationship between STATE and LESSEE.

ARTICLE XIII. SIGNS

A. STATE's Approval. LESSEE shall not erect, construct, install, or place any signs or displays upon any part or portion of the Airport, except at, in, or upon the Premises, unless otherwise first approved in writing by STATE.

1. LESSEE's cost. LESSEE shall have the right to erect, construct, install, place, maintain, and operate at, in, or upon the Premises, at LESSEE's sole cost and expense, signs containing LESSEE's name and its business.

2. Conformity. Signs shall be substantially uniform in size, type, and location with those of other businesses and tenants at the Airport, and conform to STATE's Signage and Graphics Manual. The number, general type, size, design, and location of such signs shall be subject to the prior written approval of STATE. The location and placement of approved signs by LESSEE are subject to change as deemed necessary by STATE. LESSEE shall, at its sole cost and expense, promptly remove, move, or relocate a sign upon receipt of a notice to do so by STATE.

3. Submit drawings. Prior to the erection, construction, or placing of any such signs or displays, LESSEE shall submit to STATE, for STATE's review and approval in writing, drawings, sketches, design dimensions, type, and character of the proposed sign(s) or display(s). Any conditions (including a requirement that such sign(s) or display(s) be multilingual), restrictions, or limitations imposed by STATE, as part of STATE's written

approval, shall become conditions on the use of such sign(s) and display(s) as if specifically set forth at length herein.

B. Removal of signs. Upon the expiration or the sooner termination of this Lease, LESSEE, if requested by STATE, shall: (1) remove, obliterate, or paint out any and all signs, posters, and similar devices, and any and all displays installed, placed, or affixed by LESSEE at, in, or upon the Premises; and (2) restore any and all wall or surface areas to which signs, posters, and similar devices, and any and all displays which may have been attached or affixed, all to the satisfaction of STATE. If LESSEE fails to so remove, obliterate, or paint out each and every sign, poster, piece of advertising, display, or similar device in a manner satisfactory to STATE after being so requested by STATE, STATE may perform such removal work, and LESSEE shall immediately pay to or reimburse STATE for any and all costs and expenses so incurred by STATE, upon demand from STATE.

Nothing contained in this Article XIII (Signs), shall limit nor is construed to limit, the effect of the covenants and provisions of Article XVI (Surrender of Premises) hereof.

ARTICLE XIV. INGRESS AND EGRESS

A. Reasonable access. LESSEE and LESSEE's officers, employees, agents, and guests, in common with others, shall have the nonexclusive right of ingress to and egress from the Premises and such other parts or portions of the Airport area to or from which such persons shall reasonably require ingress or egress, in such manner, upon such terms, and at such locations as STATE may from time to time designate; provided, however, that the aforementioned right of ingress and egress, as it applies to the suppliers of any flammable fuel or other such products or materials, shall be subject to the prior written permission of STATE.

B. Subject to rules. The privilege of ingress and egress at the Airport shall be subject to the rules and regulations of STATE, now in effect or which may hereafter be adopted or amended, for the safe and efficient operation of the Airport.

C. Right to alter access. STATE may, at any time, temporarily or permanently, close, consent to close, or request the closing of any roadway and any other area at the Airport, presently or hereafter used as such, so long as a reasonable alternative means of ingress and egress remains available to LESSEE.

D. LESSEE's release. LESSEE hereby releases and discharges STATE and STATE's successors and assigns, of and from any and all claims, demands, causes of action, liabilities, losses, damages, costs, and expenses, including attorneys' fees and other legal or court costs, and demands therefor, which LESSEE may now, or at any time hereafter, have against STATE and STATE's successors and assigns, arising or alleged to have arisen out of the closing of any street, roadway, sidewalk, walkway, or access area or other area, whether within or outside the Airport.

E. No rent relief. LESSEE in entering into this Lease with STATE recognizes STATE's right and responsibility to provide convenient and efficient public access and thoroughfare and, therefore, acknowledges STATE's right to adjust, amend, alter, or otherwise revise pedestrian and vehicular traffic patterns in the best interest of the operation of the Airport as determined by STATE. LESSEE shall have no claim for any rebate or adjustment of rents or fees owed to STATE for changes that may arise as a result of STATE's adjustment or revision to pedestrian and vehicular traffic routes on the Airport.

ARTICLE XV. LIABILITY AND INDEMNITY

A. Assumption of liability. The use of the Airport and the Premises by LESSEE and LESSEE's officers, employees, agents, and guests, in common with others, shall be at their sole risk.

B. Indemnity. STATE shall not be liable for and LESSEE shall protect, defend, save harmless and indemnify the STATE, including the STATE's officers, agents, employees, guests and representatives, including the Land Board, from and against any and all claims, demands, suits, actions, causes of action, judgments, liabilities, losses, damages, costs and expenses (including, without limitation, costs of suit and fees directly related thereto and reasonable attorney's fees) claimed by anyone by reason of injury to or death of persons, including, but not limited to, work-related injuries or death suffered by employees of the LESSEE, or damage to or destruction of property, including property of the LESSEE, sustained in or about the Premises or the Airport, as a result of or related to the LESSEE's use and occupancy of the Premises or use of any other portions of the Airport or any act or omission of the LESSEE or the LESSEE's agents, employees and guests. As used in this Article XV (Liability and Indemnity), the term "guests" shall be deemed to include, in addition to LESSEE's guests, passengers, invitees and licensees.

C. LESSEE's release. LESSEE does hereby release, without limitation, STATE and STATE's officers, employees, agents, guests and representatives from any and all actions, causes of action, claims, damages, demands, judgments, liabilities, losses, suits, costs, and expenses, including attorneys' fees and other legal or court costs, and demands therefor, that may arise during the term of this Lease from damage to or destruction of LESSEE's property that is not the result of, or caused by the negligence of STATE.

ARTICLE XVI. SURRENDER OF PREMISES

A. In General. LESSEE shall yield and deliver peaceably to STATE possession of the Premises on the date of the expiration or sooner termination of this Lease, promptly and in the same condition as at the commencement of this Lease, or in the case of any Leasehold Improvement during the term, as at the time of the installation or construction of such Leasehold Improvement, excepting reasonable wear arising from the use of the Premises to the

extent permitted elsewhere in this Lease and damage resulting from causes over which LESSEE had no control. The Premises shall be clean and clear of any and all trash, debris, abandoned items, trade fixtures, equipment, appliances, furniture, junk and other similar and like items. All gates, doors and locks shall be secured and the keys turned in to STATE.

LESSEE shall have the right at any time during this Lease to remove, and if so directed by STATE, shall remove from the Premises, on or before the expiration or sooner termination of this Lease, all of LESSEE's Personal Property, any Improvements deemed by STATE to be non-conforming or unauthorized, such removal to be completed in such a manner as to cause no damage to the Premises or to the Airport, and in the event of any such damage, LESSEE agrees, at its sole cost and expense, to repair the same.

LESSEE shall remove all its Personal Property, including but not limited to facilities for waste oil or other substances, and hazardous and toxic materials, on and below ground, within thirty (30) days after the expiration or sooner termination of this Lease and as further described in Article XVILC (Compliance with Environmental Matters). If LESSEE fails or neglects to so properly remove, STATE, at its sole option in any combination or selection, may, (1) remove and dispose of the same and charge the cost of such removal and disposal to LESSEE, which cost LESSEE hereby agrees to pay, (2) consider the same to be abandoned and take title thereto, or (3) give the LESSEE additional time as may be needed under the circumstances, not to exceed thirty (30) days, and charge the LESSEE the proportionate rental fee, based upon the then current rental values at the Airport for the thirty (30)-day period, which rental fee the LESSEE hereby agrees to pay.

B. Hold Over. In the event LESSEE shall, with the consent of STATE and Land Board, if required, hold over and remain in possession of the Premises after the expiration or sooner termination of this Lease, such holding over shall not be deemed a renewal or extension of this Lease but shall only create a tenancy from month to month on the same terms, conditions, and covenants in effect immediately prior to the commencement of such holding over, including LESSEE's payment of the rentals and fees existing immediately prior to the holding over, except that: (1) payment shall be due and payable in advance on the first day of each month and revenue reports shall be due in the same manner as prescribed in Article V.F (Business Records); and (2) STATE may, upon thirty (30)-day advance written notice, after the hold over commences, amend and increase the rentals and fees payable by LESSEE to the comparable charges at, in, or on the Airport at that time.

C. Environmental Compliance prior to LESSEE's surrender. LESSEE shall observe, comply with, and completely satisfy all of the environmental/hazardous substances requirements prescribed and set forth in Article XVILC (Compliance with Environmental Matters) hereof, prior to returning the Premises to the control and jurisdiction of STATE.

ARTICLE XVII. COMPLIANCE WITH LAWS

A. In General. LESSEE and LESSEE's officers, employees, agents, and guests shall, at all times during and throughout the term of this Lease and with respect to all phases of its performance under this Lease, fully and completely observe, comply with, and satisfy all applicable laws, statutes, codes, ordinances, orders, rules, and regulations of all governmental authorities, including, without limitation, the United States of America, the State of Hawaii, and the County, and any political subdivision, or agency, authority, or commission thereof, which may have jurisdiction to pass laws, statutes, codes, or ordinances, or make and enforce orders, rules, and regulations with respect to: (1) the Premises and the Airport; (2) all phases of LESSEE's conduct of its business operations; (3) LESSEE's maintenance and repair of the Premises; and (4) LESSEE's performance under this Lease.

LESSEE shall also: (1) obtain and keep current all licenses and permits required by any governmental authority (whether federal, state, municipal, or county) for the conduct of LESSEE's business operations at, in, on, or over the Premises and at the Airport; and (2) promptly pay when due, any and all required rentals and other fees and charges.

Notwithstanding the foregoing covenants, provisions, and requirements, LESSEE shall have the right, in its own name, to contest, in good faith, the validity or applicability of any law, statute, code, ordinance, order, decree, rule, or regulation of any governmental body or agency pertaining to the Premises and LESSEE's conduct of its business operations thereon. The fact that LESSEE may, in connection with such contest, refrain from complying with such law, statute, code, ordinance, order, decree, rule, or regulation, shall not affect in any way LESSEE's obligation to: (1) refrain from subjecting any part or portion of the Premises to forfeiture or loss; and (2) pay the required rentals and other fees and charges prescribed and set forth in Article V (Rental) hereof.

B. Compliance with Americans With Disabilities Act.

1. LESSEE's warranty. LESSEE agrees that it shall conduct its business operations, and occupy or use the Premises in accordance with: (a) the Americans With Disabilities Act, 42 U.S.C.S. Section 12101 et seq. (hereinafter referred to collectively as the "ADA"), including, without limitation, modifying the LESSEE's policies, practices, and procedures, and providing auxiliary aids and services to disabled persons; and (b) United States Access Board's ADA Accessibility Guidelines for Buildings and Facilities, Transportation Facilities, and Transportation Vehicles (hereinafter referred to as the "ADAAG").

2. Accessible services. LESSEE acknowledges that, pursuant to the ADA, programs, services, and other activities provided by a public entity, whether directly or through a contractor, must be accessible to the disabled public. LESSEE shall provide the services or conduct its business operations as specified in this Lease in a manner that complies with the ADA and any and all other applicable Federal, State, and local disability rights legislation. LESSEE agrees not to discriminate against disabled persons in the provision of

services, benefits, or activities provided under this Lease and further agrees that any violation of this prohibition on the part of LESSEE, and LESSEE's officers, employees, agents, guests, successors, and assigns shall constitute a material breach of this Lease.

3. LESSEE's alterations. With respect to all work required to be performed by LESSEE in preparing the Premises for LESSEE's occupancy and use, including, without limitation, the construction, installation, renovation or refurbishment of any and all Leasehold Improvements at, in, on, over, or under the Premises, LESSEE agrees to complete such work in full compliance with the ADA and ADAAG. Upon STATE's request, LESSEE shall provide STATE with evidence reasonably satisfactory to STATE that all such work by LESSEE was completed in compliance with the ADA and ADAAG. LESSEE further agrees that any and all such future alterations, renovations, and improvements made by LESSEE to the Premises shall comply with the ADA and ADAAG.

4. ADA audit. LESSEE shall conduct and complete, at LESSEE's sole cost and expense, an audit as required under the ADA identifying and describing the architectural barriers to disabled access which must or should be removed, which audit shall be subject to STATE's review and approval. LESSEE agrees to remove, at LESSEE's sole cost and expense, all such barriers identified and described in the audit approved by STATE.

5. Notice. STATE and LESSEE agree to promptly give written notice to the other (not to exceed three (3) consecutive, calendar days), of any and all notices which STATE or LESSEE receives alleging ADA violations.

6. LESSEE's indemnification. LESSEE shall indemnify, defend, keep, save, and hold STATE and STATE's successors and assigns, harmless from and against any and all actions, causes of action, claims, demands, suits, judgments, liabilities, losses, damages, costs, and expenses, including any and all attorneys' fees and demands therefor, resulting or arising from LESSEE's failure to observe, comply with, and completely satisfy LESSEE's obligations hereunder with respect to the ADA.

C. Compliance with Environmental Matters.

1. Definitions. For purposes of this Lease, LESSEE agrees and understands that the following terms shall have the following meanings:

a. "Environmental Laws" shall mean all federal, state and local laws of every nature including statutes, ordinances, rules, regulations, codes, notices, standards, directives of every kind, guidelines, permits, licenses, authorizations, approvals, interpretations of the foregoing by any court, legislative body, agency or official, judicial decisions, judicial and administrative orders, rulings or judgments, or rules of common law which currently are in effect of which may come into effect through enactment, issuance, promulgation, adoption or otherwise, which in any way pertain to, relate to, or have any relevance to the environment, health or safety. These environmental laws include, but are not

limited to, regulations and orders of the federal Environmental Protection Agency and of the State of Hawaii Department of Health.

b. "Hazardous Substance" shall include any chemical, substance, radioactive material, organic or inorganic material, controlled substance, object, condition, waste, living organism, or combination thereof which is, may be, or has been determined by state or federal authority under any environmental law to be hazardous to human health or safety or detrimental to the environment. This term shall include, but not be limited to, petroleum hydrocarbons, asbestos, radon, polychlorinated biphenyls (PCBs), methane, fuels of any kind, and other materials or materials or substances that are, or may in the future be, regulated by state or federal authorities.

2. LESSEE's Activities and Duties.

a. Compliance with Environmental Laws. LESSEE agrees, at its sole expense and cost, to comply with all environmental laws applicable to its occupancy, activities, operations, and use of the Premises. This duty shall survive the expiration or termination of this lease which means that the LESSEE's duty to comply with environmental laws shall include complying with all environmental laws that may apply, or be determined to apply, to the occupancy and activities of the LESSEE on the Premises after the expiration or termination of this lease. Failure of the LESSEE to comply with any environmental laws shall constitute a violation of this lease and gives the STATE the right to assess a penalty and/or terminate this lease, pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE) and take any other action at law or in equity it deems appropriate.

b. Hazardous Substances. LESSEE shall not use, treat, dispose, discharge, release, generate, create, or otherwise handle any Hazardous Substance, or allow the same by employee, agency, guest, contractor or any third person, on the Premises without first obtaining the written consent of the STATE, which consent may be withheld by the STATE in its absolute discretion, and LESSEE shall comply with all environmental laws, including giving all required notices, reporting to, and obtaining permits from, all appropriate authorities, and complying with all provisions of this lease.

c. Notice to STATE. LESSEE shall keep STATE fully informed at all times regarding all matters related to any environmental laws affecting the LESSEE or the Premises. This duty shall include, but not be limited to, providing the STATE with a current and complete list and accounting of all hazardous substances of every kind which are present on or about the Premises, together with evidence that the LESSEE has in effect all required and appropriate permits, licenses, registrations, approvals and other consents that may be required by any federal, state or county authority under any authority or environmental laws. LESSEE shall provide said list and accounting at the commencement of the Lease and shall update said list and accounting whenever hazardous substance not accounted for by the LESSEE is present on the Premises by any means. The LESSEE shall also provide immediate written notice of any investigation, enforcement action, compliance order, or order of any type,

or any other legal action, initiated, issued, or any indication of an intent to do so, communicated in any way to the LESSEE by any federal, state or county authority or individual that relates in any way to any environmental law or any hazardous substance. This written notice to the STATE shall include copies of all written communications from any federal, state or county agency or authority, including copies of all correspondence, claims, complaints, warnings, reports, technical data and any other documents received or obtained by the LESSEE. At least thirty (30) days prior to termination of the lease, or termination of the possession of the Premises by LESSEE, whichever occurs first, LESSEE shall provide the STATE with written evidence satisfactory to the STATE that LESSEE has fully complied with all environmental laws, including any orders issued by any governmental authority that relate to the Premises.

d. Disposal/Removal. Except the possession and handling of hazardous substances for which the LESSEE is exempt and those hazardous substances for which the LESSEE has obtained all currently required permits to store or use certain hazardous substances on the Premises, including written permission from the STATE, LESSEE shall cause any hazardous substances to be removed and transported from the Premises for disposal solely by duly licensed hazardous substances transporters to duly licensed facilities for final disposal as required by all applicable environmental laws. LESSEE shall provide STATE with copies of documentary proof including manifests, receipts, or bill of lading, which reflect that said hazardous substances have been properly removed and disposed of in accordance with all environmental laws.

e. Environmental Investigations and Assessments. The LESSEE, at its sole cost and expense, shall cause to be conducted such investigations and assessments of the Premises to determine the presence of any hazardous substance on, in, or under the Premises as may be directed from time to time by the STATE, in its sole discretion, or by any federal, state or county agency or authority. The extent and number of any environmental investigations and assessments, including all testing and analyses incident thereto, shall be determined by the STATE or the federal, state or county agency or authority directing said investigations and assessments to be conducted. LESSEE shall retain a competent, certified and qualified person or entity that is satisfactory to the STATE or governmental authority, as the case may be, to conduct said investigations, assessments, testing and analysis incident thereto. LESSEE shall direct said person or entity conducting those assessments, investigations, tests and analyses to provide the STATE or governmental authority, if so requested, with testable portions of all samples of any soils, water, ground water or other material that may be obtained for testing and provide to the STATE and governmental authority with the written results of all assessments, investigations, tests and analyses on said samples upon completion of said testing.

f. Hazardous substances baseline for Premises. LESSEE may establish, at its sole cost and expense, a hazardous substances baseline acceptable to STATE. The hazardous substances baseline shall consist of the following reports: (a) Phase 1 Baseline Environmental Site Assessment Report, hereinafter referred to as the "Phase 1 Baseline Report;" and (b) if necessary, a Phase 2 Baseline Environmental Site Assessment Report," both

of which must be acceptable to STATE, as necessary, and must cover the Premises at the Airport. Both the Phase 1 Baseline Report and the Phase 2 Baseline Report must be handled, prepared, and certified by a qualified, professional person(s), or firm experienced in environmental investigation, assessment, clean-up, decontamination, and remediation matters relating to hazardous substances. LESSEE shall: (a) submit to STATE the name, address, and qualifications of the qualified, professional person(s) or firm, together with a scope of work; and (b) obtain STATE's prior written approval (which shall be at STATE's sole discretion) before permitting such person(s) or firm to commence work hereunder. The Phase 1 Baseline Report must consist of and include a study and evaluation of: (a) measurements taken, and the assessment of the presence and impact of any and all hazardous substances at, in, on, over, or under the Premises; and (b) the storage, escape, disposal, discharge, spillage, or release of hazardous substances therefrom, if any, caused or permitted by the previous lessee, tenant, licensee, permittee, or user of the Premises. The Phase 1 Baseline Report shall be completed and delivered to STATE not more than thirty (30) calendar days after the commencement of this Lease. The Phase 2 Baseline Report, if necessary, shall be completed and delivered to STATE not more than sixty (60) calendar days after the commencement of this Lease. The foregoing baseline environmental site assessment reports are hereinafter referred to collectively as the "Hazardous Substances Baseline." If the Hazardous Substances Baseline is acceptable to STATE, at the expiration or sooner termination of this Lease, STATE will only hold LESSEE responsible for the clean-up, decontamination, remediation, and/or removal of any and all hazardous substances at levels in excess of the Hazardous Substances Baseline; provided, that LESSEE was not the previous lessee, permittee, or user of the Premises.

g. End Report. Immediately prior to the expiration or sooner termination of this Lease, LESSEE shall, at LESSEE's sole cost and expense, conduct, and prepare a thorough Environmental Site Assessment End Report that shall be prepared, handled, and certified for LESSEE by a qualified, professional firm or person(s) acceptable to STATE and experienced in environmental investigation, clean-up and remediation matters relating to Hazardous Substances. LESSEE shall submit the name, address, and qualifications of the qualified firm or person(s), together with a scope of work, to STATE for STATE's prior written approval, which approval shall be at STATE's sole discretion. The Environmental Site Assessment End Report shall be subject to STATE's prior written approval, and shall contain a study and evaluation of, measurements taken at, and assessment of the impact and presence of any and all Hazardous Substances, at, in, on, over or under the Premises at the Airport, and the escape, disposal, discharge, spillage, and release of Hazardous Substances therefrom, caused or permitted by LESSEE. This report shall be delivered to STATE at least forty-five (45) business days prior to the expiration or sooner termination of this Lease.

h. No waiver. LESSEE's liability and obligation and duty to perform. The conduct, preparation, and delivery of any environmental site assessment report including any baseline report and Environmental Site Assessment End Report, as required by the preceding Article XVII.C.2.g (End Report), shall not waive or diminish LESSEE's liability, obligation, and duty to perform, at LESSEE's sole cost and expense, any and all environmental clean-up, decontamination, detoxification, remediation, or removal work due to the escape,

disposal, discharge, spillage, or release of Hazardous Substances caused or permitted by LESSEE during the conduct or preparation of such reports or the conduct of business operations at, in, on, or over the Premises at the Airport up to the day of expiration or sooner termination of this Lease.

i. Remediation. In the event that any hazardous substance is used, stored, treated, disposed on the Premises, handled, discharged, released, or determined to be present on the Premises, LESSEE shall, at its sole expense and cost remediate the Premises of any hazardous substance, and dispose/remove said hazardous substance in accordance with Article XVII.C.2.d (Disposal/Removal) herein. This duty to remediate includes strict compliance with all environmental laws, as well as any directives by the STATE to the LESSEE to remediate hazardous substance. This duty to remediate shall include replacement of any materials, such as soils, so removed with material that is satisfactory to the STATE and governmental authority, as the case may be. If the LESSEE conducted an initial baseline site assessment of the Premises which includes soil and ground water analyses for hazardous substances at the commencement of this lease or the LESSEE's occupancy, which ever shall have first occurred, to the satisfaction of the State, and established a Hazardous Substances Baseline, LESSEE shall be responsible for remediation and restoration of the Premises to the extent it is necessary to remediate and restore the Premises to the condition of the Premises and levels of any contamination or hazardous substances that existed on the Premises at the commencement of the LESSEE's occupancy or term of the Lease, which ever shall have first occurred, as shown by said initial Baseline Environmental Site Assessment.

j. Restoration and Surrender of Premises. The LESSEE hereby agrees to timely surrender the Premises upon termination of this lease and, prior thereto, shall restore the Premises, including the soil, water, ground water and structures on, in, or under the Premises to the same condition as the Premises existed at the commencement of this lease, as determined by the STATE, reasonable wear and tear excepted. Said surrender and restoration shall be at the sole cost and expense of the LESSEE. This duty to restore the Premises includes remediation as described in Article XVII.C.2.i (Remediation). This duty also includes, but is not limited to, the removal of all pipes, pipelines, tanks, and containers of any kind that the LESSEE has installed or erected on the Premises. In the event the LESSEE does not timely restore the Premises to a satisfactory condition, as determined by the STATE, LESSEE understands and agrees that STATE may exercise its rights under Article XVII.C.2.j (STATE's Right to Act) and until such time as the restoration is complete to the satisfaction of the STATE, LESSEE shall be liable for lease rent in the same manner and amount as if the lease had continued in effect during the period of restoration, as well as any other damages and costs that STATE may have incurred, including penalties, fines and assessments related to the Premises which may be imposed on the STATE or LESSEE by any governmental authority.

k. Tanks, Pipelines, Inspections and Repairs. Unless the STATE agrees in writing prior to their installation, all pipes, pipelines, tanks, containers or conduits of any kind that may at any time have contained, or may have been intended to contain, hazardous substances of any type (hereafter referred to as a "facility"), that the LESSEE intends

to install on the Premises must be installed above ground level in such manner that allows for periodic inspection and maintenance of the facility for purposes of determining the existence of leaks and discharges from, and deterioration of any kind to, and that allows repair of, the facility. LESSEE shall provide the STATE with prior notice of LESSEE's intent to install a facility to allow STATE ample time, as determined by STATE, to inspect the plans for installation of such a facility. Said facility shall not be installed unless and until the facility, and its manner of installation, is approved by the STATE. Within ninety (90) days of the commencement of this lease, or commencement of possession of the Premises by the LESSEE, whichever first occurs, LESSEE shall commit a contingency plan to control and remedy any spill, discharge or leak from any facility on the Premises during the term of this lease, which plan shall include the cleanup of all hazardous substances that may be spilled, discharged or leaked, to the satisfaction of the STATE. The LESSEE shall also submit to the STATE a plan for the LESSEE to conduct, or have conducted, regular inspections of all facilities on the Premises for the purpose of prevention of any leak, discharge or spill from said facilities. Said contingency plan and inspection plan are subject to the approval of the STATE. LESSEE shall timely obtain and maintain in effect all required permits, licenses and approvals for such facilities from any governmental authority. Failure to submit said plans, to comply with said plans, or obtain and maintain any required permits, licenses or approvals constitutes a violation of this lease and gives STATE the right to assess a penalty and/or terminate this lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE) of this lease agreement, giving the STATE the right to immediately terminate this lease, take possession of the Premises and pursue any other remedy available to the STATE.

1. STATE's Right to Act. In the event LESSEE fails for any reason to comply with any of its duties under this lease or under any environmental laws within the time set for doing so, or within a reasonable time as determined by the STATE, STATE shall have the right, but not the obligation, in its sole discretion, to perform those duties, or cause them to be performed. LESSEE hereby grants access to the Premises at all reasonable hours to the STATE, its agents and anyone designated by the STATE, in order to perform said acts and duties. Any cost, expense or liability of any type that may be incurred by the STATE in performing said acts or duties shall be the sole responsibility of the LESSEE and LESSEE hereby agrees to pay for those costs and expenses and indemnify the STATE, its employees, agents and representatives for any liability incurred. This obligation shall extend to any costs and expenses incident to enforcement of STATE's right to act, including litigation costs, attorneys fees and the costs and fees for collection of said cost, expense or liability.

m. Release and Indemnity. LESSEE hereby agrees to release the STATE, its officers, employees, agents, successors and assigns from any liability of any kind, including, but not limited to, any liability for any damages, penalties, fines, judgments or assessments that may be imposed or obtained by any person, agency or governmental authority against the LESSEE by reason of any hazardous substance that may be present by whatever means on, in or under the Premises. LESSEE hereby agrees to indemnify, defend with counsel acceptable to the STATE, and hold harmless the STATE, its employees, agents, representatives, successors and assigns from any liability that may arise in connection with, or by reason of, any

occurrence involving any hazardous substance that may be alleged to be connected to, or related in any way with, the Premises, the STATE's ownership of the Premises, or this lease, including the presence of any hazardous substance on the Premises. The parties understand and agree that the intent of this indemnification agreement includes, but is not limited by, those agreements authorized by 42 U.S.C. Section 9607(e)(1), as amended, and any successor section thereof.

LESSEE further agrees to indemnify STATE from any fines or penalties, assessed pursuant to any federal or state laws or regulations against the STATE as an owner or operator of a facility or of the premises, for LESSEE's failure to have, maintain, or comply with any permit or plans due to LESSEE's storage of oil or petroleum, including the Spill Prevention Control and Countermeasure Plan or a Facility Response Plan, if required under 40 CFR Part 112, the Clean Water Act, or any other federal or state laws or regulations.

This indemnity provision shall not be construed to be a limitation of the general indemnification by the LESSEE as found in Article XV.B (Indemnity).

n. Pollution Legal Liability Insurance Policy (PLLP). At its sole cost and expense, LESSEE shall provide the STATE with a certificate of insurance naming the STATE as an additional insured in the amount of \$1,000,000.00 that evidences its purchase of a PLLP to cover the LESSEE'S legal obligation to clean-up and remediate any Pollution Conditions that LESSEE cause on the Premises, without any limitations.

o. Insurance. Prior to the commencement of the term of this lease, LESSEE shall obtain and keep in force a comprehensive liability and property damage policy of insurance issued by an insurer licensed to do business in the State of Hawaii with limits of indemnity coverage no less than \$500,000.00 per person and \$1,000,000.00 per occurrence. Said policy of insurance shall include indemnity coverage for personal injury and damage to property caused by hazardous substances or any occurrence that may constitute a violation of any environmental law by the LESSEE. Said policy of insurance shall name the STATE, its employees, agents, representatives, successors and assigns as additional insured. LESSEE shall provide proof of said insurance satisfactory to the STATE which shall include, at a minimum, a certificate of insurance from the insurer indicating the coverage provided and the term during which said policy shall irrevocably remain in effect. In the event the LESSEE changes insurers, or LESSEE's insurer provides notice of cancellation, termination or modification of its coverage to the LESSEE, LESSEE shall provide the STATE with notice of said action thirty (30) days prior to the effective date of said change, cancellation, termination or modification.

p. Spill Prevention, Control and Countermeasure. In accordance with the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. Section 1251, et seq. and 40 CFR, Part 112 often referred to as the Spill Prevention, Control and Countermeasure (hereafter "SPCC") Plan regulation, LESSEE agrees at its sole expense and cost to comply with and completely satisfy SPCC rules now or hereafter adopted, amended, or published, throughout the entire term of this lease. If LESSEE stores oil or

petroleum products or by-products in any quantity of less than 1,320 gallons, but has in or on the Premises, at least one or more storage containers or tanks equal to or larger than 55 gallon capacity, LESSEE is required to prepare and implement a written plan which conforms to the SPCC Plan requirements under the portion of the SPCC rules dealing with periodic testing of oil storage containers, providing secondary containment, training of oil handling personnel to prevent the discharge of oil, providing security around oil storage facilities, and maintaining all records pertaining to such matters.

q. National Pollutant Discharge Elimination System. In accordance with the Federal Water Pollution Control Act, also known as the Clean Water Act, 33, U.S.C. Section 1251, et seq. and the requirements contained in the National Pollutant Discharge Elimination System (hereafter "NPDES") regulations found in Hawaii Administrative Rules 11-55 and the Appendices thereto, as amended, LESSEE shall obtain a Notice of General Permit Coverage by applying for general permit coverage and shall comply with and completely satisfy all of the NPDES regulations governing general permits and consolidated permits, if applicable, now or hereafter adopted, amended or published throughout the entire term of the lease.

