



AGENDA STAFF REPORT

Control: 26001534

MEETING DATE: 08/25/2026

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): District 5

SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport

DEPARTMENT CONTACT PERSON(S): Charlene Reynolds, 949-252-5183
Evanna Barbic, 949-252-5232

SUBJECT: Approve Amended and Restated Airline Club Room Lease with American Airlines, Inc.

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Concur	Approve agreement to form	DISCUSSION
		3 Votes Board Majority

Budgeted: Yes	Current Year Cost: N/A	Annual Cost: N/A
Staffing Impact: No		Sole Source: No
Current Fiscal Year	Funding Source: N/A	County Audit in Last 3
Revenue: See Financial		years: No
Impact Section		
Levine Act Review		
Completed? Yes		
Prior Board Action: 12/13/2016 #39		

RECOMMENDED ACTION(S):

1. Approve Amended and Restated Airline Club Room Lease with American Airlines, Inc. for a term extended through August 31, 2033.
2. Authorize the Airport Director or designee to make minor modifications and amendments to the Amended and Restated Airline Club Room Lease with American Airlines, Inc. that do not materially alter the terms or financial obligations to the County, and perform all activities specified under the terms of the lease.

SUMMARY:

Approval of the Airline Club Room Lease will allow American Airlines, Inc. to continue providing airline club room services to its passengers at John Wayne Airport.

BACKGROUND INFORMATION:

On December 13, 2016, the Board of Supervisors (Board) approved an Airline Club Room Lease with American Airlines, Inc. (American). The Airline Club Room Lease expired on December 31, 2020.

Following the COVID-19 pandemic, John Wayne Airport (JWA) retained a consultant to evaluate the highest and best use of the club room spaces and to engage with each airline to assess operational requirements. Due to the pandemic, American has continued its tenancies for the second phase of the concession development program and related construction activities, as well as airport capital improvement projects, on a month-to-month basis.

The Amended and Restated Club Room Lease with American will ensure consistency with current design standards and maintain alignment with the airport's overall aesthetic. This Lease will include a minimum capital investment requirement of \$1,120,000. In exchange for the increased minimum capital investment, the term of the Amended and Restated Club Room with American will be extended through August 2033.

Prior to agreement expiration, JWA plans to issue a solicitation to continue services.

CEQA: The proposed project is categorically exempt (Class 1) from the provisions of CEQA pursuant to CEQA Guidelines Section 15301, because it involves the continued lease and operation of an existing airline club room within an existing terminal facility, and maintenance and repair of existing public facilities and mechanical equipment, involving negligible or no expansion of the existing use.

FINANCIAL IMPACT:

Revenues for these agreements are included in Fund 280, Airport Operating Fund, FY 2026-27 Adopted Budget and will be included in the budgeting process for future years.

The estimated average annual cost recovery revenue is approximately \$274,400.

The Amended and Restated Airline Club Room Lease contains a Termination for Convenience clause, which states that this agreement may be terminated for convenience by either party for any reason and without cause upon ninety days' written notice.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES/DEPARTMENTS:

N/A

ATTACHMENTS:

Attachment A – Amended and Restated Airline Club Room Lease with American Airlines, Inc.

**JOHN WAYNE AIRPORT
ORANGE COUNTY**



**AMENDED AND RESTATED
AIRLINE CLUB ROOM LEASE**

Dated _____

Between

County of Orange

and

American Airlines, Inc.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

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JOHN WAYNE AIRPORT
ORANGE COUNTY



**JOHN WAYNE AIRPORT
AIRLINE CLUB ROOM LEASE**

LIST OF EXHIBITS

EXHIBIT A	LEASED PREMISES DESCRIPTION
EXHIBIT B	FLOOR PLAN OF LEASED PREMISES
EXHIBIT C	TENANT MAINTENANCE OBLIGATIONS



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

THIS AMENDED AND RESTATED AIRLINE CLUB ROOM LEASE ("LEASE") is made and entered into this ____ day of _____, 2026, by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY"), and AMERICAN AIRLINES, INC. ("TENANT"), with COUNTY and TENANT sometimes individually referred to as "Party" or collectively referred to as "Parties."

RECITALS

WHEREAS, the COUNTY, through its Board of Supervisors, is the owner and proprietor of John Wayne Airport ("JWA" or "the Airport"), located in the County of Orange, State of California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, the TENANT is engaged in the business of and desires to provide, as a convenience for its passengers at John Wayne Airport, an airline club room/lounge facility; and

WHEREAS, COUNTY and TENANT entered into an Airline Club Room Lease dated December 13, 2016, with a term effective January 1, 2017, through December 31, 2020 ("Existing Lease"); and

WHEREAS, the COUNTY and the TENANT mutually desire to enter into this LEASE, which amends and restates the Existing Lease, in order to provide airline club room/lounge services to the passengers at the Airport through August 31, 2032; and

WHEREAS, the COUNTY has the right to permit the use of its property at the Airport and to grant the use of the Airport to the TENANT for the operation of the TENANT's airline club room/lounge facilities; and

WHEREAS, the TENANT acknowledges that this LEASE is being entered into under the provisions of CAL. PUBLIC UTIL. CODE §§21690.5 *et seq.*, and, in particular, §21690.9.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained to be observed and performed by the respective parties hereto,

THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I - DEFINITIONS

The following words, terms, and phrases, whenever used in this LEASE, shall have the meaning and significance attached to them in this Article unless otherwise apparent from context.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

SECTION 1.01 AAAC

“AAAC” shall mean the John Wayne Airport – Airport Airline Affairs Committee. The AAAC is composed of the property representatives for the airline carriers serving John Wayne Airport.

SECTION 1.02 AAAC CHAIR

“AAAC CHAIR” shall mean the Chairperson elected by the AAAC to act as the spokesperson for carriers serving John Wayne Airport.

SECTION 1.03 AIRPORT

"Airport" shall mean the John Wayne Airport, Orange County, California.

SECTION 1.04 AIRPORT DIRECTOR

"Airport Director" shall mean the Director of JWA, or his or her duly authorized designee.

SECTION 1.05 APPROVED PROJECT

“Approved Project” shall mean, as it applies to any portion of the Leased Premises, TENANT’s construction, furnishing, fixturing, Refurbishment, and remodeling of such portion of the Leased Premises as reviewed and approved by COUNTY in accordance with the Tenant Design Guidelines.

SECTION 1.06 AUDITOR-CONTROLLER

"Auditor-Controller" shall mean the Auditor-Controller, County of Orange, or designee.

SECTION 1.07 BOARD OF SUPERVISORS

"Board of Supervisors" shall mean the COUNTY’s governing body.

SECTION 1.08 COUNTY

"COUNTY" shall mean the County of Orange, a political subdivision of the State of California.

SECTION 1.09 DOT

"DOT" shall mean the U.S. Department of Transportation.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

SECTION 1.10 ENVIRONMENTAL LAWS

“Environmental Laws” shall mean any federal, State, or local laws, statutes, ordinances, codes, judgments, orders, rules, or regulations pertaining to the environment and/or human health, Hazardous Substances, Pollutants, occupational safety and health, industrial hygiene, or the environmental conditions on, at, under or about the Airport, and includes, without limitation, the following: (i) the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; (ii) Clean Water Act, 33 U.S.C. § 1251 *et seq.*; (iii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act Of 1986 (“CERCLA”), 42 U.S.C. § 9601 *et seq.*; (iv) 49 C.F.R. Parts 173 and 175; (v) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1986 and Hazardous and Solid Waste Amendments of 1984 (“RCRA”), 42 U.S.C. § 6901 *et seq.*; (vi) the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*; (vii) the Federal Water Pollution Control Act, 33 U.S.C. § 1317 *et seq.*; (viii) the Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”); (ix) California Health and Safety Code §§25100, 25395.7, 25915 *et seq.*; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 *et seq.*; (xii) Stormwater Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, *et seq.*; (xvi) National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); (xvii) National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; (xviii) The County of Orange, Orange County Flood Control District, and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Stormwater Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; (xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Substances into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Substances, as such laws are amended, and the regulations and administrative codes applicable thereto.

SECTION 1.11 RESERVED



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

SECTION 1.12 **FAA**

"FAA" shall mean the Federal Aviation Administration created under the FEDERAL AVIATION ACT OF 1958, or such successor agency as may have similar jurisdiction over the TENANT or its business and the Airport.

SECTION 1.13 **HAZARDOUS SUBSTANCES**

"Hazardous Substances" shall mean any pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to COUNTY acting in its governmental capacity, the State of California, and/or the United States Government. The term "Hazardous Substances" includes, without limitation, any material or substance which is: (i) defined or listed as a "hazardous waste," "extremely hazardous waste," "restrictive hazardous waste" or "hazardous substance" or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; poly-chlorinated biphenyl compounds; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.

SECTION 1.14 **POLLUTANT**

"Pollutant" means any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

- a. Artificial materials (such as floatable plastics, wood products or metal shavings);
- b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles lawnmowers, and other common household equipment);
- c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus, and arsenic) with characteristics that cause an adverse effect on living organisms;
- d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease);
- e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity, or odor;
- f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand, or total organic carbon;
- g. Materials that contain base/neutral or acid-extractable organic compounds;
- h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act;



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

- i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment, and particulate materials in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and
- j. Any substance listed under Health and Safety Code, §25316.

SECTION 1.15 REFURBISHMENT

"Refurbishment" shall mean, without limitation, all refinishing, repair, replacement, redecorating, repainting, and re-flooring necessary to enhance the Leased Premises to a first-class condition, comparable to the standards maintained in similar airline club rooms at airports of comparable size as reviewed and approved by COUNTY in accordance with the Tenant Design Guidelines.

SECTION 1.16 TENANT DESIGN GUIDELINES

"Tenant Design Guidelines" shall mean the criteria established for design and construction of tenant projects at the Airport and may contain requirements applicable to TENANT beyond those provided by this LEASE, as may be amended from time to time.

SECTION 1.17 TERMINAL

"Terminal" shall mean the Thomas F. Riley commercial passenger terminal and concourses at John Wayne Airport, as may be modified at any time during the term of this LEASE.

SECTION 1.18 TSA

"TSA" shall mean the Transportation Security Administration of the U.S. Department of Homeland Security, the federal agency responsible for regulation of airport security, or any such successor agency.

ARTICLE II - TERM OF LEASE

SECTION 2.01 TERM OF LEASE

The term of this LEASE shall expire on August 31, 2033.

SECTION 2.02 HOLDING OVER

In the event the TENANT shall continue in possession of the Leased Premises after the term of this LEASE, such possession shall not be considered an extension or renewal of this LEASE but shall be a tenancy on a month-to-month basis governed by the terms, conditions, and covenants of this LEASE.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

SECTION 2.03 TERMINATION FOR CONVENIENCE

This LEASE may be terminated for convenience by either party for any reason, and without cause, upon ninety (90) days' written notice.

ARTICLE III - LEASED PREMISES

SECTION 3.01 LEASED PREMISES

The COUNTY leases to the TENANT that certain property hereinafter referred to as "Leased Premises." The Leased Premises shall be accepted by TENANT in their "**as-is**" and "**where-is**" **condition** and located in the Terminal and described on Exhibit A, and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof.

SECTION 3.02 NATURE OF TENANT'S ESTATE

The TENANT acknowledges and agrees:

- A. That the COUNTY has granted to the TENANT a leasehold interest in the Leased Premises only.
- B. That the COUNTY retains a fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits connected with such fee ownership.
- C. That the TENANT has not been granted any direct or indirect right or option to purchase the Leased Premises from the COUNTY at any time during or after the termination of this LEASE.

SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES

The TENANT shall not install equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director prior to installation.

ARTICLE IV - RENT, FEES AND CHARGES

SECTION 4.01 RENT, FEES AND CHARGES

The rent, fees, and charges contained in this LEASE are established in accordance with (i) Resolution 02-062 dated March 12, 2002 (or as subsequently amended), which reasserts and establishes the John Wayne Airport Revenue Planning Policy, and (ii) the Bond Indenture for the



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

Airport Revenue Bonds, Series 1987, and the First Supplemental, Second Supplemental, Third Supplemental and Fourth Supplemental, Fifth Supplemental, and Sixth Supplemental Indenture Series 1993, 1997, 2003, 2009, and 2019, as well as any future bond indentures or supplemental indentures that may be issued or adopted from time to time. The Airport Director and the AAAC Chair shall present any modifications to the rent, fees, and charges to the AAAC prior to implementation.