D. Airport Security. In addition to the Airport security requirements prescribed in Article VIL.D.7.h (Security Fencing), Article VII.H.8 (STATE's Security Fence), and Article XILE (Security), LESSEE shall observe, comply with, and completely satisfy all of the security requirements for the Airport, and any and all applicable security access procedures, rules, and regulations prescribed by STATE or TSA or other Federal agency. LESSEE accepts liability and responsibility for prohibiting unauthorized persons and vehicles from entering any restricted operations area of the Airport through the Premises.

1. Security agreements. LESSEE shall enter into security agreements with STATE that may be required by the TSA for Airport security purposes, and said agreements shall become part of this Lease, and the agreements, covenants, promises, provisions, requirements, terms, and conditions contained herein, although executed separately.

2. LESSEE to maintain security. LESSEE shall also maintain security in such a manner that unauthorized persons shall not have access to any secure or restricted airport operations area through any part(s) or portion(s) of the Premises. Agents, guests, or any other party acting with the permission or consent of LESSEE, shall be under the control, supervision, or guidance of LESSEE when entering any secure or restricted airport operations area. LESSEE shall enter into any separate supplemental agreement required by STATE or TSA or other Federal Agency that covers Airport security requirements to ensure the protection of the Airport.

3. Failure to prevent violations. LESSEE accepts liability and responsibility for: (a) LESSEE's failure to observe, comply with, and completely satisfy any and all Airport security requirements and applicable security access procedures, rules, or regulations prescribed by STATE or TSA or other Federal Agency; (b) LESSEE's failure to prohibit unauthorized persons and vehicles from entering the Airport's restricted airport operations area

through any part(s) or portion(s) of the Premises; and (c) any and all reimbursements to STATE wherein STATE has made direct payments to any citing authority of any fines or penalties for any and all Airport security violations by LESSEE and LESSEE's officers, employees, agents, or guests. Failure on the part of LESSEE to observe, comply with, and completely satisfy this security requirement shall give STATE cause to assess a penalty and/or terminate this Lease pursuant to Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, hereof.

E. Airport Fire. LESSEE shall observe, comply with, and completely satisfy all County, State of Hawaii, and Federal fire codes and shall be solely responsible for and pay any fines or penalties levied for any and all fire code violations. LESSEE shall also, at its sole cost and expense, provide and install connections and hook-ups to the Airport alarm system, when STATE establishes such a system. STATE's alarm system shall serve as a secondary fire alarm monitoring and indication system. LESSEE, and LESSEE's officers, employees, agents, representatives, and sublessees, are solely responsible for the primary notification and alarm to the appropriate Fire Department Station in case of fire on the Premises.

ARTICLE XVIII. RULES AND REGULATIONS

LESSEE shall observe, comply with, satisfy, and obey all rules and regulations of STATE at the Airport, that are now in effect or which may from time to time during the Lease term hereof be reasonably amended, prescribed, or imposed by STATE for the conduct and operations of LESSEE at, in, or on the Airport. LESSEE acknowledges that it is familiar with the rules and regulations of STATE presently in effect at the Airport.

ARTICLE XIX. RIGHTS-OF-ENTRY RESERVED

A. Inspection. STATE, its officers, employees, agents, representatives, invitees, and contractors, shall have the right at all reasonable times to enter upon the Premises for the purpose of inspecting the same, for observing the performance by LESSEE of its obligations under this lease and to service or post or keep posted notices provided by any law, statute, rule or regulations of the State which STATE deems to be for the protection of STATE or the Premises, and for any act which STATE may be obligated to have the right to do under this lease or otherwise.

B. Maintain Systems. The STATE, and its officers, employees, agents, representatives and contractors and furnishers of utilities and other services, shall have the right on its own behalf, or for the benefit of LESSEE or others than LESSEE at the Airport, to maintain existing and future utility, mechanical, electrical, and other systems and to enter upon said Premises at all reasonable times to make such repairs, replacements or alterations as may, in the opinion of the STATE, be necessary or desirable and, from time to time, to construct or install over, in or under the Premises, new systems or parts thereof, and to use the Premises for

access to other parts of the Airport not otherwise conveniently accessible; said work shall in no event unreasonably disrupt or interfere with the operations of LESSEE.

C. No Obligation to Construct or Repair. Nothing in this Article XIX (Rights-of-Entry Reserved) herein, shall impose or shall be construed to impose upon STATE any obligation to construct or maintain, or to make repairs, replacements, additions, or alterations to the Premises, nor shall STATE's entry upon the Premises, or any part(s) or portion(s) thereof, create any liability for any failure to do so.

D. Showing the Premises. At any time, and from time to time, during ordinary business hours, STATE, its officer, employees, agents, and invitees, whether or not accompanied by interested parties, shall have the right to enter upon the Premises, or any portion thereof, for the purposes of exhibiting and viewing all parts of the same, provided the STATE does not unreasonably interfere with the operations of the LESSEE.

E. No Abatement. No abatement of the required rentals and other fees and charges payable to STATE shall be claimed by or allowed to LESSEE by reason of the exercise by STATE of any or all of the rights contained in this Article XIX (Rights-of-Entry Reserved); provided, however, that other than for emergency purposes, nothing contained in this Article XIX (Rights-of-Entry Reserved) shall permit or be construed to permit STATE to exercise any right of access or entry for any of the purposes denoted in this Article XIX (Rights-of-Entry Reserved), except at reasonable times and in such a manner as to not unreasonably interfere with, or hinder the LESSEE's occupancy, use, and enjoyment of the Premises.

ARTICLE XX. UTILITY SERVICES

A. Utility Services to Premises. LESSEE shall be responsible for all necessary excavation for, and the construction, installation, operation, and maintenance of, all mains, pipes, conduits, cables, wiring, and other equipment required to provide utility services in a manner adequate to supply LESSEE's needs therefore, and LESSEE shall have the right and duty to make connection for such utility services from the sources provided or identified by STATE and utility companies.

B. Utility Costs. During and throughout the term of this Lease, LESSEE shall be solely responsible for the payment of all costs related to providing electricity, potable water, sanitary sewage disposal, telephone services, and other public or nonpublic utility services to the Premises, which utility service costs shall include, but not limited to: meter and utility service deposits, installation fees, and any and all utility service fees and charges, regardless of whether or not such utility services are provided by STATE or by utility service corporations. LESSEE, where applicable, shall pay directly to the utility company or companies or other supplier(s) all charges for such utility service or services.

C. No Liability for Interruption of Utility Services.

1. LESSEE not relieved. No failure, delay, or interruption in any utility service or services, whether or not such services are supplied by STATE or others, shall relieve or be construed to relieve LESSEE of any of its obligations hereunder, or shall be construed to be an eviction of LESSEE, or shall constitute grounds for any diminution or abatement of the fees and charges provided for herein, or grounds for any claim by LESSEE against STATE for damages (consequential or otherwise), unless first approved, in writing, by STATE.

2. Waiver of damages. LESSEE hereby expressly waives any and all claims against STATE for damages arising or resulting from any failure, delay, or interruption in any utility service or services (including, without limitation, electric, gas, potable and non-potable water, plumbing, sanitary sewage disposal, telephone, telecommunications, heat, ventilation, air conditioning, etc.), or for the failure or interruption of any public or passenger conveniences. LESSEE's waiver of STATE's liability for uninterrupted utility services shall extend to any failure, delay, or interruption to electric service caused by power spikes or surges, severe climatic, or weather conditions, including, but not limited to, high winds, rainstorms, hurricanes, and other climatic or weather phenomena, or other acts of nature, such as earthquakes and seismic waves (tsunami) affecting the Premises and equipment operated or maintained by LESSEE.

3. Damage repair. If any damage to any electricity, water, sewer, telephone, or telecommunication service line or facility, or any other utility service line or utility service connection is caused by LESSEE or LESSEE's officers, employees, agents, or guests, LESSEE shall, at its sole cost and expense, be responsible for the repair, restoration, or replacement of such utility service line or utility service connection.

ARTICLE XXI. TERMINATION BY STATE

A. Events of Breach or Violation. LESSEE shall be in breach or violation of this Lease, and STATE shall have the right to terminate this Lease if any one or more of the following events shall occur:

1. Transfer of Interest. When, without the prior written approval or consent of STATE, any interest of LESSEE under this Lease shall be transferred or assigned, whether voluntarily or involuntarily, by reason of assignment, sublease or otherwise, stock transfer, operation of law, or death, to any other individual, limited or general partnership, joint venture, firm, company, corporation, limited liability company, or any other entity; or

2. Ownership Change. When the ownership of LESSEE, without the prior written approval or consent of STATE, is changed by inter vivos stock transfer to one or more individuals or entities who are not stockholders at the inception of this Lease, or if

LESSEE is a partnership, whether limited or general, by the introduction of a new partner or partners, whether limited or general, who was not a partner or who were not partners at the inception of this Lease; or

3. Partnership Dissolution. If LESSEE is a partnership of any type and the partnership is dissolved as a result of any act or omission of its partners or any of them, or by operation of law, or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

4. Receivership. When, by or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency, or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession of all or substantially all of the property of LESSEE, and such possession or control shall continue in effect for a period of at least fifteen (15) consecutive days, without being contested by LESSEE in good faith by proper legal proceedings within said fifteen (15) day period; or

5. Abandonment. When LESSEE: (a) voluntarily abandons, deserts, or vacates the Premises; or (b) discontinues conduct of its business operations at, in, on, or over the Premises; or

6. Prevented from Use. After exhausting or abandoning any right of further appeal, LESSEE shall be prevented for a period of at least ninety (90) consecutive days by the action of any governmental agency from using the Premises, regardless of the fault of LESSEE; or

7. Suspension. The happening of any act which results in the suspension or revocation of the rights, powers, licenses, permits, or authorities necessary for LESSEE's conduct of its business operations at, in, on, or over the Premises authorized herein for a period exceeding thirty (30) consecutive days; or

8. Successor Corporation. LESSEE becomes, without the prior written approval of STATE, a successor or merged corporation in a merger, a constituent corporation in a consolidation or a corporation in dissolution; or

9. Attachment. When any attachment, judgment, lien, or encumbrance is filed against LESSEE's interest in the Premises because of any act or omission of LESSEE, and said attachment, judgment, lien, or encumbrance is not discharged or contested by LESSEE in good faith by proper legal proceedings within thirty (30) calendar days; or

10. Failure to Pay Rent. When LESSEE fails to duly and punctually pay the rentals and other fees and charges required under this Lease, including any interest, service charges, or late fees, or to make any other payment required under this Lease when due to STATE upon the lapse of five (5) business days after LESSEE's receipt of a written notice from STATE demanding such payment or payments; or

11. Failure to Pay Taxes. When LESSEE fails to duly and punctually make payments due to any agency of the State or any political subdivision (county) of the State, including, but not limited to, payments for any permit, license or lease, general excise taxes, workers' compensation payments, unemployment taxes, real property taxes, etc., and such payments are not made within thirty (30) calendar days after their due dates; or

12. Failure to Perform. When LESSEE fails to keep, perform, or observe each and every other agreement, promise, covenant, term, or condition set forth in this Lease, on LESSEE's part to be kept, performed, or observed, and such failure shall continue for a period of more than thirty (30) consecutive days after LESSEE's receipt of a written notice from STATE of such breach or violation by personal service or registered mail or certified mail to LESSEE, except where fulfillment of LESSEE's obligation requires activity over a period of time, and LESSEE begins to perform whatever may be required for fulfillment within ten (10) calendar days after receipt of said written notice and continues such performance, showing improvement or correction, without interruption except for causes beyond LESSEE's control; or

13. General Assignment. LESSEE makes a general assignment for the benefit of creditors, or files a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under any law or statute of the United States, or any law or statute of the State, or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of LESSEE's property or LESSEE's property located at, in, on, over, or under the Premises; or

14. Lien. Any lien is filed against or affecting the Premises, or any part(s) or portion(s) thereof, because of any act or omission of LESSEE and such lien is not removed or enjoined or a bond for satisfaction of such lien is not posted within thirty (30) calendar days.

B. Default and Termination. In the event of any breach or violation due to the occurrence of any of the events enumerated in Article XXIA (Events of Breach or Violation) herein, STATE may, after the giving of a written Notice of Default in accordance with Section 171-20, HRS, pursue any available remedy, legal or equitable, it may have against LESSEE.

If LESSEE fails to correct the violation(s) contained in the Notice of Default to the satisfaction of STATE, STATE may, without prejudice to any other remedy, elect to:

1. Additional Charge. Assess a charge of Two Hundred Fifty and No/100 Dollars (\$250.00) per day, as prescribed and set forth in Article V.D (Additional Charges) hereof; and

2. Termination Letter. Concurrent with or subsequent to the assessment of such additional charges, subject to Section 171-21, HRS, proceed to terminate this Lease by providing a written Letter of Termination and Notice to Vacate to LESSEE.

If this Lease is terminated by STATE because of default, LESSEE will not be allowed to enter into any lease, or contract offered by the State of for a period of five (5) years following the date of termination, as prescribed and set forth under Section 171-13, HRS.

C. Right of Re-entry. STATE shall have, as an additional remedy upon the giving of a written Notice of Termination and Notice to Vacate as provided in Article XXLB (Default and Termination) herein, the right to re-enter the Premises and every part or portion thereof, respectively, demised under this Lease upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter, or diminish any of the obligations of LESSEE under this Lease, and shall in no event constitute an acceptance of surrender.

D. LESSEE's Rights Cease. Upon such termination by STATE, all rights, powers, and privileges of LESSEE granted hereunder shall cease. Unless otherwise stated herein, LESSEE shall immediately vacate the Premises occupied or used by it under this Lease, and LESSEE shall have no claim of any kind whatsoever against STATE, by reason of such termination, or by reason of any act by STATE incidental or related thereto. In the event of the exercise by STATE of such option to terminate, LESSEE shall have no right to or claim upon the Leasehold Improvements, or the value thereof, which may have been previously constructed, installed, erected, or placed by LESSEE at, in, on, over, or under the Premises. STATE may also remove or store any of LESSEE's personal property located thereon or therein, at LESSEE's sole cost and expense, without STATE being liable to LESSEE for damage or loss thereby sustained by LESSEE.

E. Waiver of Redemption and Damage. LESSEE waives, releases, and discharges any and all claims it may now or hereafter have relating to STATE's exercise of its rights under this Lease to re-enter and regain and resume possession of the Premises and to remove LESSEE, the Leasehold Improvements, and LESSEE's personal property from the Premises and store or dispose of any of LESSEE's property, including LESSEE's personal property.

LESSEE hereby waives any and all rights of redemption granted by or under any present or future law or statute in the event it is dispossessed for any cause, or in the event STATE obtains or retains possession of the Premises in any lawful manner. LESSEE further agrees that in the event the manner or method employed by STATE in re-entering or regaining possession of the Premises gives rise to a cause of action in LESSEE in forcible entry and detainer under the laws of the State, the total amount of damages to which LESSEE shall be entitled in any such action shall be the sum of One Dollar (\$1.00), and LESSEE agrees that this provision may be filed in any such action as its stipulation fixing the amount of damages to which it is entitled.

F. Additional Rights of STATE. Pursuant to Section 261-7(a), HRS, STATE may repossess the Premises when needed for aeronautical purposes. STATE, upon termination

of this Lease, or upon re-entry, regaining, or resumption of possession of the Premises, may occupy the Premises and shall have the right to permit any person, firm, corporation, or entity to enter upon the Premises and use the same. Such occupation by others may be of only a part of the Premises, or the whole thereof, or a part thereof together with other space(s), and for a period of time the same as or different from the balance of the term remaining hereunder as if no termination, re-entry, regaining, or resumption of possession had taken place, and on terms and conditions the same as or different from those prescribed and set forth in this Lease. STATE shall also have the right to repair or to make such structural or other changes in and to the Premises as are necessary in its judgment to maintain the suitability thereof for uses and purposes similar to those granted under this Lease without affecting, altering, or diminishing the obligations of LESSEE hereunder.

G. Termination Before Commencement. If any of the events enumerated in Article XXLA (Events of Breach or Violation) herein shall occur prior to the commencement of the Lease term, LESSEE shall not be entitled to enter into possession of the Premises, or any part(s) or portion(s) thereof, respectively, and STATE, upon the occurrence of any such event, or at any time thereafter during the continuance thereof, by twenty-four (24) hours' notice, may cancel or terminate the interest of LESSEE under this Lease, such cancellation or termination to be effective upon the date specified in such notice.

ARTICLE XXII. WAIVER

A. No Waiver by STATE. No acceptance by STATE of rentals and other fees and charges, or other payments in whole or in part, for any period or periods after a default of any of the agreements, covenants, obligations, promises, provisions, requirements, restrictions, stipulations, terms, or conditions hereof to be performed, kept, or observed by LESSEE, shall be deemed a waiver of any right on the part of STATE to terminate this Lease for any like or other or succeeding breach or default.

B. No Implied Waiver. No failure by either STATE or LESSEE to insist upon the strict performance of the other party under this Lease or to exercise any right, power, or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such covenant, term, or condition. A waiver or assent by STATE, express or implied, of or to any breach or default of LESSEE, in the performance of any of the agreements, covenants, obligations, promises, provisions, requirements, restrictions, stipulations, terms, or conditions of this Lease shall not be deemed or considered to be a waiver of any other or succeeding breach or default. No express written waiver of any default or the performance of any agreement, covenant, obligation, promise, provision, requirement, restriction, stipulation, term, or condition hereof shall affect any other default or performance, or cover any other period of time, other than default, performance or period of time specified in such express waiver.

C. Cumulative Remedies. The rights, powers, privileges, options, and remedies of STATE contained in this Lease shall be construed to be cumulative, and no one of them shall be deemed to be exclusive of the other, or exclusive of any right, power, privilege, option, or remedy provided by law.

ARTICLE XXIII. WITHDRAWAL

A. STATE's Right. STATE reserves and shall have the right, at any time during and throughout the term of this Lease, in its sole discretion, and regardless of whether or not LESSEE has breached this Lease or has been or then is in default: (1) to withdraw all or any portion of the Premises from the Lease, terminate or cancel this Lease with respect to the portion(s) of the Premises so withdrawn and to reoccupy said portion(s) of the Premises thereunder in the public interest; or (2) to recapture any portion(s) of the Premises not utilized by LESSEE for the uses identified or prescribed by this Lease.

B. Notice. STATE shall give LESSEE written notice of any such withdrawal or recapture and STATE's intent to cancel or terminate this Lease as to the portion of the Premises so withdrawn or recaptured not less than sixty (60) calendar days prior to the effective date of such cancellation or termination.

C. Leasehold Improvements. The STATE shall pay to LESSEE the then unamortized value of the Leasehold Improvements constructed or installed, by the LESSEE, at the LESSEE's sole cost and expense, in, at or upon the portion of the Premises being withdrawn or recaptured in the ratio that the unexpired term of this Lease on the Date of Withdrawal bears to the unexpired term of this Lease on the date the Leasehold Improvements were completed by the LESSEE.

D. No Claim Against STATE. LESSEE shall peaceably surrender the portion(s) of the Premises STATE desires to withdraw or recapture and LESSEE shall remove all Leasehold Improvements, and LESSEE's trade fixtures, equipment, and other personal property so situated on the portion(s) of the Premises so withdrawn or recaptured, all in accordance with Article XVI (Surrender of Premises) hereof, if required by STATE, all at no cost to STATE. Upon completion of the withdrawal, the rent charged to LESSEE shall be reduced by an amount equal to the product of the square footage of the withdrawn portion(s) of the Premises and the applicable per square foot rental rate. LESSEE shall not be entitled to any other payment (except as provided herein) for STATE's withdrawal or recapture of the requested portion(s) of the Premises. If LESSEE is in breach of any provision of this Lease or has been or then is in default of this Lease, STATE need not compensate LESSEE for the unamortized value of the Leasehold Improvements. In such event, LESSEE shall be deemed to have waived its rights to the Leasehold Improvements and any compensation that might be payable therefor.

E. Surrender of Entire Premises. If the surrender of the portion(s) of the Premises requested by STATE renders the remainder of the Premises unsuitable for the uses of LESSEE under this Lease, and STATE does not provide an alternate location, LESSEE may surrender the remainder of the Premises and be relieved of any further obligation hereunder, except with respect to such other obligations of LESSEE which are intended to survive the termination of this Lease, including, without limitation, those obligations set forth in Article XLVII (Survival of Obligations) hereof.

ARTICLE XXIV. TERMINATION BY LESSEE

If any one of the following events shall occur, LESSEE may terminate this Lease, in its entirety, either prior to or subsequent to the commencement of the Lease term, to wit:

1. Abandonment. The permanent abandonment of the Airport as a terminal for the transport by air of persons, property, cargo, or mail.
2. Assumption. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to substantially restrict LESSEE from conducting its business operations thereat for a period of at least sixty (60) consecutive days.
3. Injunction. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport for the purposes authorized under this Lease, and the injunction remaining in force for a period of at least sixty (60) consecutive days.
4. Breach. The breach by STATE of, or its failure to perform, any of the covenants or agreements contained in this Lease, and either the failure of STATE to remedy such breach for a period of sixty (60) calendar days after receipt of a written notice from LESSEE of the existence of such breach, or, if fulfillment of STATE's obligations requires activity over a period of time, the failure of STATE within said sixty (60)-day period to act in good faith to commence the required activity and to continue the same thereafter except for causes beyond STATE's control.

ARTICLE XXV. SUSPENSION OR ABATEMENT

Upon the occurrence or maturity of any of the termination events contained in Article XXIV (Termination by LESSEE) hereof, LESSEE may, in lieu of termination and upon prompt written notice to STATE, either suspend this Lease, or in the alternative, request a just abatement of such portion of the rental obligations of LESSEE, as may be mutually agreed upon, in writing, by and between STATE and LESSEE, such suspension or abatement to be effective from the time of the receipt of such written notice until there is a cessation of the occurrence or

activity giving rise to the initial right to terminate this Lease. Nothing in this Article XXV (Suspension or Abatement) herein shall be construed as prohibiting STATE from exercising its rights under Article XXIII (Withdrawal) hereof, to withdraw or recapture all or any portion of the Premises.

ARTICLE XXVI. SUBORDINATION OF LEASE

A. Joint-Use. This Lease shall be subordinate in all respects to the provisions of any existing or future agreements between STATE and the United States Government, or any agency thereof, relative to the aircraft operating areas of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. In the event of any such inconsistency between such agreement(s) and the occupancy by LESSEE of the Premises, or its use thereof, pursuant to Article III (Use of Premises) hereof, this Lease or the particular terms and conditions affected thereby shall be suspended or terminated without STATE being liable for any damages.

This Lease shall be subordinate in all respects to the provisions of any existing or future Joint-Use Agreement between STATE and the United States Navy, the United States Army, or the United States Air Force. In the event of any such inconsistency described in the preceding section between this Lease and any existing or future Joint-Use Agreement, this Lease or the particular terms and conditions affected thereby shall be suspended or terminated without STATE being liable for any damages.

B. National Emergency. During times of war, whether declared by Congress or not, or national emergency, STATE shall have the right to enter into any agreement with the United States Government for any military use of part or all of the landing area, the publicly-owned air navigation facilities, and all other areas and facilities of the Airport. In the event any such agreement is executed, the provisions of this Lease, insofar as they are inconsistent with the provisions of the agreement with the United States Government, shall be suspended without STATE being liable for any damages.

C. Rights of LESSEE. Nothing in this Article XXVI (Subordination of Lease) herein contained shall detract from or limit, nor be construed to detract from or limit, the rights of LESSEE set forth in Article XXIV (Termination by LESSEE) and Article XXV (Suspension or Abatement) hereof, to seek damages or compensation from other than STATE in the event of the execution of any such agreement described above, the terms of which are or may be inconsistent with the rights of LESSEE under this Lease.

ARTICLE XXVII. CONDEMNATION

A. Definitions. For purposes of this Article XXVII (Condemnation), the following capitalized terms shall have the following meanings:

1. "Award" means all compensation, sums or value paid, awarded, or received for a Taking, whether pursuant to judgment, agreement, settlement, or otherwise.

2. "Date of Taking" means the earlier of: (a) the date upon which title to the portion(s) of the Premises taken passes to and vests in the condemnor; and, (b) the date on which LESSEE is dispossessed.

3. "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under applicable laws. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation, or in settlement of a condemnation action.

B. General. If during the Lease term, any Taking of all or any part or portion of the Premises or any interest in this Lease occurs, the rights and obligations of the parties hereunder shall be determined pursuant to this Article XXVII (Condemnation). STATE and LESSEE intend that the provisions hereof govern fully in the event of a Taking.

C. Total Taking; Automatic Termination. If a total Taking of the Premises occurs (all of the Premises are included in the Taking) then this Lease shall terminate as of the Date of Taking.

D. Partial Taking; Election to Terminate.

1. Entire termination. If a Taking of any portion (but less than all) of the Premises occurs, then this Lease shall terminate in its entirety if all of the following exist: (a) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by LESSEE for the conduct of LESSEE's business operations; (b) the condition rendering the Premises untenable or unsuitable either is not curable or is curable, but STATE is unwilling or unable to cure such condition; and, (c) STATE elects to terminate.

2. Material portion taken. If a partial Taking of a material portion of the Premises occurs, STATE shall have the right to terminate this Lease in its entirety.

3. Notice of election. STATE's election to terminate this Lease pursuant to this Article XXVII (Condemnation) shall be exercised by STATE giving notice to LESSEE on or before the date that is one hundred twenty (120) calendar days after the Date of Taking, and thereafter this Lease shall terminate on the thirtieth (30th) consecutive day after such notice is given.

E. Award. Upon termination of this Lease pursuant to a Total Taking under Article XXVII C (Total Taking; Automatic Termination) or an election under Article XXVII D (Partial Taking; Election to Terminate) herein, then:

1. LESSEE.

a. Rent. LESSEE's obligation to pay all rentals and other fees and charges required under this Lease shall continue up until the date of termination and thereafter shall cease.

b. Surviving obligations. LESSEE shall continue to be obligated to perform and comply with all obligations that are intended to survive the termination of this Lease, including, without limitation, those obligations set forth in Article XLVII (Survival of Obligations) hereof.

c. Leasehold Improvements. LESSEE shall be entitled to recover the unamortized value of the Leasehold Improvements constructed and installed on the Premises by the LESSEE in the ratio that the unexpired term of the Lease on the Date of Taking bears to the unexpired term of the Lease on the date the Leasehold Improvements were completed by the LESSEE.

d. No claim against STATE. LESSEE shall have no claim against STATE or others for: (i) compensation or indemnity for LESSEE's leasehold interest; and (ii) compensation and damages payable for or on account of land (including access and easement rights) or improvements thereon, except as provided in Article XXVILE.1.c (Leasehold Improvements) herein.

e. Separate claim against condemning authority. LESSEE may make a separate claim for compensation from the condemning authority for LESSEE's relocation expenses, or the interruption of or damage to LESSEE's business or damage to LESSEE's personal property. If the condemning authority or a court of competent jurisdiction concurs that said claim exists and is justified, LESSEE may receive any Award made specifically to LESSEE for such claim.

2. STATE. STATE shall be entitled to the entire Award in connection with the Taking (including any portion of the Award made for the value of the leasehold estate created by this Lease), except for the unamortized value of the Leasehold Improvements, as set forth in Article XXVILE.1.c (Leasehold Improvements) herein.

F. Partial Taking; Continuation of Lease. If a Partial Taking of the Premises occurs and this Lease is not terminated in its entirety under Article XXVILD (Partial Taking; Election to Terminate) herein, then this Lease shall terminate as to the portion(s) of the Premises so taken, but shall remain in full force and effect as to the portion(s) of the Premises not taken, and the rights and obligations of STATE and LESSEE shall be modified as follows:

1. Rent reduction. If the Taking causes any portion(s) of the Premises to become unusable for the conduct of LESSEE's business operations at, in, on, or over the Premises, as authorized under this Lease, the rent shall be reduced by a factor comprising the square footage of the space comprising the Taking, multiplied by the applicable rate based on the rates and charges established by the STATE.

2. Leasehold Improvements. LESSEE shall be entitled to recover the unamortized value of the Leasehold Improvements constructed and installed on the Premises by the LESSEE in the ratio that the unexpired term of the Lease on the Date of Taking bears to the unexpired term of the Lease on the date the Leasehold Improvements were completed by the LESSEE.

3. No claim against STATE. LESSEE shall have no claim against STATE or others for: (i) compensation or indemnity for LESSEE's leasehold interest; and (ii) compensation and damages payable for or on account of land (including access and easement rights) or Leasehold Improvements, except as provided in Article XXVILF.2 (Leasehold Improvements) herein.

4. Separate claim against condemning authority. LESSEE may make a separate claim for compensation from the condemning authority for the interruption of or damage to LESSEE's business or damage to LESSEE's personal property. If the condemning authority or a court of competent jurisdiction concurs that said claim exists and is justified, LESSEE may receive any Award made specifically to LESSEE for such claim.