The TENANT shall make payment of the following rent, fees, and charges, which shall be due and payable monthly in advance on the first day of each month with a fifteen (15) day grace period; and the TENANT agrees that the COUNTY will not invoice for such rent, fees and charges:

(1) Leased Premises

Terminal Building. Rent per square foot based on the latest schedule established by the COUNTY for exclusive use terminal space.

The Leased Premises are described in Exhibit A and shown on Exhibits B and C.

For the purpose of calculating terminal building rent, the TENANT's Leased Premises contain the square feet described on Exhibit A and shown on Exhibit B.

(2) Statements

The TENANT shall submit monthly reports of gross receipts from all services, merchandise and/or food and beverage purchases made from the Leased Premises.

Upon thirty (30) days' written notice from the Airport Director, the COUNTY may modify the rent, fees, and charges described in Section 4.01. Said modification of rates and charges may not occur more often than every six (6) months. Changes may include fee revisions, establishment of new fee classifications, or such other changes as needed to respond to the TENANT's use of the Airport, the need for the COUNTY to receive fair and equitable rent, fees, and charges for all uses of the Airport, and to ensure the Airport is operated at no cost to the local taxpayer. With regard to any dispute as to what may constitute reasonable rent, fees, and charges, the TENANT shall first exhaust all remedies provided by applicable federal law and FAA regulations. At the end of each modification period, the COUNTY shall establish monthly fees and any underpayments or overpayments by the TENANT to the subsequent rates and charges period. At the discretion of the COUNTY, overpayments may be refunded via credit memo and underpayments may be invoiced.

Notwithstanding anything in this LEASE to the contrary, all amounts payable by the TENANT to or on behalf of the COUNTY under this LEASE, whether or not expressly denominated as rent, shall constitute rent for the purposes of the U.S. BANKRUPTCY CODE, 11 U.S.C. §502(b)(6).



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

The TENANT shall notify the Airport in writing within thirty (30) days of filing a petition for bankruptcy.

SECTION 4.02 PAYMENT PROCEDURE

- A. **Place of Payment and Filing.** Payments and statements required by Section 4.01 and 4.06 in this LEASE shall be delivered to the County of Orange, Office of the Auditor-Controller, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626.

The designated place of payment and filing may be changed at any time by the COUNTY upon ten (10) days' written notice to the TENANT. Payments may be remitted by Automated Clearing House (ACH)/deposit to the COUNTY's designated bank account or made by check payable to the County of Orange. The TENANT assumes all risk of loss if payments are made by mail.

- B. **Form of Payment.** All sums due under this LEASE shall be paid in lawful money of the United States of America without offset or, deduction or prior notice or demand. No payment by the TENANT or receipt by the COUNTY of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and the COUNTY shall accept such check or payment without prejudice to the COUNTY's right to recover the balance of the amount due or pursue any other remedy in this LEASE. All electronic payments must be remitted by Automated Clearing House (ACH)/ deposit to the COUNTY's designated bank account, or any future mode prescribed by the COUNTY. Any fees assessed to the COUNTY's bank account due to the use of other forms of payment (e.g., wire transfer) not prescribed or approved by the COUNTY shall be passed through to TENANT plus a twenty-five dollar (\$25.00) processing fee.

- C. **Penalty for NSF Check.** In the event a check submitted by TENANT is returned for non-sufficient funds ("NSF"), TENANT agrees to pay COUNTY a service charge in the amount of twenty-five dollars (\$25) for the first check and thirty-five dollars (\$35) for each subsequent check. TENANT is liable for treble damages pursuant to California Civil Code Section 1719.

SECTION 4.03 CHARGE FOR LATE PAYMENT

The TENANT hereby acknowledges that the late payment of rent or any other sums due hereunder will cause the COUNTY to incur costs not contemplated by this LEASE, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, or lost interest income.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

Accordingly, if any payment of rent as specified in Section 4.01 in this LEASE or of any other sum due the COUNTY is not received by the COUNTY by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid shall be added to the payment, and the total sum shall become immediately due and payable to the COUNTY. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid.

The TENANT and the COUNTY hereby agree that such late charges represent a fair and reasonable estimate of the costs that the COUNTY will incur by reason of the TENANT's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by the COUNTY shall in no event constitute a waiver of the TENANT's default with respect to such overdue payment or prevent the COUNTY from exercising any of the other rights and remedies granted hereunder.

SECTION 4.04 PROVISION AGAINST SET-OFFS

It is the obligation of the TENANT to pay all rent, fees, and charges, free of any set-offs or claims, in the amount and at the times specified in this LEASE. In the event that the TENANT desires to contest the validity or amount of any such fees and charges, the TENANT shall first pay the same to the COUNTY and may then seek a refund in any appropriate forum.

SECTION 4.05 SECURITY DEPOSIT

The TENANT, prior to the commencement of operations, shall deposit with the COUNTY a security deposit approximately three (3) times the estimated monthly rent, fees and charges as determined by the Airport Director, ("Security Deposit".)

Concurrently with each revision of the rent pursuant to Section 4.01 in this LEASE, the security deposit to be provided by the TENANT shall be adjusted to approximately three (3) the estimated monthly rent, fees, and charges as determined by the Airport Director to guarantee the faithful performance by the TENANT of its obligations under this LEASE and the payment of all rent, fees, and charges due hereunder. In no event shall the amount of the Security Deposit be less than the existing Security Deposit. The amount of the Security Deposit will not be increased unless the adjusted Security Deposit is equal to or more than one hundred twenty percent (120%) of the prevailing Security Deposit.

The security deposit shall take one of the forms set out below and shall guarantee the TENANT's full and faithful performance of all the terms, covenants, and conditions of this LEASE:

- A. A Letter of Credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the terms, covenants, and conditions of this LEASE are on deposit and guaranteed for



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

payment, and agreeing that said funds shall be trust funds securing TENANT's performance and that all or any part shall be paid to COUNTY, or order upon demand by Airport Director. Both the financial institution(s) and the form of the instrument(s) must be approved by Airport Director, or designee. The financial institution shall have a minimum long-term credit rating by two of the three Nationally Recognized Statistical Rating Organizations (NRSROs): Moody's (AA3), S&P Global (AA-), and Fitch (AA-).

- B. A Faithful Performance Bond executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form approved by the COUNTY. The surety company must have a minimum A. M. Best rating of A-/VIII as determined by the most current edition of ambest.com. Under the bond, the surety company shall guarantee to COUNTY full and complete performance of all the terms, conditions and covenants herein to be performed on the part of TENANT, including the payment of use fees as well as any and all other payments. Said bond shall be maintained at the cost of TENANT throughout the existence of this LEASE. Said Surety shall give Airport Director or designee a minimum thirty (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's or designee's prior written consent shall constitute a default under this LEASE.

Regardless of the form in which the TENANT elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the COUNTY for correcting any default or breach of this LEASE by the TENANT, its successors or assigns, or for payment of expenses incurred by the COUNTY as a result of the failure of the TENANT, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this LEASE.

Should the TENANT elect to provide either a Letter of Credit or a Faithful Performance Bond to fulfill the security deposit requirements of this LEASE, said instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to the COUNTY, or order upon demand by the Airport Director.

In the event the Airport Director withdraws all or any portion of the security deposit as provided herein, the TENANT shall, within ten (10) days of any withdrawal by the Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the term of this LEASE. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this LEASE as per Article IX of this LEASE.

The TENANT shall be obligated to maintain the security deposit in effect until the expiration date or earlier termination of this LEASE.

The security deposit, after deduction of all amounts due the COUNTY, shall be rebated, reassigned, released or endorsed by the COUNTY to the TENANT or order, as applicable, after one hundred twenty (120) days have elapsed, or at an earlier time to be determined by the Airport



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Director, following the expiration date of the term of this LEASE, provided the TENANT has fully and faithfully performed each and every term, covenant, and condition of this LEASE.

SECTION 4.06 GROSS RECEIPTS REPORT

TENANT shall deliver to COUNTY a Gross Receipts Report no later than fifteen (15) days after the end of each month during operations, in a form approved of by COUNTY, stating Gross Receipts for said month within the Leased Premises.

As used in this section, the term “TENANT” shall include TENANT, its agents, subtenants, TENANT’s licensees, or any person acting under contract with TENANT. The term “Gross Receipts” shall include all monies paid or payable to TENANT for sales made, services rendered, and customer orders fulfilled at or from the Leased Premises, regardless of when or where the customer order is placed (including outside the Leased Premises), and any other receipts, credits, rebates, allowances, internet sales, mobile app sales (owned or third-party), or revenues of any type arising out of or in connection with TENANT’s operations at the Leased Premises, including, but not limited to, branding fees, marketing fees, merchandising fees, promotional allowances, performance allowances, retail display allowances (“RDAs”), and any other type of ancillary advertising or product placement fees, and other allowances and fees.

Under Section 5.01 in this Lease entitled “USE,” TENANT may be granted the option to provide certain additional services and uses subject to further approval. The term “Gross Receipts” as it applies to these business operations shall be determined by the Airport Director, at the time approval is granted.

Gross Receipts shall not include:

- A. Any taxes imposed by law that are separately stated to and paid by a customer and directly payable to the taxing authority by TENANT.
- B. Amounts and credits received from suppliers for products and merchandise returned by TENANT.
- C. Cash and credit card refunds to customers for merchandise returned.
- D. Amounts and credits received in settlement of claims for loss of, or damage to, merchandise.
- E. Insurance proceeds received from the settlement of claims for the loss of or damages to TENANT’s property at or on the Leased Premises other than the proceeds from business interruption insurance.
- F. Inter-company store transfers.
- G. United States Postal Service stamp sales.
- H. Uniforms or clothing purchased by employees, where such uniforms or clothing are required to be worn by employees.
- I. Reimbursements from TENANT’s subtenants for any taxes, fees, franchise or license fees, utilities, or other services paid or provided by TENANT for or on behalf of its



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- subtenants; provided, however, that any reimbursement more than the actual cost of such taxes, fees, franchise or license fees, utilities, or other services shall be included in Gross Receipts.
- J. Rental, fees, and charges paid to TENANT by its subtenants pursuant to the provisions of this Lease; provided, however, that any such payment more than the amounts required hereunder shall be included in Gross Receipts.
 - K. Gift cards sold at the Leased Premises. When a gift card is redeemed or accepted as payment for a purchase at the Leased Premises, the transaction must be reported as part of Gross Receipts.
 - L. Gratuities for services performed by employees paid by TENANT or by its customers, except to the extent TENANT may be entitled to receive a portion of the gratuities.
 - M. Amounts for coupons and other forms of discounts (including but not limited to employee meals, complimentary customer meals, and the Airport employee discount), such that only the amounts received are ultimately included in Gross Receipts.

Employee discounts from the public sales price may be allowed to Airport-issued badged employees and/or TENANT's employees, provided Airport Director is first provided with the TENANT's discount policy, Airport Director approves the discount policy, and the discount is reflected on sales records. The sales records shall clearly state the public sales price, the amount of discount, and the discounted sales price.

ARTICLE V - USE, OPERATION, MAINTENANCE AND CONDITION OF PREMISES

SECTION 5.01 USE

The TENANT's use of the Leased Premises and its operations shall be limited to the operation of an airline club room for the exclusive use of the TENANT's passengers and guests. This operation is subject to the following authorized uses:

- A. Serving meals and/or snacks.
- B. Serving alcoholic beverages and soft drinks.
- C. Lounges for waiting passengers.
- D. Concierge services.
- E. Passenger ticketing operations.

Subject to the prior written approval of the Airport Director, the TENANT may be granted the option to provide those additional services and uses which are ancillary to and compatible with the operational requirements of an airline club room.



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The TENANT shall not use the Leased Premises for any other purpose and shall not engage in or permit any other activity within or from the Leased Premises.

SECTION 5.02 RULES AND REGULATIONS

The COUNTY may adopt and enforce "Airport Rules and Regulations" that the TENANT agrees to observe and obey with respect to the use of the Airport and its appurtenances, facilities, improvements, equipment, and services, provided that such rules and regulations shall not be inconsistent with safety, with applicable rules, regulations and orders including those of the FAA and TSA with respect to all operations of the Airport, and with the terms of and TENANT's rights under this LEASE. Except in the case of emergency, the COUNTY shall give the TENANT written notice and opportunity to comment on any proposed changes or additions to the Airport Rules and Regulations that could impact the TENANT's operations at the Airport before such proposed rules and regulations are adopted by the COUNTY. If requested, the COUNTY shall promptly provide a copy of such Airport Rules and Regulations to the TENANT.

The TENANT's operations under this LEASE shall comply with all Airport Rules and Regulations and TENANT shall observe, obey, comply with, and not otherwise hinder or obstruct any and all rules, regulations, laws, ordinances, statutes, or orders of any governmental authority, whether federal, state, or local, lawfully exercising authority over the Airport or the activities thereon, including compliance with FAA, TSA, and Airport security rules, regulations and plans.

To the fullest extent authorized by law, the TENANT shall be liable to the COUNTY for any and all claims, demands, damages, fines, or penalties of any nature whatsoever that may be imposed upon the COUNTY due to the TENANT's violation of any governmental rules, environmental laws, regulations or standards as now or may hereafter be promulgated or enacted, related to the TENANT's operation under this LEASE, including, but not limited to, the payment of any fines or penalties for any breach of security, arising from the unauthorized entry of any person or vehicle onto the Airport or from any other violations caused directly or indirectly by the act, omission, negligence, abuse or carelessness on the part of the TENANT, its employees, subtenants, agents or suppliers related to TENANT's operation under this LEASE.

The COUNTY shall not be liable to the TENANT for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of such right or authority provided in this LEASE, nor shall the TENANT be entitled to terminate the whole or any portion of the leasehold estate herein created by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with the TENANT's use and occupancy of the Leased Premises so as to constitute a termination in whole or in part of this LEASE by operation of law in accordance with the laws of the State of California.



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SECTION 5.03 OPERATIONAL REQUIREMENTS

TENANT shall operate the club room in a competent and efficient manner in accordance with the terms of this LEASE and consistent with similar best-in-class airline club rooms. TENANT shall conduct its business in a manner that meets the needs of Airport patrons and employees and in a manner that will reflect positively upon the TENANT and COUNTY. The TENANT shall equip, organize, and efficiently manage the club room to provide first-class service and products in a clean, safe, attractive, and pleasant atmosphere.

TENANT shall at all times maintain qualified and experienced personnel to supervise the TENANT's club room operations and provide a high standard of service to passengers and their guests at the Airport. The TENANT shall require its employees to be properly dressed, clean, courteous, and neat in appearance at all times. TENANT shall ensure employees refrain from using offensive language and acting in an otherwise offensive manner.

TENANT shall cooperate with and not interfere with the COUNTY's and other tenants' use of and operations at the Airport. TENANT shall not place any ropes, barricades, and/or stanchions on the public or common use area without prior written approval of the Airport Director.

SECTION 5.04 MAINTENANCE AND OPERATION OF LEASED PREMISES

The TENANT shall ensure that the Leased Premises are maintained and operated in an optimal manner and that the Leased Premises are kept in a safe, clean, orderly, and always in a manner satisfactory to COUNTY. To comply with these requirements, TENANT must regularly review or cause to be reviewed the Leased Premises and its operations at the Airport. The TENANT shall be responsible for making all necessary repairs required to maintain the Leased Premises and improvements in good condition. All repairs and improvements made by the TENANT to the Leased Premises shall be in compliance with all current federal, state, local laws, regulations, ordinances, and building codes, and all Airport regulations ("Codes") adopted consistent with Section 5.02. The Codes encompass all fire, life, and structural safety aspects and apply to the construction, alteration, moving, demolition, repair, and use of the Leased Premises. Any additions, alterations, repairs, and changes of use or occupancy in the Leased Premises shall comply with the provisions for new buildings and structures as set forth in the Codes. All devices or safeguards that are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed. Maintenance obligations of the TENANT are shown on Exhibit C, which exhibit is attached hereto and by reference made a part hereof.

TENANT shall be responsible for preventive and routine cleaning and maintenance of all property within the Leased Premises, whether owned by TENANT or COUNTY through the expiration of the term of the LEASE.

TENANT, at its own cost and expense, shall provide all janitorial services for the Leased Premises. TENANT shall ensure that the Leased Premises and the public areas immediately



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adjacent to the Leased Premises are kept clean and free from all rubbish and refuse arising in connection with TENANT's operations from the Leased Premises.

Cleaning by TENANT shall include collection of any TENANT-generated trash, waste, and refuse and cleanup of spills in the area immediately adjacent to the Leased Premises' entrances and exits. TENANT shall ensure that all vendors make deliveries only during the approved delivery hours and shall not permit any trash, pallets, debris, or supplies to be left in a manner that blocks or obstructs access to the designated delivery zone. Upon notice from COUNTY, TENANT shall remove any trash, rubbish, pallets, or supplies within two (2) hours. Failure to comply may result in the assessment of an administrative fee of one hundred dollars (\$100.00) per incident.

TENANT shall comply with any green waste or recycling programs implemented by the Airport including separating liquid waste, food waste, recyclables, and trash and depositing those items in the appropriate drains or bins located in the loading dock area. TENANT shall not dispose of any TENANT-generated trash in trash receptacles provided for the traveling public's convenience in the Terminal and shall only use trash dumpster locations designated by the Airport. COUNTY shall have the right to enter upon and inspect the Leased Premises at any time for cleanliness, safety and maintenance inspections. TENANT, whether within the Leased Premises or while moving through the terminal, shall use leak-proof containers. Any containers with wheels shall have wheels with pneumatic (air) or gel tires. Metal or hard rubber wheels or tires are prohibited.

The TENANT further agrees to provide approved containers for trash and recycling and to keep the Leased Premises free and clear of rubbish and litter. The Airport Director shall have the right to enter upon and inspect the TENANT's Leased Premises and other Airport facilities at any time for cleanliness, safety, and maintenance inspections as set out herein. The Airport Director shall attempt to provide reasonable notice prior to entering the TENANT's Leased Premises.

The TENANT shall immediately notify the Airport Director and the Airport Operations Center ("AOC") of any emergency posing a threat to the safety or security of any persons or property at the Airport, including but not limited to any fire, accident, serious injury or property damage, or spill or release of fuel, lubricants, solvents, sewage, Hazardous Substances, or any Non-Stormwater Discharge. The AOC can be reached by calling (949) 252-5000 or picking up any white telephone located in the terminal buildings.

In the event an emergency repair is required, TENANT shall notify COUNTY as soon as possible. Following such notice, COUNTY may inspect the repair work and require alterations if the repair is not satisfactory to COUNTY. In the event of an after-hours emergency repair, TENANT agrees COUNTY shall have the right to enter any affected portion of the Leased Premises and preform the emergency repair. TENANT covenants to promptly pay to COUNTY the costs associated with any after-hours emergency repair. All emergency repairs requiring shutdown of any Airport system or utility require prior written approval of COUNTY. If any emergency repair affects other tenants at Airport, COUNTY may, at in its sole discretion, fix the problem immediately and invoice



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TENANT. TENANT covenants to promptly pay to COUNTY any proportional costs of emergency repairs completed by COUNTY, plus 15% administrative fee, which TENANT may have contributed to the cause of the incident.

The TENANT shall designate in writing to the Airport Director an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness, and general order.

COUNTY shall be the sole and absolute judge of the quality of TENANT's maintenance of the Leased Premises. COUNTY or its representative may at any time, without notice, enter the Leased Premises to determine if maintenance satisfactory to COUNTY is being performed. If COUNTY determines that there is a present danger or safety hazard, or determines that maintenance is not satisfactory, COUNTY shall notify TENANT in writing. TENANT perform the required maintenance, to COUNTY's satisfaction, within fifteen (15) days after receipt of written notice or COUNTY, or its representative, shall have the right to enter upon the Leased Premises and perform the maintenance. However, where unsatisfactory maintenance threatens the safety, health, or welfare of the traveling public and/or Airport's facilities, TENANT shall immediately perform the maintenance. Where COUNTY or its representative performs maintenance, TENANT agrees to promptly reimburse COUNTY for the cost thereof, plus an administrative fee of fifteen percent (15%) of the maintenance costs without prior quote, which shall be paid by the TENANT within ten (10) days of receipt of a statement of said cost from the Airport Director.

The TENANT expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to the TENANT's property sustained by reason of any defect, deficiency, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system or electrical apparatus or wires serving the Leased Premises, except to the extent caused by the COUNTY's negligence or willful misconduct.

SECTION 5.05 DELIVERY OF GOODS

TENANT shall make all deliveries of money, coins, supplies, goods, products, and food and beverage through routes and entrances and in such manner and at such times and locations as designated by the Airport Director. Emergency deliveries may be made at other times subject to prior arrangements with the COUNTY. TENANT shall not leave products, carts, and inventory unattended in the concourses, hallways, and other locations. TENANT shall only utilize carts, shippers, hand trucks, and dollies that were outfitted with pneumatic (air) or gel tires to move products or merchandise from storage to concession areas. Metal or hard rubber wheels or tires are prohibited. TENANT shall ensure that its staff transporting items in the public areas have clear visibility in all directions. Items must not be over-stacked. TENANT shall ensure pallets used for delivery will be returned to the supplier or legally reused/recycled/disposed of off Airport property.



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SECTION 5.06 COMPLAINTS

All customer formal written complaints received directly or referred to TENANT by COUNTY must be responded to by TENANT within 24 hours of notice. TENANT shall make a good faith attempt to explain, resolve, or rectify the cause of the complaint.

All other issues regarding the quality of service and/or prices raised on COUNTY's own initiative may be submitted to TENANT for response, which response shall be provided by TENANT to the Airport Director within 24 hours.

ARTICLE VI - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 6.01 ENVIRONMENTAL STEWARDSHIP

TENANT shall support the COUNTY's Environmental Compliance and Stewardship program through participation in various efforts or implementation of Airport plans listed below as applicable, and through complying with Airport TENANT Guidelines. COUNTY shall provide TENANT advance notice of any proposed changes to the following plans that may affect TENANT operations:

- A. Air Quality Improvement Plan (AQIP) and Memorandum of Understanding (MOU) with the South Coast Air Quality Management District (SCAQMD).
- B. Climate Action Plan.
- C. Waste Management Plan.
- D. Stormwater Pollution Prevention Plan.
- E. Green Concessions Program.

All TENANT facilities and improvements shall meet the Airport's Tenant Design Criteria Manual and Construction Guidelines as well as Architectural Guidelines, as may be amended from time to time. All improvements shall meet the California Green Building Code (Title 24) CALGreen Tier 1. In particular, the TENANT shall implement the following conservation measures and policies as applicable:

- A. Use equipment and appliances that are ENERGY STAR rated or equivalent and EPA Water Sense or equivalent, as applicable, when replacing existing equipment and appliances.
- B. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs.
- C. Install sensors in office areas to turn off lights when unoccupied when these areas are being renovated or updated.
- D. Install energy-efficient heating and cooling equipment when replacing or upgrading.
- E. Use energy-efficient computers and servers when replacing this equipment.
- F. Select equipment with variable-speed motors and fan drives, when possible.



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G. Use paperless receipt technology, when possible.

TENANT is expected to meet all recycling and organics (food waste) reduction requirements to facilitate JWA's solid waste reduction program per the requirements of California Public Resources Code Section 42648. To the fullest extent possible, TENANT shall cooperate with COUNTY to reduce and divert waste from landfills. TENANT shall participate in COUNTY's waste diversion program, which may include waste reduction practices, including recycling, compostable containers (no Styrofoam), composting of food waste, and reuse/recycling of fats, oils, and grease.

TENANT shall implement and support the following environmental policies:

- A. The TENANT has been provided a copy of the COUNTY's Environmentally Preferable Purchasing Policy ((2022 or latest version)) and shall consider developing a similar policy that addresses the TENANT's procurement of goods and services as applicable.
- B. The TENANT shall affirm its commitment to Environmental Sustainability at the Airport. The Policy commitment shall be submitted to the JWA within thirty (30) days of LEASE execution.
- C. Upon request, the TENANT shall provide reports necessary for environmental compliance, regulatory requirements, and airport mitigation measure obligations.

TENANT shall implement applicable elements of the COUNTY's Green Concession Program as described in the Airport's Tenant Design Criteria Manual and Construction Guidelines. Elements include:

- A. Environmental Building Standards as described and detailed in the Tenant Design Criteria Manual.
- B. Comply with Federal and State laws, including SB1383, AB341, and SB32 for Waste management and diversion .
 - 1. Sort organic waste (food scraps), recyclables, cardboard, grease, and landfill waste and dispose or divert as directed by the COUNTY
 - 2. Minimize packaging and creation of waste
 - 3. Participate in a food recovery program
- C. Implementation of the COUNTY's Environmentally Preferable Materials Use upon LEASE initiation, or if a continuing TENANT, implement within six (6) months of TENANT execution.
 - 1. Only use recycling or compostable "to go" materials
 - 2. Prohibit the use of polystyrene foam materials
 - 3. Reduce or eliminate the use of single-use plastic products such as water bottles and straws.
 - 4. Prohibit the sale of beverages in non-returnable cans, metal or glass containers.