5. STATE's Award. STATE shall be entitled to the entire Award in connection with the Taking (including any portion(s) of the Award made for the value of the leasehold estate created by this Lease), except for the unamortized value of the Leasehold Improvements as set forth in Article XXVILF.2 (Leasehold Improvements) herein.

6. Prompt Use. Any portion of the Award received by LESSEE shall be used promptly by LESSEE to the extent necessary to restore or replace the Leasehold Improvements, in, at, on, or over the remaining Premises, in accordance with plans, specifications, drawings, cost estimates, and schedules first approved, in writing, by STATE.

7. Continuing obligation. Nothing herein shall be construed to excuse LESSEE from LESSEE's full performance of all covenants, agreements, promises, obligations, stipulations, terms, and conditions under this Lease as to the part(s) or portion(s) of the Premises not part of the Taking and LESSEE shall remain responsible for paying to STATE all rents and other fees and charges required under this Lease.

G. Temporary Takings. Notwithstanding anything to contrary in this Article XXVII (Condemnation), if a Taking occurs with respect to all or any part or portion of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this Lease shall remain unaffected thereby, and LESSEE shall continue to pay the rents and other

fees and charges required under this Lease and to perform all of the covenants, agreements, obligations, stipulations, terms, and conditions of this Lease.

LESSEE may make a separate claim for compensation from the condemning authority for LESSEE's relocation expenses, or the interruption of, or damage to LESSEE's business, or damage to LESSEE's Personal Property. If the condemning authority or a court of competent jurisdiction concurs that said claim exists and is justified, LESSEE may receive any Award made specifically to LESSEE for such claim.

ARTICLE XXVIII. LITIGATION

A. LESSEE Responsible. If the STATE shall, without any fault, be made a party to any litigation commenced by or against LESSEE arising out of LESSEE's occupancy or use of the Premises, or attributable to the construction, installation, occupancy, or use of the Leasehold Improvements, or LESSEE's personal property (other than condemnation proceedings), LESSEE shall indemnify, defend, keep, save, and hold STATE harmless, and if or when appropriate or necessary, insure STATE and STATE's officers, employees, agents, and guests from and against any and all suits, judgments, injunctions, decisions, orders, liabilities, losses, damages, costs, and expenses arising out of or related to any such litigation, including, without limitation, paying any and all costs, charges, and reasonable attorneys' fees incurred or imposed on STATE in connection with such litigation. In any action by STATE for recovery of any sum due under this Lease, or to enforce any of the agreements, covenants, obligations, promises, stipulations, terms, or conditions contained in this Lease, STATE shall be entitled to recover any and all costs, fees, charges, and reasonable attorneys' fees incurred or imposed on STATE in connection with such actions.

B. Attorneys' Fees. For purposes of this Lease, reasonable attorneys' fees shall be based on the fees regularly charged by private attorneys who practice in the County with the equivalent number of years of experience in the subject matter area of law for which STATE's attorneys' services were rendered.

C. Prompt Notice. Each party shall give prompt written notice to the other party of any claim or suit instituted against it that may affect the other party.

D. Waiver of Claims. LESSEE hereby waives any claim against STATE and STATE's officers, employees, agents, and guests for loss of revenue, loss of opportunity, and loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Lease, or any part or portion hereof, or by any judgment or award in any suit or proceedings declaring this Lease null, void, or voidable or delaying the same, or any part or portion hereof, from being carried out.

ARTICLE XXIX. LIENS

A. STATE's Lien. STATE shall have a lien upon all LESSEE's personal property upon the Premises, to the extent permitted by law, for the purpose of securing to STATE the payment of all sums, including rentals and other fees and charges, which may be due from LESSEE under this Lease. In the event that past-due rentals and other fees and charges are not paid by LESSEE within five (5) calendar days after a notice of default is given by STATE to LESSEE, STATE may take possession of and sell such portion of LESSEE's personal property as may be sufficient to pay the delinquent rentals and other fees and charges owed by LESSEE to STATE. A sale of LESSEE's personal property pursuant to this Article XXIX (Liens) herein may be made either publicly or privately, upon the notice given to LESSEE as herein provided.

B. Mortgage. Upon due application and with the prior written consent of STATE, and the Land Board pursuant to Section 171-22, HRS, the LESSEE may mortgage this Lease or any interest herein or create a security interest in the Premises. If the mortgage or security interest is to a recognized lending institution, authorized to do business in the United States, such consent may extend to foreclosure and sale of LESSEE's interest at such foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified under Chapter 171, HRS, to lease, own or otherwise acquire and hold the Premises or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term "holder" shall include an insurer or guarantor of the obligation or condition of such mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, Farmers Home Administration, or any other Federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a nongovernmental holds shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned Federal agencies.

C. Other Liens Prohibited. LESSEE shall not commit or suffer any act or neglect whereby the Premises, or any part(s) or portion(s) thereof, including any portion of the Airport, or the Leasehold Improvements, thereupon or therein, or the estate or interest of LESSEE in the same, at any time during the term of this Lease shall become subject to any attachment, lien, charge, or encumbrance whatsoever. LESSEE shall indemnify, defend, keep, save, and hold STATE harmless, and if or when appropriate or necessary, insure STATE, from and against any and all attachments, liens, charges, and encumbrances, and any and all actions, suits, judgments, and orders relating thereto, and any and all costs, fees, charges, and expenses, including reasonable attorneys' fees resulting therefrom, it being expressly understood that LESSEE shall have no authority, express or implied, to create any attachment, lien, charge, or encumbrance upon or affecting the Premises, or any part(s) or portion(s) thereof, except as otherwise authorized, in writing, by STATE under this Lease.

ARTICLE XXX. ASSIGNMENT AND SUBLETTING

A. Assignment or Other Transfers.

1. Assignment. LESSEE shall not assign, encumber, or otherwise transfer, whether voluntary or involuntary or by operation of law, the Premises, or any part(s) or portion(s) thereof, or any interest herein, or permit any other person to occupy or use the Premises, except by way of devise, bequest, or intestate succession, without STATE's prior written consent, which consent may be granted or denied in STATE's sole discretion. Any such transfer or assignment made without STATE's consent shall constitute a default under this Lease and shall be voidable at STATE's election. With prior written approval of STATE, and the prior approval of the Land Board, such assignment and transfer of this Lease, or any interest therein, may be made in accordance with current industry standards, as determined by the Land Board, pursuant to Section 171-36, HRS; provided further, that prior to the written approval of STATE of any assignment of this Lease, STATE shall have the right to review and approve, in writing, the consideration paid by the Assignee, and may condition its consent to the assignment of this Lease on payment by LESSEE of a premium in accordance with the STATE's Department of Transportation Assignment of Lease Evaluation Policy, attached hereto, made a part hereof, and incorporated herein by reference as Appendix D (hereinafter referred to as the "Assignment Policy"). The premium on subsequent assignments shall also be based on the Assignment Policy.

2. Changes in LESSEE.

a. Controlling Interest. The merger of LESSEE with any other entity or the transfer of any controlling ownership interest in LESSEE, or the assignment or transfer of a substantial portion of the assets of LESSEE, whether or not located on the Premises, shall constitute an assignment. Without limiting the generality of the foregoing, if LESSEE is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law of the partner or partners owning fifty-one percent (51%) or more of the partnership, or the dissolution of the partnership, or the sale or transfer of at least fifty-one percent (51%) of the value of the assets of LESSEE, shall be deemed an assignment. If LESSEE is a corporation or limited liability company, any dissolution, merger, consolidation, or other reorganization of LESSEE or the sale or other transfer of a controlling percentage of the capital stock or membership interests of LESSEE or the sale or transfer of at least fifty-one percent (51%) of the value of the assets of LESSEE, shall be deemed an assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock, or interests possessing at least twenty percent (20%) (or a percentage less than twenty percent (20%) if such percentage represents a controlling interest in LESSEE) of the total combined voting power of all classes of LESSEE's capital stock or interests issued, outstanding, and entitled to vote for the election of directors.

b. Sale of assets. The sale of all or substantially all of the assets of LESSEE, or the transfer of all or substantially all of LESSEE's Leasehold Improvements at, in, on, over, or under the Premises, shall be deemed to constitute an

"assignment" for purposes of this Lease which requires the prior approval of STATE in accordance with this Article XXX (Assignment and Subletting) herein.

3. STATE Shall Approve Each Assignment. The consent of STATE to any one assignment shall not constitute a waiver of STATE's right to approve subsequent assignments, nor shall consent of STATE to any one assignment relieve or release any party previously liable as LESSEE from any obligation under this Lease. The acceptance by STATE of the payment of rents and other fees and charges following an assignment shall not constitute consent to any other assignment, and STATE's consent shall be evidenced only in writing.

4. No Release. In no event shall STATE's consent to an assignment or transfer be deemed to be a release of LESSEE as the primary obligor hereunder. Nor shall the acceptance of rents and other fees and charges by STATE constitute a release or waiver of STATE's rights against LESSEE, or as a consent to any assignment or transfer, nor shall any other act of STATE in relation to said Assignee be so construed.

5. Void If Not Properly Approved. Any transfer or assignment made in violation of the foregoing provision shall be void. Any attempted assignment, or any subleasing of the whole or any part(s) or portion(s) of the Premises, or any other transaction which violates Article XXX.A (Assignment and other Transfers) or Article XXX.B (Subletting) herein shall be void and shall confer no right, title, or interest in or to this Lease, or right of occupancy or use of the whole or any part(s) or portion(s) of the Premises, upon any such purported assignee, subtenant, successor, or purchaser. STATE shall further have the right to terminate this Lease and to enforce such other remedies as are provided in this Lease.

B. Subletting.

1. STATE approval. The LESSEE shall not sublet the whole or any portion of the Premises except for such uses as may be required in support of its own operations subject, however, to the written approval of the STATE. STATE may review and approve the rent to be charged to the proposed sublessee and revise the rent and rent structure charged to the proposed sublessee by LESSEE (STATE may also include such other terms and conditions as STATE may deem appropriate, prior to STATE's approval of the proposed sublease); provided, further, that the rent payable by LESSEE to STATE may not be revised downward.

a. Combination sublease/assignment. If the proposed sublessee pays LESSEE any consideration other than said rent, whether by cash, credit or otherwise, or the term of the proposed sublease is for substantially the same term as this Lease or if it otherwise appears to STATE that the proposed sublease is actually an assignment, STATE may treat the proposed sublease as an assignment under Article XXX.A (Assignment and other Transfers) herein. STATE's Department of Transportation Sublease Evaluation Policy, attached hereto, made a part hereof, and incorporated herein by reference as Appendix B (hereinafter referred to as the "Sublease Policy"), shall be applicable to LESSEE pursuant to this Article

XXX.B (Subletting). If it appears to STATE that the proposed sublease is actually a combination of an assignment and a sublease, then STATE may treat the proposed sublease as both an assignment and a sublease and apply the applicable portions of Article XXX.A (Assignment and other Transfers) and Article XXX.B (Subletting), respectively. The gross receipts of all sublessees shall be included as part of LESSEE's gross receipts.

2. LESSEE proposal. Prior to negotiating a sublease agreement, LESSEE must submit to STATE a sublease proposal for STATE's prior written approval, which approval may be granted or withheld in STATE's sole discretion.

3. Sublease form. Promptly after STATE has approved a sublease proposal, LESSEE must use diligent, good faith efforts to negotiate a sublease agreement with the proposed subtenant. LESSEE shall ensure that all of the terms and conditions contained in a sublease agreement between LESSEE and LESSEE's tenant conform to and are consistent with the terms and conditions contained in the sublease proposal (submitted to STATE pursuant to Article XXX.B.2 (LESSEE proposal) herein) approved by STATE. If LESSEE wishes to vary from the business terms and conditions set forth in the sublease proposal approved by STATE, then LESSEE must submit a new sublease proposal for STATE's prior written approval.

4. Sublease agreement. Promptly after LESSEE and the proposed subtenant have agreed on a form of sublease agreement that incorporates the business terms and conditions set forth in the sublease proposal approved by STATE, LESSEE must submit the sublease agreement to STATE for approval. If the proposed sublease agreement: (a) accurately incorporates the business terms and conditions approved by STATE; (b) conforms to and is consistent in all respects to the terms and conditions of the sublease proposal approved by STATE; and, (c) is expressly subject to the terms and conditions of STATE's consent, then STATE agrees that it will not unreasonably withhold its approval of the proposed sublease agreement. Otherwise, STATE may withhold its approval in STATE's sole discretion.

5. STATE's consent. If STATE approves a sublease agreement, STATE's consent shall include, without limitation, the following conditions:

a. No other transfer. Other than the sublease agreement, no other transfer is being permitted.

b. No change. The sublease agreement shall not change, modify, waive, or amend any of the terms and conditions of this Lease.

c. Conflict. If there is a conflict between this Lease and the sublease agreement, the Lease shall control.

d. No waiver. STATE's consent shall not be construed to be a waiver of any of STATE's rights under this Lease.

c. STATE reservation. STATE reserves all of its rights under this Lease and does not incur any additional liability by consenting to the sublease agreement.

f. No release. STATE's consent to the sublease agreement shall not release LESSEE from any of LESSEE's responsibilities, obligations, liabilities, and claims arising under or out of this Lease.

g. Priority of Lease. This Lease shall have priority over the sublease agreement, which shall be subordinate in all respects to this Lease.

h. Compliance with conditions. LESSEE and the sublessee shall represent and warrant that each shall comply with all conditions that may be imposed by the Land Board or STATE in connection with STATE's consent to the sublease agreement.

i. Other conditions. LESSEE and the sublessee shall comply with such other terms and conditions as may be imposed or prescribed by STATE relating to STATE's consent to the sublease agreement, including, without limitation, conditions relating to governing law (Hawaii), resident appointment, rights of holders of security interest, notice to STATE, extension notices, recordation, use restrictions, STATE's prior approval, compliance with laws, STATE remedies (including the payment of rent, fees, and other charges directly to STATE in the event of LESSEE's default), and any changes to STATE's assignment or sublease evaluation policies.

6. Delivery to STATE. If STATE approves a sublease agreement, LESSEE and the proposed subtenant must deliver an original, fully-executed counterpart original sublease agreement to STATE in the form approved by STATE within fourteen (14) business days of receipt of STATE's written approval. If an original, fully-executed counterpart sublease agreement in the form approved by STATE is not delivered to STATE within the fourteen (14) business days' time frame, then LESSEE must submit the proposed sublease agreement again for STATE's approval. If STATE rejects a proposed sublease agreement, then LESSEE may not enter into the sublease agreement.

7. No impairment. Each and every covenant, condition or obligation imposed upon LESSEE by this Lease and each and every right, remedy, or benefit afforded STATE by this Lease will not be impaired or diminished as a result of any sublease agreement.

8. Excessive sublease rent. No subtenant shall be obligated to pay to LESSEE, and LESSEE shall not be permitted to charge any rent, percentage rent, bonus rent, key money, administration fee, or the like, which exceeds, in the aggregate, the total sums that LESSEE pays to STATE under this Lease for the portion of the Premises subleased by the subtenant under its sublease agreement (the "Sandwich Profit"). If, notwithstanding the foregoing prohibition, LESSEE receives any Sandwich Profit, LESSEE shall pay the same to STATE.

9. Rents assigned. LESSEE assigns to STATE all rent and other payments due from any and all subtenants under any and all sublease agreements; provided, however, LESSEE is hereby granted a license to collect rents and other payments due from subtenants under their sublease agreements until the occurrence of a default by LESSEE, regardless of whether or not a notice of that default has been given to LESSEE. At any time, STATE may notify a subtenant of this assignment and upon such notice, the subtenant will pay its rent and other payments directly to STATE. STATE will credit LESSEE with any rent received by STATE under such assignment, but the acceptance of any payment on account of rent from any subtenant as a result of a default by LESSEE will in no manner whatsoever serve to release LESSEE from any liability under this Lease. No payment of rent or any other payment by a subtenant directly to STATE or other acceptance of such payments by STATE, regardless of the circumstances or reasons therefor, will in any manner whatsoever be deemed an attornment by the subtenants to STATE in the absence of a specific written agreement signed by STATE to such an effect.

10. Reports. LESSEE must, at LESSEE's sole cost and expense, prepare and submit the following reports and statements, the forms of which will be subject to the reasonable approval of STATE:

a. Monthly report. On or before the tenth (10th) day of each calendar month, a detailed report with supporting evidence as may be requested by STATE, summarizing the following activities for the preceding calendar month: (1) rents, fees, charges, and all other sums received by LESSEE from each subtenant during that month; (2) sublease agreements executed; and, (3) current and projected vacancies, and indicating all rights respecting such space pursuant to existing subleases, including, without limitation, rights or options to extend the term or expand, or rights of first negotiation or first refusal.

b. Annual report. On or before the thirtieth (30th) day after the end of each calendar year, an annual report summarizing the subleasing activities for the preceding calendar year and the total rents, fees, charges, and all other sums received by LESSEE from each subtenant during that year.

c. Other reports. Such other reports and such other information concerning the operation and subleasing of the Premises as STATE may from time to time reasonably request.

C. Violation.

1. Lease termination. Any attempt by LESSEE to assign, transfer, hypothecate, mortgage, or encumber LESSEE's interest or rights under this Lease, or any attempt by LESSEE to sublease the Premises, or any part or portion thereof, without first obtaining STATE's written consent, shall be deemed a violation of this Article XXX (Assignment and Subletting). Any such attempted action or transaction on the part of LESSEE shall be declared null and void, and shall not confer any right, title, or interest in or to this Lease, or right of

occupancy or use of the whole or any part or portion of the Premises, upon any such purported assignee, mortgagee, encumbrancer, pledgee, subtenant, successor, or purchaser. STATE shall further have the right to terminate this Lease and enforce such other remedies as are provided in Article V.D (Additional Charges) and Article XXI (Termination by STATE), respectively, herein.

2. Assignor or transferor. If the transferor or LESSEE defaults in the performance of any of the covenants, agreements, obligations, stipulations, terms, or conditions of this Lease, STATE may proceed directly against LESSEE, the transferor or each transferor if there has been more than one assignment, encumbrance, or transfer (hereinafter referred to collectively as the "Transfer") without the necessity of exhausting remedies against LESSEE. STATE may consent to subsequent Transfers or amendments or modifications to this Lease with transferees, without notifying the transferor (or if there has been more than one Transfer, then each transferor) and without obtaining its or their consent thereto and such action shall not relieve any transferor of liability under this Lease, as amended.

D. Procedure and conditions.

1. Procedure. LESSEE must provide, in writing, to STATE the following:

- a. The name and address of the proposed assignee or transferee;
- b. The nature of the proposed business to be operated by the assignee or transferee on the Premises;
- c. The terms and conditions of the proposed assignment or transfer; and,
- d. Reasonable financial information so that STATE can evaluate the proposed assignee or transferee under this Article XXX (Assignment and Subletting) herein.

2. Conditions. Transfers by LESSEE are also subject to:

- a. The covenants, agreements, obligations, stipulations, terms, and conditions of this Lease;
- b. The term of any assignment or other Transfer agreement shall not extend beyond the Lease term;
- c. LESSEE shall remain liable for all Lease obligations;

d. Consent to one Transfer does not waive the consent requirement for any future Transfers;

e. Payments to STATE of all premiums, Sandwich Profit, or other sums or amounts which LESSEE may be required to pay under this Article XXX (Assignment and Subletting) herein; and,

f. All other terms and conditions that may be imposed or prescribed by STATE.

ARTICLE XXXI. SUCCESSORS AND ASSIGNS

Each and all of the expressions, phrases, terms, conditions, provisions, stipulations, promises, covenants, agreements, requirements, and obligations of this Lease shall, whenever applicable, extend to and bind and inure to the benefit of STATE and LESSEE, and the legal representatives, successors, and permitted assigns of either or both of them.

ARTICLE XXXII. NOTICES

Except as otherwise specifically provided in this Lease, any notice, consent, request, demand, or other correspondence given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or overnight courier, return receipt requested, with postage prepaid; to: (a) LESSEE at the address provided on Page 1 of this Lease; or (b) STATE at the following address: State of Hawaii, Department of Transportation, Airports Division, Honolulu International Airport, Inter-Island Terminal Building, 400 Rodgers Boulevard, Suite 700, Honolulu, Hawaii 96819-1880; or (c) such other address as either LESSEE or STATE may designate, in writing, as its new address for such purpose by notice given to the other in accordance with this Article XXXII (Notices) herein. Any notice hereunder shall be deemed to have been given and received and effective two (2) calendar days after the date when it is mailed, if sent by first-class, certified mail, one (1) calendar day after the date when it is mailed if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by facsimile to the number set forth herein or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

ARTICLE XXXIII. INTERPRETATION OF LEASE

A. Headings. The headings and captions preceding the articles and sections of this Lease and in the table of contents, have been inserted for convenience of reference only

and such captions shall in no way define or limit the scope or intent of any provision of this Lease.

B. Not Against Drafter. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. The language hereof, and in all parts of this Lease shall, in all cases, be construed simply according to its fair meaning, and not strictly for or against either STATE or LESSEE.

C. Fair Meaning. Provisions in this Lease relating to number of days shall be calendar days. Use of the word "including" shall mean "including, without limitation." References to statutes, sections, ordinances, or regulations are to be construed as including all statutory, ordinance, or regulatory provisions consolidating, amending, replacing, succeeding, or supplementing the statute, section, ordinance, or regulation.

D. Gender and Number. Whenever the singular number is used in this Lease and when required by the context, the same includes the plural, the plural includes the singular, and the masculine gender includes the feminine and neuter genders, and the word "person" shall include corporation, limited liability company, partnership, firm, and association.

ARTICLE XXXIV. NO PARTNERSHIP

It is expressly understood and agreed by and between STATE and LESSEE, that STATE shall in no way be, nor for any purpose become or be construed to become a partner of LESSEE in the conduct of LESSEE's business operations, or otherwise, or a joint venture or a member of a joint enterprise with LESSEE, and STATE does not assume responsibility for LESSEE's conduct or performance under this Lease. STATE and LESSEE acknowledge and agree that there are no third-party beneficiaries to this Lease.

ARTICLE XXXV. FORCE MAJEURE

A. STATE's Obligations. STATE shall not be liable for any failure, delay, or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including (but without limitation thereto) strikes, boycotts, picketing, slow-downs, work stoppages, or labor troubles of any other type, whether affecting STATE or STATE's contractors or subcontractors.

STATE shall be under no obligation to supply any service or services, if and to the extent, and during any period that the supplying of any such service or services, or the use of any component necessary therefor, shall be prohibited by any federal, state, or municipal law, rule, regulation, requirement, order, or direction, and if STATE deems it in the public

interest to comply therewith, even though such law, rule, regulation, requirement, order, or direction may not be mandatory on STATE as a public agency.

B. Rentals Remain Payable. Unless and only to the extent otherwise specified in this Lease, no abatement, diminution, or reduction of the rentals and other fees and charges payable by LESSEE to STATE shall be claimed by or allowed to LESSEE for any inconvenience, interruption, cessation, or loss of business or other loss caused, directly or indirectly, by any present or future laws, rules, requirements, orders, directions, ordinances, or regulations of the United States of America, or of the State, or of the County, or of any other county, municipal, governmental, or lawful authority whatsoever; or by priorities, rationing, curtailment, or shortage of labor or materials, or by war, or any matter or thing resulting therefrom, or by strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage, or by any other cause or causes beyond the control of STATE, nor shall this Lease be affected by any such causes.

C. LESSEE Enforcement. Nothing in this Article XXXV (Force Majeure) contained, shall preclude nor be construed to preclude the enforcement by LESSEE of any of its rights contained in Article XXIV (Termination by LESSEE) and Article XXV (Suspension or Abatement) hereof.

ARTICLE XXXVI. ENTIRE AGREEMENT

The parties intend that this Lease (including all of the exhibits and attachments which are made a part of this Lease) shall be the final expression of their entire agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its covenants, agreements, obligations, stipulations, terms, and conditions.

ARTICLE XXXVII. AMENDMENTS

Neither this Lease, nor any of the covenants, terms, and conditions contained herein may be varied, changed, modified, or revised by any oral agreement or representation, or otherwise, except by an instrument, in writing, of subsequent date hereto, executed by both parties by their respective officer(s) or other duly authorized person(s).

ARTICLE XXXVIII. APPROACH PROTECTION

STATE reserves the right to take such action as may be necessary to protect the aerial approaches of the Airport against obstruction, in accordance with applicable standards or

requirements, together with the right to prevent LESSEE or any other person, from erecting or permitting to be erected, any building or other structure on the Airport which would conflict with such standards or requirements, or which, at the discretion of STATE, would limit the usefulness of the Airport or constitute a hazard to aircraft.

LESSEE shall, upon being notified that any of its proposed construction may affect the safety or navigable airspaces and operating aircraft on and around the Airport, prepare and submit to the appropriate office of the FAA the necessary notice and documents as required by Federal Aviation Regulation Part 77. This notice to the FAA must be submitted at least thirty (30) calendar days prior to the date of the proposed construction or the date that an application for a building permit with the appropriate agency of the County is filed, whichever is earlier.

ARTICLE XXXIX. INVALID PROVISION-SEVERABILITY

If any provision of this Lease or the application thereof to any person, entity, or circumstance shall, to any extent, be deemed invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

ARTICLE XL. NON-LIABILITY OF INDIVIDUALS

Neither STATE, the Director, nor any governmental agency of the State (including any as may succeed to the duties, powers or functions of the Department), nor any of them, nor any agency, officer, or employee thereof, shall be charged personally by LESSEE with any liability, or be held liable to LESSEE under any covenant, provision, term, or condition of this Lease, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach, thereof.

ARTICLE XLI. RESERVATION OF MINERAL AND METALLIC RIGHTS

STATE reserves the right, on its own behalf or through persons authorized by it, with respect to all minerals, as hereinafter defined, at, in, on, over, or under the Premises to: (1) prospect for, mine, and remove such minerals; and, (2) occupy or use so much of the vacant, unoccupied or unused surface of the Premises as may be required for all purposes reasonably related to the mining and removal of such minerals by any means whatsoever, including strip mining.

"Minerals" as used herein shall mean and include any and all oil, gas, coal, phosphate, sodium, sulfur, iron, titanium, gold, silver, bauxite, bauxitic clay, disapore, boehmite,

laterite gibbsite, alumina, all ores of aluminum, and without limitation thereon, all other mineral substances and ore deposits, whether solid gaseous or liquid, including geothermal resources, at, in, on, over, or under the Premises; provided, however, that the word "minerals" shall not mean and include any of the foregoing substances and deposits when used in road or building construction in furtherance of LESSEE's permitted activities at, in, on, over, or under the Premises, and not for sale to others.

ARTICLE XLII. PREHISTORIC AND HISTORIC REMAINS

Any and all prehistoric and historic remains found at, in, on, over, or under the Premises shall be and remain the property of STATE, and shall not be disturbed or removed by LESSEE, or LESSEE's successors in interest, assigns, officers, employees, agents, and guests, without the express written approval of STATE.

Upon discovery of any prehistoric or historic remains, LESSEE shall immediately stop and cease any further disturbance of the remains and surrounding portion(s) of the Premises containing the remains, and promptly notify STATE of such discovery.

ARTICLE XLIII. NONDISCRIMINATION

A. Construction. 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 Premises, that in the event facilities are constructed, maintained, or otherwise operated on the Premises described in this Lease for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Federal Regulations may be amended.

B. Operation. LESSEE, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby further covenant and agree:

(1) that no person on the grounds of race, creed, color, national origin, sex, or physical disability, as defined in the Americans with Disabilities Act of 1990, shall be denied the benefits of, or be otherwise subjected to discrimination in, the use of said facilities and services;

(2) that in the construction of any improvements at, in, on, over, or under the Premises, and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin, sex, or physical disability, as defined in the Americans with Disabilities Act of 1990, shall be denied the benefits of, or otherwise be subjected to discrimination;

(3) this Lease is subject to the requirements of the U. S. Department of Transportation's regulations, Title 49, CFR Parts 23 and 26;

(4) that LESSEE shall not discriminate against any business owner because of race, creed, color, national origin, sex, or physical disability, as defined in the Americans with Disabilities Act of 1990, in connection with the conduct LESSEE's business operations on the Premises and at the Airport or in connection with the award and performance of any lease agreement covered by Title 49, CFR Parts 23 and 26;

(5) that LESSEE shall use the Premises and conduct LESSEE's business operations thereon and at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, CFR, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Federal Regulations may be amended; and,

(6) that LESSEE will include the foregoing statements in any subsequent lease or other agreements it enters and cause those businesses to similarly include the statements in further agreements.

C. Breach. In the event of breach of any of the foregoing nondiscrimination covenants, STATE may terminate this Lease and re-enter and repossess the Premises, together with all Leasehold Improvements and LESSEE's personal property thereon, and hold the same as if this Lease had never been made or issued.

ARTICLE XLIV. CIVIL RIGHTS PROVISION

LESSEE assures that it will undertake an affirmative action program as required by Title 14, CFR Part 152, Subpart E and as said regulation may be administered upon the Airport by the FAA to insure that no person shall on the grounds of race, creed, color, national origin, sex, or physical disability, as defined in the Americans with Disabilities Act of 1990, be excluded from participating in any employment activities covered by Title 14, CFR Part 152, Subpart E. LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. LESSEE further assures that it will require that its covered suborganizations provide assurances to STATE that they similarly will undertake affirmative action programs, and that

they will require assurances from their suborganizations, as required by Title 14, CFR Part 152, Subpart E, to the same effect.

ARTICLE XLV. DISPUTES

A. All Disputes. All controversies and disputes between STATE and LESSEE which arise under, or by virtue of this Lease and which are not resolved by mutual agreement, shall be decided by the Director, in writing, within one hundred twenty (120) calendar days after receiving a written request by LESSEE for a final decision concerning the controversy; provided that if the Director does not issue a written decision within one hundred twenty (120) calendar days after receiving a written request for a final decision, or within such longer period as may be agreed upon by the parties, then LESSEE may proceed as if an adverse decision had been received.

B. Notice of Decision. The Director shall immediately furnish a copy of the decision to LESSEE, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

C. Final and Conclusive. Any such decision by the Director shall be final and conclusive.

D. LESSEE Shall Comply. LESSEE shall comply with any decision of the Director, and proceed diligently with performance of this Lease, except where there has been a material breach of this Lease by STATE; provided, that in any event, LESSEE shall proceed diligently with the performance of this Lease where the Director has made a written determination that continuation of work under this Lease is essential to the public health and safety.

ARTICLE XLVI. BROKERS

LESSEE warrants and represents to STATE that LESSEE has not had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with this Lease. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, LESSEE shall be responsible for such commission or fee, and shall indemnify, defend, save, and hold STATE harmless from and against any and all actions, causes of action, claims, demands, suits, judgments, liabilities, losses, damages, costs, and expenses, including reasonable attorneys' fees and demands therefor, arising or resulting from LESSEE's dealings and interactions with any broker, finder, or person who could claim a right to a commission or finder's fee. The provisions of this Article XLVI (Brokers) shall survive any expiration or sooner termination of this Lease.

ARTICLE XLVII. SURVIVAL OF OBLIGATIONS

A. STATE's Right to Enforce. Termination of this Lease, whether by expiration or sooner termination, shall not affect the right of STATE to enforce any or all indemnities and representations and warranties given or made by LESSEE to STATE under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof, including, without limitation, Article IX (Performance Bond), Article XV (Liability and Indemnity), Article XVII C (Compliance with Environmental Matters), Article XXVII (Condemnation), Article XXVIII (Litigation), Article XXIX (Liens), and Article XLVI (Brokers). LESSEE specifically acknowledges and agrees that, with respect to each of LESSEE's indemnities contained in this Lease, LESSEE has an immediate and independent obligation to defend STATE from any claim which actually or potentially falls within the indemnity provision, even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such claim is tendered to LESSEE by STATE.

B. Accrued Obligations. LESSEE's obligation to make payments to STATE with respect to the accrued rents and other fees and charges (including those which have not yet been billed) and to make repairs (including those relating to the return of the Premises to STATE) which are accrued at the expiration or earlier termination of this Lease shall, survive the expiration or earlier termination of this Lease.

ARTICLE XLVIII. QUIET ENJOYMENT

LESSEE, upon paying all of the rents and other fees and charges required under this Lease, and observing, complying with, performing, and completely satisfying the agreements, covenants, obligations, promises, provisions, requirements, stipulations, terms, and conditions hereof, shall peaceably and quietly have, hold, and enjoy the Premises, together with all Leasehold Improvements and appurtenances, during the full Lease term as against all persons or entities claiming by and through STATE. LESSEE expressly acknowledges that LESSEE's right to quiet possession of the Premises does not preclude STATE's right to make changes and additions to the Airport, including the Premises, and to do work at, in, on, over, or under the Premises as permitted by this Lease, including, without limitation, STATE's right to relocate LESSEE, as described in this Lease.

ARTICLE XLIX. NO ACCORD AND SATISFACTION

A. LESSEE's Instructions Void. The payment by LESSEE or the receipt by STATE of a lesser amount than the annual rental prescribed and set forth in this Lease may be, at STATE's sole option, credited or applied to the payment of: (1) first, any interest charges, service charges, or late fees; and, (2) second, any annual rental (beginning with earliest owing or accrued annual rental), notwithstanding any instructions by or on behalf of LESSEE to the contrary, which instructions (including any endorsement or statement on any check, or any letter

accompanying any such check or payment) shall be null and void, and STATE may accept such check or payment without prejudice to STATE's right to recover the outstanding receivable balance of such accrued annual rentals, interest charges, service charges, or late fees, or to pursue any other remedy available in this Lease or at law.

B. Acceptance Does Not Invalidate Notice. STATE may accept any partial payment from LESSEE without invalidating any contractual notice given or required to be given herein pursuant to applicable law.

ARTICLE L. JOINT AND SEVERAL LIABILITY

The obligations, covenants, promises, liabilities, warranties, and representations of LESSEE under this Lease shall be joint and several, by and among any and all entities and persons comprising LESSEE.

ARTICLE LL ESTOPPEL STATEMENTS

A. Delivery of Estoppel Statement by LESSEE. Within ten (10) calendar days after request therefor by STATE, LESSEE shall deliver, in recordable form, an estoppel statement certifying that this Lease is in full force and effect, the date of LESSEE's most recent payment of rental, and that LESSEE has no defenses or offsets outstanding, or stating those defenses or offsets claimed by LESSEE, and any other information reasonably requested by STATE.

B. Failure of LESSEE to Deliver Estoppel Statement. If LESSEE fails to deliver the requested estoppel statement to STATE within the specified period, the following shall be deemed conclusive: (1) this Lease is in full force and effect, without modification; (2) there are no uncured defaults in STATE's performance under this Lease, and LESSEE has no right of offset, counterclaim, or deduction against the rentals payable under this Lease; and (3) no more than one year's rental has been paid in advance by LESSEE. Such conclusions shall be binding upon LESSEE. Notwithstanding these conclusions, LESSEE's failure to deliver the requested estoppel statement shall constitute a breach of this Lease.

ARTICLE LIL AUTHORITY

If LESSEE executes as a corporation, a limited liability company, a joint venture, or a partnership, each of the persons executing this Lease on behalf of LESSEE does hereby covenant and warrant that LESSEE is a duly authorized and existing entity, that LESSEE has and is duly qualified to do business under the laws of the State, that LESSEE has full right and authority to enter into this Lease, and that each and all of the persons executing this Lease for and on behalf of LESSEE are authorized to do so. Upon STATE's request, LESSEE shall

provide STATE with evidence reasonably satisfactory to STATE confirming the foregoing representations and warranties.

ARTICLE LIII. CONSENTS

In situations where STATE's consent cannot be unreasonably withheld, if it is legally adjudicated that STATE unreasonably withheld its consent or approval, LESSEE's sole and exclusive remedy is to seek specific performance, and in no event will STATE be liable for any monetary damages. All consents or approvals by STATE shall be in writing.

ARTICLE LIV. COUNTERPARTS

This Lease may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same document, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterpart. For all purposes, including, without limitation, recordation, filing, and delivery of this Lease, duplicate unexecuted pages of the counterparts may be discarded, and the remaining pages assembled as one document.

ARTICLE LV. GOVERNING LAW

This Lease shall be governed by, interpreted, and construed in accordance with the laws of the State of Hawaii.

IN WITNESS WHEREOF, the parties have duly executed this Lease on the day and year first above written.

APPROVED AS TO FORM:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION

ML
MICHAEL Q. Y. LAU
Deputy Attorney General

By *BT*
BRENNON T. MORIOKA, Ph.D., P.E.
Its Director

STATE

SMOKY MOUNTAIN HELICOPTERS, INC.

LS

By *James J. D'Attilio*
Its VICE-PRESIDENT

LESSEE

APPROVED:

BOARD OF LAND AND
NATURAL RESOURCES

Approved by the Board
at its meeting held on

By *LT*
LAURA E. THIELEN
Chairperson and Member

12-12-08 Item M-5

STATE OF Hawaii)
) SS
COUNTY OF Kauai)

On this 2 day of December, 2008, before me
appeared Renneth J. Dattilo to me personally known, who
being by me duly sworn, did say that he is (are) the vice president
of Smoky Mountain Helicopters Inc.
and that said instrument was signed and sealed in behalf of said corporation by authority of its
Board of Directors, and the said vice president
acknowledged said instrument to be the free act and deed of said corporation.

Print Name: Debra J Orsatelli
Notary Public, 5th Judicial Circuit
State of Hawaii

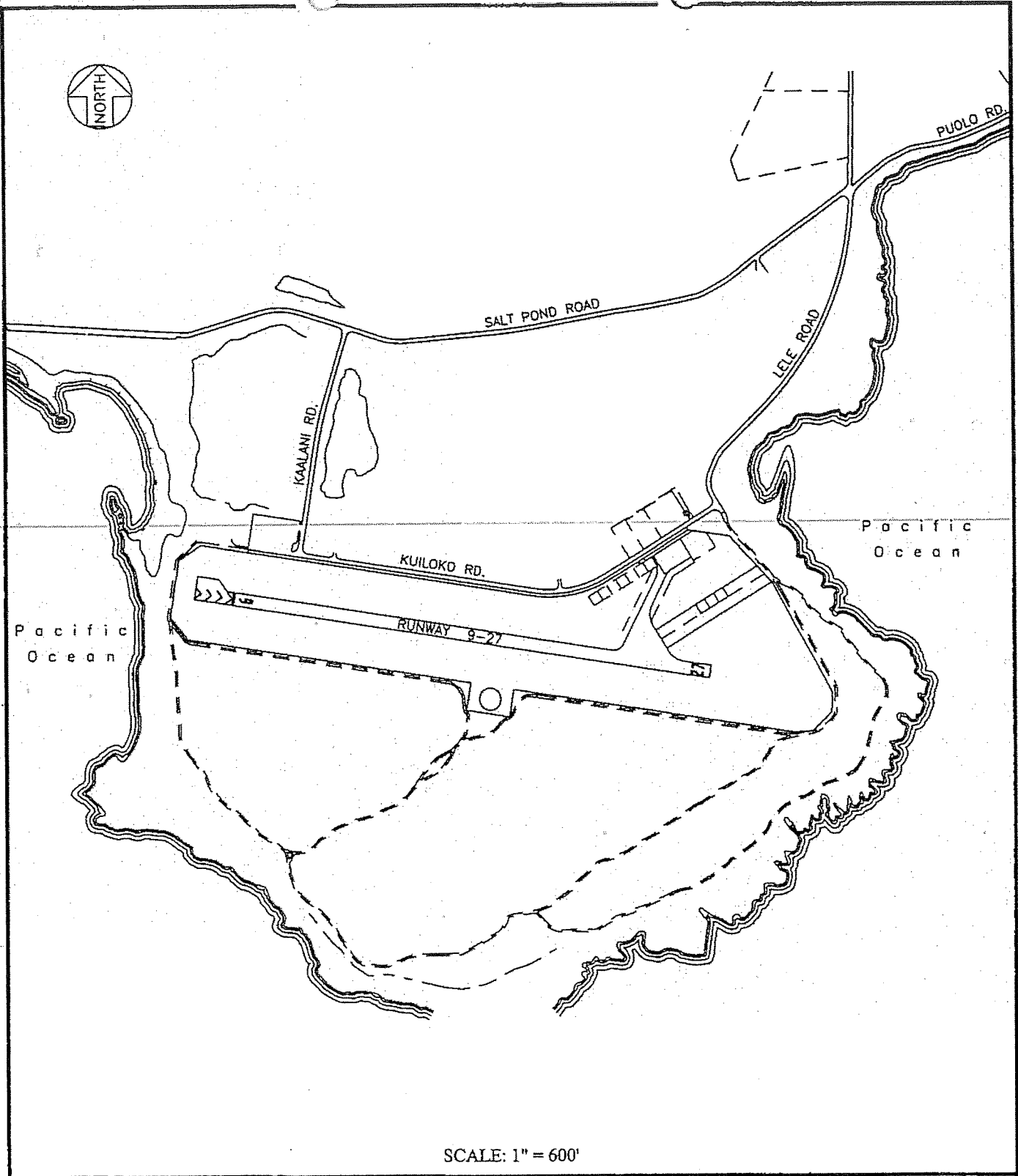
Doc. Description: SBH Dept of Transportation Airports
No. of Pages: Smoky Mountain Helicopters Inc
76 pgs lease agreement
Debra J Orsatelli
Notary signature

My Commission Expires: 10/16/2011

L.S.

NOTARY PUBLIC CERTIFICATION
Debra J. Orsatelli Fifth Circuit
Doc. Description: SBH Dept of Transportation Airports
Smoky Mountain Helicopters
LEASE agreement
No. of Pages: 76 pgs Date of Doc. Not dated
Debra J Orsatelli 12/2/08
Notary Signature Date

L.S.



SCALE: 1" = 600'

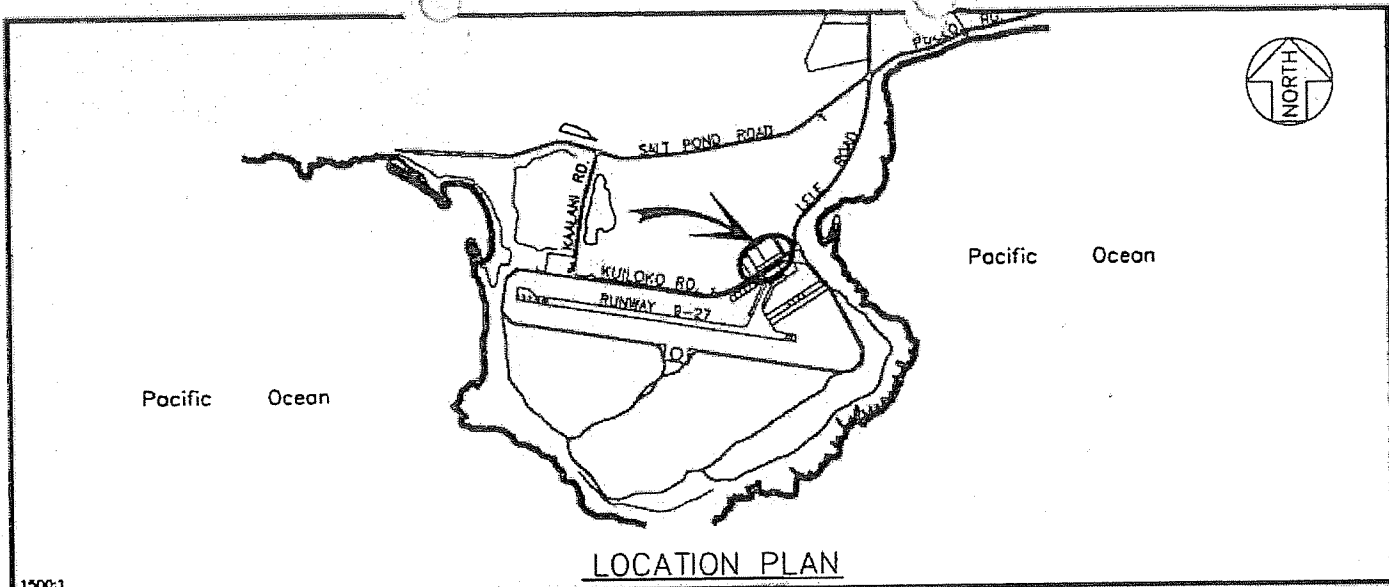
LEASE NO. DOT-A-09-0001

DATE : AUGUST 2008

EXHIBIT: A

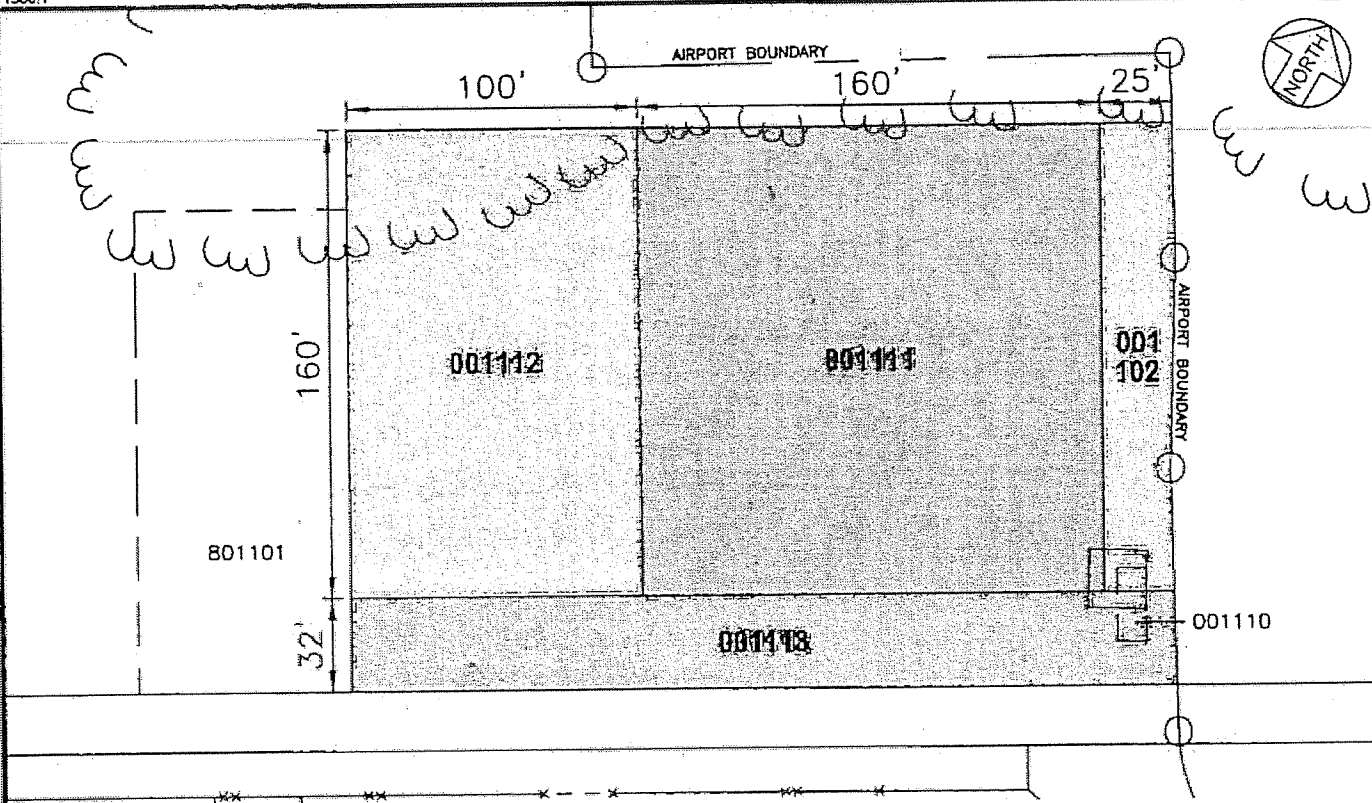
 <p>Airports Division</p>		<p>"AIRPORT"</p>	<p>PLAT 01</p>
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PORT ALLEN AIRPORT



LOCATION PLAN

1500:1



AREA/SPACE			SQ. FT.
001	102		3,934
001	111		25,600
001	112		16,000
001	113		9,107

503000
SCALE: 1" = 60'

LEASE NO. DOT-A-09-0001 DATE : AUGUST 2008 EXHIBIT: B

<p>DEPARTMENT OF TRANSPORTATION STATE OF NEW HAMPSHIRE</p>	<p>Airports Division</p>	<p>SMOKY MOUNTAIN HELICOPTERS, INC.</p>	<p>LOTS</p>	<p>001102 001111-113 PLATS A1, 32</p>
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PORT ALLEN AIRPORT

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SMOKY MOUNTAIN HELICOPTERS, INC.
(HELICOPTER OPERATIONS LEASE NO. DOT-A-09-0001)
Port Allen Airport

(NOT ATTACHED)

- APPENDIX A - DEVELOPMENT STANDARDS FOR LEASED AIRPORT PROPERTY
- APPENDIX B - TENANT IMPROVEMENT GUIDELINES

- APPENDIX C - MINIMUM STANDARDS FOR COMMERCIAL AERONAUTICAL
ACTIVITIES AT PUBLIC AIRPORTS
- APPENDIX D - DEPARTMENT OF TRANSPORTATION
ASSIGNMENT OF LEASE EVALUATION POLICY
- APPENDIX E - DEPARTMENT OF TRANSPORTATION
SUBLEASE EVALUATION POLICY

EXHIBIT "B"

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Tax Map Key No. (4) 1-8-08: Portion of 4

LESSOR STATE OF HAWAII, DEPARTMENT
OF TRANSPORTATION, AIRPORTS DIVISION

CONSENT TO ASSIGNMENT
of
LEASE NO. DOT-A-09-0001

KNOW ALL BY THESE PRESENTS:

WHEREAS, the STATE OF HAWAII, by its Director of Transportation (hereinafter referred to as the "STATE"), and SMOKY MOUNTAIN HELICOPTERS, INC., a Delaware Corporation, (hereinafter referred to as the "LESSEE"), by which LESSEE is leasing all of the following premises:

- that certain Helicopter Operations Lease, State Lease No. DOT-A-09-0001 (hereinafter referred to as the "LEASE") dated January 20, 2009, by and between the STATE and LESSEE, covering Area/Space Nos. 001-102, -111, -112, and -113, consisting of approximately 3,934, 25,000, 16,000, and 9,107 square feet, respectively of land, located in Hanapepe, Kauai, State of Hawaii, known as Port Allen Airport, and more particularly described in Exhibit "B", attached hereto and incorporated herein by reference; and

WHEREAS, in accordance with Article XXX. (Assignment and Subletting), where applicable, of the LEASE, the sale or transfer of a controlling percentage of the capital stock or membership interests of LESSEE, shall be deemed an assignment and require an evaluation to determine if the STATE is due an assignment premium. The phrase "controlling percentage" means the ownership of, and right to vote stock, or interests possessing at least twenty percent (20%) of the total combined voting power of all classes of LESSEE's capital stock or interests issued, outstanding, and entitled to vote for the election of directors; and

EXHIBIT "B"

WHEREAS, the LESSEE and ALEXAIR, INC. ("AAI"), a Hawaii corporation plans to enter in to a purchase agreement, where AAI shall purchase for nine hundred eighty-five thousand and no/100 dollars (\$985,000.00) of the capital stock of the LESSEE for one hundred percent (100%) of the ownership (hereinafter referred to as the Assignment). The LESSEE and AAI mutually agree that this transaction is a stock purchase only; and

WHEREAS, a copy of the proposed Stock Purchase Agreement and Amendment to Stock Purchase Agreement is attached hereto as Exhibit "A" and Exhibit "A-1", respectively, and incorporated herein by reference, and

WHEREAS, Article XXX (Assignment and Subletting) provides that a change in the controlling interest of a corporation is an assignment that requires the State's written consent, and in this case, Smoky Mountain Helicopters, Inc., shall continue to be the lessee under the Lease; and

WHEREAS, the LESSEE has requested the STATE's written Consent to the Assignment,

NOW, THEREFORE, the STATE is willing to Consent to the Assignment upon the following conditions:

- (1) This Consent shall not authorize nor be deemed to authorize any other assignment, hypothecation, sublease, mortgage, or transfer of the LEASE, or occupation of the premises subject to the LEASE;
- (2) This Consent shall not constitute a waiver of any terms, covenants, provisions or conditions contained in the LEASE, and on the part of the LESSEE to be observed and performed;
- (3) If there shall be any conflict between the provisions of the Assignment and the provisions of the LEASE, the provisions of the LEASE shall control;
- (4) This Consent shall not constitute nor be deemed to constitute a waiver by the STATE of any rights it may have under or in connection with the LEASE which are hereby reserved and shall not be deemed to estop the STATE from pursuing any cause of action it may have against the LESSEE, either legal or equitable;
- (5) The STATE reserves all of its rights as Lessor under the LEASE, and the STATE, as the Lessor, does not hereby incur any additional liability, either direct or implied;
- (6) The Assignment shall be governed by and construed and interpreted in accordance with the laws of the State of Hawaii.
- (7) Upon consummation of the Assignment, or any short form thereof, the LESSEE shall submit or cause to be submitted to the STATE copies of the Assignment or any


consents and other related documents, including any of the foregoing that are recorded with the Bureau of Conveyances of the State of Hawaii or the Assistant Registrar of the Land Court of the State of Hawaii.

(8) Effective date. The effective date of this Consent shall be the date on which this Consent is signed by the last of the signatories hereto.

(signature page follows)

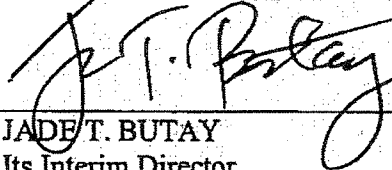
IN WITNESS WHEREOF, the STATE, and the LESSEE, by their duly authorized officers, has caused these presents to be executed and effective as of this 26th day of December, 2017.

APPROVED AS TO FORM:



MICHAEL Q. Y. LAU
Deputy Attorney General

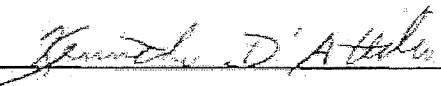
STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION

By 

JADE T. BUTAY
Its Interim Director

LESSOR

SMOKY MOUNTAIN HELICOPTERS,
INC., a Delaware Corporation

By 

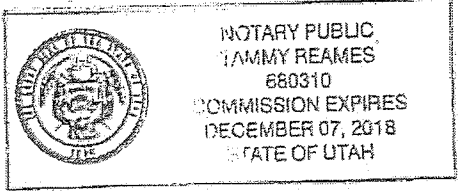
Its PRESIDENT

LESSEE

STATE OF Utah)
) SS
COUNTY OF Duchesne)

On this 15th day of December, 2017, before me appeared Kenneth Dattilio to me personally known, who being by me duly sworn, did say that KENNETH DATTILIO is (are) the PRESIDENT of SMOKEY MOUNTAIN HELICOPTERS INC. and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said PRESIDENT acknowledged said instrument to be the free act and deed of said corporation.

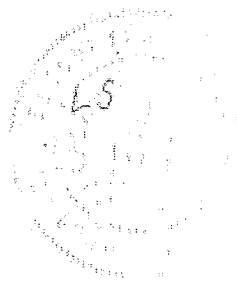
Print Name: Tammy Reames
Notary Public, Judicial Circuit
State of Utah



Doc. Description: CONSENT TO ASSIGNMENT OF CASE NO. DOT-A-09-0001
No. of Pages: 5

Tammy Reames
Notary signature


My Commission Expires: 12/7/2018



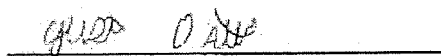
MINUTES OF THE DIRECTORS' MEETING

MINUTES OF A MEETING OF DIRECTORS of Smoky Mountain Helicopters, Inc. (the "Corporation") held at 1707 South 3000W, Roosevelt, UT 84066 on this 15th day of December, 2017.

1. The following members were present, constituting the entire board:
Jeremiah D'Attilio; and
Justin D'Attilio.
2. All the directors of the Corporation being present, formal notice calling the meeting was dispensed with, and the meeting declared to be regularly called.
3. **UPON A MOTION DULY MADE**, seconded and unanimously carried, Kenneth D'Attilio acted as Chairperson of the meeting and Jeremiah D'Attilio as Secretary of the meeting.
4. The following memorandum was then read and ordered to be inserted in these minutes: "We, the directors of the Corporation consent to this meeting being held at the above time and place and do waive notice and publication of this meeting, and consent to the transaction of such business, as may have come before it, as testified by our signatures below.



Jeremiah D'Attilio (Signature)



Justin D'Attilio (Signature)

5. Minutes of the last regular meeting were read and, upon motion duly made, seconded and carried, were adopted as read.
6. The Chairperson presented to the meeting and thereupon the following resolutions were offered, seconded and unanimously adopted.

IT WAS RESOLVED THAT:

1. The following individual is appointed and confirmed as signing officer for the Corporation for a term of one year or until replaced and is authorized to manage bank accounts that have been established for the benefit of the Corporation, sign and endorse checks, drafts, and other orders of payment for those bank accounts, and is authorized to sign bills of lading, and other documents, as needed and reasonable, for the normal conduct of the business of the Corporation:

Kenneth D'Attilio.

- 2. The sale and transfer of stock from Kenneth D'Attilio to AlexAir, Inc. (D/B/A Maverick Helicopters) is approved and ratified and the Secretary is directed to cancel stock certificate number 1-20 and issue a new certificate in the name of AlexAir, Inc. (D/B/A Maverick Helicopters) representing 1,000 Common Stock, fully paid up and non-assessable shares of stock in the Corporation.
- 3. There being no further business to come before the meeting, the meeting was adjourned.
- 4. Dated in the State of Delaware on the 15th day of December, 2017.

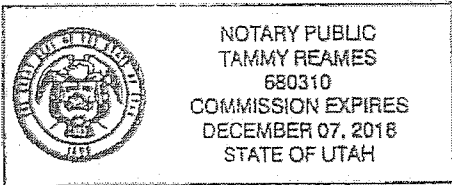
State of Utah County of Duchesne
 Subscribed and sworn before me on 12/15/2017
Tammy Reames (Date)
 (Notary Signature)

[Signature] (Signature)

Secretary Name: Jeremiah D'Attilio

[Signature] (Signature)

Chairperson Name: KENNETH D'ATTILIO



LS

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT is entered into as of January 6, 2017 (the "Agreement Date"), by and between Kenneth D'Attilio ("Owner"), and AlexAir, Inc. (d/b/a Maverick Helicopters), a Hawaii corporation ("Buyer"). Owner and Buyer are referred to individually as a "Party" and collectively as the "Parties."

RECITALS

- A. Owner is the sole shareholder of Smoky Mountain Helicopters, Inc., a Delaware corporation d/b/a Inter-Island Helicopters (the "Company").
- B. The Company is the owner and operator of fixed base operations and related services and operations at the Premises (defined below) (the "Business").
- C. The Owner has agreed to transfer, and Buyer has agreed to purchase, all of the outstanding capital stock (the "Company Shares") of the Company, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the Parties agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. The following terms have the following meanings for purposes of this Agreement:

"Affiliate" means, with respect to any specified Person, any Person or member of a group of Persons acting together that, directly or indirectly, through one or more intermediaries, Controls, or is Controlled by or is under common control with, the specified Person.

"Agreement" means this Stock Purchase Agreement, together with the Schedules and Exhibits attached hereto, as the same may be amended from time to time in accordance with the terms hereof.

"Agreement Date" has the meaning set forth in the Preamble.

"Business" has the meaning set forth in the Recitals.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Indemnitees" has the meaning set forth in Section 8.3(a).