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TENANT agrees that when alternate forms of packaging are available, only items packaged in a manner most compatible with the Airport's goals of recycling, reducing litter waste, and preserving the environment shall be sold. Receipts evidencing compliance with said programs shall be kept and made available for Airport review.

SECTION 6.02 HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, AND ENVIRONMENTAL COMPLIANCE

TENANT shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this LEASE, TENANT shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the Stormwater discharge requirements, of Hazardous Materials, including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by TENANT or any of its agents, assignees, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for immediate termination of this LEASE and for immediate termination of all operations by TENANT at or on the Airport.

Notwithstanding the liability of prior TENANTS of the Leased Premises, TENANT shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In conducting a clean-up of a Hazardous Material release under this LEASE, TENANT shall comply with all applicable Environmental Laws. TENANT shall not use the COUNTY hazardous waste generator ID for waste disposal.

SECTION 6.03 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by TENANT for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration ("OSHA") requirements, including but not limited to, OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and state safety orders.

TENANT shall comply with all material usage limitations, permit record keeping, and reporting requirements imposed by federal, state, and local laws and regulations. TENANT shall properly post Manufacturer's Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations, and manufacturer's recommendations, and train employees in proper handling of all materials.



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TENANT shall submit to the COUNTY's Airport Environmental Resources Manager, annually on or before January 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks, or permit violations for the previous year.

TENANT shall provide all notices required pursuant to the Environmental Laws. TENANT shall provide prompt written notice to COUNTY within five (5) days of receipt of all written notices of violation of any Environmental Law received by the TENANT.

SECTION 6.04 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the TENANT shall indemnify, defend, and hold harmless the COUNTY, its officers, directors, agents, and employees, for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of TENANT, the TENANT's operations at the Airport or any action arising from and which involve the TENANT's officers, agents, successors, assigns, sublicensees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to the following:

- A. The TENANT's placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to TENANT's release or threatened release of Hazardous Materials on, at, and/or under the Airport.
- B. The TENANT's release or threatened release of Hazardous Materials at, on, under, and/or remaining from the Airport.
- C. The TENANT's compliance with any Environmental Law, except that TENANT's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with TENANT that take place off of the Airport. A party shall be deemed to be affiliated with TENANT if it is an employee, officer, director, agent, sublessee, assignee, contractor, or subcontractor of TENANT or if it is controlled by or under common control with TENANT.
- D. The TENANT's causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes without limitation, reasonable fees/costs/expenses for attorneys, experts, expert consultants, and all other costs incurred by COUNTY in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the



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Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, state or local governmental entity because of any Hazardous Materials being present in the soil, surface water at, on, under, or about the Airport. However, TENANT's indemnity obligation shall not apply in the event of any claims for any loss, damage, or expense arising from the sole or active negligence or willful misconduct of COUNTY or agents, servants, or independent contractors who are directly responsible to COUNTY. In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the TENANT shall, at the request of the COUNTY, defend the indemnitees with qualified counsel that the COUNTY determines, in its sole and absolute discretion, is acceptable to the COUNTY, unless the COUNTY, in its sole and absolute discretion, undertakes legal representation, in which event the TENANT shall reimburse the COUNTY for the expenses incurred by it in defending such proceeding, including reasonable attorneys' fees, expert and consultant's fees, and investigative and court costs. In the event that any monetary sum is awarded against the COUNTY and the TENANT because of the concurrent negligence of the COUNTY and the TENANT or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the TENANT agree that neither party shall request a jury apportionment. Nothing stated in this LEASE and in this indemnity obligation shall be construed as authorizing any award of attorney's fees in any action to enforce the terms of this LEASE. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this LEASE.

SECTION 6.05 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this LEASE, the environmental requirements contained in this Article shall apply.

SECTION 6.06 ANTI-IDLING POLICY

Within six months of LEASE execution, TENANT must develop, implement, and submit to the Airport Director or designee for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. TENANT's policy shall also include all sublicensee and third-party vehicles that enter Airport property at the direction of the TENANT.

ARTICLE VII - CONSTRUCTION AND IMPROVEMENTS

SECTION 7.01 CAPITAL INVESTMENT FOR REFURBISHMENT

As valuable consideration for COUNTY entering into this LEASE, but not as a payment of rent or a form of consideration for the right to occupy space at the Airport, TENANT is required to



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perform a Refurbishment of the Leased Premises within 14 months of the date TENANT receives a notice to proceed issued by the Airport. In the event TENANT fails to complete the Refurbishment within the 14 months, TENANT and COUNTY agree that COUNTY's actual damages would be extremely difficult or impossible to determine; therefore, TENANT agrees that the best estimate of the COUNTY's actual damages that may be assessed to the TENANT equal one hundred fifty dollars (\$150.00) per day and shall continue until the Refurbishment has been completed to the satisfaction of COUNTY. This amount shall be in addition to all other sums due under this LEASE. TENANT's minimum capital investment for Refurbishment of the Leased Premises shall not be less than one million one hundred twenty thousand dollars (\$1,120,000.00) ("Minimum Capital Investment"). If the Certified Capital Investment Costs, as defined in Section 7.10, for the Refurbishment are less than the Minimum Capital Investment, TENANT agrees to pay to COUNTY, within thirty (30) days of such determination, the difference between the actual Certified Capital Investment Costs and the Minimum Capital Investment. However, if the Certified Capital Investment Costs are less than the Minimum Capital Investment and TENANT delivers to COUNTY the Refurbishment construction, furnishings, and equipment for the Leased Premises, as reflected in the Approved Project, COUNTY agrees to waive its right to the difference between the Certified Capital Investment Costs and Minimum Capital Investment. Any amounts paid to COUNTY because of this provision shall not be deemed a capital investment for any other purpose under this LEASE, nor shall it be deemed payment of any rent or other fees due under this LEASE.

TENANT shall provide to County a 90% substantially complete full set of building plans within one hundred twenty (120) days of the execution of the LEASE. In the event TENANT fails to provide the 90% substantially complete building plans within one hundred twenty (120) days, TENANT and COUNTY agree that COUNTY's actual damages would be extremely difficult or impossible to determine; therefore, TENANT agrees that the best estimate of the COUNTY's actual damages that may be assessed to the TENANT equal one hundred fifty dollars (\$150.00) per day and shall continue until the building plans have been submitted.

SECTION 7.02 CONSTRUCTION AND/OR ALTERATION BY THE COUNTY

The COUNTY may alter, repair, maintain, remodel, expand, remove, or improve any of the facilities at the Airport or any of its appurtenances.

In addition, the COUNTY may reassign or relocate the TENANT's Leased Premises. The COUNTY shall provide the TENANT advance notice of such action and shall make every reasonable effort to provide the TENANT alternative space that is reasonably comparable for the TENANT's operations at the same rates and charges that the TENANT would have paid for the space being surrendered. In the event no alternative space is available, the TENANT shall surrender its space promptly to the COUNTY, provided that the TENANT shall be reimbursed for the reasonable cost of any such reassignment, reallocation, or relocation and the cost of the TENANT's unamortized investment, if any, as documented by the TENANT to the satisfaction of the COUNTY and mutually agreed to by the Airport Director and the TENANT. All of such costs,



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as well as the COUNTY's cost of providing the aforementioned alternative space, shall be included in the cost of the particular project requiring such reassignment, reallocation, or relocation.

SECTION 7.03 IMPROVEMENTS BY THE TENANT

The TENANT shall not perform any construction, including the Refurbishment, upon the Leased Premises, nor shall the TENANT modify, alter, or remove any permanent improvements lying within the Leased Premises without prior written approval of the COUNTY. Any COUNTY-approved construction, modifications, alterations, or removal of any permanent improvements by the TENANT shall be at the TENANT's expense.

- A. **Consent Required From the COUNTY.** TENANT shall not make any improvements or modifications, do any construction work on the Leased Premises, or alter, modify, or make additions, improvements, replacements, or repairs, except emergency repairs, to any structure now existing or built without prior written approval of COUNTY. TENANT shall not install any fixtures, other than trade fixtures, without the prior written approval of COUNTY. In the event that any construction, improvement, alteration, modification, addition, repair, excluding emergency repairs, or replacement is made without COUNTY approval, or done in a manner other than as approved, COUNTY may, at its discretion, (i) terminate this Lease in accordance with the provisions herein; or (ii) require TENANT to remove the same; or (iii) require TENANT to change the same to the satisfaction of COUNTY. In case of any failure on the part of TENANT to comply, COUNTY may, in addition to any other remedies available to it at law or in equity, effect the removal or change referenced above in this Section, and TENANT shall pay the cost thereof to COUNTY plus fifteen percent (15%) of the costs for administration.
- B. **Compliance with Plans and Construction Standards.** All improvements constructed by TENANT within the Leased Premises shall be constructed in strict compliance with detailed plans and specifications approved by COUNTY. TENANT is responsible to review and comply with the Tenant Design Guidelines and John Wayne Airport Construction Standards. All construction shall conform to applicable building codes, rules, regulations, and Airport's architectural standards as contained in reference document "Architect-Engineer Guide OC Public Works" and reference document "John Wayne Airport Construction Standards," which can be provided by Airport upon request. All work shall be done in conformity with Airport-approved plans, valid building and other necessary permits and shall be acceptable to COUNTY and the appropriate governmental entity inspecting such work. TENANT shall have the responsibility to obtain all required permits and to investigate and pay for any and all fees, including but not limited to Transportation Corridor Agency fees, if applicable, necessary for such construction. Airport Director's or designee's approval shall not constitute a representation or warranty as to such conformity, which shall remain TENANT's responsibility. TENANT shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA if required.



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- C. **Noninterference.** TENANT warrants that neither it nor its contractor shall in any way delay, cause delays to, or interfere with any Airport operations or other contractors working in the terminal or on the Airport, except with the prior written approval of the Airport director, as set out herein. The TENANT agrees to hold the COUNTY harmless from the cost of any time lost by the COUNTY or any damages to the COUNTY due to the actions or failure to act of the TENANT or its contractor.
- D. **Trailers and Modular Structures.** All improvements constructed by the TENANT shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of the COUNTY-approved temporary modulars or trailers during construction. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.
- E. **The TENANT's Cost and Expense.** All Refurbishment, renovation or construction by the TENANT pursuant to this Article shall be at the TENANT's sole cost and expense. The TENANT shall keep its existing or future Leased Premises and the improvements constructed thereon free and clear of all liens and shall pay all costs for labor and material arising out of such construction and shall hold the COUNTY harmless from any liability in respect thereto. The TENANT shall have the right to contest any and all liens filed against its existing or future Leased Premises. The TENANT further agrees that the COUNTY shall have the right to post notices of non-responsibility as provided by Section 8444 of the California Civil Code.
- F. **Ownership of Improvements.** All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by the TENANT must, upon completion, be free and clear of all liens, claims, or liability for labor or material and at the COUNTY's option shall become the property of the COUNTY at the expiration of this LEASE or upon earlier termination hereof. The COUNTY retains the right to require the TENANT, at the TENANT's cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

SECTION 7.04 REFURBISHMENT SCHEDULE

TENANT must submit to COUNTY, for its approval, a proposed Refurbishment schedule that sets forth the following:

- A. The anticipated date(s) of design submittals and reviews;
- B. The anticipated start date;
- C. Construction schedule; and
- D. The anticipated Refurbishment completion date.



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Approval by COUNTY of the Refurbishment schedule must be confirmed by letter executed by the Airport Director.

SECTION 7.05 SUBMITTAL AND APPROVAL OF PLANS

- A. **Submittal of Plans.** TENANT shall cause to be designed, constructed, and installed within the Leased Premises, at no cost to COUNTY, appropriate improvements to adequately accommodate those services and uses, both required and any other optional services and uses approved pursuant to the section in this Lease entitled, "PERMITTED USE." TENANT must comply with the Tenant Design Guidelines and JWA Construction Standards as may be amended from time to time.

The improvement plans prepared by TENANT and approved by Airport Director prior to the execution of this Lease shall be a plan for development of the Leased Premises or portions thereof, and the working drawings prepared by TENANT and approved by Airport Director during the same period shall be the plan, specifications, and time schedule for TENANT's initial construction on the Leased Premises.

No construction work shall commence until COUNTY has approved the plans and specifications and has issued a Notice to Proceed.