"Closing" has the meaning set forth in Section 2.5.

"Closing Date" has the meaning set forth in Section 2.5.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company" has the meaning set forth in the Preamble.

"Company Shares" has the meaning set forth in the Recitals.

"Contract" has the meaning set forth in Section 3.13(f).

"Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or partnership, membership, trustee, executor or other ownership interests, by contract or otherwise.

"Damages" means any and all actions, suits, claims, awards, obligations, penalties, Proceedings, investigations, audits, demands, losses, Liabilities, Taxes, damages, assessments, fines, judgments, settlements, interest fees, costs, expenses and disbursements (including fees, costs, expenses and disbursements of investigation and defense and attorneys' and other professionals' fees, costs, expenses and disbursements), whether or not involving a third party claim.

"Delay Termination" has the meaning set forth in Section 9.1(d).

"Deposit" has the meaning set forth in Section 2.2.

"Direct Claim" has the meaning set forth in Section 8.4(c).

"Direct Claim Notice" has the meaning set forth in Section 8.4(c).

"Drop Dead Date" has the meaning set forth in Section 9.1(d).

"Encumbrance" means any charge, claim, community property interest, condition, equitable interest, mortgage, deed of trust, lien, option, pledge, hypothecation, security interest, collateral security arrangement, right of first refusal, conditional sale or other title retention agreement, indenture, encumbrance, adverse interest, constructive trust or other trust, exception to or defect in title or other ownership interest (including reservations, rights of entry, possibilities of reverter, encroachments, easements, rights-of-way, restrictive covenants, leases and licenses), or other charge or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership, or the filing of or agreement to give any financing statement or other lien with respect to any assets or property under the Uniform Commercial Code of the State of Hawaii or a comparable law of any jurisdiction.

"Environment" means surface waters, ground waters, surface water sediment, soil, subsurface strata, buildings, indoor air, ambient air and other environmental medium.

"Environmental Laws" means any and all federal, state or local laws (including common law), statutes, rules, regulations, codes, policies, ordinances, Orders, injunctions and directives, in effect on or prior to the Closing Date: (a) related to releases or threatened releases of any

Hazardous Substance to the Environment; (b) governing the use, treatment, storage, disposal, transport or handling of Hazardous Substances; or (c) related to the protection of the Environment, occupational safety, and human health. Such Environmental Laws include the following federal laws: the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Emergency Planning & Community Right-to-Know Act, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Occupational Health and Safety Act, as it relates to management of or exposure to hazardous substances and the Toxic Substances Control Act.

"Equipment" means all of the Company's equipment, transmitters, antennas, cables, towers, vehicles, furniture, fixtures, servers, traffic systems, graphic systems, audio boards, switchers, back-up generators, radar systems, microwaves, transponders, relays, backup generators, computers, computer hardware and peripherals, office equipment, cameras, inventory, spare parts and other tangible personal property of every kind and description owned, leased or used by the Company for the operation of the Premises.

"Escrow Agent" means Title Guaranty Escrow Services, Inc. of Kihei, Hawaii.

"Event of Loss" means any loss, taking, condemnation, or destruction of, or damage to, the Premises.

"Exhibits" means the Exhibits to this Agreement which are delivered concurrently with this Agreement and are hereby incorporated herein and made a part hereof.

"Financial Statements" has the meaning set forth in Section 3.13(b).

"Fundamental Representations" means the representations and warranties contained in Section 3.1 (Organization of the Company; Capitalization), Section 3.2 (Authorization; Binding Effect), 3.15 (Brokers' Fees), 3(a), (b), (c) and (e) (certain of the Representations Concerning Owner), Section 4.1 (Organization of Buyer), Section 4.2 (Authorization; Binding Effect) and Section 4.6 (Brokers' Fees), or in any certificate delivered with respect thereto pursuant to Section 2.6.

"Government Authorizations" means, collectively, all authorizations, agreements, licenses, certificates of authority, permits or other authorization used in the Business.

"Governmental Authority" means: (a) nation, state, county, city, town, village, district, or other recognized jurisdiction of any nature; (b) federal, state, local, municipal, foreign, or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal); (d) multi-national organization or body; or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

"Hazardous Substance" means any material, chemical, compound, mixture, hazardous substance, hazardous waste, noise, radiation, mold, or other pollutant or contaminant defined, listed, classified, regulated or prohibited under any Environmental Law.

"HDOT" has the meaning set forth in the Section 3.4(a).

"HDOT Annex" has the meaning set forth in Section 2.3.

"HDOT Premium" has the meaning set forth in Section 2.3.

"Improvements" means all buildings, structures, improvements, fixtures, building systems and equipment, and all components thereof, including, without limitation, the roof, foundation, load-bearing walls and other structural elements thereof; heating, ventilation, air conditioning, mechanical, electrical, plumbing and other building systems; environmental control, remediation and abatement systems; sewer, storm and waste water systems; irrigation and other water distribution systems; parking facilities; fire protection, security and surveillance systems; and telecommunications, computer, wiring and cable installations, included in the Premises.

"Indebtedness" means, without duplication, any Liability of the Company (including all obligations for principal, interest, premiums, penalties, fees, expenses and breakage costs and other obligations related thereto): (a) for borrowed money whether current, short-term, long-term, secured or unsecured; (b) evidenced by any note, bond, debenture or other debt security; (c) for the reimbursement of letters of credit, bankers' acceptance or similar credit transactions; (d) all obligations to purchase, redeem, retire, defease or otherwise make any payment in respect of any shares of capital stock, or other ownership or profit interest or any warrants, rights or options to acquire such shares or such other ownership or profit interest; (v) arising under any currency, interest rate swap, hedge or similar instrument; (vi) with respect to "off balance sheet" financings; (e) for the payment of any deferred purchase price of any property, assets or services; or (f) arising under a guaranty or similar obligation with respect to Liabilities of any other Person of the types described in clauses (a) through (e) above.

"Indemnifying Party" has the meaning set forth in Section 8.4(a).

"Indemnity Escrow Fund" has the meaning set forth in Section 2.4(c).

"Intellectual Property" has the meaning set forth in Section 3.14(b).

"knowledge" means (i) if referring to the Company, the actual knowledge after due inquiry of Kenneth D'Attilio and any direct reports of Kenneth D'Attilio, and (ii) if referring to Owner, Kenneth D'Attilio.

"Land Board" means the Hawaii Board of Land and Natural Resources.

"Lease" has the meaning set forth in the Recitals.

"Legal Requirement" means any federal, state, county, local, international, or other administrative order, law, ordinance, principle of common law, rule, regulation, statute, policy or code.

"Liability" means, with respect to any Person, any liability, indebtedness or other obligation of or by such Person of any kind or nature, whether accrued, absolute or contingent, known or unknown, or whether due or to become due.

"Location" has the meaning set forth in Section 3.12(b).

"Losses" means: (a) actual direct Damages and (b) indirect Damages to the extent relating to amounts awarded by a Governmental Authority of competent jurisdiction as part of a Third Party Claim or any claim arising out of fraud or fraudulent misrepresentation.

"Material Adverse Effect" means any event, transaction, condition, change or effect that (individually or in the aggregate with all other such events, transactions, conditions, changes or effects) has had or would reasonably be expected to have a material adverse effect on (a) the Business, the Company, the Premises, the Lease, or the Equipment; (ii) the ability of Owner to perform his obligations under this Agreement; or (iii) the properties, liabilities, financial condition or results of operation of Owner, the Company or the Business, in each case taken as a whole, with the effect or potential effect of impairing the ability of Owner to perform its obligations under this Agreement; provided, however, that for purposes of determining whether any Material Adverse Effect shall have occurred; there shall be excluded and disregarded any event, transaction, condition, change or effect resulting from or relating to: (a) general business or economic conditions, or conditions generally affecting the industry in which the Business or the Company operates which do not disproportionately impact the Business or the Company; (b) the compliance with the terms of, or the taking of any action expressly required by, this Agreement; (c) any existing event, occurrence or circumstance expressly described on a Schedule hereto, solely to the extent such event, occurrence or circumstance is described therein; or (d) the public announcement or consummation of the transactions contemplated by this Agreement.

"Order" means any award, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority or by any arbitrator.

"Ordinary Course of Business" means the ordinary course of business of Owner, the Business or the Company, as the case may be, consistent with past custom and practice.

"Organizational Documents" means the articles of incorporation and by-laws of the Company as in effect on the date hereof and any certificate of designation for any capital stock, as amended to date.

"Owner" has the meaning set forth in the Preamble.

"Owner Indemnitees" has the meaning set forth in Section 8.2.

"Party" or "Parties" has the meaning set forth in the Preamble.

"Permit" means any permit, franchise, certificate, consent, clearance, waiver, notification, authorization, approval, registration or license granted by or obtained from any Governmental Authority in accordance with applicable Legal Requirement.

"Permitted Encumbrances" means the following matters that in each case (individually or in the aggregate) do not result in a Material Adverse Effect: (a) liens for current Taxes, assessments and governmental charges not yet due and payable; (b) zoning laws and ordinances and similar Legal Requirements regulating the use or occupancy of such real property or the activities conducted thereon which are imposed by any Governmental Authority having jurisdiction over such real property which are not violated by the current use or occupancy of such real property or the operation of the Business thereon; and (c) inchoate materialmen's, mechanics', workmen's, repairmen's or other like Encumbrances arising in the Ordinary Course of Business and not yet due and payable for which appropriate reserves have been created and that are not resulting from any breach, violation or default by the Company of any contract or applicable Legal Requirements.

"Person" means any individual, partnership, limited liability company, corporation, association, firm, joint stock company, trust, estate, joint venture, unincorporated organization, Governmental Authority or any other entity.

"Pre-Closing Tax Period" has the meaning set forth in Section 6.2(a).

"Premises" has the meaning set forth in the Recitals.

"Proceeding" means any action, arbitration, assertion, audit, charge, claim, complaint, grievance, demand, notice, hearing, inquiry, investigation, litigation, mediation or suit (whether civil, criminal, administrative, investigative, private or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or under any Legal Requirement.

"Purchase Price" has the meaning set forth in Section 2.2.

"Related Agreements" means all written agreements, instruments, affidavits, certificates and other documents, other than this Agreement, that are executed and delivered by the Company, Owner or Buyer, or any of their respective Affiliates, as applicable, pursuant to this Agreement or in connection therewith, regardless of whether such agreements, instruments, affidavits, certificates and other documents are expressly referred to in this Agreement.

"Required Consents" has the meaning set forth in Section 5.3(a).

"Schedules" means the Schedules to this Agreement which are delivered concurrently with this Agreement and are hereby incorporated herein and made a part hereof.

"Tax" (including, with correlative meaning, the terms "Taxes," and "Taxable") shall mean any and all federal, state, local, county, provincial, national, foreign and other taxes, fees, levies, duties, tariffs, imposts, and other similar charges (together with any and all interest, penalties and additions to tax) imposed by any governmental or taxing authority including taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation, or net worth taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added, or gains taxes, license, registration and documentation fees and similar charges.

"Tax Return" means any returns, reports, claims for refund, declarations of estimated Taxes and information statements, including any schedule or attachment thereto or any amendment thereof, with respect to Taxes required to be filed with any governmental or taxing authority, domestic or foreign, including consolidated, combined and unitary tax returns.

"Termination Fee" has the meaning set forth in Section 9.2(c).

"Third Party Claim" has the meaning set forth in Section 8.4(a).

"Third Party Claim Notice" has the meaning set forth in Section 8.4(a).

"Transaction Proposal" has the meaning set forth in Section 6.3.

"Transfer Taxes" has the meaning set forth in Section 6.2(d).

Section 1.2 Terms Generally.

(a) The definitions set forth or referenced in Section 1.1 apply equally to both the singular and plural forms of the terms defined. Any pronoun includes the corresponding masculine, feminine and neuter forms, as the context requires. The words "include," "includes" and "including" will be deemed to be followed by the phrase "without limitation." The word "or" is not exclusive. The words "shall" and "will" are used interchangeably and are intended to have, and will be deemed to have, the same meaning. The words "herein," "hereof" and "hereunder" and words of similar import refer to this Agreement (including the Exhibits and Schedules) in its entirety and not to any part of this Agreement unless the context otherwise requires. All references to Articles, Sections, Exhibits and Schedules will be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context otherwise requires.

(b) Any references to any agreement or other document or instrument or to any statute or regulation are to it as amended and supplemented from time to time (and, in the case of a statute or regulation, to any successor provisions, and to any rules and regulations promulgated thereunder), unless the context otherwise requires.

(c) Any reference to a "day" or number of "days" (without the explicit qualifications of "business") will be interpreted as a reference to a calendar day or number of calendar days. Any reference to a "business day" means any day that is not a Saturday, Sunday or day on which banks in Las Vegas, Nevada or Honolulu, Hawaii, are authorized or required by law to close. If any action or notice is to be taken or given on or by a particular calendar day, and such calendar day is not a business day, then such action or notice will be deferred until, or may be taken or given on, the next business day. All references to dollar amounts will be references to United States Dollars.

ARTICLE II SALE; PURCHASE PRICE; CLOSING

Section 2.1 Sale. As of the Closing Date, Owner shall transfer and set over unto Buyer, all of the outstanding capital stock of the Company, and Buyer shall accept such transfer.

For the avoidance of doubt, the Company shall retain the performance bond referenced in Section 3.4(i) to Buyer.

Section 2.2 Purchase Price. As consideration for the Company Shares, Buyer shall pay to Owner an aggregate cash amount (the "Purchase Price") equal to Nine Hundred Eighty Five Thousand U.S. Dollars (\$985,000.00), minus the amount of the \$100,000 deposited with the Escrow Agent on December 4, 2015 (the "Deposit"), minus the amount of Indebtedness on the Company, Business or Premises.

Section 2.3 Exclusion from Purchase Price. The Purchase Price shall not include, and Buyer shall be responsible for remitting to HDOT or such other Governmental Authority as required by Legal Requirement or the Lease, the premium and other payments due to HDOT pursuant to the HDOT Assignment of Lease and Premium Evaluation Policy Annex I (the "HDOT Annex") in the section entitled "Payment to HDOT" and to Article XXX, Section D(2)(d) of the Lease (the "HDOT Premium").

Section 2.4 Payments of Purchase Price. At the Closing:

(a) Buyer shall deliver to Owner the Purchase Price by wire transfer in immediately available funds to an account designated by Owner at least three (3) business days prior to the Closing.

(b) Owner shall withdraw and retain the then-outstanding balance of any cash or cash equivalents in the bank accounts of the Company. Owner and Buyer shall use their commercially reasonable efforts to transition any such account funds in a way that shall ensure the timely payment of any recurring account payable or other known obligation of the Company.

(c) The Deposit shall become the "Indemnity Escrow Fund," which will continue to be held by the Escrow Agent, pursuant to the terms and conditions of this Agreement. The Indemnity Escrow Fund will be released and applied in accordance with the terms of this Agreement, and any portion of the Indemnity Escrow Fund remaining unclaimed under Article VIII on the one (1) year anniversary of the Closing Date shall be released in full by the Escrow Agent to Owner. Buyer shall be responsible for the costs and fees of the Escrow Agent and, notwithstanding anything in Section 6.2, shall receive all interest earned on the Indemnity Escrow Fund. For purposes of clarity, Owner agrees that the interest earned on the Indemnity Escrow Fund is not available to satisfy any claim for indemnification under Section 8.3. Each such payment pursuant to this Section 2.4, unless the Parties agree otherwise, shall be by wire transfer of immediately available funds.

Section 2.5 Closing. Subject to the terms of this Agreement, the consummation of the assignment and transfer pursuant to this Agreement (the "Closing") shall take place at the Crowell & Moring, LLP office located at 1001 Pennsylvania Ave, NW, Washington, DC 20004 on January 31, 2017, subject to the satisfaction or waiver of the conditions to Closing set forth herein (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at such time), or on such other date or at such other location as is mutually agreeable to Buyer and Owner; provided, that either Party may elect to conduct the Closing through electronic exchange of executed documents with original

versions of documents to be delivered promptly after the Closing. The date on which the Closing occurs is referred to herein as the "Closing Date."

Section 2.6 Certain Deliveries.

(a) **Owner Deliveries.** On the Closing Date, Owner shall deliver or cause to be delivered to Buyer:

(i) Any and all stock certificates or other indicia representing the Company Shares and duly executed stock transfer powers, and such other instruments of conveyance and transfer in form and substance reasonably acceptable to Buyer, as to effectively vest in Buy all of Owner's right, title and interest in the Company Shares; and

(ii) all documents as are reasonably necessary to the Company Shares to Buyer and effectuate the transactions contemplated by this Agreement and the Related Agreements.

(b) **Buyer Deliveries.** On the Closing Date, Buyer shall deliver or cause to be delivered to Owner:

(i) the payments required to be made by Buyer pursuant to Section 2.4, and

(ii) duly executed counterparts of all documents as are reasonably necessary to purchase the Company Shares and effectuate the transactions contemplated by this Agreement and the Related Agreements.

**ARTICLE III
REPRESENTATIONS AND WARRANTIES OF OWNER**

Except with respect to Section 3.18, Owner represents and warrants to Buyer, for himself and for the Company, as applicable, as follows as of the date hereof and as of the Closing Date (except as otherwise noted):

Section 3.1 Organization of the Company; Capitalization.

(a) The Company is duly organized, validly existing, and in good standing under the laws of the State of Delaware and is duly qualified to conduct business and in good standing as a foreign corporation in the State of Hawaii. The Company has the requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as now conducted.

(b) The authorized equity securities of the Company consist of 1,000 shares of common stock, par value \$1,000.00 per share, of which 1,000 shares are issued and outstanding and constitute the Company Shares. The Company Shares have been duly authorized and validly issued and are fully paid and nonassessable. None of the outstanding securities of the Company were issued in violation of the Securities Act of 1933, as amended, or any other legal requirement. The Company does not own, and has no contract, understanding or other agreement

to acquire, any capital stock or interest in any corporation or other entity. There are no outstanding or authorized stock options, warrants, other convertible or derivative securities or other obligations of the Company that could require the Company to issue or sell any capital stock, nor are there any outstanding stock appreciation, phantom stock, profit participation or similar rights with respect to the Company. There are no voting trusts, voting agreements, proxies or other agreements or understandings with respect to the voting or disposition of the capital stock of the Company.

Section 3.2 Authorization; Binding Effect. Owner has the right, power and authority to execute and deliver, and to perform his obligations under, this Agreement and the Related Agreements and to consummate the transactions contemplated hereby and thereby. No approval or consent of any person other than Owner is necessary in connection with this Agreement, the Related Agreements or the transactions contemplated thereby. This Agreement and each of the Related Agreements to which Owner is a party, upon execution and delivery, will be a legal, valid, and binding obligation of Owner, enforceable against Owner in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency, or other laws affecting generally the enforceability of creditors' rights and by limitations on the availability of equitable remedies.

Section 3.3 Noncontravention; Consents. Schedule 3.3 sets forth all notices and filings required to be made by the Company and all authorizations, consents, or approvals of any Governmental Authority or any party to a contract or agreement required to be obtained by Owner or the Company, in order for Owner and Buyer to consummate the transactions contemplated by this Agreement. Assuming receipt of the consents and delivery of the notices listed on Schedule 3.3, neither the execution and delivery of this Agreement and the Related Agreements, nor the consummation of the transactions contemplated by this Agreement and the Related Agreements, will: (a) violate any Legal Requirement to which Owner or the Company is subject or any provision of the Company's Organizational Documents; (b) result in a breach of, constitute a default under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify, or cancel any contract, agreement or any other instrument, or by which Owner, the Company or any of their respective assets are bound or affected, except where any such violation, breach, default or other matter would not have, individually or in the aggregate, a Material Adverse Effect; or (c) result in the creation of any Encumbrances upon the Company, Business or Premises, including the leasehold improvements and fixtures at the Premises.

Section 3.4 Premises and Lease.

(a) The Company has entered into State Lease No. DOT-A-09-0001, effective January 1, 2009, by and between the Company and the State of Hawaii, Department of Transportation ("HDOT") for the exclusive right to occupy and use certain land areas situated at Port Allen Airport, Island of Kauai, Hawaii (the "Lease"), totaling 54,641 square feet more or less and designated as Space Nos. 001-102, -111, -112 and -113, containing areas of approximately 3,934; 25,600; 16,000 and 9,107 sq. ft. respectively (as delineated on the map attached to the Lease as Exhibit B) (the "Premises").

(b) The Company has entered into the permits with the HDOT attached hereto as Exhibit B (which permits will be deemed to be part of the "Lease" for purposes of this Agreement) for additional areas situated at Port Allen Airport, Island of Kauai, Hawaii as described in the relevant permits (which areas will be deemed to be part of the "Premises" for purposes of this Agreement).

(c) The Lease sets forth the legal description and a map of the Premises, and Exhibit A contains a true, correct and complete copy of the Lease, together with any and all amendments, extensions, renewals, and guaranties thereto and true, accurate and complete written summary of the provisions of all oral terms binding on the Lease. There are no pending amendments, extensions or renewals of the Lease. The Lease: (i) constitutes a legal, valid and binding obligation of the Company and, to the Company's or Owner's knowledge, the other party thereto, except as enforceability may be limited by bankruptcy, insolvency or other law affecting creditor's rights generally, or by the availability of equitable remedies; (ii) is in full force and effect; and (iii) neither the Company, nor to the Company's or Owner's knowledge, any other party thereto has violated any provision of, or committed or failed to perform any act which, with notice, lapse of time or both, would constitute a default under the provisions of the Lease or would allow the other party to terminate the Lease or bring a claim for damages. Neither the Company nor Owner have any knowledge of any defaults or breaches of the Lease by HDOT or of any defense or offsets against HDOT of the enforcement of the Lease.

(d) (i) Neither the Company, nor to the Company's or Owner's knowledge, any other party has subleased, licensed or otherwise granted any Person the right to use or occupy the Premises; and (ii) to the Company's or Owner's knowledge, the Company's possession and quiet enjoyment of the Premises has not been disturbed, and there are no disputes with respect to the Lease. HDOT is not an Affiliate of, and otherwise does not have any economic interest in, the Company or Owner. Neither the Company nor Owner has collaterally assigned or granted any other security interest in the Premises or the Lease.

(e) There is not pending nor, to the Company's or Owner's knowledge, threatened, any: (i) zoning application or Proceeding; (ii) condemnation, eminent domain or taking Proceeding; or (iii) other Proceeding, relating to the Premises. The Company has not received written (or, to the Company's or Owner's knowledge, other) notice of default or violations in connection with any material permits required for the occupancy and operation of the Premises.

(f) There is practical access, and to the Company's or Owner's knowledge legal access, to the Premises, and the Premises is served by all utilities and services necessary for the proper and lawful conduct and operation of the Company's business as currently conducted at such Premises.

(g) The Improvements are in good condition and repair in all respects for the uses for which they are currently employed (normal wear and tear excepted), and adequate to operate such facilities as currently used, and the Improvements on the Premises are suitable for the current operation of the Company's business. To the Company's or Owner's knowledge, there are no facts or conditions affecting any of the Improvements which would, individually or

in the aggregate, interfere in any material respect with the use or occupancy of the Improvements or any portion thereof in the operation of the Premises.

(h) The Company has all Permits required by applicable Legal Authority to lease or use the Premises or the Improvements.

(i) HDOT is not holding any money on behalf of the Company, except for the performance bond in the amount required under the Lease, which HDOT shall continue to hold pursuant to the terms of the Lease.

(j) The Company owns no real property.

Section 3.5 Equipment Schedule 3.5 is a true and correct list of all items of tangible, depreciable personal property having a book value on the date hereof of at least Five Hundred U.S. Dollars (\$500.00) which are owned by the Company. Except as set forth on Schedule 3.5:

(a) the Company has good and marketable title to, or a valid leasehold interest in, the Equipment free and clear of all Encumbrances other than Permitted Encumbrances;

(b) each item of Equipment having a book value on the date hereof of at least Five Hundred U.S. Dollars (\$500.00) is in good condition and repair, ordinary wear and tear excepted, and none of such Equipment is in need of imminent repair or replacement;

(c) the Equipment includes all items of tangible personal property owned or leased by the Company in connection with operating the Premises;

(d) the Equipment has been maintained in a manner consistent with generally accepted standards;

(e) the Company has all Permits required by applicable Legal Authority to own or use the Equipment;

(f) no Equipment has been removed since January 1, 2014, except for removal of obsolete or non-operational equipment which has been replaced; and

(g) the Company has not received any written notice of violation or default under any Legal Requirement, Government Authorization or contract relating to any Equipment that remains uncured or has not been dismissed.

Section 3.6 Government Authorizations Schedule 3.6 lists, and either Owner or the Company have provided Buyer with copies of, all of the Government Authorizations held by Owner, the Company or otherwise in connection with the Business, the Premises, the Equipment or the Lease. Except as otherwise set forth on Schedule 3.6, each Government Authorization is in full force and effect, has not been revoked, suspended, canceled, rescinded or terminated, has not expired, and constitutes the valid, legal, binding and enforceable obligation of the Company or Owner, as the case may be. None of the Government Authorizations is subject to any conditions outside the ordinary course and, to the Company or Owner's knowledge, neither the Company nor Owner is in breach or default of any material terms or conditions thereunder.

Except as set forth on Schedule 3.6, no qualifications, registrations, filings, privileges, franchises, licenses, permits, approvals or authorizations, other than the Government Authorizations, are required in order for the Company to maintain the Business or the Lease, or to use or operate the Premises or Equipment. Except as set forth on Schedule 3.6, the Company has no applications pending before any Governmental Authority related to the Business, the Lease, the Premises, or the Equipment.

Section 3.7 Litigation. There are no Proceedings pending against the Company, that have been served on the Company or, to the knowledge of the Company or Owner, that are pending but have not been served on the Company or threatened against the Company with respect to the Business, the Premises, the Lease, or the Equipment, the Company's employees, officers, directors, consultants, agents or representatives or ownership of the Company's property or assets, or that could otherwise have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement and the Related Agreements, and there are no Proceedings pending or, to the knowledge of the Company or Owner, threatened, before or by any court, Governmental Authority or arbitrator relating to the Company that seeks to enjoin or prohibit, or that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement and the Related Agreements.

Section 3.8 Compliance with Laws. Since January 1, 2014, the Company has operated the Business and the Premises, and owned and operated the Equipment in compliance with all Legal Requirements, and is not in violation of, any Order. Neither the Company nor Owner has received any notice asserting any material noncompliance with the Lease, or any Legal Requirements or Order relating to or in connection with the Business, the Premises, the Equipment, or the Company's employees, officers, directors, consultants, agents or representatives. There is no pending or, to the Company's or Owner's knowledge, threatened, investigation, audit, review or other examination of the Business, Premises, the Lease, the Equipment, or the Company's employees, officers, directors, consultants, agents or representatives, and neither the Company nor Owner is subject to any Order, agreement, memorandum of understanding or other regulatory enforcement action or proceeding with or by any Governmental Authority.

Section 3.9 Insurance. The Company has in full force and effect insurance insuring (i) the Business as the business and affairs of the Company are currently conducted and (ii) the Premises and Equipment as required under Article X of the Lease. The Company is not in default with respect to such insurance policies. No written notice of cancellation, termination or nonrenewal has been received by the Company with respect to any such policy.

Section 3.10 Indebtedness. Except as set forth on Schedule 3.10, the Company is not liable for any Indebtedness in respect of, or secured by, the Business, the Premises, the Equipment, any other asset or any receivable of the Company, nor has it entered into any agreement or understanding, taken any action, or made any omission, which has created, or could create, an Encumbrance on the Business, the Premises, the Equipment, any other asset or any receivable of the Company, or the Company's rights under the Lease or any other agreement or understanding to which it is a party.

Section 3.11 Taxes.

(a) All income Tax Returns and all material other Tax Returns of the Company have been filed on a timely basis, and all such Tax Returns are complete and correct in all material respects. All Taxes owed by the Company in respect of the Company, the Business, the Lease, Premises and Equipment, and the Company's employees, officers, directors, consultants, agents and representatives have been timely paid (whether or not shown on any Tax Return).

(b) There are no audits, examinations, suits, proceedings or investigations currently pending or, to the knowledge of the Company or Owner, threatened by any Governmental Authority with respect to any Taxes relating to the Company, the Business, the Lease, the Premises, the Equipment or the Company's employees, officers, directors, consultants, agents and representatives.

(c) The Company has not waived any statute of limitations in respect of any Taxes or agreed to any extension of time with respect to such a Tax assessment or deficiency which extension is currently in effect. The Company is not a party to, is not bound by, and does not have any obligation under any Tax sharing agreement, Tax indemnification agreement, or any similar agreement.

(d) No Claim has ever been made in writing by any taxing authority in any jurisdiction in which the Company does not file Tax Returns that the Company is or may be subject to taxation by that jurisdiction.

(e) The Company has collected and withheld all Taxes that it has been required to collect or withhold and has timely submitted all such collected and withheld Taxes to the appropriate taxing authorities, and the Company is in compliance with all Legal Requirements relating to the collection and withholding of Taxes.

(f) Owner is not a foreign person within the meaning of Section 1445 of the Code (or similar provision). The Company has not been a U.S. real property holding corporation within the meaning of Section 897(c)(2) of the Code (or similar provision) during the applicable period set forth in Section 897(c)(1)(A)(ii) of the Code (or similar provision) and interests in the Company are not U.S. real property interests as described in Treasury Regulation Section 1.897-7T (or similar provision). The Company has not participated in a "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4 (or similar provision).

(g) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any post-Closing Tax period as a result of any change in accounting method for any pre-Closing Tax period, any written agreement with a Tax authority with regard to the Tax liability of Owner for any pre-Closing Tax period, deferred intercompany gain described in Treasury Regulation Section 1502 of the Code (or similar provision) arising prior to Closing, installment sale or open transaction disposition made prior to Closing, or prepaid amount received prior to Closing.