COUNTY will review and respond to submittals of plans and specifications within thirty (30) days or provide notice to TENANT that the review time has been extended. In the event of disapproval by COUNTY of any portion of any submittal of plans and specifications, TENANT shall promptly make modifications and revisions and re-submit for approval by COUNTY.

TENANT must comply with the submission deadlines and review schedules developed by COUNTY for construction plans, designs, and drawings as further outlined in the Tenant Design Guidelines and John Wayne Airport Construction Standards. Weekly scheduled meetings with TENANT representative, contractor, design team, and JWA staff must be held during any construction improvements or projects. Updated Microsoft Project (or equivalent software), schedule, and safety meeting updates must be provided to JWA at each scheduled meeting or upon request of JWA staff. All design and construction shall conform with the plans approved by COUNTY and with COUNTY construction and architectural standards, as can be amended from time to time.

- B. **Disclaimer of Compliance with Laws or Codes.** The approval by COUNTY of any plans and specifications refers to the conformity of such plans and specifications to COUNTY standards. Approval of any plans and specifications by COUNTY does not constitute its representation or warranty as to their conformity with applicable laws, statutes, codes, or permits, and responsibility, therefore, always remains with TENANT. TENANT has sole



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responsibility for and will ensure that construction plans and specifications are in full compliance with any and all applicable federal or state laws, statutes, and codes.

- C. **Approvals Extend to Architectural and Aesthetic Matters.** Required approval of COUNTY shall extend to and include architectural and aesthetic matters. COUNTY reserves the right to reject any designs submitted by TENANT and to require TENANT, at TENANT's expense, to make modifications and revisions and to resubmit designs until designs are deemed acceptable and subsequently approved in writing by COUNTY.
- D. **Design and Permitting.** TENANT shall be responsible, at its sole cost and expense, for the costs of design and permitting of all improvements within the Leased Premises and shall not commence any work with respect to an Approved Project until all governmental permits and approvals with respect to the Approved Project have been obtained. At no cost or liability to COUNTY, COUNTY shall cooperate in all reasonable respects with TENANT's efforts to obtain such permits and approvals, which cooperation shall include, without limitation, the execution of such instruments as may be required by governmental authorities for TENANT to apply for and obtain such permits and approvals.

SECTION 7.06 TENANT REIMBURSEMENT

In the event the COUNTY should require the Leased Premises, or any portion thereof, for any Airport purpose and removes any portion of the TENANT's Leased Premises from this LEASE or terminates the LEASE for convenience pursuant to Section 2.03, the COUNTY shall reimburse the TENANT for improvements completed during the term of this LEASE.

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

$$\text{COMPENSATION} = A \times \frac{B}{C}$$

- A = The TENANT's Certified Capital Investment Costs submitted in accordance with Section 7.10 in this LEASE.
- B = Number of full months remaining in LEASE Term.
- C = Number of full months between the date the TENANT completed construction of leasehold improvements and the date the LEASE would expire by its terms if the COUNTY did not exercise its right to early termination.

The TENANT shall submit to the COUNTY within sixty (60) days of completion of construction of any leasehold improvements, notifications of completion of construction and submit detailed supporting documentation of construction costs together with "As-Built Documents" and "Record Documents" as required by Section 7.10 of this LEASE. The TENANT acknowledges and agrees



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if the TENANT fails to submit notifications and supporting documentation for any such leasehold improvements in a timely manner, the TENANT waives its right to compensation for such improvements.

SECTION 7.07 EXCLUSIVE REMEDY

The compensation provided pursuant to Section 7.06 in this LEASE shall be the TENANT's sole and exclusive remedy and form of compensation, costs or damages, including but not limited to, the eminent domain law and inverse condemnation (CAL. CODE CIV. PROC. §§1230.010 *et seq.*), and Relocation Assistance benefits (CAL. GOV. CODE §§7260 *et seq.*), due to termination, re-entry or acquisition of the leasehold by the COUNTY.

The TENANT agrees that exercise by the COUNTY of its termination rights hereunder shall not be construed as a taking by the COUNTY of any part of the Leased Premises, nor of the TENANT's rights under this LEASE, nor shall the TENANT, except as provided herein, be entitled to payment for any loss of goodwill, income, moving expenses or other amount because of partial or full termination of this LEASE.

SECTION 7.08 TENANT'S ASSURANCE OF CONSTRUCTION COMPLETION

Prior to commencement of construction of approved facilities the TENANT shall furnish to the COUNTY evidence that assures the COUNTY that sufficient monies will be available to the TENANT and the COUNTY to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

- A. Completion Bond issued to the COUNTY as obligee.
- B. Irrevocable letter of credit issued to the COUNTY that will remain in effect until the COUNTY acknowledges satisfactory completion of construction.

All bonds and letters of credit must be issued by a surety company, financial institution or advising bank qualified and admitted to conduct business in the State of California and issued in an approved form approved by the COUNTY. All bonds and letters of credit shall ensure faithful and full observance and performance by the TENANT of all terms, conditions, covenants, and agreements relating to the construction of improvements within the Leased Premises.

Prior to commencement of construction, or any phase thereof, within the Leased Premises by TENANT, TENANT shall furnish to COUNTY a performance bond and labor and material bond or performance bond in a principal sum equal to the total estimated construction cost supplied by TENANT's contractor or contractors, provided said bonds are issued jointly to TENANT and COUNTY as obligees.



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TENANT shall provide or cause its general contractor (or major subcontractors) to provide payment and/or performance bonds for major subcontracts in connection with said construction and shall name COUNTY as an additional obligee on, with the right to enforce, any such bonds.

It is not the intent of the contracting parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 7.09 MECHANICS LIENS OR STOP-NOTICES

The TENANT shall at all times indemnify and hold the COUNTY harmless from all Mechanics Liens, Stop-Notices, claims, losses, demands, damages, costs, expenses or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Leased Premises undertaken by the TENANT, and from the cost of defending against such claims, including attorney's fees and costs.

In the event a mechanics lien or stop-notice is imposed upon the Leased Premises, the TENANT shall either:

- A. Record a valid Release of Lien; or
- B. Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop notice and from any action brought to foreclose the lien.

Should the TENANT fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop notice, the LEASE shall be in default and shall be subject to immediate termination.

SECTION 7.10 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CERTIFIED CAPITAL INVESTMENT COSTS

Within sixty (60) days following completion of any improvement, including the Refurbishment, within the Leased Premises, the TENANT shall furnish the Airport Director a complete package of "As-Built Documents" and "Record Documents," and "Certified Capital Investment Costs" which include but are not limited to construction documents, specifications, cost estimates, engineering studies and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the "As-Built Documents" and "Record Documents", organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the COUNTY, to the COUNTY's satisfaction, as described below, unless otherwise allowed by the Airport Director.



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A. Drawings and Models:

1. All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
2. All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
3. All 2-D and 3-D drawing and/or modeling files created via computer-aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
4. In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

B. Documents and Reports:

- All specifications, reports, and/or studies (e.g., geotechnical report, etc.), calculations, and other project information (e.g., construction submittals, operations, and maintenance (O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: "Record Documents," e.g., record drawings, specifications, calculations, etc., shall be prepared, stamped, and signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e., separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the "John Wayne Airport Construction Standards" for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the TENANT with the thumb drives containing the "As-Built Documents" and "Record Documents." Basic specifications, standards, and requirements for BIM, CAD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request.

Furthermore, the TENANT shall furnish the Airport Director with an itemized statement of the actual, direct construction costs of such improvement "Certified Capital Investment Costs." The



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Certified Capital Investment Costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers or permit fees required by governmental agencies to allow construction. Certified Capital Investment Costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The Certified Capital Investment Costs shall be sworn to and signed by the TENANT or its responsible agent under penalty of perjury. The TENANT must obtain the Airport Director's approval of acceptance of the "As-Built Documents" and "Record Documents" and the form and content of the Certified Capital Investment Costs.

SECTION 7.11 DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

The TENANT shall be responsible for any damage caused by the TENANT, or the TENANT's aircraft, equipment, employees, agents, visitors, or suppliers, to common use areas of the Terminal or Airport facilities, including but not limited to runways, taxiways, access roads, navigational aids, apron areas and loading bridges. Should such damage require immediate repairs or replacement and the TENANT is unable to respond immediately to complete said repairs or replacement, the Airport Director may cause to be made or make any necessary repairs or replacements, and the cost thereof shall be paid by the TENANT. Said cost shall include all labor, materials, equipment costs, and an administrative fee equal to fifteen percent (15%) of the sum of those items. Said cost shall be paid by the TENANT within fifteen (15) days of receipt of an invoice for costs from the Airport Director.

In the event of damage to or destruction of the TENANT-owned or constructed buildings, facilities or improvements located within the Leased Premises or in the event the TENANT-owned or constructed buildings, facilities, or improvements located within the Leased Premises are declared unsafe or unfit for use or occupancy by the COUNTY or any other public entity with jurisdiction to make and enforce such a declaration, the TENANT shall, within thirty (30) days, commence and diligently pursue completion of the repair, replacement or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Leased Premises for the purposes required by the LEASE.

Repair, replacement or reconstruction or improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by the Airport Director. Except as otherwise provided herein, termination of this LEASE shall not reduce or nullify the TENANT's obligation under this paragraph. With respect to damage or destruction to be repaired by the COUNTY or which the COUNTY elects to repair, the TENANT waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

SECTION 7.12 HEALTH AND SAFETY

The TENANT shall comply with all applicable California Occupational Safety & Health Administration (Cal/OSHA) requirements and all federal, state, or local safety orders. The



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TENANT shall post on the Lease Premises and at all construction sites a copy of "Construction Safety Orders" and "General Industry Safety Orders" issued by the California State Division of Industrial Safety.

The TENANT shall, within thirty (30) days after the execution of this LEASE, submit to the COUNTY a comprehensive Safety Plan outlining the code of safe work practices and procedures. The plan must include emergency response procedures, notification procedures, and personnel training procedures. The TENANT shall convene safety meetings at regularly scheduled times as described in its Safety Plan and as required by Cal/OSHA. The TENANT and/or TENANT's contractor shall submit, prior to the start of any tenant improvements, the TENANT or TENANT's contractor required Cal/OSHA Safety Plan for approval by the Airport.

The TENANT shall submit to the COUNTY an annual report detailing the status of all permits required and issued to the TENANT by Cal/OSHA or any other federal, state, or local government agency. Said report shall be due on or before January 31 of each calendar year.

ARTICLE VIII - ASSIGNMENT AND SUBLEASE

SECTION 8.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject and subordinate to the limitations of Article V of this LEASE.

- A. **Transfers.** The TENANT shall not transfer, assign, sublet, or hypothecate (hereinafter referred to as "Transfer") any interest of the TENANT in the Leased Premises without the prior written approval of the COUNTY. The TENANT shall give the COUNTY thirty (30) days' prior written notice of all proposed Transfers. The TENANT shall not make any such Transfers for a period longer than the remaining term of the LEASE.

If the COUNTY approves such Transfers, such approval does not constitute a waiver of any of the terms of the LEASE. All Transfer documents shall be consistent with the terms, covenants, and conditions of the LEASE, and in the event of any inconsistency, the provisions of this LEASE shall govern.

If the TENANT is a corporation, an unincorporated association, or a partnership, Transfers include the acquisition by any person other than the TENANT of any stock or interest in said corporation, unincorporated association, or partnership in the aggregate amount of fifty-one percent (51%) or more.

The failure by the TENANT to obtain the prior written approval by the COUNTY of any Transfer of the LEASE or any interest in the Leased Premises shall constitute a material breach of this LEASE and shall not confer any leasehold rights upon the transferee. Such failure shall be grounds for termination of this LEASE for default pursuant to Section 9.02.



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- B. **Conditions of the COUNTY Approval.** The COUNTY agrees that it will not arbitrarily withhold consent to any Transfer, but the COUNTY may withhold consent at its sole discretion if any of the following conditions exist:
- (1) The TENANT, its successors, or assigns are in default of any term, covenant, or condition of this LEASE, whether notice of default has or has not been given by the COUNTY.
 - (2) The prospective subtenant, assignee, or transferee has not agreed in writing to keep, perform, and be bound by all the terms, covenants, and conditions of this LEASE.
 - (3) The prospective subtenant, assignee, or transferee is not financially capable or not experienced in performing the LEASE obligations, as determined by the Airport Director.
 - (4) Subtenant's use is in conflict with the terms of this LEASE.
 - (5) All the terms, covenants, and conditions of Transfer, including the consideration therefore, of any and every kind, have not been revealed in writing to the Airport Director.
 - (6) Any construction required of the TENANT as a condition of this LEASE has not been completed to the satisfaction of the COUNTY.
 - (7) The TENANT has not provided the Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, escrow instructions, *etc.*
 - (8) The TENANT attempts to hypothecate the leasehold for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation of the leasehold shall not be permitted for any reason other than to obtain loan proceeds necessary to construct new improvements on the Leased Premises.
- C. **Bankruptcy Transaction.** If the TENANT assumes this LEASE or proposes to assign the same pursuant to the provisions of the U.S. BANKRUPTCY CODE, 11 U.S.C. §§101 *et seq.*, then notice of such proposed assignment shall be given to the COUNTY. The following information shall be provided to the COUNTY:
- (1) The name and address of proposed assignee;
 - (2) All of the terms and conditions of such offer; and



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- (3) Adequate assurance to the COUNTY of the proposed assignee's future performance under the LEASE, including, without limitation, the assurance referred to in the U.S. BANKRUPTCY CODE, 11 U.S.C. §365(b)(3).

Any person or entity to which this LEASE is assigned pursuant to the provisions of the U.S. BANKRUPTCY CODE, 11 U.S.C. §§101 *et seq.*, shall be deemed without further act or deed to have assumed all of the obligations arising under this LEASE on and after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to the COUNTY an instrument confirming such assumption.

SECTION 8.02 SUCCESSORS IN INTEREST

Unless otherwise provided in this LEASE, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE IX - TERMINATION AND DEFAULT

SECTION 9.01 TERMINATION OF PRIOR AGREEMENTS

It is mutually agreed that this LEASE shall terminate and supersede any prior leases or agreements between the parties hereto for the purpose of operating an airline club room and all related activities of the TENANT at the Airport.

SECTION 9.02 TERMINATION FOR DEFAULT

The COUNTY may terminate this LEASE and all of its obligations hereunder with prior written notice to the TENANT and may exercise all rights of entry for default and breach if the TENANT fails to perform any of its obligations under this LEASE, including, but not limited to:

- A. Payment of rent, fees, and charges;
- B. A general assignment for the benefit of creditors and any Transfer without the prior written approval by the COUNTY;
- C. The issuance of any execution or attachment against the TENANT at the Airport that is undischarged within sixty (60) days of levy or seizure or if the Leased Premises are occupied by someone other than the TENANT;
- D. The voluntary vacation or abandonment by the TENANT of the operation of a club room or conduct of air transportation business at the Airport;
- E. The violation by the TENANT of any of the terms of any insurance policy referred to in the LEASE;



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- F. If the TENANT is found by the FAA, TSA, other government regulatory or successor agency to have violated specified safety standards in the conduct of the TENANT's business;
- G. The violation of any written directions of the Airport Director;
- H. The appointment of a receiver to take possession of all, or substantially all, the assets of the TENANT located at the Leased Premises or of the TENANT's leasehold interest in the Leased Premises.

Where applicable, and unless otherwise stated in this LEASE, or by written notice, the TENANT shall have fifteen (15) calendar days to cure any default prior to termination of this LEASE, or such longer period as may be reasonably necessary to cure such default considering the nature thereof, at the Airport Director's discretion.

SECTION 9.03 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise agreed to herein, upon termination of this LEASE, the TENANT shall redeliver possession of said Leased Premises to the COUNTY in substantially the same condition that existed immediately prior to the TENANT's entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. TENANT must remove redundant equipment, specialized equipment that is not useful to future tenants, all wiring, data lines, cabling, antenna, and conduit installed by TENANT. References to the termination of the LEASE in this LEASE shall include termination by reason of expiration.

SECTION 9.04 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If the TENANT abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to the TENANT and left on the Leased Premises fifteen (15) days after such event shall be deemed to have been transferred to the COUNTY. The COUNTY shall have the right to remove and to dispose of such property without liability therefor to the TENANT or to any person claiming under the TENANT and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the LEASE shall not be construed as giving the TENANT possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the LEASE.



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SECTION 9.05 THE COUNTY'S RIGHT TO RE-ENTER

The TENANT agrees to yield and peaceably deliver possession of the Leased Premises to the COUNTY at 11:59 p.m. on the date of termination of this LEASE, whatsoever the reason for such termination.

Upon giving written notice of termination to the TENANT, the COUNTY shall have the right to re-enter and take possession of the Leased Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the LEASE and re-entry of the Leased Premises by the COUNTY shall in no way alter or diminish any obligation of the TENANT under the LEASE terms and shall not constitute an acceptance or surrender.

The TENANT waives any and all rights of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event the COUNTY re-enters and takes possession of the Leased Premises in a lawful manner.

ARTICLE X - SECURITY

SECTION 10.01 AIRPORT SECURITY

The TENANT shall comply with all current and applicable Airport, FAA, TSA, CBP, security-related rules, regulations, plans, and procedures. The TENANT is responsible for fines imposed by any regulatory agency as a result of the TENANT's failure to comply with applicable rules, regulations, orders, plans, and procedures regarding airport security.

The TENANT employees, subtenants/contractors shall be required to obtain airport security clearance in order to perform work under this LEASE. The TENANT must maintain a current, updated list of Authorized Signatories responsible for the Airport-Issued Identification Credential ("Airport ID/Security Credential") process, a list of current Airport ID/Security Credentialed TENANT employees and subtenants/contractors, and respond to scheduled and unscheduled audits at the request of the Airport. The TENANT employees and subtenants/contractors applying for an Airport ID/Security Credential must successfully complete a Criminal History Records Check (CHRC) and a Security Threat Assessment (STA) in accordance with current regulations. The TENANT employees and subtenants/contractors must also attend and successfully pass all related Security Identification Display Area (SIDA) classes and tests for access to secure areas and a driver's permit with an appropriate and valid California Driver's License to drive on the airfield. The TENANT must attend all mandatory security-related exercises, and monthly security consortium meetings hosted by the Airport.

- A. **Local Security.** The TENANT shall be responsible for the security of gates or doors that are located on the Leased Premises. Said gates and/or doors on the Leased Premises permitting entry to the restricted areas of the Airport shall be locked when not in use and/or



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under the TENANT's constant surveillance. The TENANT shall install such security equipment, including, but not limited to, video monitoring equipment, as may be required by the Airport Director to ensure compliance with all regulations of the FAA, TSA, or other governmental agencies having jurisdiction over Airport security. The TENANT shall exercise control over any person or vehicle escorted by the TENANT onto restricted or secure areas of the Airport, or to whom an Airport ID/Security Credential was issued by or at the request of the TENANT, and ensure that such person or vehicle shall comply with all Airport security regulations.

- B. **Federal Security.** As of the date of this LEASE, the TSA provides for all passenger and baggage screening conducted at the Airport. The TENANT may be required to provide assistance to TSA in their efforts to carry out its federal mandates. At some point during the term of this LEASE, the Airport or another entity may be authorized to provide these security services in lieu of the TSA.
- C. **Penalties and Fines.** The TENANT shall promptly pay any penalties for which the TENANT is responsible. These penalties include, but are not limited to, civil penalties or fines assessed against the Airport or the TENANT by the FAA, TSA, or any other governmental agency for the violation of any security-related laws, rules, policies, or regulations at the Airport.
- D. **Airport ID/Security Credential Application and Lifecycle.** Prior to issuance of an Airport ID/Security Credential(s), designated TENANT Authorized Signatories who will be working onsite and engaged in the performance of work under this LEASE, must pass the Airport's background check requirements, which includes an F.B.I. Criminal History Records Check (CHRC) and a TSA Security Threat Assessment (STA), and the TENANT shall pay the applicable fees. Upon successful completion of the background checks, the TENANT's designated personnel will be required to attend a SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (AOA) perimeter road must also complete a Driver's Training class and written test. Airport ID/Security Credentials are not issued until designated TENANT personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed both background checks, 3) completed and passed appropriate training, and 4) paid an Airport ID/Security credential fee for each applicant. The TENANT should anticipate a minimum of fourteen (14) business days to complete the Airport ID/Security Credential process if all requirements listed above are fulfilled by individual Airport ID/Security Credential applicants in a timely manner, but factors outside the Airport's control can contribute to longer durations. If an applicant is applying for a CBP Seal due to their operational need to work international air service operations, this process may take longer. Authorized Signatories must be in constant contact with the Airport's ID/Access Control Office. The TENANT's designated personnel must successfully complete the Airport ID/Security Credential acquisition process, unless other arrangements have been approved by the Airport. The TENANT



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shall be responsible for all applicable fees and costs associated with the background checks and badging process. The amount of such fees is subject to change without notice.

- E. **Airport ID/Security Credential Applicant Requirements and Responsibilities.** The Airport Security Plan (ASP) requires that each person issued an Airport ID/Security Credential be made aware of his/her responsibilities regarding the privilege of access to restricted areas of the Airport.

The TENANT and all TENANT personnel within an access controlled area (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport ID/Security Credential unless they are escorted by a properly Airport credentialed individual with escort privileges. When working in a secure area, each Airport-credentialed person is responsible for challenging any individual who is not properly displaying an Airport-issued or approved and valid Airport ID/Security Credential. TENANT personnel and their subtenants/contractors must also validate Airport ID/Security Credential employees as described in security training. Any person who is not properly displaying or who cannot produce a valid Airport ID/Security Credential, unless they are being escorted, must immediately be referred to the Sheriff's Department – Airport Police Services Office for proper handling.

The Airport ID/Security Credential is the property of the County of Orange and must be returned upon termination of TENANT personnel employment and/or termination of the LEASE. The loss of an Airport ID/Security Credential shall be reported within twenty-four (24) hours to the Sheriff's Department–Airport Police Services by calling (949) 252-5000. The TENANT or TENANT personnel who lose their Airport ID/Security Credential shall be required to pay a fee before receiving a replacement Airport ID/Security Credential. The charge for lost Airport ID/Security Credential replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement Airport ID/Security Credential will be issued.

The Airport ID/Security Credential is nontransferable.

In the event that the TENANT's employee's or contractor's Airport ID/Security Credential is not returned within three (3) business days to the Airport upon: 1) termination of TENANT personnel or contractor, 2) Airport ID badge expiration, or 3) upon termination of the LEASE, the TENANT shall be liable to the County of Orange for a fine in the amount of \$250.00 per unreturned Airport ID/Security Credential. The amount of the fine is subject to change without notice. The TENANT's security deposit may be applied to cover the cost of the fine.



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ARTICLE XI - INSURANCE AND INDEMNITY

SECTION 11.01 INSURANCE

The TENANT agrees to carry all required insurance at the TENANT's expense and provide to the COUNTY current certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this LEASE have been complied with. TENANT shall keep such insurance coverage current, provide certificates of insurance, and endorsements to the COUNTY during the entire term of this LEASE.

The TENANT agrees that the TENANT shall not operate on the Leased Premises at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by the TENANT, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. The TENANT also agrees that upon cancellation, termination, or expiration of the TENANT's insurance, the COUNTY may take whatever steps are necessary to interrupt any operation from or on the Leased Premises until such time as the Airport Director reinstates the LEASE.

If the TENANT fails to provide Airport Director with a valid certificate of insurance and endorsements or binder at any time during the term of the LEASE, the COUNTY and the TENANT agree that this shall constitute a material breach of the LEASE. Whether or not a notice of default has or has not been sent to the TENANT, said material breach shall permit the COUNTY to take whatever steps necessary to interrupt any operation from or on the Leased Premises, and to prevent any persons, including, but not limited to, members of the general public, and the TENANT's employees and agents, from entering the Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. The TENANT further agrees to hold the COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY's action.

The TENANT may occupy the Leased Premises only upon providing to COUNTY the required insurance stated herein and carry such insurance for the entire term of this LEASE. COUNTY reserves the right to terminate this LEASE at any time the TENANT's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. TENANT shall pay COUNTY a fee of \$300.00 for processing the reinstatement of the LEASE. TENANT shall provide to COUNTY immediate notice of said insurance cancellation or termination.