(h) The Company (i) has not filed a consolidated Tax Return with any other entity, including an affiliated group as defined in Section 1504 of the Code, (ii) has not been a

member of any entity treated as a partnership for Tax purposes, and (iii) has not had any Tax liability for any other Person under Treasury Regulation Section 1.1502-6 (or similar provision). The Company is not party to any joint venture, partnership or other written arrangement or contract which could be treated as a partnership for Tax purposes for any period for which the applicable statute of limitations has not expired.

Section 3.12 Environmental Matters.

(a) The Company is complying and at all times has complied, and has occupied, used and operated the Business and the Premises, used the Equipment and other assets, and exercised its rights and performed its obligations under the Lease and all other agreements to which it is a party, in compliance with all applicable Environmental Laws, which compliance includes obtaining, maintaining and complying in all material respects with all permits, licenses or other authorizations required by Environmental Law under the Lease or for the operation of the Business. No conditions, circumstances or activities have existed or currently exist on or in regard to, and the Company has not engaged in any activities with respect to, the Business, the Premises, the Equipment or other assets, or the Company's rights and obligations under the Lease or any other agreement to which it is a party that would give rise to any material liabilities under any Environmental Law. No claims are pending or, to the Company's or Owner's knowledge, threatened against the Company alleging a violation of, or liability under, Environmental Laws.

(b) All waste materials which are or have been generated or otherwise located by the Company, its subsidiaries, Affiliates or predecessors at the Premises or any other location the Company has owned or leased, or at which the Company has conducted business or operations (the Premises and such other aforementioned locations, the "Locations" and each, a "Location"), are and have been handled, stored, treated and disposed of in compliance with applicable Environmental Laws. Neither the Company nor any of the Company's subsidiaries, Affiliates or predecessors has treated, stored, disposed of, handled, released or exposed any person to any Hazardous Substance at any Location or otherwise, nor has any Location been contaminated by any Hazardous Substance, in each case which has or would give rise to liability under Environmental Law. The Company has not assumed, undertaken, provided an indemnity with respect to or otherwise become subject to any liability of another Person relating to Environmental Laws or Hazardous Substances.

Section 3.13 Records.

(a) Owner has provided Buyer with complete copies of (i) the certificate of incorporation and bylaws, or equivalent constituent documents, of the Company as currently in effect; (ii) the minute books of the Company containing all consents, actions and minutes of the shareholders, board of directors, and board committees of the Company; (iii) all consents required by HDOT or the Land Board in connection with the Lease; and (iv) the stock ownership records of the Company as of the date hereof. The books and records of the Company are correct and complete in all material respects

(b) Owner has provided Buyer with true and accurate copies of the unaudited quarterly balance sheets and statements of income of the Company as of and for each of the

fiscal years ended December 31, 2014, December 31, 2015, and for the year to date in 2016, as well as the audited financial statements for fiscal year 2014 and 2015 (collectively, the "Financial Statements"). The Financial Statements have been or will be prepared in accordance with U.S. generally accepted accounting principles (GAAP) consistently followed by the Company throughout the periods indicated, fairly present or will present the financial position and results of operations of the Company as of and for each of the periods indicated, and are or will be consistent with the books and records of the Company, subject to normal year-end adjustments of interim financial statements.

(c) The Company has no debt or other Liability of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due, that is not reflected or reserved against on the face of the Company's most recent balance sheet, or as set forth on Schedule 3.13 to this Agreement, except for current Liabilities incurred after the date of this Agreement in the Ordinary Course of Business, consistent with past practice and in compliance with this Agreement, and any Liabilities arising and accruing after the Closing Date. There is no event or condition that exists or that is likely to exist that would reasonably form a basis for any present or future Proceeding that would or reasonably could give rise to such a debt or Liability described in the foregoing sentence

(d) Schedule 3.13 sets forth a correct and current list of the Company's customers, suppliers and creditors, as well as a summary of the dollar amounts paid or by such Persons since June 1, 2014. Owner has provided Buyer with a copy of the contracts, agreements or understandings related to each such relationship, and there is no claim of breach pending or to the knowledge of the Company or Owner, threatened, under any such contract, agreement or understanding. The Company is not aware of any facts indicating a material alteration in the relationship with any such customer, supplier or creditor.

(e) Schedule 3.13 sets forth a correct and complete list of all accounts receivable of the Company as of November 30, 2016, and such list represents valid obligations of the Company arising from sales actually made or services actually performed in the Ordinary Course of Business. There is no contest, claim or right of set-off relating to any such account receivable.

(f) Schedule 3.13 contains a correct and complete list of all of the contracts, agreements and arrangements (written or oral) of the Company (i) involving a payment by or to the Company of more than \$500 per year, (ii) which provide for the creation, incurrence, assumption or guarantee of any liability for borrowed money or indebtedness or result in any Encumbrance on the Company, the Business, the Premises, the Equipment or any other asset or receivable, (iii) restrict the ability of the Company to conduct the Business in any way, (iv) provide for any profit sharing, stock option, stock appreciation right or other equity interest, deferred compensation, severance for any Person, (v) provide for the employment or contractor relationship or other engagement of any Person, (vi) provide for any loan or advance to a Person (other than in the Ordinary Course of Business), or (vii) which, if terminated or in default, could result in a Material Adverse Effect on the Company, the Business, the Premises, the Equipment, the Lease, Owner, this Agreement or the Related Agreements (collectively, the "Contracts"). Each of the Contracts is legal, valid, binding on, and enforceable against the Company and the other parties thereto, and is in full force and effect. Neither the Agreement, the Related

Agreements, nor the transactions contemplated thereby will cause a termination or default under any Contract, nor require any consent of any party to any Contract, except as set forth on Schedule 3.13. Neither the Company nor Owner has received any notice that any Contract is not enforceable against the party thereto or that there is a breach of any Contract, or that any Contract has been terminated or is at risk of being terminated for any reason.

Section 3.14 Assets; Intellectual Property.

(a) Except as set forth on Schedule 3.14, the assets of the Company are structurally sound, in good operating condition and repair, and adequate for the uses to which they are being put, and no asset or property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The Company does not maintain any inventory.

(b) Schedule 3.14 sets forth and provides details of ownership and status of registration for any and all intellectual property owned or licensed by the Company or otherwise used in the Business, including but not limited to trade names and trademarks (collectively, the "Intellectual Property"). The Company has the unfettered right to use the Intellectual Property for and in connection with the Business, subject to the terms of any license on such Intellectual Property. Other than Owner, the Company has not grant and will not grant to any other Person the right to use such Intellectual Property, and after the Closing, Owner will not directly or indirectly use such Intellectual Property in any manner. There is no, and there has not been for the five years preceding this Agreement, any claim of infringement or violation of any license or other agreement relating to the Intellectual Property, and to the knowledge of the Company or Owner, no such claim is threatened. To the knowledge of the Company and Owner, no Person is infringing the Intellectual Property, and neither the Company nor the Business has infringed on the intellectual property rights of any other Person.

Section 3.15 Brokers' Fees. The Company has no Liability to pay any fees or commissions to any broker, finder, or agent, with respect to the transactions contemplated by this Agreement.

Section 3.16 Employment Matters.

(a) From and after January 1, 2014, the Company has had no employees. The Company does not have any outstanding, or to the knowledge of the Company or Owner threatened, Liability payable to or associated with any employee, consultant, director, officer or any other Person, including, but not limited to, in respect of any unpaid salary, unpaid benefits, any accrued vacation or paid time off, worker's compensation, employment or other Taxes, or under any employment agreement, management agreement, consulting arrangement, collective bargaining agreement, bonus plan, equity plan or other agreement. The Company is and has been for the past five years in compliance with all Legal Requirements related to employment, employment practices, terms and conditions of employment, wages, hours of work, occupational safety and health, unfair labor practices, unlawful employment practices or immigration and naturalization laws.

(b) The Company does not currently have any, and has no Liability associated with any former, employment benefit plans, including "employee benefit plans" within the meaning of Section 3(3) of the Employee Retirement Security Act of 1974, as amended.

Section 3.17 No Business Relationships. Since January 1, 2014, no director, officer or shareholder of the Company or any Affiliate has been involved in any business arrangement or relationship with the Company, other than in their capacity as a director, officer of shareholder, and no such party owns or has any rights with respect to any Contract or material asset or Intellectual Property used in the Business.

Section 3.18 Representations Concerning Owner. Owner represents and warrants to the Buyer as follows:

(a) Authorization: Binding Effect. Owner has all requisite power and authority to execute and deliver this Agreement and the Related Agreements and to perform its obligations under this Agreement and the Related Agreements and to consummate the transactions contemplated hereby and thereby. This Agreement and each of the Related Agreements to which Owner is a party, upon execution and delivery, will be a legal, valid, and binding obligation of Owner, enforceable against Owner in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency, or other laws affecting generally the enforceability of creditors' rights and by limitations on the availability of equitable remedies.

(b) Noncontravention: Consents. Neither the execution and delivery of this Agreement and Related Agreements, nor the consummation of the transactions contemplated by this Agreement and the Related Agreements, will: (a) violate any Legal Requirements to which Owner is subject; (b) result in a breach of, constitute a default under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify, or cancel any contract or any other instrument to which Owner is a party or by which the Company or any of its assets are bound or affected, except where such breach, default, acceleration or otherwise would not, or would not be expected to, have a Material Adverse Effect; or (c) result in the creation of any Encumbrances upon the Company, the Business or the Premises.

(c) Ownership of Company Shares. Owner is and will be on the Closing Date the sole record and beneficial owner and holder of the Company Shares, free and clear of all Encumbrances. Any prior holder of Company equity has, prior to the date of this Agreement, transferred such equity to the Company or Owner.

(d) Litigation. To the knowledge of Owner, there is no Proceeding that has been commenced that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement and the Related Agreements.

(e) Brokers' Fee. Owner has no Liability, and has not entered into any contract or agreement, written or oral, which could require the Company or Buyer, to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES REGARDING ASSIGNEE

Buyer represents and warrants to the Company and Owner as of the date hereof and as of the Closing Date as follows:

Section 4.1 Organization of Buyer. Buyer is a corporation duly formed, validly existing and in good standing under the laws of the State of Hawaii.

Section 4.2 Authorization; Binding Effect. Buyer has all requisite corporate power and authority to execute and deliver, and perform its obligations under, this Agreement and the Related Agreements and to perform its obligations under this Agreement and the Related Agreements and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Buyer of this Agreement and the Related Agreements to which it will be a party and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by Buyer's manager, and no other corporate proceeding or other action on the part of Buyer is necessary to authorize this Agreement, the Buyer's Related Agreements or the transactions contemplated hereby and thereby. Each of this Agreement and the Related Agreements to which Buyer is a party, upon execution and delivery, will be a legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except insofar as enforcement may be limited by bankruptcy, insolvency, or other laws affecting generally the enforceability of creditors' rights and by limitations on the availability of equitable remedies.

Section 4.3 Noncontravention; Consents. Neither the execution and the delivery of this Agreement and the Related Agreements, nor the consummation of the transactions contemplated by this Agreement and the Related Agreements, will: (a) violate any material Legal Requirements to which Buyer is subject or any provision of the organizational documents of Buyer; or (b) result in a material breach of, constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, any contract, agreement, lease, license, or other arrangement to which Buyer is a party or by which it is bound or to which its assets are subject. Except as set forth in this Agreement, Buyer does not need to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority or other Person in order for Buyer to consummate the transactions contemplated by this Agreement.

Section 4.4 Financial Capability. Subject to the satisfaction or waiver of the conditions set forth in Section 7.1, Buyer, on the Closing Date will have, immediately available sufficient unrestricted funds to enable it to consummate the transactions contemplated hereby.

Section 4.5 Certain Proceedings. To Buyer's knowledge, as of the Agreement Date there is no Proceeding that has been commenced that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement and the Related Agreements.

Section 4.6 Brokers' Fees. Buyer has no Liability to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement.

ARTICLE V COVENANTS

Section 5.1 Commercially Reasonable Efforts. Except where a different standard of conduct is specifically contemplated by this Agreement (in which event such standard will apply), each Party will use its commercially reasonable efforts to take all actions and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement in the most expeditious manner practicable (including using commercially reasonable efforts to cause the conditions to the applicable Closing set forth in Article VII for which such Party is responsible to be satisfied as soon as reasonably practicable and to prepare, execute and deliver such documents and instruments and take or cause to be taken such other and further action as any other Party may reasonably request).

Section 5.2 Announcements. No Party shall, without the prior written consent of the other, issue any press release or make any other public announcement, except that the Parties shall cooperate to make a mutually agreeable announcement of this transaction on the Closing Date. To the extent that a Party is so obligated by applicable Legal Requirement, in which case such Party shall give advance notice to the other, such Party shall make such disclosure and shall not characterize the transactions hereunder in any manner inconsistent with the mutually agreeable announcement.

Section 5.3 Consents and Waivers.

(a) Prior to the Closing Date, Owner shall or shall cause the Company to, at its sole expense, obtain: (i) all consents and approvals of HDOT, Land Board and Attorney General for the State of Hawaii required in connection with the transactions contemplated by this Agreement as are required under the Lease, the HDOT Annex and other Legal Requirements; and (ii) such other consents and approvals required from other Governmental Authorities or third parties whose consent or approval is required for operation of the Business, the Premises, the Lease, ownership or usage of the Equipment or other assets or for any transaction otherwise contemplated by this Agreement (together with (i), the "Required Consents"). It is understood and agreed that the receipt of the Required Consents shall be a condition of each Party's obligations to consummate the transactions contemplated hereby.

(b) Upon Buyer's reasonable request and notice, during normal business hours and at the Company's reasonable expense, the Company and Owner shall, (i) provide copies of, or where provision of copies of such information would be a unreasonable hardship on the Company, provide access during normal business hours to, the Company's books and records, financial statements and other information regarding the Company, the Business, the Premises, the Equipment and other assets, (ii) make available all personnel, directors and officers of the Company and its Affiliates to facilitate the Required Consents and transactions contemplated by this Agreement and to address Buyer's questions; and (iii) provide access to the Premises, Equipment and other assets for inspection. The Company and Owner shall act in a reasonable timely fashion to cooperate with Buyer in its preparation and execution of the Required Consents and such other agreements, instruments and other documents as Buyer or its counsel may reasonably deem necessary or advisable to effect the transactions contemplated by this

Agreement.

(c) For the purpose of minimizing the time of review of the proposed transaction by HDOT, Land Board, Attorney General for the State of Hawaii and other Governmental Authorities, no later than five (5) business days following the Agreement Date, Owner shall, or Owner shall cause the Company to, withdraw, suspend or otherwise terminate any applications or pending requests for amendments, extensions or renewals of the Lease (including any application to change or obtain new landing pads), and take all action prior to the Closing Date, and will cooperate with Buyer from and after the Closing Date, so that Buyer may obtain desired amendments, extensions or renewals of the Lease as the Buyer may desire.

(d) Prior to the Closing, the Company will continue to make repairs to the Company's hangar on the Premises, to new standards and Buyer's reasonable satisfaction, which shall include, but not be limited to, a uniform color scheme and foundation repairs.

(e) In connection with the Required Consents and as otherwise required by the Lease, HDOT Annex and applicable Legal Requirements, Buyer shall be solely responsible for, and shall remit to the applicable Governmental Authority, the HDOT Premium and any other charges assessed by such Governmental Authorities.

Section 5.4 Operation of Business Pending Closing. Between the date hereof and the Closing, except as permitted by this Agreement or required by any Legal Requirement, unless Buyer otherwise consents in writing (which consent shall not be unreasonably withheld, conditioned or delayed), Owner shall, and Owner shall cause the Company to:

(a) conduct the Business, use the Premises, Equipment and other assets, maintain the Contracts and business relationships of the Company in the Ordinary Course of Business and in accordance with all Legal Requirements, including using commercially reasonable efforts to preserve and maintain the Company, Premises, Equipment, other assets, Permits and Government Authorizations;

(b) not: (i) sell, lease, license or dispose of or agree to sell, lease, license or dispose of any of the Improvements, Equipment or other assets of the Company unless replaced with similar items of substantially equal or greater value and utility; (ii) assign, transfer or set over the Lease, the Premises or any Contract to any entity; or (ii) dissolve, liquidate, merge or consolidate with any other entity;

(c) maintain the Premises and Equipment set forth on Schedule 3.5 in good operating condition, ordinary wear and use excepted;

(d) not seek to amend, renew or extend the Lease or any Contract;

(e) not permit the Company to: (i) incur any liability for Indebtedness or (ii) create, assume or permit to exist any Encumbrances, except for Permitted Encumbrances;

(f) hire any employee or, except as necessary to maintain, repair or improve the Premises, the Equipment or other assets, engage any consultant or contractor;

(g) maintain in full force and effect policies of insurance as required under Article X the Lease and any other coverage in the amounts as the Company and Owner have maintained in the Ordinary Course of Business;

(h) not take any corporate or action with the effect of changing the control of the Company or resulting in different corporate or shareholder approvals being required to approve the execution of the Agreement and the performance of the transactions contemplated hereby, including via the issuance or sale of capital stock, or options, warrants, rights of conversion or securities convertible for capital stock;

(i) not adopt a plan of liquidation, dissolution, merger, consolidation, restructuring, recapitalization or reorganization or adopt or propose any change in any of the Organizational Documents;

(j) not compromise any claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to the Company, the Business, Premises, the Equipment or any other assets of the Company;

(k) not settle or compromise any claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes, for any taxable period, except, in any case, as may be required by applicable Legal Requirements;

(l) intentionally take, or omit to take, any action if such act or omission would cause any of Owner's representations or warranties in this Agreement to become untrue; and

(m) not agree, commit or resolve to take any actions inconsistent with the foregoing.

Section 5.5 Notice. Each Party will give prompt written notice to the other Party of any fact or condition that causes or constitutes a breach of any of the representations and warranties in this Agreement, or of any action, suit, proceeding or investigation that is instituted or threatened against such Party to restrain, prohibit or otherwise challenge the legality or propriety of any transaction contemplated by this Agreement. Without limiting the foregoing, pending the Closing, the Company shall give Buyer prompt written notice of the occurrence of any of the following events of which the Company or Owner has knowledge:

(a) any event, fact or circumstance which has resulted or would reasonably be expected to result in the failure of any of the representations and warranties of the Company or Owner contained herein to be true and correct as of the date of this Agreement and at and as of the Closing;

(b) any event, fact or circumstance which has resulted or would reasonably be expected to result in the failure of any condition set forth in Section 7.1 to be satisfied prior to the Closing Date; and

(c) any Event of Loss involving assets or property having a book value, or replace or repair cost, of at least Five Hundred U.S. Dollars (\$500.00).

Section 5.6 Conveyance Free and Clear of Encumbrances. Except for Permitted Encumbrances, at or prior to the Closing, Owner shall cause the Company to obtain the release of all Encumbrances disclosed in the Schedules hereto and any other Encumbrances on the Premises and Equipment, and shall duly file releases of all such Encumbrances with each Governmental Authority or office in which any such Encumbrance or evidence thereof shall have been previously filed, and Owner shall transfer the Company Shares to Buyer and transfer and convey, or cause to be transferred and conveyed, to Buyer at Closing good and marketable title to the Company Shares free and clear of all Encumbrances. Upon Buyer's written request, the Company shall deliver to Buyer lien search reports prepared by an independent, nationally recognized reporting service dated no earlier than ten (10) days prior to the Closing, reflecting the results of UCC, tax and judgment lien searches conducted by the Company.

ARTICLE VI OTHER MATTERS

Section 6.1 Confidentiality. From and after the Closing, each Party will maintain in strict confidence, and will cause its directors, officers, employees, agents, and advisors to maintain in strict confidence, any confidential information furnished pursuant to this Agreement by the other Party and any other data and information relating to the business, customers, financial statements, conditions or operations of the other Party which is confidential in nature and not generally known to the public, unless: (a) such information is already known to such Person or to others not bound by a duty of confidentiality or such information becomes publicly available through no action of such Person in violation of this Section 6.1; (b) the use of such information is necessary in making any filing or obtaining any consent or approval required for the consummation of the transactions contemplated by this Agreement; or (c) the furnishing or use of such information is required by or necessary in connection with any Proceeding or applicable Legal Requirement.

Section 6.2 Tax Matters.

(a) Owner shall indemnify Buyer and its Affiliates and hold them harmless from and against all Taxes imposed in respect of the Company, the Business, the Equipment or other assets of the Company, the Premises or the Lease for all taxable periods or portions thereof ending on or before the Closing Date ("Pre-Closing Tax Periods"). For purposes of determining the liability of Owner for Taxes, personal property and other ad valorem Taxes shall be apportioned between Owner and Buyer, with (i) such Taxes being borne by Owner based on the ratio of the number of days in the relevant taxable period prior to and including the Closing Date to the total number of days in the taxable period with respect to which such Taxes are assessed, and (ii) such Taxes being borne by Buyer based on the ratio of the number of days in the relevant taxable period after the Closing Date to the total number of days in the taxable period with respect to which such Taxes are assessed. Owner and Buyer agree to timely pay any such Taxes and to timely file all applicable filings, reports and Tax Returns, as required by applicable law. Upon payment of any Taxes pursuant to this Section 6.2(a), the paying party shall present a statement to the non-paying party setting forth the amount of the reimbursement to which the paying party is entitled under this Section 6.2(a), together with such supporting evidence as is reasonably necessary to calculate the amount to be reimbursed. The non-paying party shall make

such reimbursement promptly but in no even later than ten (10) days after the presentation of such statement.

(b) Owner and Buyer further agree (after Closing): (i) to retain all books and records with respect to Tax matters pertinent to the Company, the Business the Equipment and other assets, the Premises or the Lease relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by any other Party, any extensions thereof) of the respective taxable periods; (ii) upon any other Party's request, to give such other Party access to such books and records which are reasonably relevant to any audit, examination, litigation, or other proceeding with respect to Taxes or any Tax Return involving the Company, the Business, the Equipment and other assets, the Premises or the Lease and to make employees and personnel available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder (iii) to abide by all record retention agreements entered into with any Governmental Authority; and (iv) to give the other Party reasonable written notice prior to transferring, destroying or discarding any such books and records, and, if any such other Party so requests, to allow such other Party within a reasonable time to take possession of such books and records to the extent they would otherwise be destroyed or discarded.

(c) After Closing, each Party shall promptly deliver to the other any notice received by it (or by an Affiliate thereof) from any Governmental Authority relating to Taxes for which such other Party is or may be liable under this Agreement. To the extent that a Party's failure to provide such notice materially prejudices the other Party's ability to defend the claim or dispute that is the subject of such notice, then such other Party's indemnification obligations shall be null and void with regard to such claim or dispute.

(d) Buyer shall pay one-half (1/2) and Owner shall pay one-half (1/2) of all governmental Taxes, fees and charges applicable to the sale of the Company Shares under this Agreement (including sales, use and real property transfer taxes and the costs of recording or filing all applicable conveyance instruments) (collectively, "Transfer Taxes"). The Parties will cooperate in the preparation, execution and filing of all Tax Returns regarding Transfer Taxes and in seeking or perfecting any available exemption from Transfer Taxes.

Section 6.3 Exclusivity. Between the date hereof and the Closing or the earlier termination of this Agreement, Owner shall not, and shall cause or direct the Company, the Company's Affiliates, directors, officers, employees and other representatives who have specific knowledge of the transaction contemplated herein to not: (a) solicit, initiate or knowingly encourage the initiation of any proposal from a third party for a purchase of the Company Shares, an assignment of the Lease, a purchase or merger of the Company, or any other transaction that would reasonably have the effect of thwarting the transaction intended by this Agreement (the "Transaction Proposal"); or (b) participate in any discussions with any third party regarding, or furnish to any third party any information in connection with, any Transaction Proposal. Between the date hereof and the Closing or the earlier termination of this Agreement, Owner shall not, and shall cause the Company not to approve any transaction which shall, directly or indirectly assign, transfer or grant the stock, control, or voting power over the Company.

Section 6.4 Section 338(h)(10) Election. At the sole election of Buyer, Buyer and Owner shall jointly make and file an election under Section 338(h)(10) of the Code with respect to the purchase for tax purposes pursuant to this Agreement.

Section 6.5 Further Cooperation. If at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as any other Party reasonably may request, all at the sole cost and expense of the requesting Party.

ARTICLE VII CONDITIONS TO CLOSING

Section 7.1 Conditions to Obligation of Buyer. The obligation of Buyer to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Buyer):

(a) Representations and Covenants.

(i) (A) All representations and warranties of the Company and Owner contained in this Agreement (other than those representations and warranties described in clause (B)) shall be true and correct as of the Agreement Date and at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which need be true and correct as of such specified date only), except to the extent that the failure of the representations and warranties of the Company and Owner contained in this Agreement to be so true and correct at and as of the Agreement Date or the Closing (or in respect of any representation or warranty that is expressly made as of a specified date, as of such date only) has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; and (B) the Fundamental Representations of the Company and Owner, as applicable shall be true and correct as of the Agreement Date and at and as of the Closing in all respects; provided, that for purposes of this Section 7.1(a), all materiality or similar qualifiers within such representations and warranties shall be disregarded.

(ii) The covenants and agreements that by their terms are to be complied with and performed by Owner at or prior to Closing shall have been complied with or performed by each of them in all material respects.

(b) Proceedings. Neither the Company, Owner nor Buyer shall be subject to any court or governmental Order, nor shall there be any action or Order of any Governmental Authority (including HDOT or Land Board action applicable to the Company, Owner, Buyer, the Business, the Premises, the Lease or the Equipment), which remains in effect, prohibiting, suspending or making illegal the consummation of the transactions contemplated hereby.

(c) Deliveries. Owner shall have complied with the obligations set forth in Section 2.6(a).

(d) Consents. The Required Consents (in form and substance reasonably acceptable to Buyer, which acceptance will not be unreasonably conditioned, delayed or withheld) shall have been obtained.

(e) Release of Encumbrances. Buyer shall have received evidence (in form and substance reasonably acceptable to Buyer) that all Encumbrances, other than Permitted Encumbrances, affecting the Premises or the Equipment have been terminated and released.

(f) No Material Adverse Effect. There shall not have occurred a Material Adverse Effect on the Premises, the Equipment or the Company's business since the date of this Agreement.

Section 7.2 Conditions to Obligation of the Company and Owner. The obligation of Owner to consummate the Closing hereunder is subject to satisfaction, at or prior to the Closing, of each of the following conditions (unless waived in writing by Owner):

(a) Representations and Covenants.

(i) All representations and warranties of Buyer contained in this Agreement shall be true and correct as of the Agreement Date and at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which need be true and correct as of such specified date only), except to the extent that the failure of the representations and warranties of Buyer contained in this Agreement to be so true and correct at and as of the Closing (or in respect of any representation or warranty that is expressly made as of a specified date, as of such date only) has not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Buyer's ability to perform its obligations hereunder; provided, that for purposes of this Section 7.2(a), all materiality or similar qualifiers within such representations and warranties shall be disregarded.

(ii) The covenants and agreements that by their terms are to be complied with and performed by Buyer at or prior to the Closing shall have been complied with or performed by Buyer in all material respects.

(b) Proceedings. Neither the Company, Owner nor Buyer shall be subject to any court or governmental Order, nor shall there be any action or Order of any Governmental Authority (including HDOT or Land Board) action applicable to the Company, Owner, Buyer, the Premises, the Lease or the Equipment, which remains in effect, prohibiting, suspending or making illegal the consummation of the transactions contemplated hereby.

(c) Deliveries. Buyer shall have complied with each of its obligations set forth in Section 2.6(b).

(d) Consents. The Required Consents (if any) shall have been obtained.

ARTICLE VIII SURVIVAL/INDEMNIFICATION

Section 8.1 Survival of Representations and Warranties. All statements made by Owner or by Owner on behalf of the Company herein or in the Schedules, or in any certificate delivered pursuant to Section 2.6, shall be deemed representations and warranties of Owner regardless of any investigation, audit or inspection made by or on behalf of Buyer. Except for claims involving fraud, all representations and warranties of the Company, Owner and Buyer contained in Article III and Article IV, or in the certificates delivered pursuant to this Agreement to the extent relating to such representations and warranties, will survive the Closing and will remain in full force and effect until the date that is twelve (12) months after the Closing Date, at which time they will terminate (and no claims with respect to such representations and warranties (or in such certificates, to the extent they relate to such representations and warranties) shall be made by any Person for indemnification thereafter) except that (i) the Fundamental Representations and (ii) the representations and warranties in Section 3.11 (Taxes), and, in each case, in the certificate delivered pursuant to this Agreement to the extent relating to such representations and warranties, shall terminate ninety (90) days after the expiration of the applicable statute of limitations. The covenants and agreements of the Parties contained in this Agreement that relate solely to actions prior to Closing shall survive for a period of twelve (12) months after the Closing, and all other covenants and agreements of the Parties contained in this Agreement shall survive until they are fully performed or, if earlier, until the expiration thereof set forth in the terms of such covenant and agreement. In the event a notice of indemnification is given, the right to indemnification with respect thereto shall survive the applicable survival period until such claim is finally resolved and any obligations thereto are fully satisfied.

Section 8.2 Indemnification by Buyer. From and after the Closing Date, and subject to the limitations in Section 8.5, Buyer shall indemnify and save and hold harmless Owner, its Affiliates, successors and assigns (collectively, the "Owner Indemnitees") from and against all Losses suffered by any such Owner Indemnitees resulting from or arising out of: (i) any breach by Buyer of its representations and warranties made under this Agreement or in the certificate delivered by Buyer pursuant to this Agreement; (ii) any nonfulfillment or breach of any covenant or agreement made by Buyer in this Agreement; (iii) any liability for Taxes owed by Buyer pursuant to Section 6.2; (iv) any Liability or Losses which arises out of or result from any act or omission made by Buyer in connection with the Company, the Business, the Premises, the Lease or the Equipment or the other assets of the Company following the Closing Date, including any Liability owed under the Lease which would be the responsibility of Buyer under this Agreement but for (x) Article XXX, Section A(4) and Section D(2)(c) of the Lease, (y) the HDOT Annex "Prior Approval" provisions or (z) similar provision of applicable Legal Requirements, in each case requiring that the Company maintain responsibility to HDOT under the Lease; (v) any failure of Buyer to comply with its obligations under this Section 8.2; and (vi) any fees or expenses (including without limitation, reasonable attorneys' fees) incurred by the Owner Indemnitees in enforcing their rights under this Section 8.2. Notwithstanding the foregoing, Buyer will have no Liability to Owner for any claims in respect of Section 8.2(i) with respect to which Owner has not notified Buyer in accordance with Section 8.4(a) prior to the expiration of the applicable survival period set forth in Section 8.1.

Section 8.3 Indemnification by Owner.

(a) From and after the Closing Date, and subject to the limitations in Section 8.5, Owner shall indemnify and save and hold harmless Buyer and its Affiliates, successors and assigns (the "Buyer Indemnitees") from and against any Losses resulting from or arising out of: (i) any breach by the Owner or the Company of his or its representations or warranties made under this Agreement or in the certificate delivered by Owner pursuant to this Agreement (in each case, without giving effect to any materiality or Material Adverse Effect qualifiers); (ii) any nonfulfillment or breach of any covenant or agreement in this Agreement required to be performed by the Company or Owner prior to the Closing; (iii) any substantive inaccuracy in any Exhibit or Schedule provided by the Company or Owner; (iv) any Proceedings which are due to the conduct of Owner, the Company, the Business, the Premises, or the Equipment, on or prior to the Closing Date or Owner; (v) any expenses or costs of Owner under Section 10.1 or 10.9; (vi) any Liability or Losses which arises out of or result from any act or omission made by Owner or the Company in connection with the Company, the Business, the Premises, the Lease or the Equipment or other assets prior to the Closing Date, including any Indebtedness; (vii) any liability for Taxes owed by the Company or Owner pursuant to Section 6.2; (viii) any failure of the Company or Owner to comply with their obligations under this Section 8.3(a); and (ix) any fees or expenses (including without limitation, reasonable attorneys' fees) incurred by any Buyer Indemnitee in enforcing its rights under this Section 8.3(a). Notwithstanding the foregoing, Owner will not have any Liability to Buyer for any claims in respect of Section 8.3(a)(i) with respect to which Buyer has not notified Owner in accordance with Section 8.4 prior to the expiration of the applicable survival period set forth in Section 8.1.

(b) From and after the Closing Date, and subject to the limitations in Section 8.5, Owner shall indemnify and save and hold harmless each Buyer Indemnitee from and against any Losses resulting from or arising out of: (i) any breach by Owner of its own representations or warranties made in Section 3.14 or in the certificate delivered by Owner with respect to such representations and warranties pursuant to this Agreement (in each case, without giving effect to any materiality or Material Adverse Effect qualifiers); (ii) any nonfulfillment or breach of any covenant or agreement in this Agreement required to be performed by Owner, (iii) any failure of Owner to comply with its obligations under this Section 8.3(b); or (iv) any fees or expenses (including without limitation, reasonable attorneys' fees) incurred by Buyer in enforcing its rights under this Section 8.3(b). Notwithstanding the foregoing, Owner will have no Liability to Buyer under this Section 8.3(b)(i); (x) for any claims with respect to which Buyer has not notified Owner in accordance with Section 8.4(a) prior to the expiration of the applicable survival period set forth in Section 8.1 or (y) with respect to any breach of representation, warranty or covenant by Owner hereunder.

Section 8.4 Indemnification Procedures.

(a) If an indemnified party shall desire to assert any claim for indemnification provided for under this Article VIII in respect of, arising out of or involving a claim or demand made by any Person (other than a Party hereto or Affiliate thereof) against the indemnified party (a "Third Party Claim"), such indemnified party shall notify Buyer or Owner, as the case may be (the "Indemnifying Party"), in writing of such Third Party Claim, the amount or the estimated amount of Losses sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Third Party Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material

details pertaining thereto (a "Third Party Claim Notice") promptly after receipt by such indemnified party of written notice of the Third Party Claim; provided, however, that failure to provide a Third Party Claim Notice shall not affect the indemnification provided hereunder except to the extent the indemnifying party shall have been actually prejudiced as a result of such failure. The indemnified party shall deliver to the Indemnifying Party, promptly after the indemnified party's receipt thereof, copies of all notices and documents (including court papers) received by the indemnified party relating to the Third Party Claim; provided, however, that the failure to deliver such copies shall not affect the indemnification provided hereunder except to the extent the indemnifying party shall have been actually prejudiced as a result of such failure.

(b) If a Third Party Claim is made against an indemnified party, the Indemnifying Party will be entitled to participate in the defense thereof and, if it so chooses and acknowledges without reservation its obligation to indemnify the indemnified party therefor, to assume the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to the indemnified party. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party will not be liable to the indemnified party for legal expenses subsequently incurred by the indemnified party in connection with the defense thereof, unless the Third Party Claim involves potential conflicts of interest or substantially different defenses for the indemnified party and the Indemnifying Party or the Indemnifying Party fails to diligently pursue the defense thereof. If the Indemnifying Party assumes such defense, the indemnified party shall have the right to participate in defense thereof and to employ counsel, at its own expense (except as provided in the immediately preceding sentence), separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the indemnified party for any period during which the Indemnifying Party has not assumed the defense thereof and as otherwise contemplated by the two immediately preceding sentences. If the Indemnifying Party chooses to defend any Third Party Claim, all the parties hereto shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information that are reasonably relevant to such Third Party Claim, and the use of reasonable efforts to make employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Whether or not the Indemnifying Party shall have assumed the defense of a Third Party Claim, if the indemnified party admits any liability with respect to, or settles, compromises or discharges, such Third Party Claim without the Indemnifying Party's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned), then such admission, settlement or compromise will not be binding upon or constitute evidence against the Indemnifying Party for purposes of determining whether the indemnified party has incurred Losses that are indemnifiable pursuant to this Article VIII or the amount thereof. The Indemnifying Party may pay, settle or compromise a Third Party Claim, but only with the written consent of the indemnified party and only so long as such settlement (A) includes an unconditional release of the indemnified party from all liability in respect of such Third Party Claim; (B) does not subject the indemnified party to any injunctive relief or other equitable remedy; (C) does not include a statement or admission of fault, culpability or failure to act by or on behalf of any indemnified party; and (D) does not impose any ongoing obligation of any kind on the indemnified party.

(c) If an indemnified party shall desire to assert any claim for indemnification provided for under this Article VIII other than a claim in respect of, arising out of or involving a Third Party Claim (a "Direct Claim"), such indemnified party shall promptly notify the Indemnifying Party in writing of such Direct Claim, the amount or the estimated amount of Losses sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Direct Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "Direct Claim Notice"); provided, however, that the failure to give such notification shall not affect the indemnification provided for hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure. The Indemnifying Party shall have a period of 30 days within which to respond to any Direct Claim Notice or any Third Party Claim Notice. If the Indemnifying Party does not respond within such thirty (30) day period, the Indemnifying Party will be deemed to have accepted such claim. If the Indemnifying Party rejects all or any part of such claim, Owner and Buyer shall attempt in good faith for twenty (20) days to resolve such claim. If no such agreement can be reached through good faith negotiation within twenty (20) days, either Owner or Buyer may commence an action against the other Party.

Section 8.5 Limitations on Indemnification.

(a) In no event shall the aggregate indemnification to be paid by Owner pursuant to Section 8.3(a)(i) or Section 8.3(b)(i) exceed the Purchase Price. Further, Owner shall not be required to pay any amounts in indemnification pursuant to Section 8.3(a)(i) or Section 8.3(b)(i) until such amounts exceed \$10,000.00, at which point Owner shall be (subject to other limitations in this Article VIII) obligated to indemnify the Buyer Indemnitees for all Losses under this Agreement. The limits of this Section 8.5(a) shall not apply to any claim with respect to (i) a breach of a Fundamental Representation; (ii) any intentional misrepresentation or miscertification on the part of the Company or Owner; (iii) Losses claimed pursuant to Section 8.3(a)(ii) through (ix) or Section 8.3(b)(ii) through (iv). For purposes of clarity, there shall be only one threshold which shall apply to all Losses whether arising pursuant to Section 8.3(a)(i) or Section 8.3(b)(i).

(b) No indemnified party shall be entitled to recover from an Indemnifying Party more than once in respect of the same Losses.

(c) Notwithstanding anything to the contrary in this Article VIII, in no event shall an Indemnifying Party have liability to any indemnified party for any consequential, special, incidental, indirect or punitive damages except: (i) to the extent adjudicated and owned to a third party with respect to a Third Party Claim; or (ii) in the case of consequential damages, to the extent reasonably foreseeable.

Section 8.6 Post-Closing Escrow. From and after the Closing, the Deposit will be held as the Indemnity Escrow Amount by the Escrow Agent as collateral security for the obligations of Owner to indemnify the Buyer Indemnitees under this Article VIII.

Section 8.7 Indemnity Payments. The amount of any Losses shall be reduced by any amount actually received by the Indemnified Party under insurance policies or from third parties

with respect to such Losses (in each case, net of any costs and expenses expended by the indemnified party to obtain such benefit or amount).

Section 8.8 Mitigation. Each Party shall take commercially reasonable efforts to mitigate losses, including by pursuing insurance claims and claims against third parties, and shall reasonably consult and cooperate with the other Party with a view toward mitigating Losses upon and after becoming aware of any event or condition which would reasonably be expected to give rise to any Losses that are indemnifiable hereunder.

Section 8.9 Effect of Investigation. The right to indemnification or any other remedy based on representations, warranties, covenants and agreements in this Agreement or any Related Agreement shall not be affected by any investigation conducted at any time, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement.

Section 8.10 Exclusive Remedy. Each of the Parties acknowledges and agrees that from and after the Closing Date, the indemnification provisions of this Article VIII shall be the sole and exclusive remedy of the Parties hereto for any losses arising out of any breach of the representations, warranties, covenants or agreements of the Parties contained in this Agreement, provided that nothing in this Article VIII will limit any Person's right to any remedy based on fraud, fraudulent misrepresentation or intentional misconduct or any right to any injunctive remedy. In furtherance of the foregoing, each of the Parties hereby waives, to the fullest extent permitted under applicable Legal Requirements, except in the case of fraud, fraudulent misrepresentation or intentional misconduct, any and all rights, claims and causes of action it may have against the other arising under or based upon any federal, state or local law, rule or regulation including any such rights, claims or causes of action arising under or based upon common law, tort or otherwise and relating to this Agreement, any Related Agreement (including any certificate delivered pursuant to this Agreement or the transactions contemplated hereby) other than any rights, claims or actions arising under this Article VIII.

ARTICLE IX TERMINATION

Section 9.1 Termination of Agreement. This Agreement may be terminated at any time prior to the Closing as follows:

(a) Owner and Buyer may terminate this Agreement by mutual written consent;

(b) Buyer may terminate this Agreement by giving written notice to Owner if Buyer is not in breach of this Agreement and the Company or Owner has breached any representation, warranty, or covenant contained in this Agreement in any material respect and such breach has not been cured by the Company or Owner within ten (10) days after written notice of such breach is delivered by Buyer to the Company; or

(c) Owner may terminate this Agreement by giving written notice to Buyer if neither the Company nor Owner is in breach of this Agreement and Buyer has breached any

representation, warranty, or covenant contained in this Agreement in any material respect and such breach has not been cured by Buyer within ten (10) days after written notice of such breach is delivered by Owner to Buyer.

(d) In the event that the Closing has not occurred as of 11:59 p.m. on April 1, 2017 (the "Drop Dead Date"), this Agreement shall automatically terminate (such termination, a "Delay Termination"), unless Owner and Buyer agree otherwise in writing; *provided, however*, if the Closing has not occurred as of the Drop Dead Date because Owner has not satisfied the conditions set forth in Section 7.1(a)(i) and (ii), (b), (d) or (e), no Delay Termination shall occur, unless the Buyer elects to immediately terminate this Agreement upon notice to Owner.

Section 9.2 Effect of Termination.

(a) Subject to Section 9.2(c), in the event of a termination of this Agreement as provided in Section 9.1 (following any applicable cure period), this Agreement shall forthwith become null and void and there shall be no Liability on the part of the Company, Owner, Buyer, or their respective directors, officers, employees, incorporators, members, partners, equity holders, Affiliates, agents, attorneys or representatives; *provided* that the provisions of this Section 9.2, Section 6.1 (Confidentiality), Section 10.4 (Entire Agreement), Section 10.6 (Governing Law; Waiver of Jury Trial), Section 10.9 (Expenses), Section 10.10 (Neutral Construction), Section 10.14 (Counterparts; Delivery by Facsimile/Email), shall remain in full force and effect and survive any termination of this Agreement; *provided, however*, that any such termination shall not relieve any party of any liability for any breach or default that occurred prior to such termination.

(b) Upon termination of this Agreement pursuant to Section 9.1, each Party will promptly cause to be returned to the other all documents and information obtained in connection with this Agreement and the transactions contemplated hereby, including any copies made by it or any of its agents of any such documents or information.

(c) In the event of a Delay Termination and if at the time of such Delay Termination all of the deliverables and conditions of Owner set forth in Section 2.6(a) and Section 7.1 have been satisfied or waived in writing (other than those conditions that by their nature are to be satisfied by actions taken at the Closing, which conditions would be capable of being satisfied if the Closing Date were the date of Delay Termination), then Buyer shall promptly, but in no event later than five (5) business days after the date of such Delay Termination, release the Deposit/Indemnity Escrow Fund to Owner (the "Termination Fee"). The Termination Fee provided for in this Section 9.2(c) is payable whether or not there has been a breach of this Agreement by Buyer, but will not be payable: (i) if there exists any breach by Owner at the time of the Delay Termination; or (ii) in the event of a fraud, fraudulent misrepresentation or intentional misconduct by the Company or Owner. If Buyer fails to promptly release the Termination Fee when due pursuant to Section 9.2(c), and in order to obtain such payment the Company or Owner commence a suit which results in a judgment against Buyer for payment of all or a portion of the Termination Fee, the non-prevailing party shall pay to the prevailing party its costs and expenses (including its reasonable attorneys' fees) incurred in connection with such suit, together with interest from the date of termination of this Agreement on the amounts owed at the prime rate in effect from time to time and quoted in *The Wall Street*

Journal during such period. Buyer, the Company and Owner acknowledge and agree that the Termination Fee constitutes liquidated damages and is not a penalty.

(d) The Parties acknowledge and agree that the agreements contained in Section 9.2 are an integral part of this Agreement, and that, without such provisions, no Party would have entered into this Agreement.

ARTICLE X MISCELLANEOUS

Section 10.1 Event of Loss. The risk of all Events of Loss with respect to the Company, the Business, the Premises, the Equipment and other assets at all times up to the Closing shall be borne by the Company and Owner. Upon the occurrence of an Event of Loss prior to the Closing Date, Owner shall cause the Company to take commercially reasonable steps to repair, replace and restore damage, destruction or loss to the Company, the Business, Premises, leasehold improvements, fixtures and other assets to their condition prior to any such loss, damage, or destruction. In the event of any such Event of Loss, the proceeds of any related claim payable under any insurance policy with respect thereto shall be used to repair, replace, or restore any the Premises to its former condition subject to the conditions stated below. In the event of any such Event of Loss, Owner shall notify Buyer thereof in writing as soon as practicable after becoming aware of such Event of Loss. Such notice shall specify with particularity the loss or damage incurred, the cause thereof (if known or reasonably ascertainable), and the insurance coverage. In the event that the Company, the Business or the Premises is not repaired, replaced or restored to its condition prior to any such loss, damage, or destruction on or before the Closing Date, Buyer at its option: (i) may, in the case of an Event of Loss involving a replacement, repair or restoration cost of at least Five Thousand U.S. Dollars (\$5,000.00), elect to postpone the Closing until such time as the Company, the Business or the Premises has been completely repaired, replaced or restored; or (ii) may elect to consummate the Closing and accept the Company, the Business or the Premises in its then-current condition.

Section 10.2 No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

Section 10.3 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party and without following the requirements of the Lease. Any purported assignment or delegation in violation hereof shall be null and void. Notwithstanding the foregoing, without such prior written consent of the Party, provided that such assignment is effected in accordance with the requirements of the Lease and applicable Legal Requirements, Buyer may assign this Agreement and any or all rights, interests and obligations hereunder (including Buyer's right to assume the Lease and to seek indemnification hereunder) to: (a) any Affiliate of Buyer; (b) for collateral purposes, to any holder of indebtedness of Buyer or any trustee or agent therefor; provided, in each case, that Buyer shall give Owner prior written notice of any such assignment and that any such assignment and

delegation shall not materially delay, hinder or prohibit the consummation of the transactions contemplated hereby.

Section 10.4 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto and any other agreements and documents referred to in this Agreement) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they are related in any way to the subject matter hereof. This Agreement expressly terminates and supersedes the Assignment and Assumption Agreement, dated as of July 18, 2014, by and among, the Company, Owner and Buyer.

Section 10.5 Notices. All notices, consents, waivers, and other communications under this Agreement must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt) or (b) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as a Party may designate by notice to the other Parties; provided, however, that any such change shall be effective only upon receipt by the other Parties):

If to Owner:

Kenneth D'Attilio
Smoky Mountain Helicopters, Inc.
P.O. Box 156
Hanapepe, HI 96716
Telephone: 208-290-3874

Copy to:

Mark R. Zenger
3016 Umi Street, Suite 211B
Lihue, HI 96766
Telephone: 808-632-0723
Facsimile: 808-632-0724
Email: markzenger@hawaii.it.com

If to Buyer:

AlexAir, Inc. (d/b/a Maverick Helicopters)
1620 Jet Stream Dr.
Henderson, NV 89052
Attention: John Buch
Telephone: 702-405-4351
Facsimile: 702-405-4365
Email: jbuch@flymaverick.com

Copy to:

Crowell & Moring LLP
1001 Pennsylvania Ave., NW
Washington DC 20004
Attention: Marc Warren
Telephone: 202-624-2531

Facsimile: 202-628-5116
Email: mwarren@crowell.com

Section 10.6 Governing Law; Waiver of Jury Trial. This Agreement will be governed by and construed in accordance with the laws of the State of Hawaii without giving effect to any choice or conflict of law provision or rule (whether of the State of Hawaii or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Hawaii. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.

Section 10.7 Amendments and Waivers. Nothing in this Agreement shall be deemed to waive or modify any of the provisions of the Lease, except as otherwise expressly set forth herein. No amendment of any provision of this Agreement will be valid unless the same is in writing and signed by Owner and Buyer. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant under this Agreement, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant under this Agreement or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Section 10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

Section 10.9 Expenses. Except as otherwise expressly provided in this Agreement, each of Owner and Buyer will bear its own costs and expenses (including legal fees and expenses) incurred in connection with negotiating, closing and performing this Agreement and the transactions contemplated hereby.

Section 10.10 Neutral Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Section 10.11 Further Assurances. After the Closing, each Party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

Section 10.12 Incorporation of Exhibits and Schedules. The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

Section 10.13 Headings. The Article and Section headings contained in this Agreement are inserted for convenience only and will not affect in any way the meaning or interpretation of this Agreement.

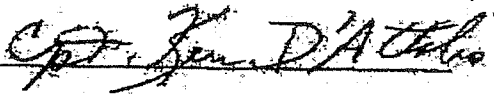
Section 10.14 Facsimile/Electronic; Counterparts Signatures. This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by facsimile transmission or electronic mail in pdf form, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or email as a defense to the formation or enforceability of a contract and each such party forever waives any such defense which will be deemed an original but all of which together will constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Stock Purchase Agreement as of the date first written above.

OWNER:

Kenneth D'Attilio



ASSIGNEE:

ALEXAIR, INC. (D/B/A MAVERICK
HELICOPTERS)

By: 

Name: Greg Rochina

Title: President

Exhibit A
HDOT Lease

[Included on the following pages]

EXHIBIT "C"

AUTHORIZATION

I. OWNER.

Name: STATE OF HAWAII
Address: Airports Division
300 Rodgers Boulevard #6
Honolulu, Hawaii 96819

II. AUTHORIZED AGENT.

Name: SMOKY MOUNTAIN HELICOPTERS, INC.,
a Delaware corporation
c/o Lorna a. Nishimitsu
Belles Graham Proudfoot Wilson & Chun, LLP

Address: 4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766

Telephone: (808) 246-6965

Facsimile: (808) 245-3277

Email: lan@kauai-law.com

III. PROPERTY.

Kauai Tax Map Key No. (4) 1-8-08:005(portion)

IV. AUTHORIZATION.

The Owner hereby authorizes the Authorized Agent, as Owner's tenant, by and through Lorna A. Nishimitsu of Belles Graham Proudfoot Wilson & Chun, LLP to act on the Applicant's behalf and to file and process on the Applicant's behalf the following applications necessary to obtain governmental permits relating to the above-identified Property:

1. Building permits, grading permits, use permits, variance permits, zoning permits, project development use permits, shoreline setback permits and Special Management Area permits issued by any department, agency, board or commission of the County of Kauai with an address of 4444 Rice Street, Suite 275 (as to the Department of Public Works for building and grading

permits) and Suite A-473, Lihue, Kauai, Hawaii (as to the Planning Department and Planning Commission).

2. Permits issued by the Department of Health of the State of Hawaii with addresses as follows: a) Kauai District Office, 3040 Umi Street, Lihue, Kauai, Hawaii 9667 and b) Kinau Hale, 1250 Punchbowl Street, Honolulu, Hawaii 96813.
3. Permits issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii, with an address of Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

Notwithstanding the foregoing to the contrary, Authorized Agent shall (i) provide copies of any and all items described above, and (ii) obtain the written consent of Owner prior to submitting any such item.

V. RATIFICATION.

The Owner hereby ratifies and approves all the following actions taken, and applications filed or to be filed by the Authorized Agent with regard to the Property:

1. Special Management Area Permit Assessment(s).
2. Class IV Zoning Permit
3. Such additional or other permits determined to be required by any governmental agency having jurisdiction and control over the subject matter.

VI. MISCELLANEOUS.

The terms and conditions of this Authorization may be amended or expanded only by the written consent of the Owner. This authorization may be terminated unilaterally by written notice of Owner to Authorized Agent and such termination shall be effective upon receipt.

DATED: 1/28/19.

OWNER:

STATE OF HAWAII

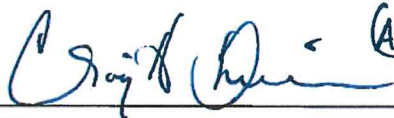
By  (AIR-K ADM)
Name: _____
Its: Director, Department of Transportation

EXHIBIT "D"

AUTHORIZATION

I. **APPLICANT/LESSEE.**

Name: SMOKY MOUNTAIN HELICOPTERS, INC., a Delaware corporation

Address: 1620 Jet Stream Drive
Henderson, Nevada 89052

and

P. O. Box 156
Hanapepe, Kauai, Hawaii 96716-0156

II. **AUTHORIZED AGENT.**

Name: Lorna A. Nishimitsu
Belles Graham Proudfoot Wilson & Chun, LLP

Address: 4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766

Telephone: (808) 246-6965

Facsimile: (808) 245-3277

Email: lan@kauai-law.com

III. **PROPERTY.**

Kauai Tax Map Key No. (4) 1-8-08:005(portion)

IV. **AUTHORIZATION.**

The Applicant, as Lessee of the property described above, hereby authorizes Lorna A. Nishimitsu of Belles Graham Proudfoot Wilson & Chun, LLP to act on the Applicant's behalf and to file and process on the Applicant's behalf the following applications necessary to obtain governmental permits relating to the above-identified Property:

1. Building permits, grading permits, use permits, variance permits, zoning permits, project development use permits, shoreline setback permits and Special Management Area permits issued by any department, agency, board or commission of the County of Kauai with an address of 4444 Rice Street, Suite 275 (as to the Department of Public Works for building and grading permits) and Suite A-473, Lihue, Kauai, Hawaii (as to the Planning Department and Planning Commission).
2. Permits issued by the Department of Health of the State of Hawaii with addresses as follows: a) Kauai District Office, 3040 Umi Street, Lihue, Kauai, Hawaii 9667 and b) Kinau Hale, 1250 Punchbowl Street, Honolulu, Hawaii 96813.
3. Permits issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii, with an address of Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

Notwithstanding the foregoing to the contrary, Authorized Agent shall (i) provide copies of any and all items described above, and (ii) obtain the written consent of Owner prior to submitting any such item.

V. RATIFICATION.

The Owner hereby ratifies and approves all the following actions taken, and applications filed or to be filed by the Authorized Agent with regard to the Property:

1. Special Management Area Permit Assessment(s).
2. Shoreline Setback Assessment(s).
3. Class IV Zoning Permit
4. Such additional or other permits determined to be required by any governmental agency having jurisdiction and control over the subject matter.

VI. MISCELLANEOUS.

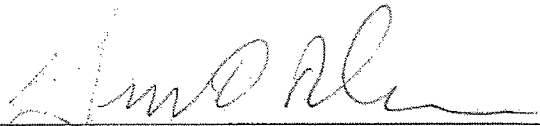
The terms and conditions of this Authorization may be amended or expanded only by the written consent of the Owner. This authorization may be terminated unilaterally by written notice of Owner to Authorized Agent and such termination shall be effective

upon receipt.

DATED: 1/15/19.