All contractors performing work on behalf of the TENANT pursuant to this LEASE shall obtain insurance subject to the same terms and conditions as set forth herein for TENANT. TENANT shall not allow contractors or subcontractors to work if contractors have less than the level of



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coverage required by the COUNTY from the TENANT under this LEASE. It is the obligation of the TENANT to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the Leased Premises. Such proof of insurance must be maintained by the TENANT through the entirety of this LEASE and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager or designee. The COUNTY reserves the right to require current audited financial reports from TENANT. If TENANT is self-insured, TENANT will indemnify and defend COUNTY for any and all claims resulting or arising from TENANT's use of the Leased Premises, services, or other performance in accordance with the indemnity provision stated in this Lease.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by TENANT shall provide the minimum limits and coverage as set forth below:

<u>Coverages</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000.00 per occurrence; \$2,000,000.00 aggregate
Commercial Auto Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000.00 combined single limit each accident
Workers' Compensation/Employers Liability	Statutory/\$1,000,000 per accident or disease
Liquor Liability	\$1,000,000.00 per occurrence
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all, contents and any tenant improvements including Business	100% Replacement Cost-Value and no coinsurance provision



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Coverages

Interruption/Loss of Rents with a 12-month limit

Minimum Limits

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies, when required, must provide Follow Form coverage.

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance.

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees, agents*** as Additional Insureds. Blanket coverage may also be provided, which will state – ***As Required By Written Agreement.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 3, or a form at least as board, evidencing that the TENANT's insurance is primary and any insurance or self-insurance maintained by the COUNTY shall be excess and non-contributing.
- 3) The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, agents, and employees.*** Blanket coverage may also be provided, which will state – ***As Required By Written Agreement.***
- 4) The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the County's financial interest when applicable.

All insurance policies required by this LEASE shall waive all rights of subrogation against ***County of Orange and its elected and appointed officials, officers, agents, and employees*** when acting within the scope of their appointment or employment.



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TENANT shall provide thirty (30) days prior written notice of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the LEASE, upon which the COUNTY may suspend or terminate this LEASE.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by Airport Director. TENANT has ten (10) business days to provide adequate evidence of insurance or this LEASE may be cancelled.

COUNTY expressly retains the right to require TENANT to increase or decrease insurance of any of the above insurance types throughout the term of this LEASE. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify TENANT in writing of changes in the insurance requirements. If TENANT does not provide acceptable Certificates of Insurance and endorsements to COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this LEASE may be in breach without further notice to TENANT, and COUNTY shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit TENANT's liability hereunder nor to fulfill the indemnification provisions and requirements of this LEASE, nor in any way to reduce the policy coverage and limits available from the insurer.

SECTION 11.02 INDEMNITY

To the fullest extent authorized by law, the TENANT shall indemnify, defend, and hold harmless the COUNTY, its officers, and employees from and against any and all claims, judgments, damages, penalties, fines, costs, orders, and lawsuits, arising from or related to the services, products or other performance provided by the AIRLINE pursuant to this LEASE. The TENANT's indemnity obligations stated hereinabove also apply to those actions arising from and which involve the TENANT's officers, agents, subcontractors, and employees. The TENANT's indemnity obligations stated hereinabove shall not apply in the event of any loss, damage, or expense arising from the sole or active negligence and/or willful misconduct of the COUNTY or of the COUNTY's officers, employees, agents, servants, or independent contractors.

In the event the indemnitees described hereinabove are named as defendants or respondents in any lawsuit or administrative proceeding, the TENANT shall, at the request of the COUNTY, represent the indemnitee with qualified counsel that is acceptable to the COUNTY.



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In the event that a monetary judgment is awarded against the COUNTY and the TENANT because of the concurrent negligence of the COUNTY and the TENANT or their respective officers, subcontractors, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Both the COUNTY and the TENANT agree that neither party shall request a jury apportionment. Nothing stated in this LEASE and in this indemnity obligation shall be construed as authorizing any award of attorneys' fees in any action to enforce the terms of this LEASE. The rights and obligations set forth in this paragraph shall survive the termination of this LEASE.

ARTICLE XII - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 12.01 CIVIL RIGHTS AND NONDISCRIMINATION

- A. In all its activities within the scope of its airport program, TENANT agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance

If TENANT transfers its obligation to another, the transferee is obligated in the same manner as TENANT.

- B. During the performance of this LEASE, TENANT, for itself, its assignees, and successors in interest, agrees as follows:

- 1) **Compliance with Regulations:** TENANT will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this LEASE.
- 2) **Nondiscrimination:** TENANT, with regard to the work performed by it during the LEASE, will not discriminate on the grounds of race, color, or national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The TENANT will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3) **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made



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by TENANT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by TENANT of the TENANT's obligations under this LEASE and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

- 4) **Information and Reports:** TENANT will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, TENANT will so certify to the COUNTY or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

 - 5) **Sanctions for Noncompliance:** In the event of the TENANT's noncompliance with the non-discrimination provisions of this LEASE, the COUNTY will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding payments under the LEASE until the TENANT complies, and/or
 - b. cancelling, terminating, or suspending the LEASE, in whole or in part.

 - 6) **Incorporation of Provisions:** The TENANT will include the provisions of paragraphs one through six in every sublease or subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The TENANT will take action with respect to any sublease, subcontract, or procurement as the COUNTY or FAA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided that if TENANT becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, the TENANT may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, the TENANT may request the United States to enter into litigation to protect the interests of the United States.
- C. TENANT, for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
- 1) In the event facilities are constructed, maintained or otherwise operated on the property described in this LEASE for a purpose for which a Federal Aviation



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Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, TENANT will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- 2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
 - 3) In the construction of any improvements on, over, or under such Leased Premises and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 - 4) TENANT will use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title VI List of Pertinent Nondiscrimination Acts and Authorities.
- D. TENANT shall furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service.
- E. TENANT, for itself, its assignees, and successors in interest, agrees to comply with the following nondiscrimination statutes and authorities, including but not limited to:
- 1) Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
 - 2) 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964) including amendments thereto;
 - 3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - 4) Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27



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

- 5) The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
 - 6) Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
 - 7) The Civil Rights Restoration Act of 1987 (P.L. 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
 - 8) Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
 - 9) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).
- F. In the event of a breach of any of the above Nondiscrimination covenants, the COUNTY shall have the right to terminate the LEASE and to re-enter and repossess said lands and facilities thereon and hold the same as if said LEASE had never been made or issued.

SECTION 12.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

The COUNTY reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or views of the TENANT, and without interference or hindrance.

The COUNTY reserves the right, but shall not be obligated to the TENANT, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of the TENANT in this regard.



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SECTION 12.03 LEASE SUBORDINATE TO AGREEMENT WITH U.S.A.

This LEASE shall be subordinate to the provisions and requirements of any existing or future agreement between the COUNTY and the United States or any lawful requirement of the United States relative to the development, operation, or maintenance of the Airport.

SECTION 12.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

The TENANT agrees that the TENANT's use of the Leased Premises, including all construction thereon, shall conform to applicable FEDERAL AVIATION REGULATIONS.

The TENANT agrees to comply with the applicable notification and review requirements covered in Part 77 of the FEDERAL AVIATION REGULATIONS (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

SECTION 12.05 FEDERAL LAW PREEMPTION

Notwithstanding any provisions of this LEASE to the contrary and notwithstanding any provision of any other agreements, laws, or ordinances to the contrary, any requirement that is imposed on the TENANT in this LEASE, or any local authorities, shall not apply to the TENANT to the extent that such requirement is or would otherwise be preempted by federal law, including but not limited to the Airline Deregulation Act (49 U.S.C. § 41713).

SECTION 12.06 NONEXCLUSIVE RIGHT

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct aeronautical activities or provide aeronautical services to the public as prohibited by 49 U.S.C. § 40103(e) and 47107(a)(4), as amended from time to time, and the COUNTY reserves the right to grant others the privilege and right of conducting any or all activities of an aeronautical nature.

SECTION 12.07 WAR OR NATIONAL EMERGENCY

This LEASE and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

SECTION 12.08 RESERVED



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SECTION 12.09 AMERICANS WITH DISABILITIES ACT

The TENANT shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 ("ADA") in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, the TENANT's furnishings, trade fixtures, and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the TENANT's furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. The TENANT shall develop a work plan to correct or avoid any violations or non-compliance with the ADA and to address the processing of disability complaints. The TENANT shall deliver to the COUNTY, upon the COUNTY's request, a copy of each report and work plan. The COUNTY's approval of or acceptance of any aspect of the TENANT's activities under this LEASE shall not be deemed or construed in any way as a representation that such item or activity of practice complies with the ADA. The TENANT agrees to indemnify, defend, and hold the COUNTY harmless from and against any and all costs incurred by the COUNTY with respect to the TENANT's failure to comply with the ADA.

SECTION 12.10 RESERVED

ARTICLE XIII - MISCELLANEOUS PROVISIONS

SECTION 13.01 TIME

Time is of the essence in this LEASE.

SECTION 13.02 LEASE ORGANIZATION

The various headings and numbers herein, the grouping of provisions of this LEASE into separate sections and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

SECTION 13.03 AMENDMENTS

This LEASE sets forth all of the agreements and understandings of the parties with regard to its subject matter and any modification must be written and properly executed by both parties.

SECTION 13.04 SIGNS

The TENANT agrees not to construct, maintain, or allow any sign upon the Leased Premises except as approved by the COUNTY. Illustrative drawings and design dimensions must accompany all requests for approval. Unapproved signs, banners, flags, etc., may be removed by the COUNTY without prior notice to the TENANT.



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The TENANT will not place any promotional signs or advertising materials in any location within any common-use area of the Terminal without the prior consent of the COUNTY. All requests for the approval of temporary promotional signs for the TENANT shall be accompanied by illustrative drawings and design dimensions along with information about the type of signs proposed and proposed locations. All approved promotional signs shall be allowed to remain in the terminal for ninety (90) days. At the end of ninety (90) days, all temporary signage must be removed, or the TENANT may resubmit a request to COUNTY to extend past ninety (90) days.

The COUNTY may, without notice, remove any unauthorized signs or advertising materials and may store them at the TENANT's expense; the COUNTY may dispose of items if they are not promptly claimed by the TENANT after notice from the COUNTY.

SECTION 13.05 PERMITS AND LICENSES

The TENANT shall be required to obtain any and all approvals, permits, and/or licenses that may be required in connection with the operation of the Leased Premises as set out herein. No permit, approval, or consent given hereunder by the COUNTY in its governmental capacity shall affect or limit the TENANT's obligations hereunder, nor shall any approvals or consents given by the COUNTY as a party to this LEASE be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

SECTION 13.06 RESERVED

SECTION 13.07 TAXES AND ASSESSMENTS

This LEASE may create a possessory interest that is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) that become due and payable upon the Leased Premises or upon fixtures, equipment, or other property installed or constructed thereon shall be the full responsibility of the TENANT, and the TENANT shall cause said taxes and assessments to be paid promptly.

SECTION 13.08 CIRCUMSTANCES WHICH EXCUSE PERFORMANCE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations, or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse the TENANT from the prompt payment of any rental or other charge required of the TENANT except as may be expressly provided elsewhere in this LEASE.



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SECTION 13.09 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this LEASE is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 13.10 WAIVER OF RIGHTS

The failure of the COUNTY or the TENANT to insist upon strict performance of any of the terms, covenants, or conditions of this LEASE shall not be deemed a waiver of any right or remedy that the COUNTY or the TENANT may have and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of the LEASE thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this LEASE. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

SECTION 13.11 AUTHORITY OF THE TENANT

If the TENANT is a corporation, each individual executing this LEASE on behalf of said corporation represents and warrants that they are duly authorized to execute and deliver this LEASE on behalf of said corporation, in accordance with the by-laws of said corporation, and that this LEASE is binding upon said corporation.

SECTION 13.12 PUBLIC RECORDS

The TENANT understands that written information submitted to and/or obtained by the COUNTY from the TENANT related to this LEASE and/or the Leased Premises, either pursuant to this LEASE or otherwise, may be open to inspection by the public pursuant to the California Public Records Act (Cal. Gov. Code §§7920.000 *et seq.*) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public.

SECTION 13.13 RELATIONSHIP OF PARTIES

The relationship of the parties hereto is that of lessor and lessee, and it is expressly understood and agreed that the COUNTY does not in any way or for any purpose become a partner of the TENANT in the conduct of the TENANT's business or otherwise, or a joint venturer with the TENANT, and the provisions of this LEASE and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained. This LEASE is intended for the sole benefit of the parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.



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SECTION 13.14 GOVERNING LAW AND VENUE

This LEASE has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this LEASE, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

SECTION 13.15 ATTORNEY'S FEES

In any action or proceeding to enforce or interpret any provision of this LEASE, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs, and expenses.

SECTION 13.16 EMERGENCY SERVICES

Airport Director has the right to request that the TENANT's employees aid in and use TENANT's inventory of goods in an emergency to assist in maintaining the welfare of persons at or near the Airport. The TENANT shall be reimbursed by the COUNTY for the cost of goods as soon as practicable at a rate not to exceed costs as existed immediately prior to the emergency.