APPLICANT:

SMOKY MOUNTAIN HELICOPTERS, INC., a
Delaware corporation

By 

Name:

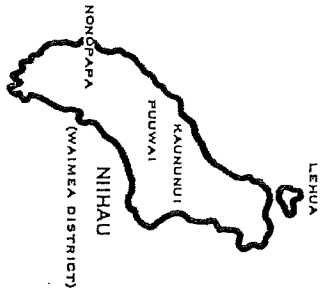
Its:

President
Gregory D Rochant

EXHIBIT "E"

EXHIBIT "F"

KAUAI



INDEX MAP OF HAWAII 4th DIVISION

LEGEND
--- ZONE BOUNDARY
⑤ ZONE NUMBER

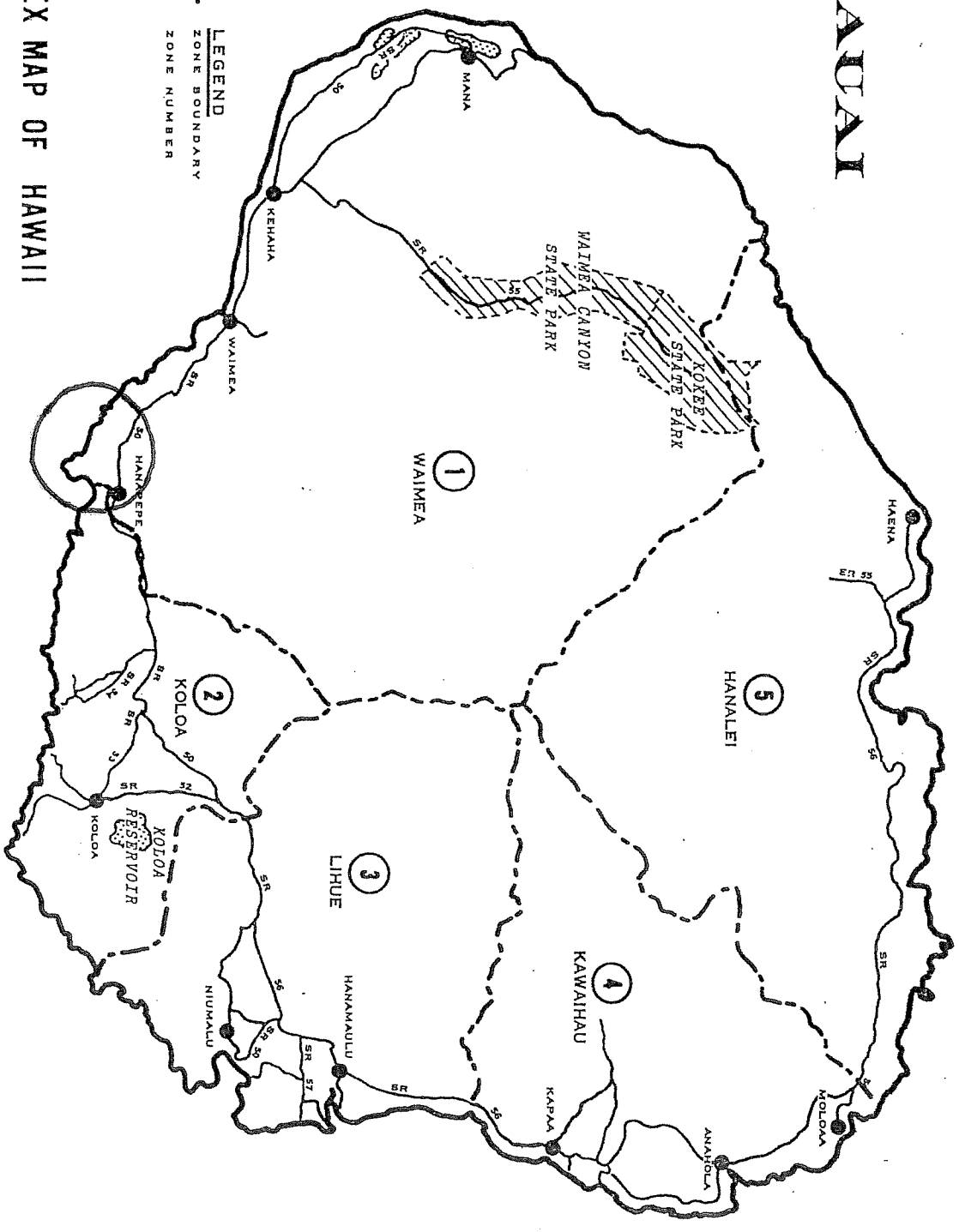


EXHIBIT "F"

EXHIBIT "G"

EXHIBIT "H"

EXHIBIT "I"

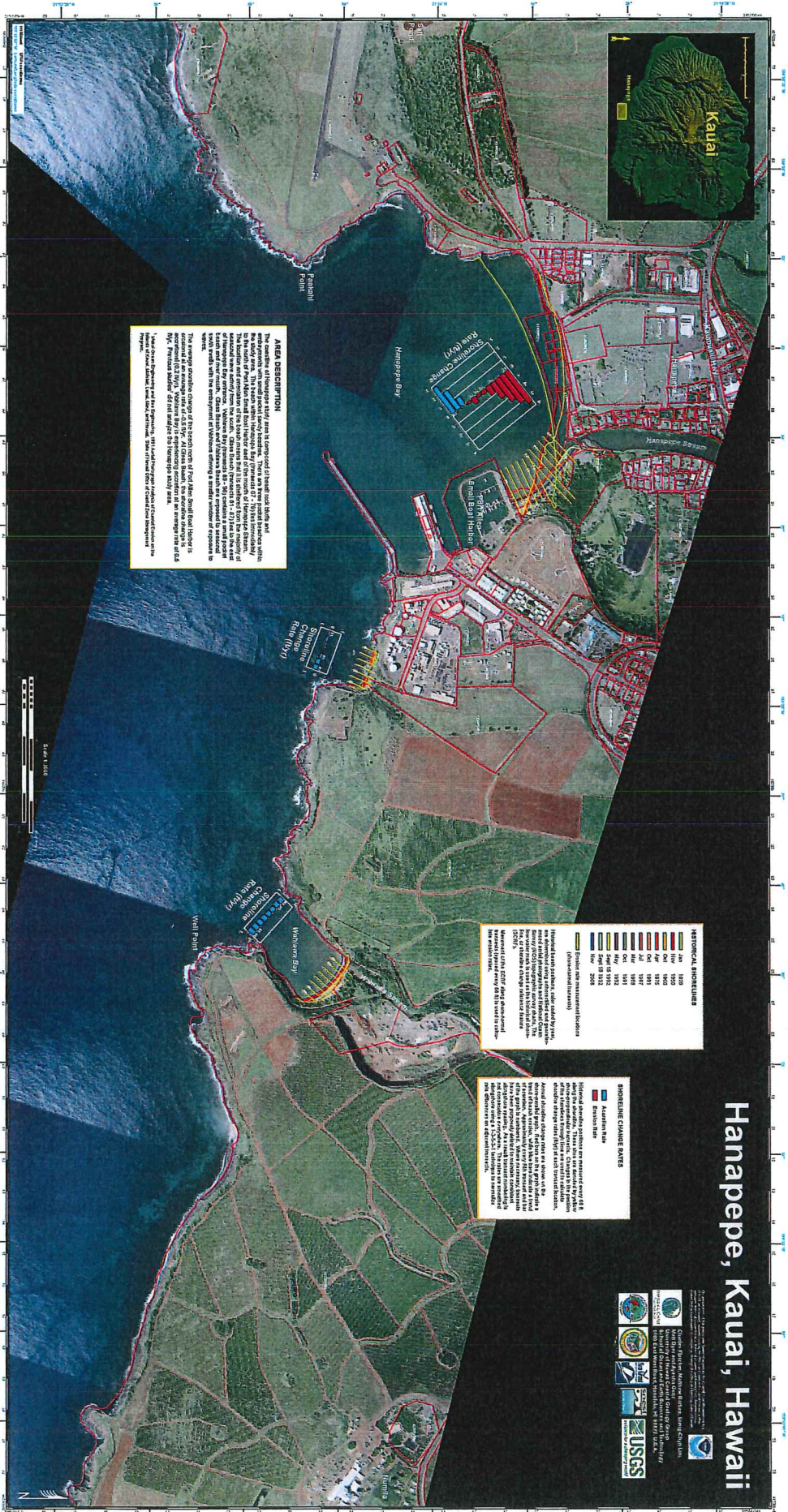
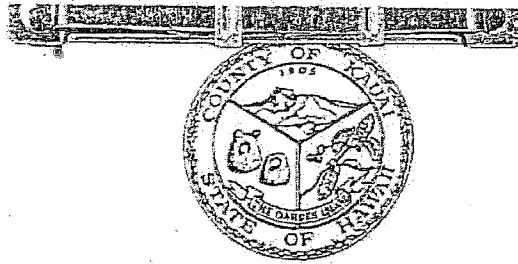


EXHIBIT "I"

EXHIBIT "J"

BRYAN J. BAPTISTE
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

MYLES S. HIRONAKA
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96765-1326

TELEPHONE: (808) 241-6577 FAX: (808) 241-6599

March 30, 2005

COPY

Department of Transportation - Airports Division
State of Hawaii / Inter-island Helicopters
400 Rodgers Blvd., Ste. 700
Honolulu, HI 96819-1880

Subject: Special Management Area Minor Permit SMA(M)-05-18
Construction of Aircraft Hanger & Above-ground Fuel Storage Tank
TMK:1-8-08:05, 04 por., Hanapepe Airport, Hanapepe, Kauai

Based on the information submitted, we have completed our review and assessment of the subject proposal and hereby issue a Special Management Area Minor Permit authorizing, as represented, construction of a 6,000 s.f. metal hanger building and an above-ground fuel storage tank as proposed in your application, and located in Hanapepe.

Approval of the application is subject to the following conditions:

1. As represented, the applicant shall use appropriate erosion control measures during and after clearing activities. Cleared areas shall be re-vegetated immediately following completion of clearing. No grading or grubbing as defined in the County's Grading and Grubbing Ordinance is permitted under this approval.
2. If historic/cultural remains such as archaeological artifacts, charcoal deposits or human burials are found during construction, the applicant shall stop work in the immediate area, and shall contact the State Historic Preservation Division (SHPD) at 742-7033, and the Planning Department, to determine appropriate action.
3. Upon construction completion of the hanger building and the fuel storage tank improvements, all temporary structures (sheds, shipping containers, etc.) associated with Inter-island Helicopter's operation shall be removed.

AN EQUAL OPPORTUNITY EMPLOYER

EXHIBIT "J"

Department of Transportation - Airports Division
State of Hawaii / Inter-island Helicopters
March 30, 2005
Page 2

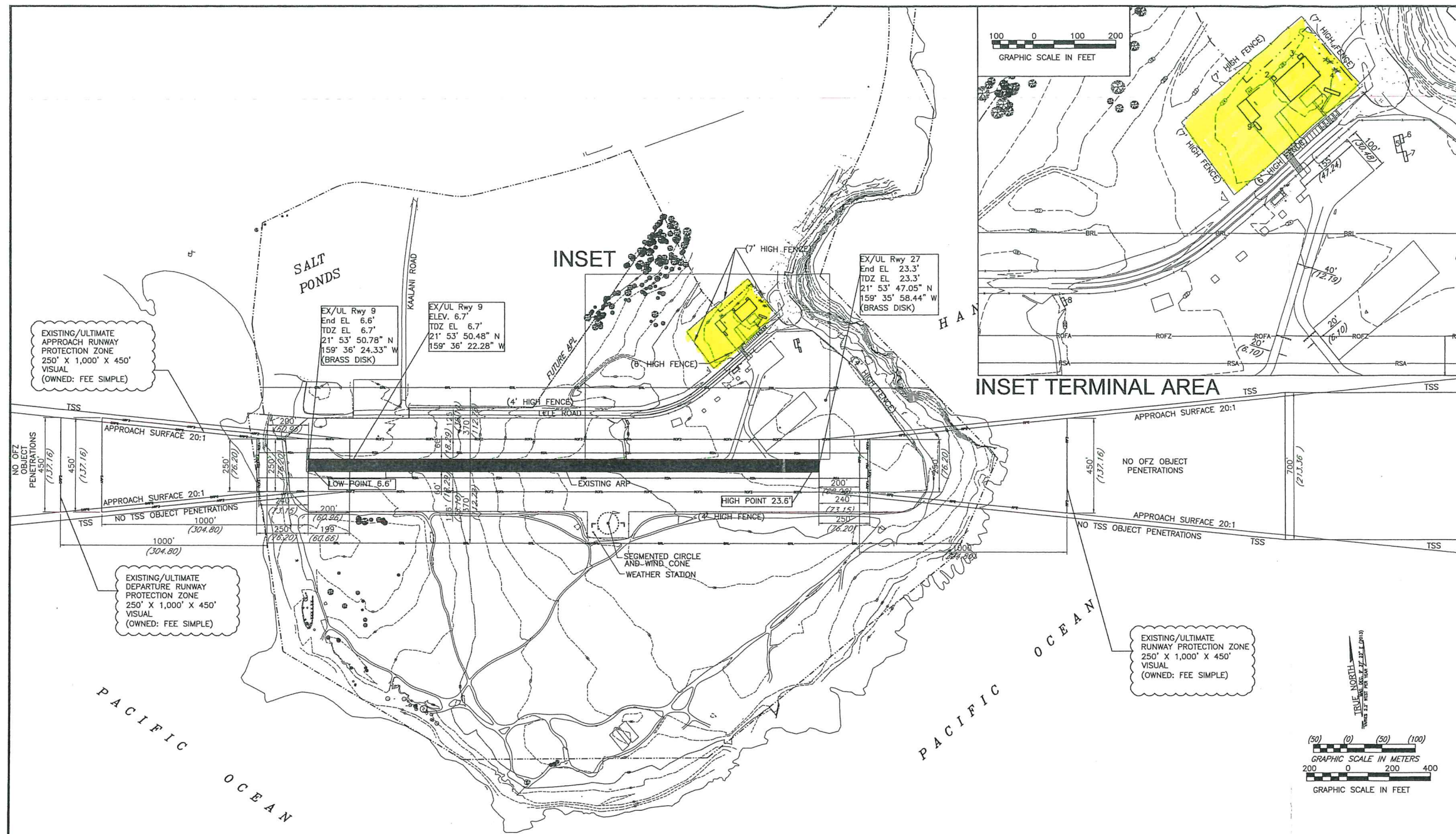
4. The applicant shall submit and receive approval, for a landscape plan utilizing native plants or landscaping common to the area, from the Planning Department. The approved landscape plan shall be implemented (including installation) prior to the completion of construction and prior to occupancy of the new hanger building.
5. The hanger building and the above-grade fuel storage tank shall be painted utilizing dark to medium earth tone colors. Color samples shall be submitted to, and approved by, the Planning Department prior to occupancy of the new hanger building.
6. Any additional structures (i.e. Hangars, storage buildings, restrooms, etc.) proposed for this property and within the State's Hanapepe airport facility shall require a Special Management Area (SMA) Use permit approved by the Kauai Planning Commission and processed through public hearing procedures. Minor upgrades to communication and safety equipment required under the Federal Aviation Administration's (FAA) standards for the operation of the existing facility may not be subject to this requirement.
7. The applicant is advised that there may be additional government agency requirements, and it shall be the applicant's responsibility to resolve those requirements with the respective agency(ies).


LENK COSTA
Director of Planning

IKC

c: SHPD
Public Works
Inter-island Helicopters

EXHIBIT "K"



Airports Division
DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII

PACIFIC OCEAN

PORT ALLEN AIRPORT

LOCATION PLAN
NO SCALE

DSGN.	DRWN.	CHKD.	APPD.
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KEY PLAN / NOTES :

VICINITY MAP
NO SCALE

THE PREPARATION OF THIS INSET WAS FINANCED IN PART THROUGH AN AIRPORT IMPROVEMENT GRANT FROM THE FEDERAL AVIATION ADMINISTRATION UNDER THE PROVISIONS OF SECTION 502 OF THE AIRPORT AND AIRWAYS IMPROVEMENT ACT AS AMENDED BY THE AIRPORT AND AIRWAYS SAFETY EXPANSION ACT OF 1987.

NOTES:

- COORDINATES AND AZIMUTHS REFERENCED TO HARN03 (HARN)
- AZIMUTHS TURNED CLOCKWISE FROM TRUE SOUTH
- ELEVATIONS (FT) REFERENCED FROM MEAN SEA LEVEL (MSL)
- BACKGROUND SOURCE U.S.G.S. TOPO QUADS HAWAIIPE, HI 2013
- AERIAL IMAGES: CAD PHOTOGRAMMETRY CONSULTANT, INC. 07-12-2013
- TOPOGRAPHIC DATA, ESRI SURVEYING & MAPPING INC. 11-08-2013
- THIS DRAWING IS FOR PLANNING PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION AND ADDITIONAL PURPOSES.

NO.	DATE	REVISIONS
-----	------	-----------

CONDITIONALLY APPROVED
SUBJECT TO COMMENTS OF LETTER
DATED 6-14-2017

[Signature]
Airports District Office
FAA, Western-Pacific Region

REFER TO FAA LETTER DATED: JUN 14 2017

DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII

APPROVED:

[Signature] 3/2014
DIRECTOR OF TRANSPORTATION DATE

PROJECT TITLE :

AIRPORT LAYOUT PLAN
AT
PORT ALLEN AIRPORT
HAWAIIPE, KAUAI

PROJECT NO. :

AS1011-25

SHEET TITLE :

AIRPORT LAYOUT PLAN

DATE:	MARCH, 2014	SHEET	3
DWG. NO.:		OF 9 SHEETS	

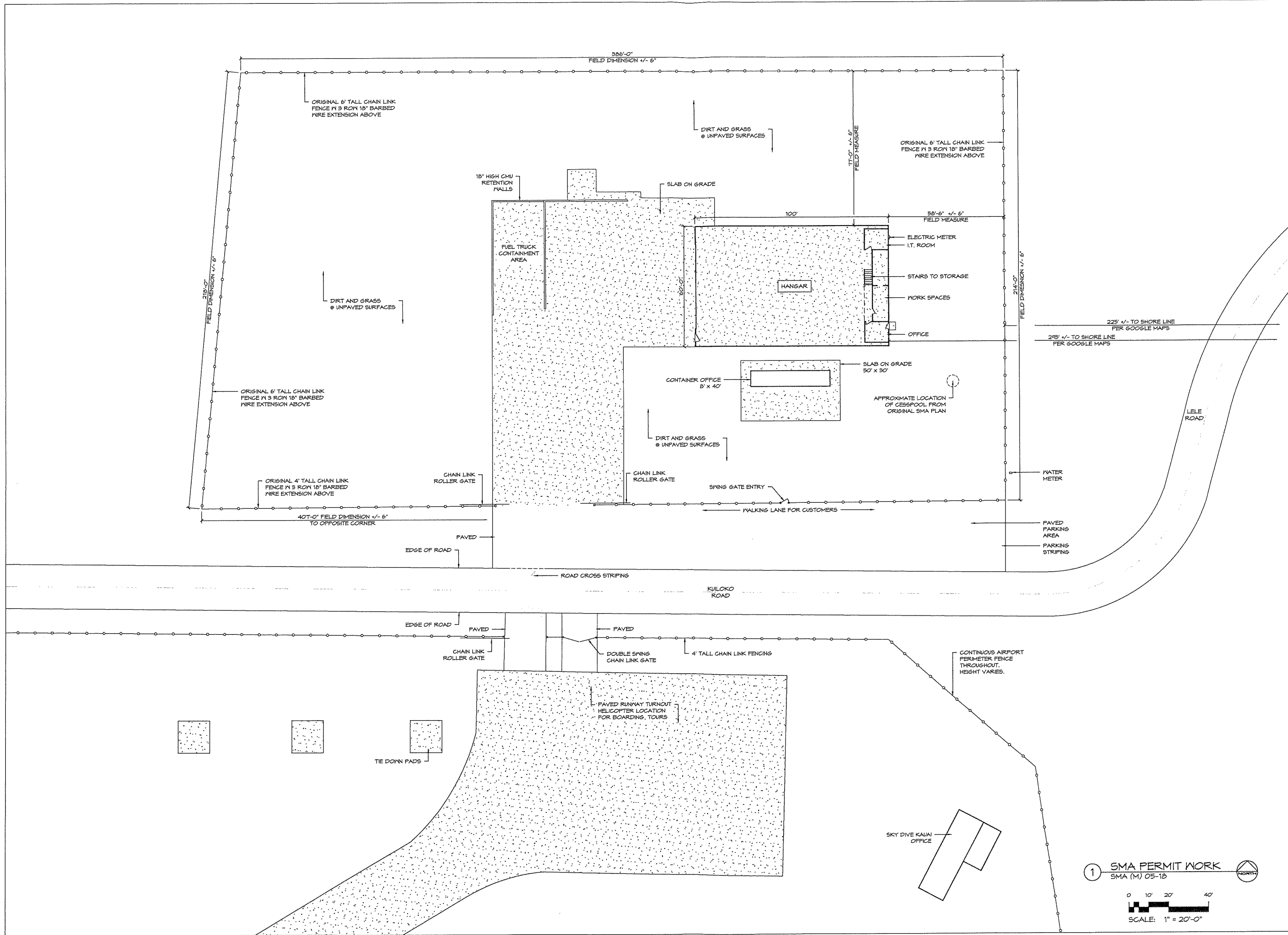
RUNWAY DATA				
	EXISTING		ULTIMATE	
	9	27	9	27
RUNWAY IDENTIFIERS	9	27	9	27
CRITICAL AIRCRAFT	CESSNA 206		CESSNA 206	
RUNWAY DESIGN CODE (AAC/ADG/RVR)	B/I/VIS		B/I/VIS	
RUNWAY REFERENCE CODE (AAC/ADG/RVR)	B/I/VIS		B/I/VIS	
WINGSPAN (FT)	36.00		36.00	
UNDERCARRIAGE WIDTH (FT)	5.75		5.75	
APPROACH SPEED (KNOTS)	92		92	
MTOW (LBS)	3,600		3,600	
RUNWAY LENGTH (FT) X WIDTH (FT)	2,450 X 60		2,450 X 60	
EFFECTIVE GRADIENT (%) - LONGITUDINAL	0.69		0.69	
MAXIMUM GRADIENT (%) - LONGITUDINAL	0.69		0.69	
WIND COVERAGE (%)	85.57		85.57	
RUNWAY END COORDINATES - LATITUDE (N)	21° 53' 50.89"	21° 53' 47.21"	21° 53' 50.78"	21° 53' 47.05"
(NAD 83 - HARN) LONGITUDE (W)	159° 36' 24.30"	159° 35' 58.58"	159° 36' 24.33"	159° 35' 58.44"
RUNWAY DISPLACED THRESHOLD - LATITUDE (N)	21° 53' 50.48"	21° 53' 50.48"	21° 53' 50.48"	21° 53' 50.48"
(NAD 83 - HARN) LONGITUDE (W)	159° 36' 22.28"	159° 36' 22.28"	159° 36' 22.28"	159° 36' 22.28"
RUNWAY ELEVATIONS - END (FT)	6.6	23.3	6.6	23.3
TOUCHDOWN ZONE (FT)	6.7	23.3	6.7	23.3
HIGHPOINT (FT)		23.6		23.6
LOWPOINT (FT)		6.6		6.6
LINE OF SIGHT REQUIREMENT MET	YES		YES	
RUNWAY SURFACE TYPE	ASPHALT		ASPHALT	
PAVEMENT STRENGTH (WHEEL LOADING)	18(S)/12.5 RESTRICTED		18(S)/12.5 RESTRICTED	
PAVEMENT CLASSIFICATION NUMBER	N/A		N/A	
PAVEMENT SURFACE TREATMENT	NONE		NONE	
APPROACH VISIBILITY MINIMUMS	VISUAL	VISUAL	VISUAL	VISUAL
RSA LENGTH BEYOND RUNWAY END (FT)	240	240	240	240
WIDTH (FT)	120	120	120	120
RPZ DIMENSIONS (W / LEN / OW)	250 X 1,000 X 450	250 X 1,000 X 450	250 X 1,000 X 450	250 X 1,000 X 450
ROFA LENGTH BEYOND RUNWAY END (FT)	240	240	240	240
WIDTH (FT)	250	250	250	250
ROFZ LENGTH BEYOND RUNWAY END (FT)	200	200	200	200
WIDTH (FT)	250	250	250	250

AIRPORT BUILDING AND FACILITY LIST			
DOTA BLDG. NO.	BLDG. HT. IN FEET (AMSL)	DESCRIPTION	
1	50.5	METAL BUILDING	
2	30.0	MAINTENANCE SHED	
3	30.0	COMPRESSOR SHED	
4	36.5	OFFICE BUILDING	
5	34.5	TRAILER #1	
6	34.5	CANOPY	
7	34.5	TRAILER #2	
8	28.8	TRAILER #3	
9	34.5	ABOVE GROUND FUEL TANK	

	EXISTING	ULTIMATE		
	9	27	9	27
RUNWAY IDENTIFIERS	9	27	9	27
TAKEOFF DISTANCE AVAILABLE (TODA) (FT)	2,450	2,450	2,467	2,467
TAKEOFF RUN AVAILABLE (TORA) (FT)	2,450	2,450	2,467	2,467
ACCELERATE-STOP DISTANCE AVAILABLE (ASDA) (FT)	2,450	2,450	2,467	2,467
LANDING DISTANCE AVAILABLE (LDA) (FT)	2,261	2,450	2,268	2,467
HOLD SHORT DISTANCES (FT)	125	125	125	125
DIST TO HOLDBARS / SIGNS FROM CENTERLINE (FT)	125	125	125	125
FAR PART 77 CAT.	V	V	V	V
APPROACH SLOPE	20 : 1	20 : 1	20 : 1	20 : 1
AERONAUTICAL APPROACH SURVEY TYPE	NOT VERTICALLY GUIDED	NOT VERTICALLY GUIDED	NOT VERTICALLY GUIDED	NOT VERTICALLY GUIDED
RUNWAY DEPARTURE SURFACE	NO	NO	NO	NO
THRESHOLD SITING SURFACE (FT) (W/LEN/OW/CONT. L)	250/2,250/700/2,750	250/2,250/700/2,750	250/2,250/700/2,750	250/2,250/700/2,750
APPROACH / RUNWAY LIGHTING	NONE	NONE	NONE	NONE
RUNWAY MARKING	BASIC	BASIC	BASIC	BASIC
NAVIGATIONAL AIDS	VOR-DME	VOR-DME	VOR-DME	VOR-DME
VISUAL AIDS	NONE	NONE	NONE	NONE
TAXIWAY / TAXILANE WIDTH (FT)	25		25	
STD. SEPARATION RWY C-L TO TWY C-L (FT)	150		150	
STD SEP. RWY C-L TO FIXED/MOVABLE OBJECT (FT)	39.5		39.5	
TAXIWAY OFA WIDTH (FT)	89		89	
SAFETY AREA WIDTH (FT)	49		49	
WINGTIP CLEARANCE (FT)	20		20	
SURFACE TYPE	ASPHALT		ASPHALT	
TAXIWAY LIGHTING	NONE		NONE	

EXHIBIT "K"

EXHIBIT "L"



TreeFish LLC
 ADAM BROWN
 ARCHITECT
 808.652.9440
 5784 AHAKEA ST
 KAPAA, HI. 96746

MAVERICK HELICOPTERS

3441 KUILOKO ROAD
 HANAPEPE, KAUAI, HAWAII 96741
 TMK: (4) 1-8-008:004



Adam Brown

THIS WORK HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION. LICENSE EXPIRES: 04/20
 FOR REVIEW

REVISION

APPROVED UNDER ORIGINAL SMA

DATE: 1/14/19
 SCALE: 1" = 20'-0"
 SHEET
A 1.1

1 SMA PERMIT WORK
 SMA (M) 05-18

SCALE: 1" = 20'-0"

EXHIBIT "L"

EXHIBIT "M"



EXHIBIT "M"

EXHIBIT "N"



EXHIBIT "N"

EXHIBIT "O"

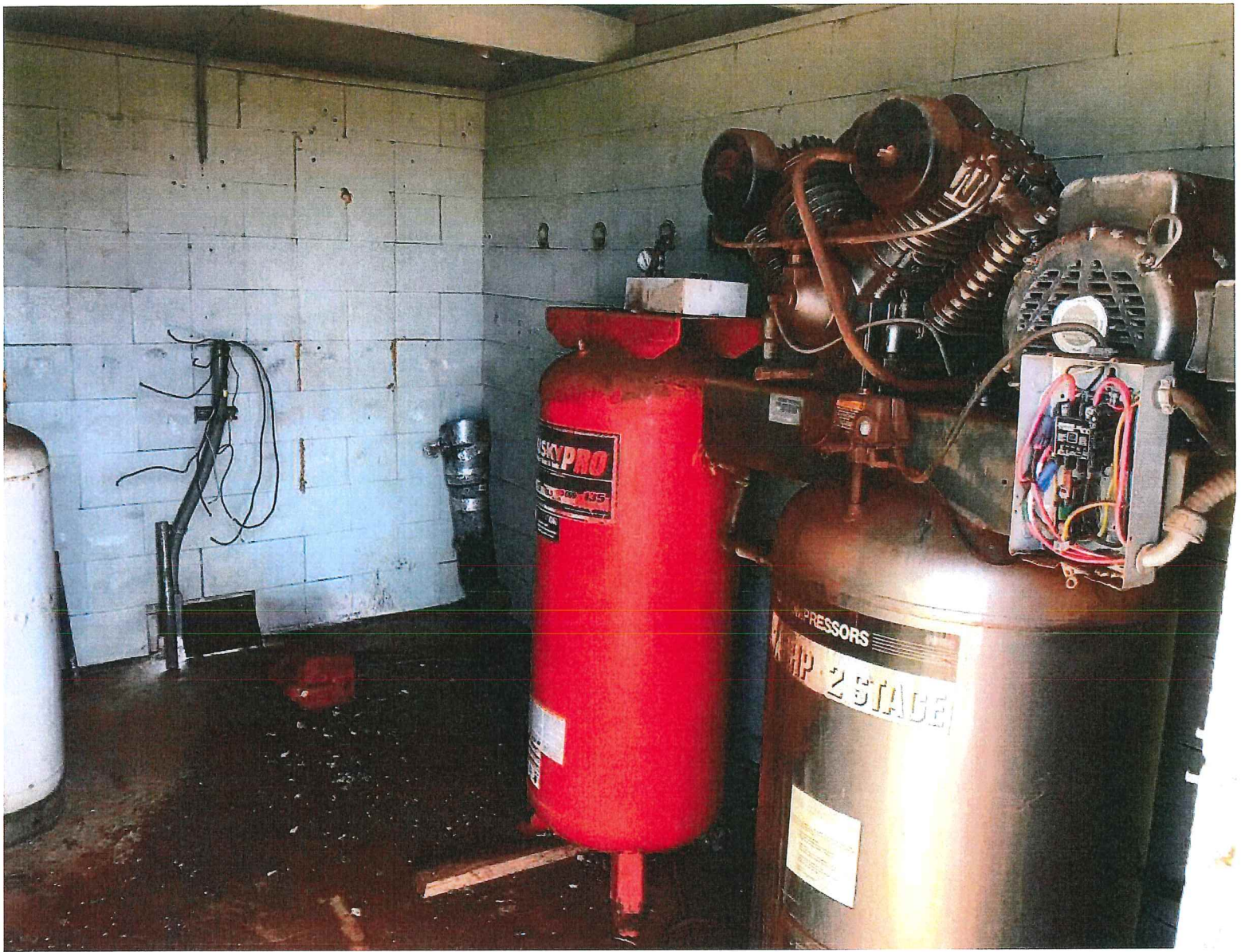


EXHIBIT "O"

EXHIBIT "P"

EXHIBIT "Q"



EXHIBIT "Q"

EXHIBIT "R"

EXHIBIT "S"

EXHIBIT "T"

JD Construction Management & Consulting Services, Inc.

PO Box 250 Kapaa, HI 96746 823-9699

January 31, 2019

Maverick Helicopters
PO Box 3297
Highway 64
Grand Canyon, AZ 86023

Attention: Mr. Brent Armenta

Reference: Port Allen, Kauai Facility
Misc. Construction Projects

Gentlemen,

We herewith submit our price to provide our consulting services which include carrying the costs of major and minor licensed contractors' scope of work as further defined below and management of same.

We have incrementally provided pricing from vendors specializing in and licensed in, their particular field of expertise. Please see below for an itemized breakdown.

1. Construct an 18x18 CMU block building as proposed/quoted by 2 Perfect Construction. Included in this quotation is a water line/hose bib and a couple of LED lights and a switch and (2) GFCI protected outlets.

Quote...\$26,500.00

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January 31, 2019

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2. Construct a bathroom in the back rear corner of the hangar building, as proposed/quoted by 2 Perfect Construction. This room, while located in the corner requires (4) new full height drywall partitions due to the shape of the Quonset hut shaped hangar. Included is painting, plumbing, electrical and tile work, etc for a complete install.

Quote...\$34,000.00

3. Provide a new concrete "house keeping" pad for a new Kohler Power System's emergency generator. Included and encompassing both the CMU building and the Kohler unit is a new wooden fence with a 4 foot gate.

Quote...\$2,800.00

4. Provide a concrete pad for the new LP tank needed for the Kohler Power System's generator. This is to keep things level and to provide an anchoring method for safety reasons.

Quote...\$1,200.00

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5. Provide the new requested interior 4 foot tall aluminum chain link fence as discussed during our walk-thru. This install is to match the recently installed perimeter fencing.

Quote...\$15,000.00

6. Provide the concrete sidewalks with the fenced-in areas. This includes the culvert/walkway directly adjacent to the hangar. Water run-off is of a concern at this point. We believe our design intent will provide the most cost effective manner.

Quote...\$35,000.00

7. Provide for the stone-scape installation we spoke about including the front lawn area with irrigation.

Quote...\$61,062.12

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8. Provide a budget for a septic tank install. This budget is extremely preliminary at this point.

Budget...\$30,000.00

Total proposal/bid amount...\$205,562.12

We hope this meets with your approval. If you have any questions, please do not hesitate to call.

Respectfully,



John Dreisch
President

BETTER SERVICE THROUGH BETTER PLANNING