SECTION 13.17 NOTICES

All notices pursuant to this LEASE shall be addressed to either party as set forth below and shall be sent through United States mail in the State of California, duly registered or certified, return receipt requested with postage prepaid, or by an overnight carrier service. If any notice is sent by an overnight carrier service, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing thereof. Notwithstanding the above, the COUNTY may also provide notices to the TENANT by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

To: COUNTY		To: TENANT
John Wayne Airport		American Airlines, Inc.
Attention: Airport Director		Attention: Corporate Real Estate
3160 Airway Avenue		1 Skyview Drive, MD 8E101
Costa Mesa, CA 92626		Fort Worth, TX 76155

Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.



JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

SECTION 13.18 COUNTERPARTS

For the convenience of the parties to this LEASE, the LEASE may be executed in multiple counterparts, each of which shall be deemed an original, and shall together constitute a single agreement. The multiple counterpart signature pages may be assembled together into one fully executed LEASE.

[signatures continue on the following page]

JOHN WAYNE AIRPORT
ORANGE COUNTY

JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

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

TENANT:

American Airlines, Inc.

By: David Anderson
5B5C32D4453E412...

By: _____

APPROVED AS TO FORM:

County Counsel

By: Mark Sanchez
5EE66EC8DA7B48F...

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller

By: Jim Christiansen
CF4DED05FD11491...

RECOMMENDED FOR APPROVAL:

John Wayne Airport

By: Charlene Reynolds
A1A526A921AF49F...
Charlene V. Reynolds
Airport Director

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:

COUNTY

COUNTY OF ORANGE

By: _____
Chairman, Board of Supervisors

Robin Stieler
Clerk of the Board of Supervisors
of Orange County, California

JOHN WAYNE AIRPORT
ORANGE COUNTY**JOHN WAYNE AIRPORT
AIRLINE CLUB ROOM LEASE**

EXHIBIT A**LEASED PREMISES DESCRIPTION**

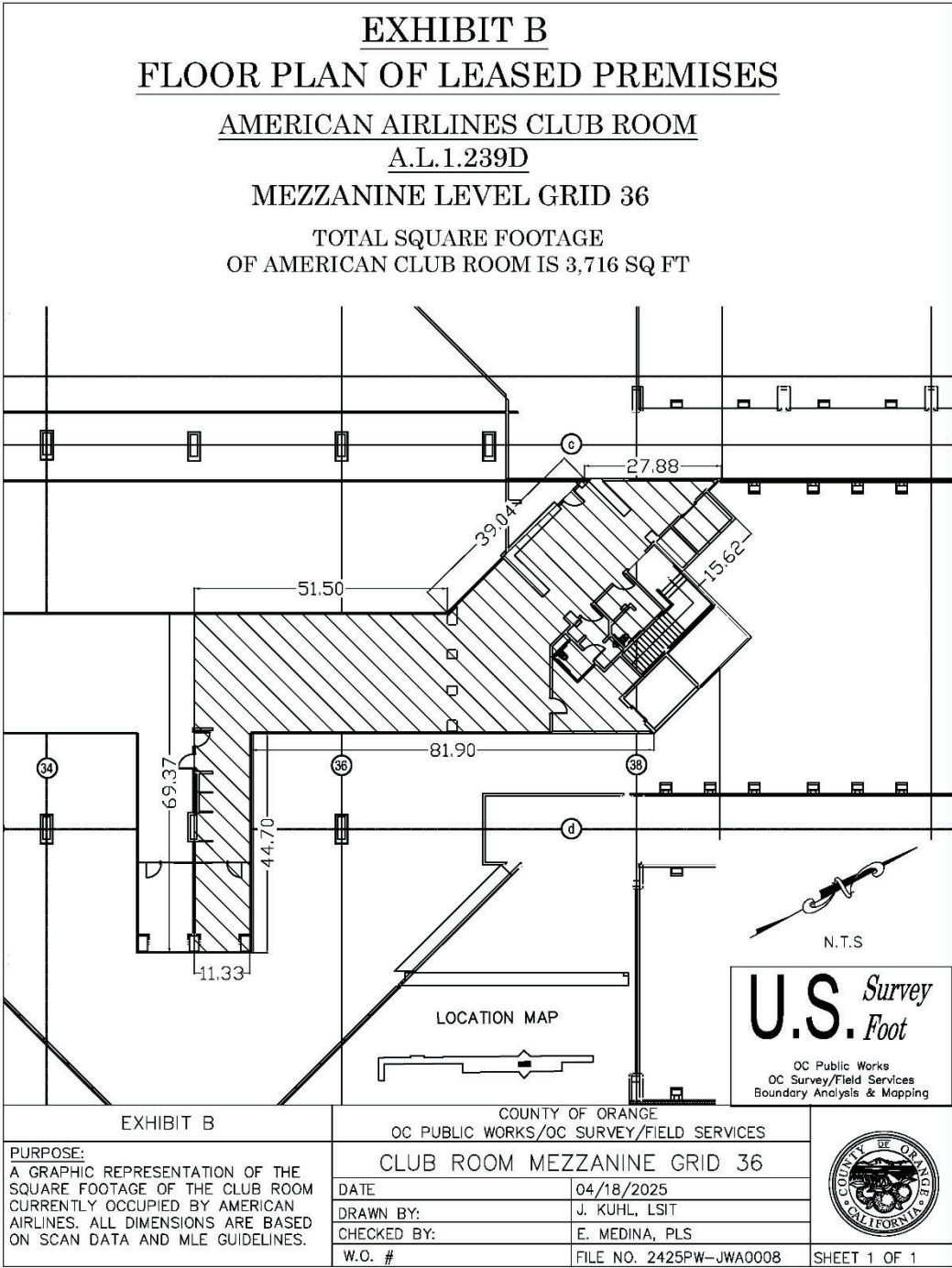
Project Number: PM 1121-300-0097

TENANT: American Airlines, Inc.

The Leased Premises referred to in this LEASE shall mean all that certain property shown on Exhibit B, "Floor Plan of Leased Premises," attached hereto and made a part hereof, containing approximately 3,716 square feet, located on the mezzanine level; and that certain elevator mechanical room containing approximately 134 square feet located on the arrival level, all of which are situated within the John Wayne Airport passenger terminal building at 18601 Airport Way, in the City of Santa Ana, County of Orange, State of California.

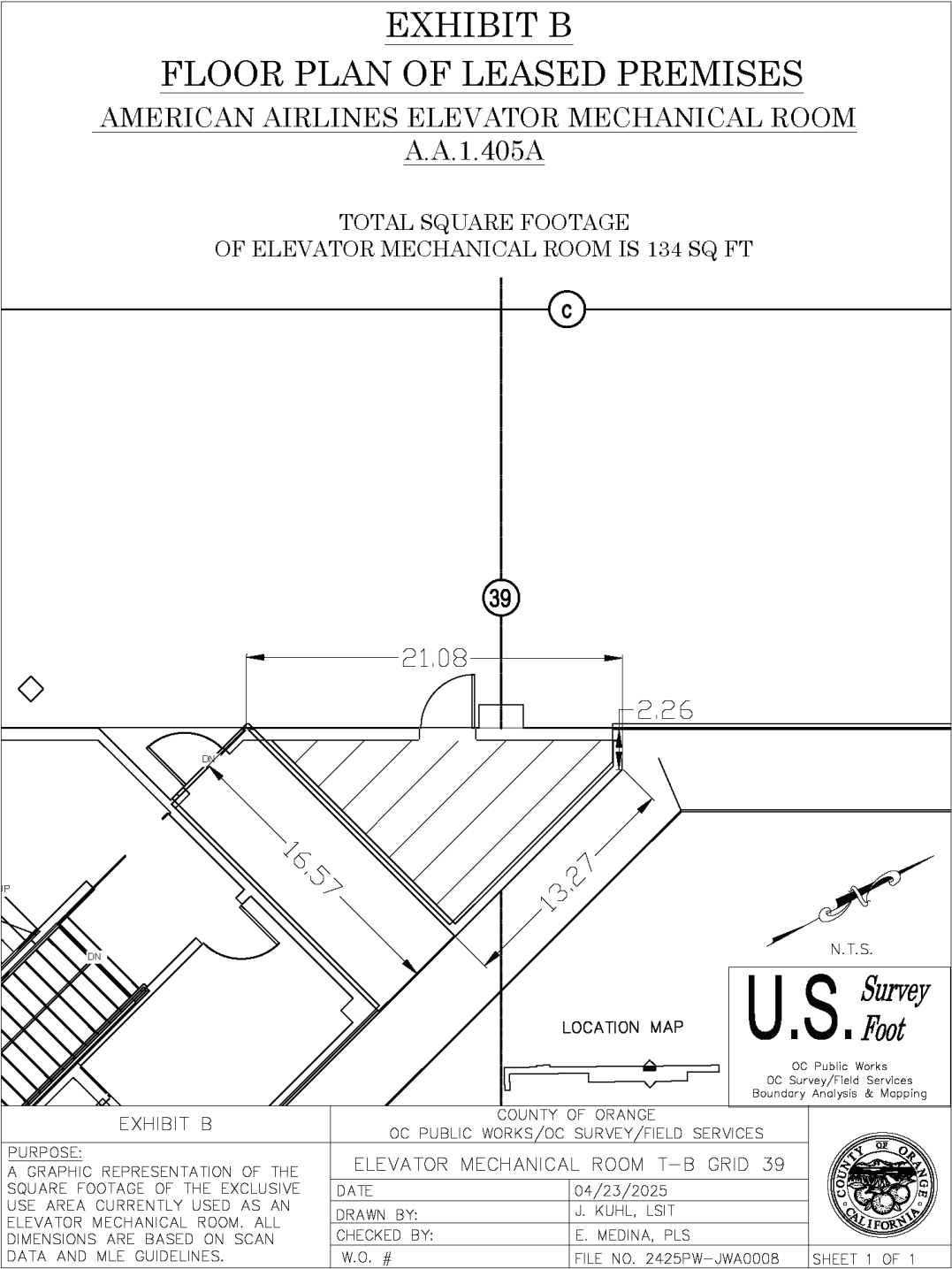


JOHN WAYNE AIRPORT
AIRLINE CLUB ROOM LEASE





JOHN WAYNE AIRPORT
AIRLINE CLUB ROOM LEASE





JOHN WAYNE AIRPORT AIRLINE CLUB ROOM LEASE

EXHIBIT C TENANT MAINTENANCE OBLIGATIONS

	Exclusive Use Areas	Common Use Areas	SIDA - Non- Public Areas	Public Areas Sidewalks and Roadways	Airfield
Building Exteriors	C	C	C	C	C
Doors	A (1)	C (1)	C	C	-
Loading Bridges	C	C	C	-	C
Landscaping	-	C	C	C	C
Roadways	-	C	C	C	C
Law Enforcement, Fire Protection, Emergency Medical Services	C	C	C	C	C
Plumbing	C (1,2)	C	C	C	C
Electrical and Lighting	C (1,2)	C	C	C	C
HVAC	C (1)	C	C	C	C
Glass Breakage	C (1)	C	C	C	C
Communications Systems CU P PS	C (1)	C(1)	C	C	C
Custodial Service/Window Cleaning	A	C	C	C	C
Baggage Handling Systems	C	C	C	C	-
Bag-Claim Carousel Equipment	-	C	C	C	-
Baggage Scales (ticket counters)	C	C	-	-	-
People Movers (elevators, escalators)	C	C	C	C	-
Signage	A	C	C	C	C
Ramp	A	C (3)	C (3)	-	-

Key: A = TENANT (Airline)
C = COUNTY

1. TENANT is responsible for maintenance, repair and replacement of TENANT-installed devices and equipment.
2. TENANT is responsible for routine maintenance, including relamping and ballast replacement.
3. TENANT is responsible for cleaning ramp areas of trash and spills (from building to VSR).

If TENANT fails to perform its maintenance and repair obligations as stated in the LEASE, the COUNTY may perform the work after providing the TENANT written notice and recover its entire cost plus a 15% charge from TENANT as additional costs. Said costs shall be due and payable by the TENANT to the County as stated in Article V, Section 5.07 of the Lease.

In the event the TENANT makes any repairs or modifications to an area or equipment, at the request of the County, as per Section 4.01 subsection C of this Lease, and those areas or equipment are currently maintained by the County, the County will continue the maintenance responsibilities for those areas or equipment.